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INDUSTRIAL GAZETTE

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STAFF SPECIALISTS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Australian Salaried Medical Officers' Federation (New South Wales), Industrial Organisation of Employees.

(No. IRC 3863 and 3871 of 2004)

Before The Honourable Justice Wright, President
The Honourable Justice Boland
Commissioner Connor

28 April 2006

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1. Title

This Award shall be known as the Staff Specialists (State) Award.

2. Definitions

"Award" means the Staff Specialists (State) Award.

"Employer" means the Director-General exercising employer functions on behalf of the Government of New South Wales (and includes a delegate of the Director General).

"Entitlements" means entitlements pursuant to this Award as varied from time to time.

"Federation" means the Australian Salaried Medical Officers' Federation (New South Wales).

"Health System" means the Public Health System of New South Wales.

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

"Normal Duties" means clinical, teaching, research, administrative, quality improvement or other duties and responsibilities undertaken by the Staff Specialist.

"Part Time Working Arrangement" means an agreement between a Staff Specialist and the Employer for the Staff Specialist to provide his/her services on a part time employment basis pursuant to Clause 13 of this Award.

"Performance Agreement" is an agreement in accordance with the provisions of clause 12 of this Award.

"Postgraduate Fellow" means an employee who has completed postgraduate medical training but who has not yet been appointed as a specialist/senior specialist and who occupies a position classified as Postgraduate Fellow.

"Practice" means clinical, administrative, teaching, research, quality improvement or other duties and responsibilities undertaken by the Staff Specialist.

"Public Health Organisation" is as defined in section 7 of the *Health Services Act 1997*.

"Salary" means the salary set out in Part B, Schedule 1 to this Award as varied from time to time by Clause 5 of this Award.

"Staff Specialist" means a Specialist, Senior Specialist and Post Graduate Fellow (except where specifically excluded) employed on either a full time or a part time basis.

"Specialist" means a person appointed to a position of Specialist by the Employer. To be eligible for appointment a specialist must be a person who: -

- (a) holds a medical qualification that is registrable in New South Wales; and

- (b) after full registration has spent not less than five years in the practice of medicine in New South Wales in the Health System or in any other institution, whether in New South Wales or elsewhere, deemed by the Employer to be of equivalent standing; and
- (c) inclusive within the period described in (b) above has spent not less than three years in supervised specialist training and/or experience; and
- (d)
 - (i) has obtained a Fellowship of a recognised Australasian Specialist College (see Part C Schedule 2 for list of recognised Australasian Specialist Colleges); or
 - (ii) has proof of recognition as a specialist by the Specialists Recognition Advisory Committee; or
 - (iii) has conditional registration with the NSW Medical Board as an overseas-trained specialists (not including conditional registration as a general practitioner); or
 - (iv) does not have a qualification recognised under (i) (ii) or (iii) above, but has obtained an appropriate higher qualification in his/her specialty acceptable to the Employer after consideration by the Medical and Dental Advisory Committee of the Employer.
- (e) Any decision made by the Employer in determining whether any person is eligible to be appointed as a specialist shall not contravene any applicable provision of the *Anti-Discrimination Act 1977*

Notwithstanding the provisions of subclause (d) above, Staff Specialists who are paid pursuant to this Award (or an Enterprise Agreement) in place immediately before the commencement of this Award will continue to be recognised as Staff Specialists for the purpose of this Award.

"Senior Specialist" means a person who: -

- (a) has been employed by the Employer on the maximum salary provided by this Award or the Award for a Specialist for a period of at least three years; and/or
- (b) has gained such experience and attained such ability in his/her specialty which is acceptable to the Employer after consideration by the Medical Appointments Advisory Committee of the employer to justify appointment to the classification; and
- (c) is appointed to a position having such duties and responsibilities as are deemed by the Employer to require the services of a Senior Specialist.

3. Issue Resolution

- (a) All parties must:
 - (i) use their best endeavours to co-operate in order to avoid grievances and disputes arising between the parties or between the Employer and individual Staff Specialists; and
 - (ii) abide by the procedures set out in this Clause to resolve any issue which might arise; and
 - (iii) place emphasis on negotiating a settlement of any issue at the earliest possible stage in the process.
- (b) In this Clause, "issue" means any question, issue, grievance, dispute or difficulty which might arise between the parties about the interpretation, application or operation of this Award.
- (c) The following 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.

- (d) Any issue must be discussed in the first instance by the Staff Specialist and his or her immediate supervisor.
- (e) If the issue is not resolved within a reasonable time it must be referred by the Staff Specialist's immediate supervisor to the Chief Executive (however called) of the relevant Public Health Organisation (or his or her nominee). Discussions at this level must take place and be concluded within a reasonable time or such extended period as may be agreed.
- (f) If the issue remains unresolved the Staff Specialist may request the Federation to then confer with the Chief Executive of the Public Health Organisation or his/her nominee. The conclusions reached by those representatives must be reported to the parties involved in the grievance/dispute within a reasonable time or such extended period as may be agreed.
- (g) If these procedures are exhausted without the issue being resolved, either party may seek to have the matter mediated by an agreed third party being:
 - (i) by way of preference, a person who is not employed as a Staff Specialist by the Employer and who has a knowledge of Staff Specialist arrangements, including this Award; or
 - (ii) a suitably qualified mediator.

If the matter remains unresolved either party may then

refer the matter to the Director-General of the NSW Department of Health, or

refer the matter in accordance with the provisions of the *Industrial Relations Act 1996* (NSW) to the Industrial Relations Commission for its assistance in resolving the issue.

- (h) The parties agree that normal work will continue and there will be no stoppages of work or any other bans or limitations on the performance of work while these procedures are being followed. Unless agreed otherwise by the parties, the status quo before the emergence of the issue must continue whilst these procedures are being followed. For this purpose, "status quo" means the work procedures and practice in place:
 - (i) immediately before the issue arose; or
 - (ii) immediately before any change was made to those procedures or practices which caused the issue to arise.
- (i) The Employer must ensure that all practices applied during the operation of these procedures are in accordance with safe working practices.
- (j) Throughout all stages of these procedures adequate records must be kept of all discussions.

4. Normal Duties

PART A

GENERAL

- (a) Normal Duties will be worked for:
 - (i) Not less than 40 hours per week; or
 - (ii) 10 sessions per week
 over five days per week.

- (b) The Normal Duties hours set out in (a) above may be averaged over
- (i) four days per week; or
 - (ii) a longer roster period
- as agreed between the Staff Specialist and the Employer, and specified in the Staff Specialist's performance agreement.
- (c)
- (i) With the exception of Staff Specialists working in accordance with paragraph (d) below, Normal Duties will be worked within the span of hours of 7.00 am to 6.00 pm Monday to Friday inclusive.
 - (ii) Where Normal Duties hours are averaged over a roster period longer than 1 week as provided for in (b) above, Normal Duties may be worked Monday to Sunday inclusive.
- (d) Shift Work
- (i) Staff Specialists who are employed in a specialty or category specified in Part C Schedule 3 to this Award may be required to undertake shiftwork as part of their Normal Duties as specified in (a) or (b) above. This shiftwork may comprise day or evening shifts.
 - (ii) For Staff Specialists working shift work, Normal Duties will be worked within the span of hours of 7.00 am to midnight Monday to Sunday inclusive;
 - (iii) For Staff Specialists who undertake shiftwork, the normal rostered duties hours will be paid at ordinary time plus the appropriate penalty rate:
 - hours worked between 6.00 pm and midnight Monday to Friday - 12.5%;
 - hours worked between 7.00 am and midnight Saturday - 50%;
 - hours worked between 7.00 am and midnight Sunday - 75%; and
 - all hours worked on Public Holidays - 150%.
- The penalty rate will be calculated on the Staff Specialist's salary as set in Part B Schedule 1 Rates of Pay of this Award plus the Special Allowance and Level 1 Private Practice Allowance specified in the Salaried Senior Medical Practitioners Determination, as varied from time to time.
- (iv) Additional specialties or categories may be included in Part C Schedule 3 to this Award from time to time by agreement between the Federation and the Director-General of the NSW Department of Health. If agreement cannot be reached, either party may make application to the Industrial Relations Commission for a variation to Part C Schedule 3.
- (e) Staff Specialists will be available for reasonable on call and recall duties outside of Normal Duties.

PART B

NORMAL DUTIES ROSTER CHANGES

- (a) When developing rosters for Normal Duties in accordance with the provisions of Clause 4, Normal Duties of the Award, the Employer will ensure that:
- (i) Staff specialists are consulted and regard is to be given to any family, carer or other personal and professional concerns and responsibilities identified by the staff specialist to ensure, where

- practicable, that the staff specialist is not adversely affected and that alternative arrangements can be made if possible (eg change of child care or outside practice arrangements); and
- (ii) the principal outcome of changes to rosters is to maximise the effective delivery of clinical services by ensuring that senior medical staff are rostered to work Normal Duties at times and at places that most effectively meet the service delivery needs and operational requirements; and
 - (iii) rosters identify the general nature of the work to be performed on each shift (clinical/direct patient care, administrative, teaching, research or quality improvement) and the facility at which the shift is to be worked.
- (b) On call rosters and responsibilities should align with Normal Duties roster days wherever practicable.
 - (c) Wherever practicable, the usual pattern of Normal Duties will be consistent from one roster period to the next.
 - (d) Notice Periods
 - (i) Wherever possible, the following notice periods will apply to changes to the Normal Duties roster:
 - 3 months notice of an ongoing change; or
 - 1 months notice of short-term change (eg to cover a planned absence or one-off event);
 - (ii) These provisions do not prevent the Employer from varying the roster of Normal Duties at short notice in an emergency, in response to an unplanned event or to cover an unplanned absence.
 - (e) Shifts are to be shared equally amongst the staff specialists unless otherwise agreed.

PART C

TRANSITION ARRANGEMENTS FOR IMPLEMENTATION OF CLAUSE 4 NORMAL DUTIES

- (a) Staff Specialists employed at the time of making this Award will continue to work in accordance with the rostering arrangements in place at that time for a period of 6 months, unless a shorter transitional period is agreed between the Employer and Staff Specialists.
- (b) During this 6-month period, the Employer and Staff Specialists will work co-operatively to review the existing Normal Duties rostering arrangements and, where necessary, develop new Normal Duties rosters in accordance with the principles set out in the Normal Duties Roster Changes clause.

5. Salary

- (a) A full time Staff Specialist will be paid the salary as set out in Schedule 1 of Part B Monetary Rates of this Award.
- (b) A Postgraduate Fellow will be paid the salary as set out in Schedule 1 Part B Monetary Rates of this Award.
- (c) A Staff Specialist will progress to the next incremental step on the anniversary date of his/her commencement as a Staff Specialist pursuant to Clause 2, Definitions.
- (d) This clause does not preclude the Employer, at the Employer's sole discretion:
 - (i) initially appointing a Staff Specialist to a higher step within the Staff Specialist range; or
 - (ii) accelerating a Staff Specialist through the steps within the Staff Specialist range irrespective of the length service.

Such accelerated progression does not include the Senior Specialist rate, which can only be accessed by appointment to a Senior Specialist position, in accordance with the definition in Clause 2 of this Award.

- (e) The weekly rate will be ascertained by dividing the annual salary by 52.17857.
- (f) The hourly rate for calculation of penalty rates will be 1/40th of the weekly rate.
- (g) Except as provided for elsewhere in this Award and other relevant industrial instruments, the salary set out in Part B Schedule 1, Rates of Pay of this Award will be full compensation for all aspects and hours of work.

6. Salary Sacrifice - Definition

For the purposes of Clauses 7, 8, 9, 10 "salary sacrifice" means the reduction in legally payable salary and allowances in exchange for benefits provided by the Employer.

7. Salary Sacrifice

In this clause "superannuable salary" means the Staff Specialist's salary as notified from time to time to the New South Wales public sector superannuation trustee corporations as per the relevant superannuation legislation governing the fund, or, in respect of Staff Specialists who elect to have contributions made to a non public sector superannuation scheme, "superannuable salary" means the Staff Specialist's salary that would have been notified from time to time to the New South Wales public sector superannuation trustee corporations but for the Staff Specialist's election to have contributions made to a non public sector superannuation scheme.

- (a) Subject to the other provisions of this clause Staff Specialists may salary sacrifice from the range of benefits the Director-General of the NSW Department of Health and Federation agree upon from time to time.
- (b) Salary sacrifice arrangements must be formalised by an agreement between the Staff Specialist and the Employer.
- (c) The salary sacrifice agreement must be prospective, that is, the agreement must be made prior to the commencement of the period of service to which the earnings relate.
- (d) Subject to Australian Taxation Law, the sacrifice portion of superannuable salary will reduce the Staff Specialist's remuneration subject to appropriate PAYE taxation deductions by the amount of that sacrificed portion.
- (e) The Fringe Benefits Tax on the benefits chosen by the Staff Specialist that would have been payable except for the Public Benevolent Institution status of the hospital will be calculated for each Staff Specialist who enters into a salary sacrifice arrangement. This amount will be divided equally between the Employer and the Staff Specialist.
- (f) Any Fringe Benefits Tax applicable to the benefits packaged by a Staff Specialist will be deducted from the total amount sacrificed in that Staff Specialist's salary sacrifice agreement.
- (g) The administration cost of each salary sacrifice agreement will be shared equally by the Employer and the participating Staff Specialist. The Staff Specialist's share will be deducted from the total amount sacrificed in that Staff Specialist's salary sacrifice agreement.
- (h) Subject to Clause 9, the total amount sacrificed in any salary sacrifice agreement must not exceed 50% of the Staff Specialist's superannuable salary.
- (i) Any allowance, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payment for leave taken in service, to which a Staff Specialist is entitled under this award or any applicable Act or statute which is expressed to be determined by reference to a Staff Specialist's salary, shall be calculated by reference to the salary and allowances which would have

applied to the Staff Specialist in the absence of any salary sacrifice arrangements made pursuant to this award.

8. Salary Sacrifice for Superannuation

- (a) In this clause "superannuable salary" means the Staff Specialist's salary as notified from time to time to the New South Wales public sector superannuation trustee corporations as per the relevant superannuation legislation governing the fund, or, in respect of Staff Specialists who elect to have contributions made to a non public sector superannuation scheme, "superannuable salary" means the Staff Specialist's salary that would have been notified from time to time to the New South Wales public sector superannuation trustee corporations but for the Staff Specialist's election to have contributions made to a non public sector superannuation scheme.
- (b) Consistent with the provisions of clause 7, Salary Sacrifice, a Staff Specialist may elect, subject to the agreement of the Staff Specialist's Employer, to sacrifice a portion of his/her superannuable salary to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. Subject to Clause 9, the amount sacrificed must not exceed 50% of the superannuable salary.
- (c) Where the Staff Specialist has elected to sacrifice a portion of that superannuable salary to additional employer superannuation contributions:
 - (i) subject to Australian Taxation Law, the sacrificed portion of superannuable salary will reduce the Staff Specialist's remuneration subject to appropriate PAYE taxation deductions by the amount of that sacrificed portion; and
 - (ii) any allowance, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payment for leave taken in service, to which a Staff Specialist is entitled under this award or any applicable Act or statute which is expressed to be determined by reference to a Staff Specialist's salary, shall be calculated by reference to the salary and allowances which would have applied to the Staff Specialist in the absence of any salary sacrifice arrangements made pursuant to this award.
- (d) The Staff Specialist may elect to have the portion of superannuable salary which is sacrificed to additional superannuation contributions:
 - (i) paid into the superannuation scheme established under the *First State Superannuation Act 1992* as optional employer contributions; or
 - (ii) subject to the Employer's agreement, paid into a private sector complying superannuation scheme as Employer superannuation contributions.
- (e) Where a Staff Specialist elects to salary sacrifice in terms of subclause (d) above, the Employer will pay the specified amount into the relevant superannuation fund.
- (f) Where the Staff Specialist is a member of a superannuation scheme established under:
 - (i) the *Police Regulation (Superannuation) Act 1906*;
 - (ii) the *Superannuation Act 1916*;
 - (iii) the *State Authorities Superannuation Act 1987*;
 - (iv) the *State Authorities Non-contributory Superannuation Act 1987*; or
 - (v) the *First State Superannuation Act 1992*,

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

- (g) Where prior to electing to salary sacrifice a portion of his/her superannuable salary to superannuation, a Staff Specialist had entered into an agreement with the Employer to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in subclause (f) above, the Employer will continue to base contributions to that fund on the superannuable salary to the same extent as applied before the Staff Specialist sacrificed a portion of that 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.

9. Limitation on the Amount to Be Sacrificed

If a Staff Specialist sacrifices under both Clauses 7 and 8 the total amount to be sacrificed must not exceed 50% of the superannuable salary.

10. Exclusions

For the individuals named in Part C Schedule 1 to this Award, the provisions of Clauses 6, 7, and 9 will be applied with certain modifications, while they remain in the positions they occupy as at 22 October 1999. The details of the modifications are set out in Schedule 1 of Part C, Other Matters of this Award. Those individuals who move to new positions or who elect to be removed from Schedule 1, Part C Other Matters will be entitled to the provisions of Clauses 6, 7, and 9 without modification and will have no right of reversion to the previous provisions.

11. Managerial Allowance

- (a) It is an expectation that a certain level of management responsibility is an essential part of the duties of a Staff Specialist.
- (b) In addition to the salaries prescribed by this Award, a Staff Specialist required by the Employer to undertake additional responsibilities specifically associated with the management of a unit, department or service shall be paid an additional allowance as set out in Schedule 2 of Part B to this Award.
- (c) To be eligible for payment of this allowance, the additional management responsibilities will include direct line responsibility for a unit, department or service and involvement in a number of, but not necessarily all, of the following:
- (i) cost centre management including budget preparation and management of allocated budget
 - (ii) participation in planning and policy development
 - (iii) responsibility for the co-ordination of research, training or teaching programs
 - (iv) membership and participation in senior executive management teams
- (d) The Managerial Allowance at the Level 1 rate is payable to Staff Specialists who satisfy the criteria in (c) and who are specifically required by the Employer to undertake these additional managerial responsibilities. It is expected that a Staff Specialist receiving a Level 1 allowance will as a minimum perform human resource management responsibilities which include the direct supervision of staff, allocation of duties, approval of staff rosters, implementation of the provisions of Clause 12 Performance Agreement, monitoring of hours worked and other performance management matters. It is also expected that a Staff Specialist receiving a Level 1 allowance will be responsible for ensuring that quality improvement and clinical governance activities are implemented.
- (e) The Managerial Allowance at the Level 2 rate is payable to those Staff Specialists satisfying the criteria in (c) and (d) who, in the assessment of the Employer, have significant additional managerial responsibilities involving multiple units, services or departments, eg. Divisional responsibility.

- (f) The Managerial Allowance at the Level 3 rate is payable to those Staff Specialists who, in addition to satisfying the criteria in (e), have a level of managerial responsibility deemed by the Employer to require an allowance at the Level 3 rate, eg. Area-wide responsibility. It is recognised that managerial responsibilities at this level may not involve the duties at a Department or unit level outlined in (d).
- (g) The Managerial Allowances are not cumulative and are only payable for the period in which the Staff Specialist has been allocated the additional managerial responsibilities by the Employer.
- (h) Managerial allowances may be withdrawn with one month's notice by the Employer if it determines that it no longer requires the Staff Specialist to undertake the relevant managerial responsibilities. This subclause does not apply to Staff Specialists who have been appointed to a position where the managerial duties for which the allowance is paid are an intrinsic part of the substantive position.
- (i) The Managerial Allowances shall be paid during paid absences on approved leave, on termination of employment including voluntary redundancy (on the basis of pro rata the annual amount for each week of paid leave) and for superannuation.
- (j) The Employer may direct a Staff Specialist, as a condition of receiving the managerial allowance, to attend training intended to support and improve management skills and competencies.

12. Performance Agreement

- (a) Each full time and part time Staff Specialist will have a written annual Performance Agreement developed jointly by the Staff Specialist and his/her designated supervisor and signed by the Chief Executive (however called) of the relevant Public Health Organisation or his or her nominee. The standard format to be used for performance agreements is annexed to this Award.
- (b) The Performance Agreement will be developed and completed within one month of the offer of a draft performance agreement. A Staff Specialist who at the time of making of this Award does not have a written Performance Agreement, will develop and complete a Performance Agreement within one month of the offer of a draft performance agreement.
- (c) In the event that agreement is not reached within a further 2 weeks, the matter must be resolved in accordance with the provisions of Clause 3, Issues Resolution of this Award.
- (d) The Staff Specialist and his/her designated supervisor will jointly review the Staff Specialist's performance under the Performance Agreement twice in each 12 month period. Each review is to include an evaluation of the Staff Specialist's level of achievement of any specified service improvement objectives which are agreed between the Staff Specialist and his/her supervisor.
- (e) A Performance Agreement will include, but not necessarily be limited to, the following:

Details of the time and place that the normal duties are to be worked

The nature of work to be performed during normal duties, (whether that is clinical, teaching, administrative, research, quality improvement or other activities)

The anticipated on call frequency and roster

Any specific call back requirements

Private billing expectations for Level 1 Staff Specialists

Any agreement on the amount of time that the Staff Specialist will be released from Normal Duties eg to undertake college and other professional association activities

Where appropriate, any financial, activity targets or health targets

Specific commitments and standards from the Employer for the provision of clinical support, including staff, equipment, facilities and billing.

Expectations in respect of management responsibilities, quality improvement and clinical governance activities, post graduate and undergraduate teaching activities, continuing education, research, health outcomes

Any part time working arrangement in accordance with clause 13 of this Award or outside practice approvals in accordance with clause 15 of this Award.

- (f) The parties agree that clinical, research, teaching, administrative, quality improvement and managerial duties are important aspects of the Normal Duties of a staff specialist. The allocation of time to perform these duties will form part of the performance agreement process and be reviewed as part of the performance agreement review process.

13. Part Time Employment and Arrangements

- (a) Staff Specialists covered by this Award may, with the approval of the Employer, work part-time with the Employer by entering into a written Part Time Working Arrangement which may be varied from time to time by agreement.
- (b) The minimum period of work under a part time working arrangement is 0.1 full time equivalent (FTE).
- (c) Part time Working Arrangements can either be on an on-going basis or for a fixed term (with subsequent return to full time hours for permanent Staff Specialists). The type of working arrangement must be specified in the Part time Working Arrangement and if the arrangement is for a fixed term, then the period of time must also be specified.
- (d) Transfer from an on-going Part Time Working Arrangement to full time employment, or early termination of a fixed term Part time Working Arrangement (with consequential return to full time employment for permanent Staff Specialists) must be by agreement between the Staff Specialist and the Employer and recorded in writing.
- (e) A Staff Specialist employed under a Part Time Agreement pursuant to this Clause will be entitled to accrue all entitlements including salary on a proportionate basis to a Staff Specialist employed on a full time basis.
- (f) A Staff Specialist who works pursuant to a Part Time Agreement will progress to the next incremental step every 12 months from the date of the Staff Specialists commencement of employment, provided the work performed by the Staff Specialist extraneous to the Part Time Agreement is commensurate with the experience of a full-time Staff Specialist and is acceptable to the Employer. This subclause does not preclude accelerated progression.
- (g) Staff Specialists employed pursuant to a Part Time Working Arrangement must participate in the on-call roster to a reasonable extent. The on-call obligations of part time Staff Specialists will be, wherever practicable, aligned to the part time Staff Specialist's normal duties.
- (h) In determining reasonable on-call rosters for part time Staff Specialists, consideration should be given to the level of on-call participation applicable to full time and part time Staff Specialists on the same on-call roster.

14. Work Location

- (a) Subject to the provisions of this clause, a Staff Specialist may be required by the Employer to work at any of the hospitals, institutions or other health services conducted by the relevant public health organisation.

- (b) Before a requirement under subclause (a) above is made, the Employer will ensure that:
- (i) the Staff Specialist is consulted in regard to the proposal to require work at another location;
 - (ii) the duties are consistent with the Staff Specialist's area of specialty, expertise and seniority and the Labour Flexibility clause of this Award;
 - (iii) the travel requirements are reasonable having regard to:
 - (1) the number of work locations,
 - (2) the frequency of attendance at each work location
 - (3) the distance of those work locations from the Staff Specialist's place of residence at the time the Staff Specialist accepted his/her offer of appointment as a Staff Specialist and
 - (4) the travelling time normally involved in attending the place of work at the time of making this award
 - (iv) while it is generally expected that Staff Specialists will not be required to provide services at more than two locations, in particular specialties, geographic circumstances or networking arrangements, Staff Specialists may be required to provide services at more than two locations;
 - (v) a Staff Specialist required to work at another location will have access to the same parking arrangements as those provided to other Staff Specialists at that location and shall be reimbursed by the Employer for any additional parking fees or road tolls paid as a consequence of working at more than one location;
 - (vi) where on call duties are rostered, the Staff Specialist is capable of returning to the workplace within a reasonable timeframe for an emergency call back (a change of the Staff Specialist's place of residence does not exempt the Staff Specialist from the on call obligations established at the time of his or her appointment or the obligations in place at the time of the making of this Award);
 - (vii) wherever practicable, on-call obligations are aligned to the Staff Specialist's normal duties. There shall be no additional on call obligations placed upon a Staff Specialist by reason of any requirement arising from this clause. In determining on-call rosters, consideration should be given to the level of on-call participation of other Staff Specialists on the same on-call roster;
 - (viii) the letter of appointment and/or the performance agreement will specify the locations where the Staff Specialist will be required to provide services. Where the Employer requires a Staff Specialist to commence work at an additional location not specified in the letter of appointment/annual performance agreement, the Employer will give 3 months notice;
 - (ix) regard is given to any family, carer or other personal responsibilities identified by the Staff Specialist so as to minimise any potential adverse impacts on those responsibilities;
 - (x) a Staff Specialist required to work at another location will not be financially disadvantaged in regard to drawings, accounting fees for partnerships and reimbursement of medical indemnity payments made from the No.1 Account, as a result of any such requirement;
 - (xi) the relevant factors for determining financial disadvantage will be:
 - (1) Drawings - percentage of maximum drawings paid to the Staff Specialist averaged over the last three full financial years (or for Staff Specialists where three years comparison is not available, such lesser periods as may be available by way of comparison) prior to the date on which the requirement to work at another location came into effect;

- (2) Accounting fees for partnerships - the accounting fees for partnerships reimbursement received by or paid on behalf of the Staff Specialist, relative to her/his partnership share, averaged over the last three full financial years (or for Staff Specialists where three years comparison is not available, such lesser periods as may be available by way of comparison) prior to the date on which the requirement to work at another location came into effect; and
- (3) Medical indemnity payments - percentage of indemnity reimbursement received by or paid on behalf of the staff specialist relative to the amount claimed where any differential is as a result of insufficient funds available in the No.1 Account, averaged over the last three full financial years (or for Staff Specialists where three years comparison is not available, such lesser periods as may be available by way of comparison) prior to the date on which the requirement to work at another location came into effect.

Where financial disadvantage occurs in relation to drawings, accounting fees for partnerships and medical indemnity reimbursement in accordance with these comparators, the Employer will provide supplementary funding to fully alleviate the financial disadvantage.

The supplementary funding, when provided, will be for an initial period of five years. At the conclusion of the five year period, the supplementary funding may be continued by approval of the Director-General of the NSW Department of Health.

- (xii) adequate resources are made available to the Staff Specialist at the additional work location;
 - (xiii) the next annual performance review process will be the means of determining whether non-clinical time should be changed as a result of the requirement to work at another location;
 - (xiv) reporting lines are clearly specified for each location at which the Staff Specialist is required to work;
 - (xv) the requirement for a staff specialist to work at another location will not impose an unreasonable workload on the staff specialists remaining at the primary work location.
- (c) In the event that a Staff Specialist is required to work at an additional location and the Staff Specialist contends that the requirement is unreasonable and/or would have a harsh or unfair impact, the Staff Specialist may invoke the Issue Resolution clause of this Award.
 - (d) These arrangements in no way proscribe the Employer's capacity to direct a Staff Specialist to temporarily work at a location other than the Staff Specialist's primary work location or locations where there is an emergency situation, subject to the Employer considering any personal circumstances that may be raised by the Staff Specialist.

15. Outside Practice and Other Business Activities

- (a) A full time Staff Specialist must seek the Employer's approval to engage in medical practice, paid employment or other business activities otherwise than with the Employer.
- (b) Any such approval must be in writing, may be time limited, and must not conflict with the Staff Specialist's commitments to the Employer or obligations under the Code of Conduct issued by the Department of Health as varied from time to time.
- (c) Details of the proposed outside practice commitments, including the location, employer (if any), working times, duration of work, and any on-call commitments must be included in the request for approval.
- (d) A part time Staff Specialist will advise the Employer of any actual, potential or perceived conflict between employment with the Employer and any other paid employment or other business activities. Where requested by the Employer, the part time Staff Specialist will provide details of the hours commitments, including on-call obligations.

- (e) Subject to any commercial arrangement, a Staff Specialist is not to use any of the Employer's staff or property for activities associated with any outside practice they may undertake.

16. Postgraduate Fellow

- (a) Appointment as a post-graduate fellow will be limited to one year with eligibility for re-appointment on an annual basis for a maximum of 3 years unless there is specific agreement between the individual and the Employer for a lesser period.
- (b) Remuneration will be as outlined in Schedule 1 of Part B Monetary Rates of this Award.
- (c) Post-graduate fellows will be entitled to all other provisions of this Award as if they were appointed as a Staff Specialist, except for salary.

17. Annual Leave and Annual Leave Loading

A. Annual Leave

- (a) All Staff Specialists shall be allowed 5 weeks annual leave on full pay in respect of each 12 months service with the Employer plus 1 day on full pay in respect of each public holiday occurring within the period of such leave.
- (b) Staff Specialists who are employed in a specialty or category specified in Part C Schedule 3 to this Award and who are required to work on Sundays during a qualifying period of employment for annual leave purposes shall be entitled to receive additional annual leave in respect of each shift so worked as follows:
 - if 30 or more Sunday shifts have been worked - one week;
 - if less than 30 have been worked - leave proportionately calculated on the basis of 40 hours leave for 30 such shifts worked.
- (c) Annual leave shall be given and shall be taken within a period of 6 months after the date when the right to the annual leave accrued; provided that the giving and taking of the whole or any separate period of such annual leave may, by mutual agreement between the Employer and the Staff Specialist be postponed for a further period not exceeding 6 months.
- (d) If the Staff Specialist and the Employer so agree, the annual leave or any such separate period may be taken wholly or partly in advance, before the Staff Specialist has become entitled to that leave, but where leave is taken in such circumstances a further period of annual leave shall not commence to accrue until the expiration of the 12 months in respect of which the annual leave or part thereof has been so taken.
- (e) Except as provided by this clause, payment shall not be made by the Employer to a Staff Specialist in lieu of any annual leave or part thereof nor shall any such payment be accepted by the Staff Specialist.
- (f) Subject to the provisions of the New South Wales Annual Holidays Act 1944, the Staff Specialist and the Employer should determine a mutually agreeable date from which annual leave is to be taken and unforeseen circumstances excepted, agreement should be reached two months prior to the commencement of the annual leave.
- (g) The Employer shall pay each Staff Specialist before entering upon annual leave his/her salary for the period of leave if requested by the Staff Specialist, otherwise, the payment will be made in the usual pay period.
- (h) Where the employment of a Staff Specialist is terminated, the Staff Specialist shall be entitled to receive proportionate payment for each completed month of service at the salary which such Staff Specialist is entitled under this Award.

- (i) Where the annual holiday under this clause or any part thereof has been taken in advance by a Staff Specialist pursuant to subclause (d) of this clause, and
 - (i) the employment of the Staff Specialist terminates before he/she has completed the year of employment in respect of which such annual holiday or any part was taken; and
 - (ii) the sum paid by the Employer to the Staff Specialist as ordinary pay for the annual holiday or any part so taken in advance exceeds the sum which the Employer is required to pay to the Staff Specialist under subclause (g) of this clause;

the Employer shall not be liable to make any payment to the Staff Specialist under the said subclause (g), and shall be entitled to deduct the amount of such excess from any remuneration payable to the Staff Specialist upon the termination of the employment.

B. Entitlement to Annual Leave Loading or Shift Allowances and Weekend Penalties

- (a) Staff Specialists who become entitled to and take annual leave pursuant to Part A of this clause, shall be paid ordinary salary plus either:
 - (i) an annual leave loading in respect of that entitlement equivalent to 17.5% of four weeks ordinary salary, not exceeding the amount equivalent to 17.5% of four weeks ordinary salary for maximum salary of Clerk Grade 12 under the provisions of the Crown Employees (Administrative and Clerical Officers - Salaries 2003) Award as varied from time to time; or
 - (ii) in the case of a Staff Specialist employed in a specialty or category specified in Part C Schedule 3 to this Award who would have earned shift allowances and/or weekend penalties in excess of the amount of annual leave loading indicated in subclause (a) (i) above, had he/she not taken annual leave; those shift allowances and weekend penalties relating to the ordinary time the Staff Specialist would have earned had he/she not taken annual leave (provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during a period of annual leave).
- (b) In respect of a Staff Specialist who becomes entitled to take annual leave pursuant to subclause (a) of Part B of this clause, and takes that annual leave in broken periods; both the annual leave loading and the maximum amount referred to in subclause (a) (i) of Part B of this clause are to be calculated pro rata for the broken period being taken in the same proportion as the period being taken bears to four weeks. The resultant amount of annual leave loading calculated for the broken period of annual leave, not exceeding the maximum amount calculated for the same broken period, is to be paid to the Staff Specialist in addition to ordinary salary for the period.
- (c) In respect of a Staff Specialist employed in a specialty or category specified in Part C Schedule 3 of this Award, who becomes entitled to take annual leave pursuant to Part A of this clause, and who takes that annual leave in broken periods, the entitlement to annual leave loading and the maximum amount are to be calculated in the same way as indicated in subclause (b) of Part B of this clause, for the period of annual leave being taken compared with the ordinary time shift allowances and weekend penalties the Staff Specialist would have earned had he/she not taken the annual leave (provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during the period of annual leave), and the greater of either the calculated annual leave loading (not exceeding the calculated maximum amount) or ordinary time shift allowances and weekend penalties is to be paid to the Staff Specialist in addition to ordinary salary for the period.
- (d) The entitlement to annual leave loading or shift allowances and weekend penalties referred to in subclauses (a) (b) and (c) of Part B of this clause are to be calculated and paid at the same time as the annual leave is paid.
- (e) Annual leave loading is to be calculated at the rate of ordinary salary payable when the annual leave is taken (except provided for in subclause (f) of Part B of this clause), and excludes allowances,

penalty or disability rates, commission, bonuses or incentive payments etc. Where the ordinary rate payable changes effective from a date falling within a period of annual leave, the changed rate is to be taken into account, and if necessary, adjustments calculated and corrections to pay made.

- (f) No annual leave loading is payable to a Staff Specialist who takes annual leave wholly or partly in advance of becoming entitled to such annual leave, except if his/her employment continues until the day he/she would have become entitled to take such annual leave, in which case the loading then becomes payable on that day (calculated on rates applicable on that day) in respect of the period/s of annual leave already taken wholly or partly in advance. Staff specialists employed in a specialty or category specified in Part C Schedule 3 of this Award already paid ordinary time shift allowances and weekend penalties in respect of annual leave taken wholly or partly in advance are not eligible to be paid annual leave loading under this subclause.
- (g) No annual leave loading or shift allowances and weekend penalties are payable to a Staff Specialist who is paid the monetary value of annual leave to his/her credit on resignation (not including retirement).
- (h) Upon retirement of a Staff Specialist or upon termination by the Employer of a Staff Specialist for any reason other than misconduct, the Staff Specialist shall be paid annual leave loading on that annual leave which he/she had become entitled to take that the loading would have applied to had the annual leave been taken.
- (i) In respect of that additional annual leave accrued by virtue of being rostered to work and working ordinary hours shifts on Sundays pursuant to subclause (b) of Part A of this clause, no annual leave loading is payable. Staff specialists employed in a specialty or category specified in Part C Schedule 3 of this Award are to be paid, in addition to ordinary salary for such annual leave period/s the ordinary time shift allowances and weekend penalties the Staff Specialist would have earned had he/she not taken the annual leave (provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during the period of annual leave).

18. Long Service Leave

- (a) Entitlement and Accrual
 - (i) After service for 7 years or more but not more than 10 years, a Staff Specialist is entitled to Long Service Leave, proportionate to his or her length of service, calculated at the rate of 2 months on full pay for 10 years served.
 - (ii) After service for more than 10 years, a Staff Specialist is entitled to Long Service Leave under subclause (i) above in respect of the first 10 years and additional long service leave, proportionate to his or her length of service, calculated at the rate of 5 months on full pay for each 10 years served after the first 10 years.
- (b) Definition of Service
 - (i) For the purposes of this clause:
 - (1) service shall mean continuous service with the Employer (as defined by this Award);
 - (2) continuous service shall have the same meaning as in section 3 of Schedule 3A of the *Public Sector Employment and Management Act 2002*;
 - (3) prior government service will be recognised in accordance with the provisions outlined in Schedule 3A of the *Public Sector Employment and Management Act 2002*.

- (ii) Broken periods of service with the Employer shall count as service:
 - (1) where a Staff Specialist, after ceasing employment with the Employer, is re-employed by the Employer subsequent to 22 August 1972 provided that the Staff Specialist has completed at least 5 years continuous service from the date of his/her being so re-employed; or
 - (2) where a Staff Specialist was employed by the Employer at the operative date of this Award and was entitled to count broken service under the provisions of industrial instruments binding on the Employer prior to 22 August 1972.
 - (iii) Service shall not include any period of leave without pay except in the case of Staff Specialists who have completed at least ten years service (any period of absence without pay being excluded there from) in which case service shall include any period of leave without pay not exceeding 6 months taken after 22 August 1972.
- (c) Taking Long Service Leave
- (i) A staff specialist with an entitlement to long service leave may elect to access such entitlement:
 - (1) on full pay;
 - (2) on half pay; or
 - (3) on double pay.
 - (ii) When a Staff Specialist takes long service leave, the leave entitlement will be deducted on the following basis:
 - (1) a period of leave on full pay - the number of days so taken;
 - (2) a period of leave on half pay - half the number of days so taken; or
 - (3) a period of leave on double pay - twice the number of days so taken.
 - (iii) If a public holiday occurs whilst a Staff Specialist is taking long service leave and the Staff Specialist would have otherwise worked on that day but for the public holiday, the amount of long service leave to be deducted is to be reduced by the public holiday.
 - (iv) Long Service Leave shall be taken at a time mutually arranged between the Employer and the Staff Specialist.
- (d) Payment on Termination
- (i) On the termination of employment of a Staff Specialist with an entitlement to long service leave, otherwise than by his/her death, the Employer will pay the Staff Specialist the monetary value of all long service leave accrued and not taken at the date of such termination and such monetary value shall be determined according to the salary payable to the Staff Specialist at the date of such termination.
 - (ii) Where a Staff Specialist who has acquired a right to long service leave, or after 5 years and less than seven years service, dies, the Staff Specialist's estate shall be entitled to receive the monetary value of the leave not taken or which would have accrued to such Staff Specialist had his/her services been terminated as referred to in subclause (d)(i) of this clause, and such monetary value shall be determined according to the salary payable to the Staff Specialist at the time of his/her death.
 - (iii) Where the services of a Staff Specialist with at least 5 years service but less than seven years service, are terminated by the Employer for any reason other than the Staff Specialist's serious

and wilful misconduct, or by the Staff Specialist 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 2 months long service leave for 10 years service.

- (e) Preservation of Rights to Long Service Leave
 - (i) Rights to long service leave under this Clause shall be in replacement of rights to long service leave, if any, which at the commencement of this Award may have accrued or may be accruing to a Staff Specialist and shall apply only to persons in the employ of the Employer on or after the date of commencement of this Award.
 - (ii) Where a Staff Specialist has been granted long service leave or has been paid its monetary value prior to the date of commencement of this Award, the Employer shall be entitled to debit such leave against any leave to which the Staff Specialist may be entitled pursuant to this Clause.
- (f) Accrual of other entitlements whilst on long service leave
 - (i) During a period of long service leave on half pay, a Staff Specialist will continue to accrue at the full time equivalent rate except for annual leave that will accrue at the rate of 50%.
 - (ii) During a period of long service leave on double pay, a Staff Specialist will continue to accrue at the full time equivalent rate including annual leave which will accrue at the single time rate.

19. Sick Leave

A full-time Staff Specialist shall be entitled to sick leave on full pay calculated by allowing ten working days for each year of continuous service less any sick leave on full pay already taken, subject to the following conditions;

- (a) the Employer may require the sickness to be certified to by a legally qualified medical practitioner approved by the Employer or may require other satisfactory evidence of the sickness.
- (b) a Staff Specialist shall not be entitled to sick leave until after 3 months' continuous service.
- (c) a Staff Specialist shall not be entitled to sick leave on full pay for any period in respect of which such Staff Specialist is entitled to workers' compensation; provided, however, that the Employer shall pay to a Staff Specialist who has a sick leave entitlement under this clause the difference between the amount received as workers' compensation and full pay. The Staff Specialist's sick leave entitlement under this clause shall, for each week during which such difference is paid, be reduced by that proportion of 1 week which the difference paid bears to full pay.
- (d) for the purposes of this clause "service" means service in any of the positions covered by this Award, provided that any person who was employed by the Employer immediately prior to becoming a Staff Specialist in any position covered by this Award shall be entitled to add to his/her service under this Award the service that he/she has had under any other award/agreement covering his/her employment by the Employer provided that Staff Specialists who are employed by the Employer at the date of the commencement of this Award shall retain to their credit until exhausted, any accumulation of sick leave to their credit immediately prior to such date, and provided further that such credit is not less than the entitlement otherwise prescribed by this clause.
- (e) The Employer shall not terminate the services of a Staff Specialist, except on the grounds of misconduct, during the currency of any period of paid sick leave unless an agreed independent registered medical practitioner certifies that a Staff Specialist is fit to continue in employment and the Staff Specialist refuses to resume duty.
- (f) If a dispute arises as to whether a Staff Specialist is fit to continue in employment, such dispute shall be addressed in accordance with Clause 3, Issue Resolution.

20. Family and Community Services Leave**(a) General****(i) 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.

(ii) The appropriate Chief Executive or authorised delegate may grant FACS leave to a Staff Specialist:

(1) to provide care and/or support for sick members of the Staff Specialist's relatives or household; or

(2) for reasons related to the family responsibilities of the Staff Specialist (e.g. to arrange and or attend a funeral of a relative; to accompany a relative to a medical appointment where there is an element of emergency; parent/teacher meetings; education week activities; to meet elder-care requirements of a relative); or

(3) for reasons related to the performance of community service by the Staff Specialist (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 a Staff Specialist 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).

(iii) FACS leave replaces compassionate leave.**(iv) A Staff Specialist 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.

(b) Entitlement**(i) The maximum amount of FACS leave on full pay that may be granted to a Staff Specialist is:**

(1) 3 working days during the first year of service, commencing on and from 1 January 1995, and thereafter 6 working days in any period of 2 years; or

(2) 1 working day, on a cumulative basis effective from 1 January 1995, for each year of service after 2 years' continuous service, minus any period of FACS leave already taken by the Staff Specialist since 1 January 1995,

whichever method provides the greater entitlement.

(ii) FACS leave is available to part-time Staff Specialists on a pro rata basis, based on the percentage of the full time salary the Staff Specialist receives.

(c) 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 a Staff Specialist on the death of a relative or member of a household as defined in subclause (a) (i) of this clause.

(d) Use of other leave entitlements

The appropriate Chief Executive or authorised delegate may grant a Staff Specialist other leave entitlements for reasons related to family responsibilities or community service of the Staff Specialist.

A Staff Specialist may elect, with the consent of the Employer, to take annual leave; long service leave; or leave without pay.

21. Personal/Carer's Leave

(a) Use of sick leave to care for the person concerned - definitions

A person who needs the Staff Specialist's care and support is referred to as the "person concerned" and is:

- (i) a spouse of the Staff Specialist; or
- (ii) 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
- (iii) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the Staff Specialist or spouse or de facto spouse of the Staff Specialist; or
- (iv) a same sex partner who lives with the Staff Specialist as the de facto partner of that Staff Specialist on a bona fide domestic basis; or
- (v) a relative of the Staff Specialist 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.

(b) Use of sick leave to care for the person concerned - entitlement

- (i) The entitlement to use sick leave in accordance with this subclause is subject to:
 - (1) the Staff Specialist being responsible for the care and support of the person concerned; and
 - (2) the person concerned being as defined in subclause (a) of this clause.
- (ii) A Staff Specialist 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.

- (iii) Sick leave accumulates from year to year. In addition to the current year's grant of sick leave available under (ii) above, sick leave untaken from the previous 3 years may also be accessed by a Staff Specialist with responsibilities in relation to a person who needs their care and support.
- (iv) 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 (iii) above.
- (v) The Staff Specialist 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.
- (vi) The Staff Specialist 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.
- (vii) The Staff Specialist is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration.
- (viii) The Staff Specialist 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 Staff Specialist, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the Staff Specialist to give prior notice of absence, the Staff Specialist shall notify the Employer by telephone of such absence at the first opportunity on the day of absence.
- (ix) In normal circumstances, the Staff Specialist must not take leave under this part where another person has taken leave to care for the same person.

(c) Use of other leave entitlements

A Staff Specialist may elect, with the consent of the Employer, to take:

- (i) annual leave, including annual leave not exceeding 10 days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties. A Staff Specialist and the Employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least 5 consecutive annual leave days are taken. A Staff Specialist 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.
- (ii) long service leave; or
- (iii) leave without pay for the purpose of providing care and support to the person concerned as defined in subclause (a) of this clause.

(d) Use of make-up time

- (i) A Staff Specialist may elect, with the consent of the Employer, to work "make-up time". "Make-up time" is worked when the Staff Specialist takes time off during ordinary hours for family or community service responsibilities, and works those hours at another time, during the spread of normal duties hours defined in Clause 4 of this Award, at the ordinary rate of pay.
- (ii) A Staff Specialist on shift work may elect, with the consent of the Employer, to work "make-up time" (under which the Staff Specialist takes time off during ordinary hours and works those hours at another time) at the applicable shift work rate which would have been applicable to the hours taken off.

22. Maternity, Adoption and Parental Leave

A Maternity Leave

(a) Eligibility

To be eligible for paid maternity leave a full time or part-time Staff Specialist must have completed at least 40 weeks continuous service prior to the expected date of birth.

A Staff Specialist who has once met the conditions for paid maternity leave will not be required to again work the 40 weeks continuous service in order to qualify for a further period of paid maternity leave, unless-

- (i) there has been a break in service where the Staff Specialist has been re-employed or re-appointed after a resignation, medical retirement, or after her services have been otherwise dispensed with: or
- (ii) the Staff Specialist 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.

(b) 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 a Staff Specialist's eligibility to receive paid maternity leave. For example, where a Staff Specialist 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 a Staff Specialist'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:

- (i) service was on a full-time or part-time basis;
- (ii) cessation of service with the former public sector service was not by reason of dismissal on any ground, except retrenchment or reduction of work;
- (iii) the Staff Specialist commences duty with the Employer within two months of ceasing employment with the former public sector service. Where there is such a break in service, such break will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.

(c) Entitlement to Paid Maternity Leave

An eligible Staff Specialist 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 a Staff Specialist to take this period off work. However, if a Staff Specialist decides to work during the nine weeks prior to the date of birth it is subject to the Staff Specialist being able to satisfactorily perform the full range of normal duties.

Paid maternity leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(d) Unpaid Maternity Leave

(i) Full time and part time Staff Specialists 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.

(ii) Full time and part time Staff Specialists who are not eligible for paid maternity leave are entitled to unpaid maternity leave of not more than 12 months.

(e) Applications

A Staff Specialist who intends to proceed on maternity leave should formally notify the 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.

(f) Variation after Commencement of Leave

After commencing maternity leave, a Staff Specialist may vary the period of her maternity leave once only without the consent of the Employer by giving the Employer notice in writing of the extended period at least fourteen days' before the start of the extended period. The Employer may accept less notice if convenient.

A Staff Specialist may extend the period of maternity leave at any time with the agreement of the Employer.

The conditions relating to variation of maternity leave are derived from Section 64 of the *Industrial Relations Act 1996*.

(g) Staffing Provisions

In accordance with obligations established by the *Industrial Relations Act 1996* (Section 69) any person who occupies the position of a Staff Specialist on maternity leave must be informed that the Staff Specialist has the right to return to her former position. Additionally, since a Staff Specialist 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 Staff Specialist elects to return to duty, whichever occurs first.

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

When the Staff Specialist 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 Staff Specialists 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 Staff Specialist 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.

(i) Illness Associated with Pregnancy

If, because of an illness associated with her pregnancy a Staff Specialist 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 a Staff Specialist 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 Staff Specialist then commences maternity leave with the normal provisions applying.

(j) Transfer to a More Suitable Position

Where, because of an illness or risk associated with her pregnancy, a Staff Specialist cannot carry out the duties of her position, the 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 a Staff Specialist is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(k) Miscarriages

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

(l) Stillbirth

In the case of a stillbirth, (as classified by the Registry of Births, Deaths and Marriages) a Staff Specialist 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.

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

A Staff Specialist 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 a Staff Specialist return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

(n) Right to Return to Previous Position

In accordance with the obligations set out in Section 66 of the *Industrial Relations Act* 1996, a Staff Specialist returning from maternity leave has the right to resume her former position.

Where this position no longer exists the Staff Specialist is entitled to be placed in a position nearest in status and salary to that of her former position and to which the Staff Specialist is capable or qualified.

(o) Further Pregnancy While on Maternity Leave

Where a Staff Specialist becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If a Staff Specialist 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

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

A Staff Specialist who commences a subsequent period of maternity leave during the first 12 months of a return to duty on a part time basis as provided under subclause (a)(iii) of Part D of this clause is entitled to be paid at their substantive full time rate for the subsequent period of maternity leave.

A Staff Specialist who commences a subsequent period of maternity leave more than 12 months after returning to duty on a part time basis under subclause (a)(iii) of Part D of this clause, will be entitled to paid maternity leave for the subsequent period of maternity leave at their part time rate.

B Adoption Leave

(a) Eligibility

All full time and part time Staff Specialists 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 part-time Staff Specialist must also have completed at least 40 weeks continuous service prior to the date of taking custody of the child.

A Staff Specialist 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

- (i) there has been a break in service where the Staff Specialist has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with; or
- (ii) the Staff Specialist has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the Worker's Compensation Act.

(b) Portability of Service for Paid Adoption Leave

As per maternity leave conditions.

(c) Entitlement

(i) Paid Adoption Leave

Eligible Staff Specialists 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 a Staff Specialist to remain on full pay for that period.

(ii) Unpaid Adoption Leave

Eligible Staff Specialists are entitled to unpaid adoption leave as follows: -

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

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

(d) Applications

Due to the fact that a Staff Specialist may be given little notice of the date of taking custody of a child, Staff Specialists 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.

(e) Variation after Commencement of Leave

After commencing adoption leave, a Staff Specialist 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 the Employer may accept less notice if convenient.

(f) Staffing Provisions

As per maternity leave conditions.

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

As per maternity leave conditions.

(h) Right to return to Previous Position

As per maternity leave conditions.

C Parental Leave

(a) Eligibility

To be eligible for parental leave a full time or part-time Staff Specialist 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.

A Staff Specialist 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-

- (i) there has been a break in service where the Staff Specialist has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with: or

- (ii) the Staff Specialist 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*.

(b) Portability of Service for Paid Parental Leave

As per maternity leave conditions.

(c) Entitlements

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

- (i) an unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave), and
- (ii) a further unbroken period in order to be the primary caregiver of the child (extended parental leave).
- (iii) The entitlement of one week's paid leave may be taken at anytime within the 52 week period and shall be paid:
 - at the Staff Specialists 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.
- (iv) Extended parental leave cannot be taken at the same time as the Staff Specialist's spouse or partner is on maternity or adoption leave except as provided for in subclause (a)(i) of Part D Right to Request of this clause.

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

(d) Applications

A Staff Specialist 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.

- (i) In the case of extended parental leave, the Staff Specialist should give written notice of the intention to take the leave.
- (ii) The Staff Specialist 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 Staff Specialist. In such an instance, the Staff Specialist should notify the employer as early as practicable.
- (iii) The Staff Specialist must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.

- (iv) In the case of extended parental leave, the Staff Specialist must, before the start of leave, provide a statutory declaration by the Staff Specialist stating:
 - (1) if applicable, the period of any maternity leave sought or taken by his spouse, and
 - (2) that they are seeking the period of extended parental leave to become the primary care giver of the child.
- (e) Variation after Commencement of Leave -

After commencing parental leave, a Staff Specialist 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 the Employer may accept less notice if convenient.
- (f) Effect of Parental Leave on Accrual of Leave, Increments etc.

As per maternity leave conditions.
- (g) Right to Return to Previous Position

As per maternity leave conditions.

D Right to Request

- (a) A Staff Specialist entitled to maternity, adoption or parental leave may request the Employer to allow the Staff Specialist:
 - (i) to extend the period of simultaneous maternity, adoption or parental leave use up to a maximum of eight weeks;
 - (ii) to extend the period of unpaid maternity, adoption or extended parental leave for a further continuous period of leave not exceeding 12 months;
 - (iii) to return from a period of maternity, adoption or parental leave on a part time basis until the child reaches school age;

to assist the Staff Specialist in reconciling work and parental responsibilities.
- (b) The Employer shall consider the request having regard to the Staff Specialist's circumstances and, provided the request is genuinely based on the Staff Specialist's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the Employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (c) The Staff Specialist's request and the Employer's decision made under subclauses (a)(ii) and (iii) must be recorded in writing.
- (d) Where a Staff Specialist wishes to make a request under subclause (a)(iii):
 - (i) the Staff Specialist is to make an application for leave without pay to reduce their full time weekly hours of work
 - (ii) such application must be made as early as possible to enable the Employer to make suitable staffing arrangements. At least four weeks notice must be given;
 - (iii) salary and other conditions of employment are to be adjusted on a basis proportionate to the Staff Specialist's full time hours of work i.e. for long service leave the period of service is to be converted to the full time equivalent and credited accordingly.

- (iv) Staff Specialists who return from leave under this arrangement remain full time Staff Specialists.

E Communication During Leave

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

NOTE:

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

The Employer must not fail to re-engage a temporary Staff Specialist because:

- the Staff Specialist or Staff Specialist's spouse is pregnant; or
- the Staff Specialist is or has been immediately absent on parental leave.

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

- (b) Liability for Superannuation Contributions

During a period of unpaid maternity, adoption or parental leave, the Staff Specialist will not be required to meet the employer's superannuation liability.

23. Telephones

A Staff Specialist required by the Employer to have a telephone for the purposes of official duty at his/her home address shall, on presenting an account relating to that telephone be reimbursed -

- (a) three-quarters of the cost of the rental of the telephone; and
- (b) the cost of all official STD telephone calls or its equivalent.

24. Office, Secretarial and Administrative Support

Staff Specialists will have access to such office, secretarial and administrative support as may be reasonably necessary to undertake the requirements of the position.

25. Specialist Medical Administrators

- (a) Where the Employer determines that Fellowship of the Royal Australian College of Medical Administrators is an essential requirement for appointment to a position, the holder of that position will be appointed as a Staff Specialist in accordance with the arrangements set out below.
- (b) Pursuant to clause 5(c) of this Award, Staff Specialists appointed in accordance with this clause will progress to the next incremental step, up to and including Year 5, on the anniversary date of his/her commencement.
- (c) Appointment or progression to Senior Staff Specialist grade may occur when the Employer requires the Staff Specialist to have duties and responsibilities:
 - (i) across an area health service; or
 - (ii) involving management of multiple services, units or department across two (2) or more facilities.
- (d) Specialist Medical Administrators paid in accordance with this clause are not entitled to the provisions of Clause 11 Managerial Allowance.
- (e) Except as otherwise provided, Staff Specialists paid in accordance with this clause are entitled to the terms and conditions of employment applicable to Staff Specialists. Staff Specialists paid in accordance with this clause are not entitled to the terms and conditions of employment applicable to medical superintendents.

26. Labour Flexibility

- (a) The Employer may direct a Staff Specialist to carry out such duties as are reasonable, and within the limits of the Staff Specialist's skill, competence and training consistent with his/her classification, grouping and/or career stream provided that such duties are not designed to promote deskilling.
- (b) The Employer may direct a Staff Specialist to carry out such duties and use such equipment as may be required provided that the Staff Specialist has been properly trained or has otherwise acquired the necessary skills in the use of and equipment.
- (c) Any direction issued by the Employer pursuant to sub-clause (a) and (b) shall be consistent with the Employer's responsibilities to provide a safe and healthy work environment.

27. 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 a Staff Specialist because the Staff Specialist has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (d) Nothing in this clause is to be taken to affect:
 - (i) any conduct or act which is specifically exempted from anti-discrimination legislation;

- (ii) offering or providing junior rates of pay to persons under 21 years of age;
 - (iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (iv) a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

28. Redundancy

The provisions of Department of Health Policy Directive 2005-517, as amended from time to time, shall apply.

29. Leave Reserved

Leave is reserved for the Federation to apply with regard to the following claims included as part of the claim and marked as Exhibit 5 in IRC 3863 of 2004:

New Clause	Workforce Shortage positions
New Clause	Medical Indemnity insurance
New Clause	Principal Staff Specialist

30. No Extra Claims

Subject to Clause 29, Leave Reserved there will be no extra claims until 30 June 2008. The salary increases provided by this Award compensate for and extinguish all work value, special case or other claims referable to any period prior to the date of the making of this Award.

31. Area, Incidence and Duration

- (a) This Award rescinds and replaces the Staff Specialists (State) Award (IRC 1738 of 1996) published 23 October 1998 306 (I.G. 1225) and all variations of that award.
- (b) It shall apply to all Staff Specialists as defined in Clause 2, Definitions, of this Award.
- (c) This Award will take effect the beginning of the first pay period to commence on or after 28 April 2006. The Award will remain in force for the period to 30 June 2008 until varied or rescinded in accordance with the provisions of *Industrial Relations Act 1996*.

PART B

MONETARY RATES

Schedule 1: Staff Specialists Salary Rates

Staff Specialist	First Pay Period 28/4/2006 \$ per annum	First Pay Period 1/7/2006 (3%) \$ per annum	First Pay Period 1/7/2007 (3%) \$ per annum
1	115,354	118,815	122,379
2	122,101	125,764	129,537
3	128,841	132,706	136,687
4	135,602	139,670	143,860
5	142,350	146,621	151,020

Senior	155,848	160,523	165,339
Postgraduate fellow	133,996	138,016	142,156

Schedule 2: Allowances

Managerial allowances	First Pay Period 28/4/2006 \$ per annum	First Pay Period 1/7/2006 (3%) \$ per annum	First Pay Period 1/7/2007 (3%) \$ per annum
Level 1	16,000	16,480	16,974
Level 2	28,000	28,840	29,705
Level 3	40,000	41,200	42,436

PART C**OTHER MATTERS****SCHEDULE 1****LIST OF EXCLUSIONS IN RELATION TO CLAUSES 7 - 10 (INCLUSIVE)**

Section A

1. List of individuals

The following individuals shall be entitled to the provisions of Clauses 6, 7, and 9 of this Award with certain modifications, as set out below.

Dr J Bardon

Dr J Death

Dr M Donoghue

Dr P Gale

Dr D Kirkpatrick

Dr P Lipski

Dr G Nieuwkamp

Dr J Palmer

Dr M Pallas

Dr P Watt

Dr D York

2. Election rights

(a) An individual named in paragraph 1 above may elect to access either: -

Option 1 - the provisions set out in paragraph 3 below, i.e. a modified form of the provisions of Clauses 6, 7, and 9 of this Award; or,

Option 2 - on the condition that he/she forfeits the right to his/her existing motor vehicle arrangement, the provisions of Clauses 6, 7, and 9 of this Award without modification.

- (b) This election may be exercised prior to each salary sacrifice review date.
- (c) Subject to: -
 - (i) the conditions outlined in paragraph 3 below; and,
 - (ii) remaining in his/her current position (as at 22 October 1999); and,
 - (iii) retaining an entitlement to payment of the abnormal hours or managerial allowance (as the case may be);

an individual who elects Option 1 will be able to continue to trade the relevant allowance (abnormal hours or managerial) for the provision of a motor vehicle for full private and business use. This entitlement will not be considered to be part of the salary sacrifice arrangements for the purposes of the calculation of the 50%.

- (d) An individual who elects to access Option 2 will have no right of reversion to the existing motor vehicle arrangement. The parties agree that such an individual will be deemed to have had his/her name deleted from the list in paragraph 1 above until such time as the Award is varied to reflect that election.

3. Modifications

If an individual elects Option 1 in paragraph 2 above he/she may access the provisions of Clauses 6, 7 and 9 of the Award subject to an additional contribution being made to the Employer in accordance with the following.

Each individual who elects Option 1 in paragraph 2 above shall contribute an amount equivalent to 55% of the average FBT liability for the motor vehicles provided as calculated for those individuals participating in this option. Such calculation is to be based on the assumption that each individual is packaging the maximum permissible FBT exempt amount. This FBT calculation shall be made at the end of each FBT year and shall be applied to contributions for the following year.

Section B

1. List of individuals

The following individuals shall be entitled to the provisions of Clauses 6, 7, 8 and 9 of this Award with certain modifications, as set out below.

Dr V de Carvalho	Dr A Gill
Dr R Burstal	Dr P Byth
Dr J Gani	Dr R Kerridge
Dr W Saul	Dr C Wake

2. Modifications

The individuals listed immediately above shall be entitled to the provisions of Clauses 6-9 of the Award. In addition, whilst ever these individuals remain in their current positions (as at 22 October 1999) and retain an entitlement to payment of the abnormal hours allowance or managerial allowance (as the case may be), they shall be entitled to continue the current arrangements approved by the the Director-General of the NSW Department of Health under which they forego payment of the abnormal hours allowance or managerial allowance (as the case may be), receive a motor vehicle under SES provisions and pay the difference up to the SES motor vehicle contribution rate. This entitlement is subject to payment of the full amount of fringe benefits tax payable by SES officers, i.e. the FBT exemption will

not be shared between the Employer and the Staff Specialist. This entitlement will not be considered to be part of the salary sacrifice arrangements for the purposes of the calculation of the 50%.

SCHEDULE 2

RECOGNISED AUSTRALASIAN SPECIALIST COLLEGES

Australasian College for Emergency Medicine

Australasian College of Dermatologists

Australian and New Zealand College of Anaesthetists

Joint Faculty of Intensive Care Medicine

Faculty of Pain Medicine

Royal Australasian College of Medical Administrators

Royal Australasian College of Physicians

Australasian Chapter of Palliative Medicine

Australasian Chapter of Community and Child Health

Australasian Chapter of Addiction Medicine

Joint Faculty of Intensive Care Medicine

Australasian Faculty of Public Health Medicine

Australasian Faculty of Rehabilitation Medicine

Australasian Faculty of Occupational Medicine

Royal Australasian College of Surgeons

Royal Australian and New Zealand College of Psychiatrists

Royal Australian and New Zealand College of Radiologists

Faculty of Radiation Oncology

Royal Australian College of Ophthalmologists

Royal College of Pathologists of Australasia

SCHEDULE 3

SPECIALTIES OR CATEGORIES OF POSITIONS COVERED BY CLAUSE 4 (D)

- (i) Emergency medicine

ANNEXURE

Pro Forma Staff Specialist Performance Agreement
Name of Staff Specialist:
Name of supervisor:

Date:
Work location(s):
Allocation of time at location(s):
Full-time or part-time:
Days on which normal duties are worked:
Nature of work to be performed during normal duties and time allocated:
Clinical:
Teaching:
Administrative:
Research:
Quality improvement:
Other:
Part-time Working Arrangement (Yes/No): attach approval if applicable
Outside practice (Yes/No): attach approval if applicable
Anticipated on call frequency and roster:
Any specific call-back requirements:
Agreed College or other professional association activities (include estimate of time spent):
Billing expectations (Level 1 only): [NB: categories of patients, clinics, etc, not financial targets.]
Financial, activity or health targets (where appropriate):
Specific commitments and standards from the Employer for the provision of:
Clinical support:
Staff:
Equipment:
Facilities:
Billing:

<p>Expectations in respect of: Management responsibilities:</p> <p>Quality improvement/clinical governance:</p> <p>Teaching activities:</p>
<p>Continuing education:</p> <p>Research:</p> <p>Health outcomes:</p>
<p>Six month review: Evaluation of level of achievement by supervisor:</p> <p>Signature:</p>
<p>Comments by Staff Specialist:</p> <p>Signature:</p>
<p>Signature of Chief Executive of the relevant public health organisation (or his/her nominee)</p> <p>Signature:</p>
<p>Twelve month review: Evaluation of level of achievement by supervisor:</p> <p>Signature:</p>
<p>Comments by Staff Specialist:</p>

Signature:
Signature of Chief Executive of the relevant public health organisation (or his/her nominee)
Signature:

F. L. WRIGHT *J. President.*
R. P. BOLAND *J.*
P. J. CONNOR, Commissioner.

Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (MEDICAL SPECIALISTS, VARIOUS AGENCIES) AWARD 2007

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Australian Salaried Medical Officers' Federation (New South Wales), Industrial Organisation of Employees.

(No. IRC 269 of 2007)

Before Commissioner McLeay

22 March 2007

AWARD

Arrangement

PART A

Clause No.	Subject Matter
1.	Title
2.	Parties
3.	Other Conditions of Employment
4.	Definitions
5.	Salaries and Progression
6.	Salary Packaging Arrangements, including Salary Sacrifice to Superannuation
7.	Grievance and Dispute Resolution Procedures
8.	Anti-Discrimination
9.	Employment Arrangements
10.	Training, Conference, Education & Study Leave
11.	Deduction of Union Membership Fees
12.	Recreation Leave
13.	Personal/Carer's Leave
14.	No Extra Claims
15.	Area, Incidence and Duration

Schedule 1: Recognised Australasian Specialist Colleges

PART B

MONETARY RATES

Table 1 - Salaries

PART A

1. Title

This Award shall be known as the Crown Employees (Medical Specialists, Various Agencies) Award 2007.

2. Parties

This Award is made between the Director of Public Employment, the New South Wales Attorney-General's Department and the Australian Salaried Medical Officers' Federation (New South Wales).

3. Other Conditions of Employment

- 3.1 Where this Award is silent, the provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006, as amended from time to time, will apply.
- 3.2 Where there is any inconsistency between this Award and the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006, this Award, as amended from time to time, will apply.

4. Definitions

"Award" means the Crown Employees (Medical Specialists, Various Agencies) Award 2007.

"Employer" means the Attorney-General's Department and the DPE. These employers cover those Senior Medical Officers currently employed or who will be employed in the future by the Attorney-General's Department.

"Entitlements" means entitlements under this Award.

"Federation" means the Australian Salaried Medical Officers' Federation (New South Wales).

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

"Salary Scale" means the rates set out in Table 1 - Salaries, of Part B, Monetary Rates.

"Senior Medical Officer" means Specialist, Senior Specialist and Senior Specialist (Managerial) as defined in this clause.

"Specialist" means a person appointed to a position of Specialist by an Employer. To be eligible for appointment a specialist must be a person who -

- (a) holds a medical qualification that is registrable in New South Wales; and,
- (b) after full registration has spent not less than five years in the practice of medicine in New South Wales in the Health System or in any other institution, whether in New South Wales or elsewhere, deemed by the employer to be of equivalent standing; and,
- (c) inclusive within the period described in (b) above has spent not less than three years in supervised specialist training and/or experience; and,
- (d) has obtained a Fellowship of a recognised Australasian Specialist College (see Schedule 1 for list of Recognised Australasian Specialist Colleges); or
 - (i) has proof of recognition as a specialist by the Specialist Recognition Advisory Committee; or
 - (ii) has conditional registration with the NSW Medical Board as an overseas-trained specialist (not including conditional registration as a general practitioner); or
 - (iii) does not have a qualification recognised under (i) or (ii) above but has obtained an appropriate higher qualification in his/her speciality acceptable to the Employer following consultation with the Federation. The decision to employ or appoint a person in terms of this subclause will rest with the employer.
- (e) Any decision made by the Employer in determining whether any person is eligible to be appointed as a specialist shall not contravene any applicable provision of the *Anti-Discrimination Act 1977*.

"Senior Specialist" means a person who:

- (a) has been employed by an Employer on the maximum salary provided by this Award or the Award for a Specialist for a period of at least three years; and/or
- (b) has gained such experience and attained such ability in his/her specialty which is acceptable to the Employer after consideration by the Medical Appointments Advisory Committee of the employer to justify appointment to the classification; and
- (c) is appointed to a position having such duties and responsibilities as are deemed by the Employer to require the services of a Senior Specialist.

"Senior Specialist (Managerial)" means a Senior Specialist who holds a managerial position.

5. Salaries and Progression

- 5.1 Salary Rates - All Senior Medical Officers covered by this Award will be paid the Base Salary, the Special Allowance and the Private Practice Allowance referred to in Table 1 - Salaries, of Part B, Monetary Rates.
- 5.2 The salaries prescribed in Table 1 - Salaries, of Part B, Monetary Rates, reflect increases to the salaries paid under the Crown Employees (Medical Specialists, Various Agencies) Award 2005 of 4% to salaries payable with effect from the first pay period to commence on or after 1 July 2007; and
- 5.3 Progression by Increment - Senior Medical Officers will progress to the next salary level on the anniversary date of their appointment as a Senior Medical Officer.
- 5.4 Payment of Overtime - Additional compensation for overtime and on-call or recall duty is not payable under this Award.
- 5.5 Superable Salary - Superannuation will be calculated by reference to the total of Base Salary, Special Allowance and Private Practice Allowance as referred to in Table 1 - Salaries.

6. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation

- 6.1 The entitlement to salary package in accordance with this clause is available to:
 - (a) permanent full-time and part-time employees;
 - (b) temporary employees, subject to the Department's convenience; and
 - (c) casual employees, subject to the Department's convenience, and limited to salary sacrifice to superannuation in accordance with subclause 6.7.
- 6.2 For the purposes of this clause:
 - (a) "salary" means the salary or rate of pay prescribed for the employee's classification by clause 5, Salaries and Progression, Part B of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.
 - (b) "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.
- 6.3 By mutual agreement with the Director of Public Employment (DPE), an employee may elect to package a part or all of their post compulsory deduction salary in order to obtain:
 - (a) a benefit or benefits selected from those approved by the DPE; and

- (b) 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.
- 6.4 An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.
- 6.5 The agreement shall be known as a Salary Packaging Agreement.
- 6.6 Except in accordance with subclause 6.7, a Salary Packaging Agreement shall be recorded in writing and shall be for a period of time as mutually agreed between the employee and the DPE at the time of signing the Salary Packaging Agreement.
- 6.7 Where an employee makes an election to sacrifice a part or all of their post compulsory deduction salary as additional employer superannuation contributions, the employee may elect to have the amount sacrificed:
- (a) paid into the superannuation fund established under the *First State Superannuation Act 1992*; or\
- (b) where the employer is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or
- (c) subject to the Department's agreement, paid into another complying superannuation fund.
- 6.8 Where the employee makes an election to salary sacrifice, the employer shall pay the amount of post compulsory deduction salary, the subject of election, to the relevant superannuation fund.
- 6.9 Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:
- (a) *Police Regulation (Superannuation) Act 1906*;
- (b) *Superannuation Act 1916*;
- (c) *State Authorities Superannuation Act 1987*; or
- (d) *State Authorities Non-contributory Superannuation Act 1987*,
- the employee's 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.
- 6.10 Where the employee makes an election to salary package, and where the employee is a member of a superannuation fund other than a fund established under legislation listed in subclause 6.9 of this clause, the employee's 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.
- 6.11 Where the employee makes an election to salary package:
- (a) 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
- (b) any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this Award or any applicable Award, Act or statute which is expressed to be determined by reference to 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 5, Salaries and

Progression, or Part B of this Award if the Salary Packaging Agreement had not been entered into.

- 6.12 The DPE may vary the range and type of benefits available from time to time following discussion with the Federation. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.
- 6.13 The DPE will determine from time to time the value of the benefits provided following discussion with the Federation. Such variations shall apply to any existing or future Salary Packaging Agreement from the date of such variation. In this circumstance, the employee may elect to terminate the Salary Packaging Agreement.

7. Grievance and Dispute Resolution

- 7.1 All grievances and disputes relating to the provisions of this Award shall initially be dealt with as close to the source as possible, with graduated steps for further attempts at resolution at higher levels of authority within the appropriate department, if required.
- 7.2 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.
- 7.3 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 Senior Medical Officer to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Department Head or delegate.
- 7.4 The immediate manager shall convene a meeting in order to resolve the grievance, dispute or difficulty within two (2) working days, or as soon as practicable, of the matter being brought to attention.
- 7.5 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 Department Head.
- 7.6 The Department Head may refer the matter to the DPE for consideration.
- 7.7 If the matter remains unresolved, the Department Head shall provide a written response to the staff member and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- 7.8 A staff member, at any stage, may request to be represented by their union.
- 7.9 Any of the parties may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 7.10 The staff member, union, 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.
- 7.11 Whilst the procedures outlined in clauses 7.1 to 7.10 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.

8. Anti Discrimination

- 8.1 It is the intention of the parties bound by this Award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- 8.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the Award which, by its terms or operation, has a direct or indirect discriminatory effect.
- 8.3 Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 8.4 Nothing in this clause is to be taken to affect:
- (a) any conduct or act which is specifically exempted from anti- discrimination legislation;
 - (b) offering or providing junior rates of pay to persons 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.
- 8.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.
- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
 - (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

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

9. Employment Arrangements

- 9.1 Hours - Normal working hours are 35 per week, Monday to Friday.
- 9.2 Flexible Working Hours - Senior Medical Officers covered by this Award are eligible to work Flexible Working Hours as prescribed by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006.
- 9.3 Patient Fees or Charges - A Senior Medical Officer, who charges patients or clients as part of their normal duties, is required to transfer all monies received from those patients or clients to the employer.
- 9.4 Part-time Work - The provision for part-time work as prescribed by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006 will apply to Senior Medical Officers employed under this Award.
- 9.5 Private Practice - Senior Medical Officers may engage in private practice outside normal working hours. Private practice is to be considered as second or other employment and the employees are to obtain permission from their employer pursuant to section 59 of the *Public Sector Employment and Management Act 2002*.

10. Training, Conference, Education and Study Leave

- 10.1 The parties agree that the employer has a responsibility to ensure that Senior Medical Officers have appropriate and equitable access to Training, Conference, Education and Study Leave and that the employer will facilitate the taking of this leave. The Training, Conference, Education and Study Leave must be relevant to the Employer and must contribute to the skills base, knowledge and career enhancement of the Senior Medical Officer. Equally, the Senior Medical Officers have the responsibility to identify the relevant training, conference, education and study necessary to contribute to the skills base, knowledge and career enhancement of Senior Medical Officers. Further, Senior Medical Officers have the obligation to use that skill or knowledge acquired when required by the employer.
- 10.2 Entitlements - Senior Medical Officers are entitled to 18 working days per year or the pro rata proportion if working part-time, fully cumulative, for training, conference, education and study leave. Senior Medical Officers are entitled to full salary and allowances referred to in Table 1 - Salaries, of Part B, Monetary Rates, while on training, conference, education and study leave.
- 10.3 In relation to the 18 working days leave -
- (a) Five working days may be taken within Australia. Where the five working days are not utilised in any year, the balance is fully cumulative. However, no more than ten working days of such leave may be taken in any one year.
 - (b) Thirteen working days of the training, conference, education and study leave entitlement may be taken either within or outside Australia. Where the thirteen working days are not utilised in any year, the balance is fully cumulative.
- 10.4 Travel Allowances -
- (a) Senior Medical Officers are entitled to reasonable costs before, during and after any period of training, conference, education and study leave. Reasonable costs include expenses for weekends and public holidays and registration fees.
 - (b) Senior Medical Officers are entitled to the Australian and Overseas Travelling Allowances specified by Premier's Department for Chief Executive and Senior Executive Service Officers on an equivalent remuneration package, as varied from time to time.
- 10.5 Air fares and Class of Air Travel - Senior Medical Officers are entitled to an annual allocation of funds for air fares, fully cumulative from year to year, based on the following:
- (a) the equivalent of 3/5 of a QANTAS Business Class around-the-world air fare (based on a fare valued at 30 April every year); and
 - (b) the equivalent of one QANTAS Business Class Sydney to Perth return air fare (based on a fare valued at 30 April every year).
- These funds may be used to purchase any number of air fares for the employee, at any class, provided that the liability of the employer for funding these air fares is limited to the amount specified in this subclause. Any expenditure for air fares in excess of this liability is the responsibility of the Senior Medical Officer.
- 10.6 Personal Travel Insurance - Personal travel insurance will be arranged by the employer at the employer's expense.
- 10.7 Air Travel Bookings and Ticketing - Senior Medical Officers must use the State Government-appointed contractor for travel and related services.
- 10.8 Entitlement on Retirement, Resignation or Dismissal - Senior Medical Officers have no entitlement to any provisions in this clause on retirement, resignation or dismissal.

11. Deduction of Union Membership Fees

- 11.1 The union shall provide the employer with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- 11.2 The union shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.
- 11.3 Subject to 11.1 and 11.2 above, the employer shall deduct union fortnightly membership fees from the pay of any employee who is a member of the union in accordance with the union's rules, provided that the employee has authorised the employer to make such deductions.
- 11.4 Monies so deducted from employee's pay shall be forwarded regularly to the union together with all necessary information to enable the union to reconcile and credit subscriptions to employees' union membership accounts.
- 11.5 Unless other arrangements are agreed to by the employer and the union, all union membership fees shall be deducted on a fortnightly basis.
- 11.6 Where an employee has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

12. Recreation Leave

The recreation leave provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006, as amended from time to time, apply to Senior Medical Officers covered by this Award.

- (a) Senior Medical Officers accrue recreation leave at the rate of 20 working days per year.
- (b) Part-time Senior Medical Officers accrue recreation leave on a pro rata basis.

13. Personal/Carer's Leave

The provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006, as amended from time to time, shall apply.

14. No Extra Claims

- 14.1 The salary and allowance increases provided for in this Award are in full and final recognition of:
- the changes to the value of work up to and including the date of the making of this Award;
 - cost of living changes during the life of this Award; and
 - productivity and efficiency improvements, special case considerations and attraction and retention issues up to and including the date of the making of this Award.
- 14.2 There shall be no further salary claims made during the term of this Award that is 1 July 2007 until 30 June 2008.

15. Area, Incidence and Duration

- 15.1 This Award shall apply to all classifications contained herein.

- 15.2 This Award rescinds and replaces the Crown Employees (Medical Specialists Various Agencies) (State) Award published on 23 September 2005 (354 IG 157) and all variations thereof, which remains in force until 30 June 2007.
- 15.3 This Award is made on 22 March 2007 and shall take effect on and from 1 July 2007 and shall remain in force until 30 June 2008.

SCHEDULE 1

RECOGNISED AUSTRALASIAN SPECIALIST COLLEGES

Australasian College for Emergency Medicine

Australasian College of Dermatologists

Australian and New Zealand College of Anaesthetists

Joint Faculty of Intensive Care Medicine
Faculty of Pain Medicine

Royal Australian College of General Practitioners

Royal Australasian College of Medical Administrators

Royal Australasian College of Physicians

Australasian Chapter of Palliative Medicine
Australasian Chapter of Community and Child Health
Australasian Chapter of Addiction Medicine
Joint Faculty of Intensive Care Medicine
Australasian Faculty of Public Health Medicine
Australasian Faculty of Rehabilitation Medicine
Australasian Faculty of Occupational Medicine

Royal Australasian College of Surgeons

Royal Australian and New Zealand College of Psychiatrists

Royal Australian and New Zealand College of Radiologists

Faculty of Radiation Oncology

Royal Australian College of Ophthalmologists

Royal College of Pathologists of Australasia

PART B

MONETARY RATES *

Effective from the first pay period commencing on or after 1 July 2007

Medical Specialists	1.7.06 Per annum +4%	1.7.07 Per annum +4%
1st year		
Base	113,900	118,456
Special Allowance	19,819	20,611

Private practice allowance	26,744	27,813
Total	160,463	166,880
2nd year		
Base	120,562	125,384
Special Allowance	20,978	21,817
Private practice allowance	28,309	29,440
Total	169,848	176,641
3rd year		
Base	127,214	132,303
Special Allowance	22,135	23,021
Private practice allowance	29,870	31,065
Total	179,218	186,389
4th year		
Base	133,893	139,249
Special Allowance	23,297	24,229
Private practice allowance	31,438	32,696
Total	188,628	196,174
5th year		
Base	140,553	146,175
Special Allowance	24,456	25,434
Private practice allowance	33,003	34,322
Total	198,011	205,931
Senior Specialist (3+ years on 5th year)		
Base	153,882	160,037
Special Allowance	26,775	27,846
Private practice allowance	36,132	37,577
Total	216,788	225,460

* Special Allowance and Private Practice Allowance are to be calculated in accordance with the following formula and rounded to the nearest dollar. Any salary increases are to be applied to the Base Rate before the Special Allowance and Private Practice Allowance are calculated.

Special Allowance:

$$\frac{\text{Base Salary} \times 17.4}{100}$$

Private Practice Allowance:

$$\frac{(\text{Base salary} + \text{Special Allowance}) \times 20}{100}$$

J. McLEAY, Commissioner

Printed by the authority of the Industrial Registrar.

PRINCIPAL (INDEPENDENT SCHOOLS) (STATE) AWARD 2007

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Independent Education Union, Industrial Organisation of Employees.

(No. IRC 221 of 2007)

Before The Honourable Justice Schmidt

4 May 2007

AWARD**PART A****CONDITIONS****1. Arrangement**

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
	(a) Principal
	(b) Full-Time Principal
	(c) Part-Time Principal
	(d) Temporary Principal
	(e) Casual employee
	(f) Recognised School
	(g) Primary Department
	(h) Secondary Department
	(i) Union
	(j) Teacher
	(k) Teacher in Charge
	(l) Service
3.	Salary Scales
	3.1 Salaries Payable
	3.2 Establishment of Positions
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5.	Pro Rata Annual Leave Payment
	5.1 In Lieu of the <i>Annual Holidays Act 1944</i>
	5.2 Application
	5.3 Calculation of Payments and Definitions
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- 5.6 Principals who take Approved Leave without Pay - Notation re Leave Without Pay
- 5.7 Principals Whose Patterns of Employment have Varied
- 6. Annual Holiday Loading
- 7. Miscellaneous
 - Meal Break
- 8. Leave
 - 8.1 Sick Leave
 - (a) Entitlement
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 - (d) Parental Leave Entitlement for Casual Principals
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 - 8.4 Long Service Leave
 - (a) Applicability of *Long Service Leave Act 1955*
 - (b) Quantum of Leave
 - (c) Calculation of Entitlement
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 - (e) Public Holidays/Pupil Vacations
 - (f) Service Continuous/Leave Without Pay
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 - 8.5 Recognition of Immediate Past Service for the Calculation of Long Service Leave Credits
 - 8.6 Bereavement Leave
 - 8.7 Examination Leave
 - 8.8 Jury Service
- 9. Remuneration Package
- 10. Suspension
- 11. Disputes Procedure
- 12. No Extra Claims
- 13. Superannuation
- 14. Anti-Discrimination
- 15. Area Incidence And Duration

PART B

MONETARY RATES

Table 1 - Principals Salary

Table 2 - Allowance for Teachers in Charge

Table 3 - Other Rates and Allowances

ATTACHMENT A

Disputes Settlement Procedure

ATTACHMENT B

Redundancy

2. Definitions

For the purpose of this award:

- (a) "Principal" means a teacher as defined who is responsible to the employer for the day to day management and operation of the school, including the supervision of other teachers.

The definition of Principal shall not include:

- (i) persons employed as Principals with a contractual right to appoint and/or dismiss teachers, or
- (ii) persons employed to assist with the overall management of the school for less than four weeks.
- (b) "Full-Time Principal" means any Principal other than a part-time, or temporary Principal.
- (c) "Part-Time Principal" means a Principal who is engaged to work regularly, but for less than a full school week.
- (d) "Temporary Principal" means a Principal employed to work full-time or part-time for a specified period which is not more than a full school year, but not less than four school weeks.

Provided that a Principal may be employed for a specific period in excess of a full school year but not more than two full school years where such a Principal is replacing a Principal who is on leave for a specified period in excess of a full school year.

A Principal shall not be employed on successive temporary appointments except where each appointment is for a different purpose.

A Principal cannot be employed on a temporary basis unless any advertisement for the position stated the position was temporary and unless the Principal was advised at the point he or she was offered the position that it was temporary.

- (e) "Casual employee" means a person employed on a day-to-day basis in a relieving capacity.
- (f) "Recognised school" means a school registered under the provisions of the *Education Act* 1990 or any registered special school within the meaning of that Act or school for the disabled.
- (g) "Primary Department" means that section or division of a school which provides a primary education [including infants] and includes a school which provides a primary education only.
- (h) "Secondary Department" means that section or division of a school which is not a primary department and includes a school which provides a secondary education only.
- (i) "Union" means the New South Wales Independent Education Union.
- (j) "Teacher" means a person who is eligible to teach in a recognised school in New South Wales and who meets the requirements for registration as a teacher with the New South Wales Institute of Teachers.
- (k) "Teacher in Charge" means a teacher as defined who is appointed as such in schools of less than 100 students, who is responsible to the employer for the day to day management and operation of the school, including the supervision of other teachers.
- (l) "Service" includes service with an employer prior to this Award taking effect.

3. Salary Scales

3.1

- (a) The minimum annual rate of salary payable to full-time Principals shall be as set out in Part B, Table 1. Weekly salaries shall be ascertained by dividing the annual salaries by 521/7.
- (b) A Teacher in Charge shall be paid the annual salary which would apply from time to time to a teacher with the same qualifications and experience pursuant to the Teachers (Independent Schools) (State) Award 2007, or any industrial instrument which replaces it, together with the allowance set out in Table 2 of Part B Monetary Rates of this award.

3.2 Establishment of positions

- (a) A school shall appoint a teacher to the position of Principal if the total enrolment of the school, across all campuses (whether on the same or separate sites) is 100 students or more.
- (b) If a school does not appoint a Principal, then a school with an enrolment of less than 100 students shall appoint a Teacher in Charge, provided that this requirement shall not apply to teachers in single-teacher schools.

3.3 Payment Fortnightly/Half Monthly

- (a) The salary payable to any Principal pursuant to this clause, shall be payable either fortnightly or monthly if by mutual agreement and provided that payment is two weeks in advance.
- (b) Where the pay day for a monthly pay period falls on a Saturday, Sunday or public holiday, salaries shall be paid on the day not being a Saturday, Sunday or public holiday immediately preceding said pay day.
- (c) The salary payable to any Principal, pursuant to this clause, shall be payable at the election of the employer by either cash, cheque or Electronic Funds Transfer into an account nominated by the employee.

3.4 Payment of Part-Time, Temporary Principals

- (a) A part-time Principal, including a temporary part-time Principal, shall be paid at the same rate as a full-time Principal but in that proportion which the number of hours worked bear to the hours which a full-time Principal at the school is normally required to work.
- (b) A temporary full-time Principal shall be paid at the same rate as that prescribed for a full-time Principal with corresponding classification.

3.5 Travelling Expenses

- (a) Where the use of a vehicle is required in connection with employment, other than for journeys between home and the place of employment, the Principal shall be paid an allowance as set out in Part B, Table 3, Item 1.
- (b) Travelling and other out of pocket expenses reasonably incurred by a Principal in the course of duties required by the employer, shall be reimbursed by the employer.

3.6 Overpayments

Where excess payments are made in circumstances which were not apparent or could not reasonably have been expected to be detected by the Principal, the relevant parties shall seek agreement on the matter of the overpayment, including where necessary and appropriate, discussion between the union and relevant employer representatives.

4. Terms of Engagement

- 4.1 The employer shall provide a Principal on appointment with a letter of appointment stating inter alia the rate of salary as at appointment, and an outline of superannuation benefits available to the Principal.
- 4.2
- (i) The employment of any Principal shall not be terminated without at least one term's notice on either side, or the payment of, or forfeiture of, one term's salary in lieu of notice.
- For the purposes of this paragraph 4.2(i), "term" means the number of weeks in the term in which notice of termination is given.
- (ii) In the case of a temporary or relief Principal who is engaged for a period of one term or less, the notice period will be four term weeks on either side, or the payment of, or forfeiture of, four weeks' salary in lieu of notice.
- 4.3 The foregoing shall not affect the right of the employer to dismiss summarily any Principal for incompetence, misrepresentation, neglect of duty or other misconduct.
- 4.4 Upon the termination of service of a Principal, the employer shall provide a statement of service setting out the Principal's length of service.
- 4.5 An employer may direct a Principal to carry out such duties as are within the limits of the Principal's skill, competence and/or training.
- 4.6 In conjunction with the other applicable provisions of this Award, the provisions of Attachment B - Redundancy shall apply as a minimum entitlement in cases of redundancy.

Note: the notice applicable shall be either the notice required pursuant to subclause 4.2 of this clause, or the notice pursuant to clause 4 of Attachment B - Redundancy, whichever is the greater.

5. Pro Rata Annual Leave Payment

- 5.1 This clause will apply:
- (a) in lieu of the corresponding provisions of the *Annual Holidays Act 1944*; and
- (b) notwithstanding any other provisions in this award.
- 5.2 The provisions of this clause shall apply where:
- (a) a Principal's employment ceases; or
- (b) where a Principal takes approved leave without pay; or
- (c) a Principal commences employment after the School Service Date; or
- (d) where the employment pattern of a Principal changes from full time to part time, or vice versa, or from one part-time arrangement to another, since the School Service Date, payments shall be made to such Principals by application of the formula prescribed by either clause 5.3 (a) or (b), as appropriate, and, if relevant, by the application of the provisions of clauses 5.4, 5.5, 5.6 and 5.7 separately or in combination.

5.3

(a) Calculation of Payments

Payments made pursuant to this clause to a Principal whose hours have varied shall be calculated in accordance with the following formula:

$$P = \frac{s \times c}{b} - d$$

Where:

- P is the payment due.
- s is the total salary paid in respect of term weeks, or part thereof, since the anniversary of employment [or date of employment in circumstances where a Principal has been employed by the school for less than one year].
- b is the number of term weeks, or part thereof, in the year.
- c is the number of non-term weeks, or part thereof, in the year.
- d is the salary paid in respect of non-term weeks, or part thereof, that have occurred since the anniversary of employment [or date of employment in circumstances where a Principal has been employed by the school for less than one year].

(b) Payments made otherwise pursuant to this clause shall be calculated in accordance with the following formula:

Where:

- P is the payment due.
- s is an amount equivalent to a week's salary [including allowances] of the Principal at the date of application of the formula.
- t is the number of term weeks, or part thereof, worked by the Principal since the School Service Date.
- b is the number of term weeks, or part thereof, in the year.
- c is the number of non-term weeks, or part thereof, in the year.
- d is the number of non-term weeks, or part thereof, worked by the Principal since the school service date.

(c) For the purposes of this clause:

- (i) "School Service Date" means the usual commencement date of employment at a school for Principals who are to commence on the first day of the first term.
- (ii) "Principal" means any Principal other than a casual Principal.

5.4 Termination of Employment

A Principal shall be entitled on termination of employment to a payment calculated in accordance with this clause.

5.5 Principals Who Commence Employment After The Commencement Of The School Year

- (a) A Principal who commences employment after the usual date of commencement at a school in any school year, shall be paid from the date the Principal commences, provided that at the end of Term IV or final semester in that year, the Principal shall be paid an amount calculated pursuant to clause 5.3 and shall receive no salary or other payment other than payment under this clause until the School Service Date or the resumption of Term 1 or first semester in the following school year.
- (b) In each succeeding year of employment, the anniversary of appointment of the Principal for the purpose of this clause shall be deemed to be the School Service Date.

5.6 Principals Who Take Approved Leave Without Pay

Where a Principal takes leave without pay with the approval of the employer for a period which [in total] exceeds 20 pupil days in any year, the Principal shall be paid salary calculated in accordance with this clause as follows:

- (a) If the leave without pay commences and concludes in the same school year:
 - (i) subject to clause 5.6 (a) (ii) below, the payment shall be calculated and made at the conclusion of Term IV of that school year; and
 - (ii) if the leave without pay commences on the day following the last teaching day of a term and concludes on the day preceding the first teaching day of a term in the same year a payment shall be calculated and made:
 - (A) at the commencement of the leave in respect of that year; and
 - (B) at the end of Term IV in accordance with clause 5.6 (c).
- (b) If the leave without pay is to conclude in a school year following the school year in which the leave commenced:
 - (i) at the commencement of the leave, a payment shall be calculated and made in respect of the school year in which the leave commences; and
 - (ii) at the end of Term IV in the school year in which the leave concludes, a payment shall be calculated and made in respect of that school year.
- (c) The payment to be made to a Principal at the conclusion of Term IV of a school year:
 - (i) pursuant to clause 5.6 (a) (ii) (B);
 - (ii) or in circumstances where, with the agreement of the employer, a Principal who has been paid pursuant to clause 5.6 (b) (i) returns from leave during the school year in which the leave commenced and not withstanding that as a result did not in total exceed 20 pupil days, shall be determined by:
 - (A) applying the formula in clause 5.3 as if no payment had been made to the Principal pursuant to clause 5.6 (a) (ii) (A) or clause 5.6 (b) (i); and
 - (B) deducting from that amount the amount paid to the Principal pursuant to clause 5.6 (a) (ii) (A) or clause 5.6 (b) (i).
- (d) Notwithstanding the provisions of clause 5.1 (a), a Principal shall not pursuant to this clause be paid an amount in respect of a year of employment which is less than the amount to which the Principal would otherwise be entitled under the provisions of the *Annual Holidays Act 1944*, in respect of a year of employment.

5.7 Principals Whose Patterns of Employment Have Varied

Where a Principal changes their employment pattern from full time to part time, or vice versa, or from one part time arrangement to another, since the School Service Date in any school year, and the Principal's employment is to continue in the next school year, the principal shall be paid at the conclusion of Term IV or final semester of that year in accordance with the formula provided in clause 5.3 (a) and shall receive no salary or other payment other than payment under this clause until the School Service Date or the resumption of Term I or the first semester in the following year.

6. Annual Holiday Loading

6.1 Subject to clause 6.6, where a Principal other than a casual Principal, is given and takes annual holidays commencing at the beginning of the school summer vacation each year, the Principal shall be paid an Annual Holiday Loading calculated in accordance with this clause.

6.2 The loading shall be payable in addition to the pay payable to the Principal for the period of the school summer vacation.

6.3 The loading shall be calculated:

(a) in relation to such period of a Principal's annual holiday as is equal to the period of annual holiday to which the Principal is entitled for the time being under the *Annual Holidays Act 1944* at the end of each year of employment or where relevant.

(b) the period of annual leave calculated under clause 6.6.

6.4 The loading shall be the amount payable for the period specified in clause 6.3 or 6.6 at the rate of 17.5 per cent of the weekly equivalent of the Principal's annual salary.

6.5 For the purposes of this clause, "salary" shall mean the salary payable to the Principal at the first day of December of the year in which the loading is payable, but not including any other allowances or amount otherwise payable in addition to salary.

Provided that where clause 6.6 applies, "salary" shall mean the salary payable immediately prior to the payment made to the Principal pursuant to clause 5.3 (b).

6.6 Where a Principal receives a payment pursuant to clause 5.3 (b), including the case where a Principal's employment is terminated by the employer during the school year for a reason other than misconduct, the Principal shall be entitled to be paid for that part of such fraction of the annual holiday loading he or she would be entitled to for the full school year as is equal to the fraction which the number of school weeks worked by the Principal in that year bears to the number of school weeks he or she would be normally required to work in a full school year.

7. Miscellaneous

A Principal shall be entitled to a minimum of 30 consecutive minutes each day as a meal break.

8. Leave

8.1 Sick Leave

(a) Entitlement

Any full-time, temporary or part-time Principal shall be entitled to paid sick leave in respect of any absence on account of illness or injury, subject to the following conditions and limitations:

(i) During the first year of service with an employer the period of sick leave shall not exceed five days in any term, but any sick leave not taken in any term may be taken during the remainder of the said year;

Provided that the maximum sick leave which may be taken during the first year of service shall not exceed 15 days.

And provided further that a temporary Principal shall be entitled to sick leave in accordance with the provisions of this paragraph, and in that proportion of 15 days which the period of appointment of the Principal bears to the school year of the school at which he or she is employed.

- (ii) After the first year of service with an employer, the period of sick leave shall, subject to clause 8.1(b), not exceed in any year of service 22 working days on full pay, followed by 22 working days on half pay.
 - (iii) A Principal shall not be entitled to sick leave for any period in respect of which such Principal is entitled to workers' compensation.
 - (iv) A Principal shall not be entitled to paid sick leave unless he or she notifies the person nominated by the employer for this purpose prior to the commencement of the first organised activity at the school on any day, of the nature of the illness and of the estimated duration of the absence; provided that paid sick leave shall be available if the Principal took all reasonable steps to notify the person nominated by the employer for this purpose or was unable to take such steps.
 - (v) The sick leave entitlement of a part-time Principal shall be in that proportion which the number of working hours of that Principal in a full school week bears to the number of working hours which a full-time Principal at the school is normally required to work.
 - (vi) The Principal, if required by the employer, complies with paragraph (c) of this subclause.
- (b) Sick leave shall accumulate from year to year as follows:
- (i) Untaken sick leave entitlement in the first year of service with an employer shall not be accumulated.
 - (ii) Untaken sick leave in the second year of service with an employer and thereafter of up to 20 days on full pay and 20 days on half pay per year shall be accumulated to a maximum of four years of service;

Provided that an employee shall only be entitled to the sick leave accumulated in the respect of the four years of continuous service immediately preceding the current year of service.
 - (iii) The maximum accumulation shall not exceed 80 days on full pay and 80 days on half pay.
 - (iv) Accumulated sick leave days on full pay shall be taken prior to accumulated sick leave days on half pay.
 - (v) Sick leave which accrues to a Principal at the commencement of a year of service pursuant to clause 8.1(a) shall be taken prior to the taking of any sick leave which the Principal has accumulated in accordance with this subclause.
 - (vi) A part-time Principal shall accumulate sick leave entitlements pursuant to the provisions of this subclause in that proportion which the number of working hours in a full school week bears to the number of working hours that a full-time Principal at the school is normally required to work.

- (c)
- (i) Other than in respect of the first two days absence in respect of sickness in any year, a Principal shall, upon request, provide a medical certificate addressed to the employer, or, if the employer requires, to the school medical officer.
 - (ii) Where a Principal has taken frequent single days of sick leave, or taken extended sick leave such that the employer requires additional information in relation to the Principal's sickness, then the employer may take action in accordance with this subclause.
 - (A) The employer may arrange a meeting in order to clarify the position with the Principal. The invitation to the Principal to attend the meeting shall be in writing (signed by the employer's delegate) with sufficient notice for the Principal to reasonably be able to attend the meeting. The invitation shall also refer to the provisions of this award clause and shall indicate the grounds for the employer's concern about sick leave taken by the Principal. The employer shall invite the Principal to respond verbally at the meeting to the issues raised by the employer. A Principal shall not unreasonably fail to attend such a meeting where invited by the employer to do so.
 - (B) After consideration of the Principal's response, the employer may

require further evidence of illness; and/or

require the Principal to provide a medical certificate from a doctor nominated by the employer (at the employer's cost) in relation to the likely period of absence or to establish only eligibility for sick leave (and no other information); and/or

discuss with the Principal any other action.
 - (C) Where a Principal fails to attend a meeting as requested by the employer pursuant to paragraph (A) of this subclause and does not provide a reasonable explanation for such failure, or does not provide further evidence of illness as outlined in paragraph (B) of this subclause, then following prior written notice the employer may cease payment of sick leave if the employer has reasonable grounds for a belief that the Principal is not entitled to sick leave for that absence.
 - (D) The Principal may, if a member of the union, request that any matter pursuant to this clause be discussed at any stage between the union and the representative of the employer.

8.2 Carers Leave

- (a) Use of Sick Leave
- (i) A Principal, other than a casual Principal, with responsibilities in relation to a class of person set out in 8.2 (a) (iii) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, ten days of his or her current and 30 days of his or her accrued sick leave entitlement, provided for at Clause 8.1 of the award, for absences to provide care and support, for such persons when they are ill or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
 - (ii) The Principal shall, if required,
 - (A) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or

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

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

- (iii) The entitlement to use sick leave in accordance with this subclause is subject to:

- (A) the Principal being responsible for the care of the person concerned; and
- (B) the person concerned being:

- (1) a member of the Principal's immediate family; or
- (2) a member of the employee's household.

The term "immediate family" includes:

- (aa) a spouse (including former spouse, a de facto spouse and a former de facto spouse) of the Principal. A de facto spouse, in relation to a person, means 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 the person; and
- (bb) a child or adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), a parent (including a foster parent or legal guardian), grandparent, grandchild or sibling of the Principal or spouse of the Principal.

- (iv) The Principal shall not be entitled to paid carer's leave unless he or she notifies the person nominated by the employer for this purpose of the need for carer's leave and the estimated period of absence at the first available opportunity and, where possible, before the first organised activity at the school on the day of absence. The Principal will have sick leave credits available to the extent of the leave to be taken.
- (v) Notwithstanding clause 8.2(a), a part-time Principal is only entitled to an amount of carer's leave in the same proportion the working hours of a part-time Principal bears to the hours which a full-time Principal at the school is normally required to work.
- (vi) Any carer's leave taken in accordance with this clause shall be deducted from the sick leave entitlement of the Principal in accordance with Clause 8.1 Sick Leave.

(b) Unpaid Leave for Family Purpose

A Principal may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in 8.2(a)(iii) above who is ill or who requires care due to an unexpected emergency.

(c) Personal Carers entitlement for casual Principals

- (i) Subject to the evidentiary and notice requirements in subparagraphs (ii) and (iv) of paragraph (a) of this subclause, casual Principals are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause (iii) of paragraph (a) of this clause who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child.
- (ii) The employer and the Principal shall agree on the period for which the Principal will be entitled to not be available to attend work. In the absence of agreement, the Principal is

entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual Principal is not entitled to any payment for the period of non-attendance.

- (iii) An employer must not fail to re-engage a casual Principal because the Principal accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual Principal are otherwise not affected.

8.3 Parental Leave

(a) Maternity Leave

- (i) Subject to subparagraph (iii) of this paragraph, a Principal who takes unpaid maternity leave of at least fourteen weeks under the provisions of the *Industrial Relations Act 1996* must be paid an allowance under this clause.

(If a Principal takes a lesser period of leave the allowance shall be reduced accordingly).

- (ii) The amount of the allowance for a Principal who takes leave after 1 January, 2007 shall be fourteen weeks pay.
- (iii) Where a Principal gives birth to a second or subsequent child following an earlier period of maternity leave and has not returned to work before the birth of the second or subsequent child, the Principal will not be entitled to an additional fourteen weeks payment in accordance with paragraph (a) (i) of this sub-clause. However, the Principal will be entitled to unpaid maternity leave in accordance with Part 4 of Chapter 2 of the *Industrial Relations Act 1996*.
- (iv) The Principal must be paid at the rate the Principal was paid at the time of commencing leave.
- (v) The Principal must be paid:
 - (A) at the usual times and intervals that the Principal is usually paid, or
 - (B) if the Principal asks two weeks in advance and the employer agrees, in a lump sum.
- (vi) The employer must pay the first or lump sum payments at the pay period commencing closest to:
 - (A) six weeks before the anticipated date of birth, or
 - (B) if birth occurs before the time referred to in (A), the date of the birth; or
 - (C) if the Principal has not commenced maternity leave at the time referred to in (A), when the Principal commences leave.
- (vii) If a Principal's pregnancy is terminated other than by the birth of a living child:
 - (A) more than 20 weeks before the anticipated date of birth the Principal is not entitled to the payment;
 - (B) less than 20 weeks before the anticipated date of birth the Principal is entitled to the payment while she remains on leave.
- (viii) The period of maternity leave will not count as a period of service under this award or any statute.

- (ix) A Principal shall be required to give at least 10 weeks written notice of the intention to take leave and shall provide other notice consistent with the provisions of section 58 (1) of the *Industrial Relations Act 1996*.
- (x) Except as varied by this provision, Part 4 of Chapter 2 of the *Industrial Relations Act 1996* shall apply.

Notation:

- (i) Where possible maternity leave should preferably commence on the day following the last teaching day of a term and conclude on the day preceding the first teaching day of a term. However this does not diminish the right of a Principal to proceed on leave on the date she nominates in accordance with the *Industrial Relations Act 1996*.
 - (ii) In order to facilitate the desirable practice referred to in (i) above, the employers are prepared to extend the time of maternity leave beyond that maximum entitlement prescribed by the *Industrial Relations Act 1996*, should the employee agree to return from maternity leave at the commencement of the term immediately following the maximum period of leave required to be afforded by that Act.)
- (b) Paternity Leave
- (i) A Principal who takes paternity leave shall be entitled to 2 weeks paid leave commencing on the day of birth of his child or on the day on which his spouse leaves hospital following the birth. This paid leave is to be deducted from Carer's Leave available to the Principal pursuant to sub-clause 8.2 of this award (NB: spouse means a spouse as defined in sub-clause 8.2 Carer's Leave).
 - (ii) A Principal shall be required, if possible, to give at least 10 weeks written notice of the intention to take leave and shall provide other notice consistent with the provisions of section 58 (2) of the *Industrial Relations Act 1996*.
- (c) Adoption Leave
- (i) A Principal who takes unpaid adoption leave of at least fourteen weeks for the purpose of adopting any child must be paid an allowance under this clause, providing the leave is taken before the child reaches full-time enrolment age. (If a Principal takes a lesser period of leave the allowance shall be reduced accordingly). A Principal shall be entitled to an allowance of fourteen weeks pay, provided that the paid adoption allowance shall only be payable in respect of one adopting parent of a child.
 - (ii) The period of adoption leave will not count as a period of service under this award or any statute.
 - (iii) A Principal shall be required to give written notice of the approval or other decision to adopt a child at least 10 weeks prior to the expected date of placement of the child and shall provide other notice consistent with the provisions of section 58 (3) of the *Industrial Relations Act 1996*.
- (d) Parental Leave Entitlement for Casual Principals

An employer must not fail to re-engage a regular casual Principal (see section 53(2) of the *Industrial Relations Act 1996* (NSW)) because:

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

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

(e) Right to request

(i) A Principal entitled to parental leave may request the employer to allow the Principal:

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

to assist the Principal in reconciling work and parental responsibilities.

(ii) The employer shall consider the request having regard to the Principal's circumstances and, provided the request is genuinely based on the Principal'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) Principal's request and the employer's decision to be in writing

The Principal's request and the employer's decision made under subparagraphs (i) (B) and (C) of this paragraph must be recorded in writing.

(iv) Request to return to work part-time

Where a Principal wishes to make a request under subparagraph (i) (C), such a request must be made as soon as possible before the date upon which the employee is due to return to work from parental leave.

(f) Communication during parental leave

(i) 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:

- (A) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the Principal held before commencing parental leave; and
- (B) provide an opportunity for the Principal to discuss any significant effect the change will have on the status or responsibility level of the position the Principal held before commencing parental leave.

(ii) The Principal shall take reasonable steps to inform the employer about any significant matter that will affect the Principal's decision regarding the duration of parental leave to be taken, whether the Principal intends to return to work and whether the Principal intends to request to return to work on a part-time basis.

(iii) The Principal shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with subparagraph (i).

8.4 Long Service Leave

(a) General Provisions

- (i) Except in so far as expressly varied by the provisions of this clause, the provisions of the *Long Service Leave Act 1955*, shall apply to Principals employed under this award.
- (ii) For the purpose of this sub-clause 8.4 Long Service Leave, a Principal shall be deemed to have completed a year of service if he or she had been employed for the whole of the term time of that calendar year.

(b) Quantum of Leave

Subject to clause 8.4(c) the amount of long service leave to which a Principal shall be entitled shall:

- (i) In the case of a Principal who has completed at least ten years service with the same employer be:
 - (A) in respect of ten years service so completed 13 weeks; and
 - (B) in respect of each additional five years of service with the employer since the Principal last became entitled to long service leave, 10 weeks; and
 - (C) on the termination of the Principal's employment, in respect of completed service with the employer since the Principal last became entitled to an amount of long service leave, a proportionate amount on the basis of two weeks for one year's service.
- (ii) In the case of a Principal who has completed with an employer five years service, and whose services are terminated by the employer for any reason other than misconduct or cease for any other reason, be a proportionate amount on the basis of 13 weeks for ten years service [such service to include service with the employer as an adult and otherwise than as an adult].

(c) Calculation of Entitlement

In the case of a Principal whose service with an employer began before 1 July 2006, and whose service would entitle the Principal to long service leave under this clause, the amount of long service leave to which such Principal shall be entitled shall be the sum of the following amounts.

- (A) The amount calculated on the basis of the provisions of any applicable contract/s of employment in respect of the period of service before 1 July 2006 [see notation below]; and
- (B) An amount calculated on the basis of the provisions of this clause in respect of the period of service from and including 1 July 2006.

Notation:

Prior to the commencement of this Award, many Principals were entitled to Long Service Leave in accordance with the arrangements applying pursuant to the Teachers (Independent Schools) (State) Award. The rates of accumulation under that Award were as follows:]

Calculation of Entitlement Long Service Leave Teachers (Independent Schools) (State) Award	
Prior to 31st July 1985	0.866 weeks per year.
1st August, 1985 to 30th April, 1995	1.05 weeks per year up to 10 years service. 1.5 weeks per year, or proportion of a year, after 10 years service.
1st May, 1995 to 28th January, 2001	1.05 weeks per year up to 10 years service. 2 weeks per year, or proportion of a year, after 10 years service.
On and from 29th January, 2001	1.3 weeks per year up to 10 years service 2 weeks per year, or proportion of a year, after 10 years service

(d) Conditions of Taking Leave

- (i) Where a Principal has become entitled to long service leave in respect of the Principal's service with an employer, the employer shall give to the Principal and the Principal shall take the leave as soon as practicable having regard to the needs of the employer provided always that unless the employer otherwise agrees the Principal shall give not less than two school terms notice of the Principal's wish to take leave and further provided that the employer shall give the Principal not less than two school terms' notice of any requirement that such leave be taken.
- (ii) Where long service leave is taken so that it commences on the first day after a period of pupil vacation, which falls between school terms, and concludes on the last day prior to a period of pupil vacation which falls between school terms, such long service leave shall be exclusive of the pupil vacation periods occurring prior to and following the period of long service leave.
- A period of long service leave taken wholly within one term shall also be exclusive of pupil vacation periods adjacent to the period of leave, if the taking of long service leave of less than one term has been approved by the school.
- (iii) Where a Principal requests and is granted up to one week's leave without pay to be taken in addition to long service leave such that the total period of leave is in accordance with subclause 8.4(d)(ii) the conditions of that clause shall apply, provided nothing in this paragraph shall affect the provisions of subclause 5.6.
- (iv) Where long service leave is not taken in full term periods or in accordance with clause 8.4(d)(ii) it will be inclusive of pupil vacations.
- (v) Where a Principal is entitled to an amount of long service leave which is in excess of a school term the Principal may elect not to take that part of the long service leave which is in excess of a term [the deferred leave], until such time as the Principal accumulates further entitlements which when taken together with the deferred leave enables long service leave to be taken for a whole term.

(e) Long Service and Public Holidays

A period of long service leave shall be inclusive of any public holidays falling within the period of leave.

- (f) The service of a Principal with an employer shall be deemed continuous notwithstanding the service has been interrupted by reason of the Principal taking maternity leave (including paid and unpaid leave in accordance with clause 8.3 Parental Leave) or other approved leave without pay but the period during which the service is so interrupted shall not be taken into account in calculating the period of service.

- (g) Payment in Lieu of Long Service Leave
- (i) Where a Principal takes long service leave for an entire school term, the Principal may request and the employer may agree that, in addition to the long service leave, the Principal be paid an amount in lieu of any additional long service leave accumulated by the Principal, prior to the commencement of the long service leave.
 - (ii) The payment made by the employer in lieu of long service leave in clause 8.4(g)(i) will not exceed five weeks' salary.
 - (iii) Any payment in clause 8.4(g)(i) of this subclause will be paid by the employer upon the commencement of the Principal's long service leave, unless otherwise agreed between the Principal and the employer.
 - (iv) Where a payment in lieu of long service leave is paid by the employer in accordance with this subclause, a Principal's entitlements to long service leave will be reduced by the extent of such payment.

8.5 Recognition of Immediate Past Service for the Calculation of Long Service Leave Credits

Where a principal has utilised the provisions of the previous award, the Principals (Independent Schools) (State) Interim Award 2006, relating to recognition of prior service with a previous employer so that a Principal was entitled to a transferred long service leave accrual with a new employer, the obligations on the new employer and the entitlement of the Principal (as set out in the previous award) shall continue pursuant to the provisions of this award.

8.6 Bereavement Leave

- (a) A Principal shall on the death of a spouse, father, mother, father-in-law, mother-in-law, grand parent, brother, sister, child, stepchild or grandchild of the Principal be entitled to paid leave up to and including the day of the funeral of such relative. Such leave shall not exceed three school days.
- (b) A Principal may be required to provide the employer with satisfactory evidence of such death.
- (c) Bereavement leave shall be available to the Principal in respect of the death of a member of the employee's immediate family or household, as defined in clause 8.2.
- (d) A Principal shall not be entitled to bereavement leave under this subclause during any period in respect of which the Principal has been granted other leave.
- (e) Bereavement leave may be taken in conjunction with leave available under clause 8.2. In determining such a request the employer will give consideration to the circumstances of the Principal and the reasonable operational requirements of the school.
- (f) Casual Principals
 - (i) Subject to the evidentiary and notice requirements in this subclause, casual Principals are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 8.2 Carer's Leave
 - (ii) The employer and the Principal shall agree on the period for which the Principal will be entitled to not be available to attend work. In the absence of agreement, the Principal is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual Principal is not entitled to any payment for the period of non-attendance
 - (iii) An employer must not fail to re-engage a casual Principal because the Principal accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual Principal are otherwise not affected.

8.7 Examination/Study Leave

Any Principal who for the purpose of improving their skills as a Principal, enrolls in any course at a recognised University, shall be granted leave:

- (a) with pay on the day of any examination required in the course;
- (b) without pay for the purpose of attending any compulsory residential school which is a part of such course.

8.8 Jury Service

- (a) A full time or part-time Principal required to attend for jury service during ordinary working hours shall be provided with paid leave for this purpose. The Principal shall be required to reimburse to the employer any monies payable to the Principal for such attendance (excluding reimbursement of expenses) which required the Principal's absence from school.
- (b) The Principal shall notify the employer as soon as possible of the date upon which he or she is required to attend for jury service. The Principal shall provide to the employer a copy of the summons to attend jury duty and a record of payments received as proof of attendance.

9. Remuneration Package

9.1 This clause shall apply to those individual schools wishing to facilitate the provision of salary and benefit packages to individual Principals covered by this award.

9.2 For the purposes of this clause:

- (a) 'Benefits' means the benefits nominated by the Principal from the benefits provided by the school and listed in clause 9.4 (c).
- (b) 'Benefit Value' means the amount specified by the school as the cost to the school of the Benefit provided including Fringe Benefit Tax, if any.
- (c) 'Fringe Benefit Tax' means tax imposed by the *Fringe Benefits Tax Act 1986*.

9.3 Conditions of Employment

Except as provided by this clause, Principals must be employed at a salary based on a rate of pay, and otherwise on terms and conditions, not less than those prescribed by this award.

9.4 Salary Packaging

The school may offer to provide and the Principal may agree in writing to accept:

- (a) the Benefits nominated by the Principal; and
- (b) a salary equal to the difference between the Benefit Value and the salary which would have applied to the Principal or under clause 9.3, in the absence of an agreement under this clause.
- (c) The available Benefits are those made available by the school from the following list:
 - (i) superannuation;
 - (ii) childcare provided by the school;
 - (iii) other benefits offered by the school.

- (d) The school must advise the Principal in writing of the Benefit Value before the agreement is entered into.

9.5 During the currency of an agreement under clause 9.4.

- (a) any Principal who takes paid leave on full pay shall receive the Benefits and salary referred to in clause 9.4 (a) and (b).
- (b) if a Principal takes leave without pay the Principal will not be entitled to any Benefits during the period of leave
- (c) if a Principal takes leave on less than full pay he or she shall receive:

- (i) the Benefits; and
- (ii) an amount of salary calculated by applying the formula:

$$A = S \times P\% - [(100\% - P\%) \times B]$$

where:

S = the salary determined by paragraph (b) of subclause 9.4 of this clause

P = the percentage of salary payable during the leave

B = Benefit Value

A = Amount of salary.

- (d) any other payment under this award, calculated by reference to the Principal's salary, however described, and payable:
- (i) during employment; or
- (ii) on termination of employment in respect of untaken paid leave; or
- (iii) on death,

shall be at the rate of pay which would have applied to the Principal under clause 9.3, in the absence of an agreement under clause 9.4 (a) and (b).

10. Suspension

Notwithstanding any of the provisions in this award, an employer may suspend a Principal with or without pay while considering any matter which in the view of the employer could lead to the Principal's summary dismissal. Suspension without pay shall not be implemented by the employer without prior discussion with the Principal and shall not, except with the Principal's consent, exceed a period of four weeks

11. Disputes Procedure

- 11.1 Subject to the provisions of the *Industrial Relations Act* 1996, all grievances, claims or disputes shall be dealt with in the following manner so as to ensure the orderly settlement of the matters in question.
- 11.2 Any grievance or dispute which arises shall, where possible, be settled by discussion between the Principal and the employer's nominee in accordance with any procedures that have been adopted by the school.
- 11.3 If no agreement is reached and if the Principal seeks assistance from the IEU or another person, where the school is a member of the Association of Independent Schools (AIS) the matter will be referred to

the AIS by the IEU or that person and shall be dealt with in accordance with the AIS/IEU agreement (see Attachment A).

11.4 Should the matter not be resolved, it may be referred by either party to the Industrial Relations Commission of New South Wales for settlement.

12. No Extra Claims

It is a term of this award that the union undertakes not to pursue any extra claims, award or over award, until 31 December 2010.

13. Superannuation

13.1 Definitions

For the purposes of this clause:

- (a) "Basic earnings" shall mean:
 - (i) the minimum annual rate of salary prescribed from time to time for the employee by clause 3.1; and
 - (ii) the amount of any payment made to the employee pursuant to clause 5.
- (b) "Employee" means a Principal to whom this award applies.
- (c) "Employer" means the employer of a Principal to whom this award applies.
- (d) "Fund" means:
 - (i) the New South Wales Non-Government Schools Superannuation Fund; or
 - (ii) any other superannuation fund approved in accordance with the Commonwealth operational standards for occupational superannuation funds which the employee is eligible to join and which is approved by the employer as a fund into which an employee of that employer may elect to have the employer pay contributions made pursuant to this award in respect of that employee.
- (e) "Casual" means a casual employee as defined in clause 2 Definitions.

13.2 Fund

The New South Wales Non-Government Schools Superannuation Fund shall be made available by each employer to each employee.

13.3 Benefits

- (a) Except as provided in clause 13.3 (b), (d), (e) and (g), each employer shall, in respect of each employee employed by it, pay contributions into a fund to which the employee is eligible to belong; and, if the employee is eligible to belong to more than one fund, the fund nominated by the employee, at the rate of nine (9) per cent of the employee's basic earnings.
- (b) Where an employee is absent on sick leave and only entitled pursuant to the provisions of this award to receive payment for such sick leave at half pay, the employers' contributions pursuant to this award in respect of that employee during the period of such sick leave shall be reduced to nine (9) per cent of the half pay to which the employee is entitled.

- (c) Subject to clause 13.3 (g), contributions shall be paid at intervals and in accordance with the procedures and subject to the requirements prescribed by the relevant fund or as trustees of the fund may reasonably determine.
- (d) An employer shall not be required to make contributions pursuant to this award in respect of an employee in respect of a period when that employee is absent from his or her employment without pay.
- (e) Contributions shall commence to be paid from the beginning of the first pay period commencing on or after the employee's date of engagement.
- (f) The employee shall advise the employer in writing of the employee's application to join a fund pursuant to this award.
- (g) An employer shall make contributions pursuant to this award in respect of:
 - (i) casual employees who earn in excess of \$1,437.00 during their employment with that employer in the course of any year, running from 1 July to the following 30 June (all such casual employees are hereinafter called "qualified employees"); and
 - (ii) qualified employees in each ensuing year of employment with that employer.

Such contributions shall be made in respect of all days worked by the employee for the employer during that year and shall be paid by the employer to the relevant fund at the time of issue to the employee of his or her annual group certificate, provided that prior to the immediately preceding 30 June the employee has applied to join a fund.

- (h) Notwithstanding the provisions of paragraph (a) of this subclause, an employer shall only be required to contribute superannuation at the rate of 3% in respect of an employee of seventy years of age or older.
- (i) Where an employer approves a fund, other than the Non-Government Schools Superannuation Fund, as one to which the employer will pay contributions in respect of its employees or a class or classes such employees, the employer shall notify its employees of such approval and shall, if an employee so requests, provide the employee with a copy of the Trust Deed of such fund and of a letter from the Insurance and Superannuation Commissioner, granting interim or final listing to the fund, at a cost of 80 cents per page of such copies.
- (j) When a new employee commences in employment, the employer shall advise the employee in writing of the employee's entitlements under this award within two weeks of the date of commencement of employment and also of the provisions of clause 13.3 (e) in the case of a full-time employee and clause 13.3 (g) in the case of a casual employee.

13.4 Transfers between Funds

If an employee is eligible to belong to more than one fund, the employee shall be entitled to notify the employer that the employee wishes the employer to pay contributions in respect of the employee to a new fund but shall not be entitled to do so within three years after the notification made by the employee pursuant to clause 13.3 (f) or within three years after the last notification made by the employee pursuant to this clause. The employer shall only be obliged to make such contributions to the new fund where the employer has been advised in writing:

- (a) of the employee's application to join the other fund; and
- (b) that the employee has notified the trustees of the employee's former fund that the employee no longer wishes the contributions which are paid on the employee's behalf to be paid to that fund.

14. 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 responsibility as a carer.
- (b) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed in this award the parties have obligations 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 term of operation, has a direct or indirect discriminatory effect.
- (c) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee who 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 effect:
 - (i) any conduct or act which is specifically exempted from anti-discrimination legislation
 - (ii) any act or practice of a body established to propagate religion which is exempted under section 56 (d) of the *Anti-Discrimination Act 1977*;
 - (iii) a party to this award from pursuing matters of unlawful discrimination.
- (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.
 - (i) Employers and employees may also be subject to Commonwealth Anti-Discrimination legislation.
 - (ii) Section 56 (d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in 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."

15. Area, Incidence and Duration

- 15.1 This Award rescinds and replaces the Principals (Independent Schools) (State) Interim Award 2006 published on 3 November 2006 (361 I.G. 669).
- 15.2 This award shall apply to all Principals employed in any recognised independent school or special school registered under the provisions of the *Education Act 1990* in the State, except Catholic schools, provided further that the Award shall not apply to:
 - (a) Members of a recognised religious order and/or Clerks in Holy Orders, and/or Ministers of Religion [including a Minister/Teacher or a Missionary/Teacher who is a member of the Seventh Day Adventist Church and who teaches in a school operated by a local Conference of the Australasian Division of the Seventh Day Adventist Church], provided that application may be made on behalf of any such member to be included within the scope of this award; or
 - (b) Principals who have a demonstrated right to appoint and/or dismiss teachers of the school; or
 - (c) Principals or Teachers in Charge employed in Steiner Schools; or
 - (d) Teachers employed in single teacher schools, in which case the Teachers (Independent Schools) (State) Award or any instrument that replaces that Award will apply.

15.3 This Award shall take effect from 23 February 2007 and shall remain in force thereafter until 31 January 2010.

PART B

MONETARY RATES

Table 1 - Principals Salary

Enrolment date previous year's census date	Gross Salary per annum Current	Gross Salary per annum from the first full pay period on or after 1 February 2007 (4%)	Gross Salary per annum from the first full pay period on or after 1 February 2008 (4%)	Gross Salary per annum from the first full pay period on or after 1 February 2009 (4%)	Gross Salary per annum from the first full pay period on or after 1 February 2010 (4%)
	\$	\$	\$	\$	\$
PRIMARY					
1-49	83,999	87,359	90,853	94,487	98,266
50-99	89,805	93,397	97,133	101,018	105,059
100-250	100,184	104,191	108,359	112,693	117,201
251-400	103,723	107,872	112,187	116,674	121,341
401-600	108,318	112,651	117,157	121,843	126,717
601-800	112,466	116,965	121,644	126,510	131,570
801+	118,649	123,395	128,331	133,464	138,803
SECONDARY					
1-49	83,999	87,359	90,853	94,487	98,266
50-99	89,805	93,397	97,133	101,018	105,059
100-300	108,572	112,915	117,432	122,129	127,014
301-600	115,181	119,788	124,850	129,563	134,746
601-900	121,512	126,372	131,427	136,684	142,151
901-1200	124,740	129,730	134,919	140,316	145,929
1201+	129,942	135,140	140,546	146,168	152,015

Table 2 - Allowance for Teachers in Charge

Description	Gross Allowance per annum Current	Gross Allowance per annum from the first full pay period on or after 1 February 2007 (4%)	Gross Allowance per annum from the first full pay period on or after 1 February 2008 (4%)	Gross Allowance per annum from the first full pay period on or after 1 February 2009 (4%)	Gross Allowance per annum from the first full pay period on or after 1 February 2010 (4%)
	\$	\$	\$	\$	\$
Clause 3.1(b): Allowance for Teachers in Charge	11,700	12,168	12,655	13,161	13,687

Table 3 - Other Rates and Allowances

Item No.	Clause No.	Brief Description	Allowance from the first full pay period on or after 1 February 2007\$
1.	3.5(a)	Own Car Allowance: Where use authorised by the school	0.58per km

ATTACHMENT A**SETTLEMENT PROCEDURE : AGREEMENT BETWEEN THE AIS AND THE IEU****1. UNDERLYING PRINCIPLES**

The Association of Independent Schools and the New South Wales Independent Education Union each has responsibilities toward their respective members which are recognised and respected. The two organisations also have a number of interests in common. These include the recognition and acceptance of the following:

- A. The quality and public perception of Independent Schooling is of significance and both recognise that there is mutual responsibility to protect, promote, develop and enhance this sector of schooling in N.S.W.
- B. There is mutual benefit to their memberships in there being a working relationship between the two organisations which is built on professional attitudes and clearly established and recognised procedures.
- C. The individuality and authority of each Independent School, as well as the individuality and rights of each staff member.
- D. The attitudes and interests in common include:
 - (i) An interest in helping to maintain a working environment in which quality education can be provided in a manner consistent with the School's Aims and Objectives and its philosophy.
 - (ii) A common view that quality education is most likely to be provided where there is recognition, encouragement and support for the professional attitudes rights and growth of staff members as well as for their personal needs and developments and the industrial rights of all parties.
- E. The right of employee(s) and the employer(s) to seek assistance and advice from their respective Associations.

2. OPERATIONAL PROCEDURES BETWEEN THE AIS AND THE IEU

The right of each organisation to deal with its members as it sees fit notwithstanding, it is agreed that the following will be the general principles upon which each organisation will approach the attempts to resolve difficulties that have not been resolved by direct discussion between the employer and employee concerned.

- A. Both organisations recognise that it is generally preferable for perceived problems to be discussed between the staff member and the employer with a view to resolving the matter and that it is only when the normal employer employee process does not achieve a mutually satisfactory result that it is appropriate for the matter to be discussed formally between the AIS and the IEU. This does not preclude earlier informal discussions where appropriate nor does it preclude discussion between the IEU and its members in a school as to the most appropriate method of resolving a problem.
- B. The IEU undertakes to refer to the AIS matters in which it seeks information from an Independent School or to discuss the matters that are of concern to its members and to do this wherever possible before encouraging school staff and IEU chapters to pass resolutions about the matter.
- C. The AIS undertakes to respond by seeking discussions with the school to ascertain its wishes as to how (and where necessary, through whom) it wishes to proceed in dealing with the matter and to advise the IEU of the school's decision.

- D. The steps that will then follow will be determined to suit the particular matter but in general can be expected to be as follows:

The AIS and IEU will discuss the matter with a view to:

- (a) identifying the facts of the matter to ensure that it is not misunderstandings that have created the problem;
 - (b) clarifying the issues and wishes of each of those involved;
 - (c) exploring the options that appear to be available;
 - (d) where possible, assisting the parties to arrive at a mutually satisfactory solution;
 - (e) nothing in the above diminishes the right of either party to refer any matter to the Industrial Relations Commission.
- E. As a general rule the school, the employee, the AIS and the IEU will maintain confidentiality to ensure that the dignity of the employee, the school and its personnel are maintained wherever possible.

The AIS and IEU will, where deemed advisable, prepare sufficient documents to confirm the agreement and assist in its implementation.

ATTACHMENT B

REDUNDANCY

- 1.1 This Part shall apply in respect of full-time and part-time persons employed in the classifications specified by the award.
- 1.2 This part shall only apply to employers who employ 15 or more employees immediately prior to the termination of employment of employees.
- 1.3 Notwithstanding anything contained elsewhere in this award, the provisions of this part shall not apply to employees with less than one year's continuous service and the general obligation on employers shall be no more than to give such employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.
- 1.4 This part shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual employees, apprentices or employees engaged for a specific period of time or for a specified task or tasks or where employment is terminated due to the ordinary and customary turnover of labour.

2. EMPLOYERS DUTY TO NOTIFY AND DISCUSS

- 2.1 Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and the union to which they belong.
- 2.2 The employer shall discuss with the employees effected and the union to which they belong the introduction of such changes and the likely effect on the employees and the measures taken to avert or mitigate the adverse effects of such changes.
- 2.3 'Significant effects' include termination of employment, major changes in the composition, operation or size of the employers workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of

work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

3. DISCUSSIONS BEFORE TERMINATIONS

- 3.1 Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the union to which they belong.
- 3.2 The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of subclause 3.1 of this Attachment and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination of the employees concerned.
- 3.3 For the purposes of the discussion the employer shall, as soon as practicable, provide to the employees concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of employees normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

4. NOTICE FOR CHANGES IN PRODUCTION, PROGRAM, ORGANISATION OR STRUCTURE

- 4.1 This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from production, program, organisation or structure in accordance with clause 2 of this Attachment.

- 4.1.1 In order to terminate the employment of an employee the employer shall give to the employee the following notice:

Period of continuous service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

- 4.1.2 In addition to the notice above, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, shall be entitled to an additional week's notice.

- 4.1.3 Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

- 4.2 Notice for Technological Change

This paragraph sets out the notice provisions to be applied to terminations by the employer for reasons arising from 'technology' in accordance with clause 2 of this Attachment.

- 4.2.1 In order to terminate the employment of an employee the employer shall give to the employee three months notice of termination.

4.2.2 Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

4.2.3 The period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of the *Long Service Leave Act 1955*, the *Annual Holidays Act 1944*, or any Act amending or replacing either of these Acts.

4.3 Time off during the notice period

4.3.1 During the period of notice of termination given by the employer an employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purposes of seeking other employment.

4.3.2 If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

4.4 Employee leaving during the notice period

If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this part had the employee remained with the employer until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

4.5 Statement of employment

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.

4.6 Notice to Centrelink

Where a decision has been made to terminate employees, the employer shall notify Centrelink thereof as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

4.7 Department of Social Security Employment Separation Certificate

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an 'Employment Separation Certificate' in the form required by Centrelink.

4.8 Transfer to lower paid duties

Where an employee is transferred to lower paid duties for reasons set out in clause 2 of this Attachment, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated, and the employer may at the employer's option make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

5. SEVERANCE PAY

5.1 Where an employee is to be terminated pursuant to clause 4 of this Attachment, subject to further order of the Industrial Relations Commission of New South Wales, the employer shall pay the following severance pay in respect of a continuous period of service:

5.1.1 If an employee is under 45 years of age, the employer shall pay in accordance with the following scale:

Years of Service	Under 45 Years of Age Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

5.1.2 Where an employee is 45 years old or over, the entitlement shall be in accordance with the following scale:

Years of Service	45 Years of Age and Over Entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

5.1.3 'Weeks Pay' means the all purpose rate of pay for the employee concerned at the date of termination, and shall include, in addition to the ordinary rate of pay, over award payments, shift penalties and allowances provided for in the relevant award.

5.2 Incapacity to Pay

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 5.1 of this Attachment.

The Commission shall have regard to such financial and other resources of the employer concerned as the Commission thinks relevant, and the probable effect paying the amount of severance pay in subclause 5.1 above will have on the employer.

5.3 Alternative Employment

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 5.1 of this Attachment if the employer obtains acceptable alternative employment for an employee.

M. SCHMIDT J

(4200)

SERIAL C5624

AGRICULTURAL, PASTORAL OR HORTICULTURAL SOCIETY'S SHOW (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 193 of 2007)

Before Commissioner Cambridge

22 February 2007

VARIATION

1. Delete Clause 2, Rates of Pay of the Award published 27 October 2000 (319 I.G. 838), and insert in lieu thereof the following:

2. Rates of Pay

- (i) The hourly rates of pay shall be as follows:

1. Employees 21 years of age and over - 140 per cent of the rate prescribed in Item 1, of Table 1 - Wages, of Part B Monetary Rates, of the Shop Employees' (State) Award as per Commissioner Murphy's decision of 24 July 2006, as varied, provided that until further variation the seventeen dollar safety net adjustment rate shall be \$787.92 (2006 \$20 safety net adjustment rate: \$20.74).
2. Employees 20 years of age - 90 per cent of the nineteen dollar safety net adjustment rate prescribed in paragraph (a) hereof. Employees 21 years of age and over - 140 per cent of the rate prescribed in Item 1 of Table 1 - Wages, of Part B, Monetary Rates, of the Shop Employees (State) Award as per Commission Murphy's decision of 24 July 2006, as varied, provided that until further variation the seventeen dollar safety net adjustment rate shall be \$709.13 (2006 \$20 safety net adjustment rate: \$18.66).
3. Employees 18 and 19 years of age - 80 per cent of the nineteen dollar safety net adjustment rate prescribed in paragraph (a) hereof. Employees 21 years of age and over - 140 per cent of the rate prescribed in Item 1 of Table 1 - Wages, of Part B, Monetary Rates, of the Shop Employees (State) Award as per Commissioner Murphy's decision of 24 July 2006, as varied, provided that until further variation the seventeen dollar safety net adjustment rate shall be \$630.34 (2006 \$20 safety net adjustment rate: \$16.59).
4. Employees 17 years and under - 60 per cent of the nineteen dollar safety net adjustment rate prescribed in paragraph (a) hereof. Employees 21 years of age and over - 140 per cent of the rate prescribed in Item 1 of Table 1 - Wages, of Part B, Monetary Rates, of the Shop Employees (State) Award as per Commissioner Murphy's decision of 24 July 2006, as varied, provided that until further variation the seventeen dollar safety net adjustment rate shall be \$472.75 (2006 \$20 safety net adjustment rate: \$12.44).

- (ii) The rates of pay prescribed in subclause (i) of this clause are loaded to compensate the employees for all such incidents of the employment and are payable for work done at any hour of the day. Such rates are also loaded to include an amount for annual holidays as provided for by the *Annual Holidays Act, 1944*.

2. Delete Clause 5 - Meal Allowance and insert in lieu thereof, the following:

5. Meal Allowance

A meal allowance shall be paid to each employee who works more than nine hours, finishing after 6.00pm.

The amount of such meal allowance shall be that prescribed by Item 3 of Table 2 - Other Rates and Allowances, Part B, Monetary Rates, of the Shop Employees (State) Award (2006 rate: \$11.10).

3. Delete Clause 12, Commitment to Absorption and insert in lieu thereof the following:

12. Commitment to Absorption

The rates of pay in this award include the adjustments payable under the State Wage Case 2006. These adjustments may be offset against:

- (i) any equivalent overaward payments, and/or
 - (ii) award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.
4. This variation will operate on and from the full pay period to commence on or after 22 February 2007.

I. W. CAMBRIDGE, Commissioner

Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (NSW FIRE BRIGADES RETAINED FIREFIGHTING STAFF) AWARD 2005

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Fire Brigade Employees Union, Industrial Organisation of Employees.

(No. IRC 383 of 2007)

Before Commissioner McLeay

11 April 2007

VARIATION

1. Insert after paragraph 6.6.1.3 of clause 6 - Rates of Pay and Allowances of the award published 15 July 2005 (352 I.G. 424) the following new subparagraph:

6.6.1.3a Royal Easter Show - periods of attendance for the purpose of calculating payment shall be calculated having regard to the provisions of subclause 6.8a.

2. Insert after subclause 6.8 of clause 6 the following new paragraph:

6.8a Attendance at the Royal Easter Show

6.8.a.1 The following hourly rates shall be paid to employees working at the Royal how:

6.8.a.1.1 For Captain the rate prescribed at Entitlement Code O of Table 1 of Part B of this Award.

6.8.a.1.2 For Deputy Captain, Firefighter Levels A, B & C the rate prescribed at Entitlement Code P of Table 1 of Part B of this Award.

6.8.a.2 The rates prescribed in 6.8.a.1 above are all incidence of employment rates and, standing anything else prescribed in this Award, employees receiving such rates shall:

6.8.a.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 then the employee shall be entitled to be paid for the hours that would have otherwise been worked.

6.8.a.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.a.2.3 not be entitled to any payment or compensation with respect to either meals (except as provided for 6.8.a.4) and/or accommodation in connection with attendance at the Royal Easter Show;

6.8.a.2.4 not be entitled to the payment of overtime or downtime in connection with attendance at the Royal Easter Show.

6.8.a.3 All payments made under this subclause shall count for the purposes for any paid leave.

6.8.a.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.a.5 Attendance at the Royal Easter Show shall be treated as a period of authorised absence for the purposes of subclause 26.2.

3. Insert at the end of Table 1 - Payment Entitlement Codes the two additional rows as below:

Table 1 - Payment Entitlement Codes

Clause	Description	Code	On and from 1 April 2005	On and from 1 April 2006	On and from 1 April 2007
6.8a.1.1	Royal Easter Show Captain per hour	O			\$43.28
6.8a.1.2	Royal Easter Show Deputy Capt, Firefighter Levels A,B,C per hour	P			\$37.49

4. This variation shall take effect on and from 2 April 2007.

J. McLEAY, Commissioner

Printed by the authority of the Industrial Registrar.

PUBLIC HEALTH SYSTEM NURSES' & MIDWIVES' (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES
FULL BENCH

Application by New South Wales Nurses' Association, Industrial Organisation of Employees.

(No. IRC 6564 of 2005)

Before The Honourable Justice Wright, President
The Honourable Justice Boland
Commissioner McLeay

21 March 2007

VARIATION

1. Insert in clause 1 Arrangement of the award published 24 February 2006 (357 I.G. 345) after Part B Monetary Rates the following new Schedules:

Schedule 2
Schedule 3

2. Delete clause 13 Continuing Education Allowance and insert in lieu thereof the following:

13. Continuing Education Allowance

- (i) An employee employed in the classification of Registered Nurse/Midwife (years 1 to 8), Clinical Nurse/Midwifery Specialist, Nursing/Midwifery Unit Manager or Nurse/Midwifery Manager Grade 1 and Nurse/Midwifery Manager Grade 2, 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.
- (ii) An employee who is employed in the classification of Nurse/Midwifery 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 shall be paid a continuing education allowance subject to the conditions set out in subclause (i) of this clause.
- (iii) Subject to the provisions in subclauses (i) and (ii) 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.
- (iv) Subject to the provisions in subclauses (i) and (ii) 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.

- (v) Subject to the provisions in subclauses (i) and (ii) 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.
- (vi) Subject to the provisions in subclauses (i) and (ii) 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.
- (vii) An enrolled nurse, who holds a relevant Certificate IV or equivalent continuing education qualification in a clinical field, 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 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.
- (viii) Subject to the provisions in subclause (vii) of this clause, an enrolled nurse who holds a Certificate 4 qualification shall be paid an allowance of an amount set out in Item 24 of the said Table 2.
- (ix) 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.
- (x) 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.
3. Delete Items 20 - 23 inclusive from Table 2 - Other Rates and Allowances of Part B, Monetary Rates and insert in lieu the following:

Item No.	Clause No.	Description	FFPP on or after 01/03/2007	FFPP on or after 01/12/2007	FFPP on or after 01/09/2008
20	13(iii)	Continuing Education Allowance - Post-registration Hospital Certificate	15.00	22.50	30.00
21	13(iv)	Continuing Education Allowance - Post-graduate Certificate	20.00	25.00	30.00
22	13(v)	Continuing Education Allowance - Post-graduate diploma or degree	32.00	38.50	45.00
23	13(vi)	Continuing Education Allowance - Masters degree or doctorate	40.00	47.50	55.00
24	13(vii)	Continuing Education Allowance - Enrolled Nurse Certificate 4	14.00	18.00	22.50

4. Insert after Table 2 - Other Rates and Allowances of Part B, Monetary Rates the following the Schedules 2 and 3:

SCHEDULE 2

1. The following qualifications shall attract the allowance set out in subclause (iii) 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 (iii) of clause 13, Continuing Education Allowance.

Clinical Speciality	Course	Institution
Cardiology/Coronary Care	Cardio-Thoracic Diseases Nursing Certificate	Randwick Chest Hospital
		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 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
		Prince Henry's Hospital Melbourne
	Green Lane Hospital, New Zealand	
	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
		Liverpool Hospital
		Geelong Hospital
		Waikato Hospital, New Zealand
Clinical Speciality	Course	Institution
Developmental Disability	Mental Retardation Certificate	NSW Nurses Registration Board

	Developmental Disability Certificate	NSW Nurses Registration Board
		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	Intensive Care Nursing Certificate	Royal Newcastle Hospital
		Liverpool District Hospital
		Royal Prince Alfred Hospital
		St George Hospital
		St Vincent's Hospital, Darlinghurst
		Northern Met Region, Health Dept.
		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
Mental Health	Psychiatric Certificate	NSW Nurses Registration Board
		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

Mental Health (cont.)	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 (Occ, Health) Diploma	College of Nursing, Australia
Oncology	Oncology Certificate	Peter MacCallum Clinic, Melbourne
Operating Theatres	Operating Suite Nurse Course	Westmead Hospital
	Operating Theatre Nursing Certificate	Prince Henry, Prince of Wales Hospitals
		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
Clinical Speciality	Course	Institution
Operating Theatre (cont.)	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	NSW Nurses Registration Board
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.)

5. This variation shall take effect on and from 21 March 2007.

F. L. WRIGHT *J, President.*
R. P. BOLAND *J.*
J. McLEAY, Commissioner.

Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (EDUCATION EMPLOYEES DEPARTMENT OF CORRECTIVE SERVICES) CONSENT AWARD 2006

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Teachers Federation, Industrial Organisation of Employees.

(No. IRC 263 of 2007)

Before Commissioner Connor

4 April 2007

VARIATION

1. Insert in numerical order in clause 1, Arrangement of the award published 28 July 2006 (360 I.G. 371), the following new clause number and subject matter, and renumber existing clauses accordingly:

5A. Salary Packaging Arrangements, including Salary Sacrifice to Superannuation

2. Insert after clause 5 Salaries, the following new clause 5A:

5A. Salary Packaging Arrangements, including Salary Sacrifice to Superannuation

- 5A.1. The entitlement to salary package in accordance with this clause is available to:

5A.1.1. permanent full-time and part-time employees;

5A.1.2. temporary employees, subject to the Department's convenience; and

5A.1.3. casual employees, subject to the Department's convenience, and limited to salary sacrifice to superannuation in accordance with sub clause 5A.7.

- 5A.2. For the purposes of this clause:

5A.2.1. "salary" means the salary or rate of pay prescribed for the employee's classification by clause 6, Salaries and Part B - Monetary Rates Table 1 of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.

5A.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.

- 5A.3. By mutual agreement with the Director of Public Employment (DPE), an employee may elect to package a part or all of their post compulsory deduction salary in order to obtain:

5A.3.1. a benefit or benefits selected from those approved by the DPE; and

5A.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.

- 5A.4. An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.

- 5A.5. The agreement shall be known as a Salary Packaging Agreement.
- 5A.6. Except in accordance with sub clause 5A.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 DPE at the time of signing the Salary Packaging Agreement.
- 5A.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:
- 5A.7.1. paid into the superannuation fund established under the *First State Superannuation Act 1992*; or
 - 5A.7.2. where the employer is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or
 - 5A.7.3. subject to the Department's agreement, paid into another complying superannuation fund.
- 5A.8. Where the employee makes an election to salary sacrifice, the employer shall pay the amount of post compulsory deduction salary, the subject of election, to the relevant superannuation fund.
- 5A.9. Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:
- 5A.9.1. *Police Regulation (Superannuation) Act 1906*;
 - 5A.9.2. *Superannuation Act 1916*;
 - 5A.9.3. *State Authorities Superannuation Act 1987*; or
 - 5A.9.4. *State Authorities Non-contributory Superannuation Act 1987*,
- the employee's 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.
- 5A.10. Where the employee makes an election to salary package, and where the employee is a member of a superannuation fund other than a fund established under legislation listed in sub clause 5A.9 of this clause, the employee's 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.
- 5A.11. Where the employee makes an election to salary package:
- 5A.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
 - 5A.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 5, Salaries and or Part B - Monetary Rates, Table 1 of this Award if the Salary Packaging Agreement had not been entered into.
- 5A.12. The DPE may vary the range and type of benefits available from time to time following discussion with the Federation. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.

- 5A.13. The DPE will determine from time to time the value of the benefits provided following discussion with the Federation. 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.
3. This variation shall operate from the beginning of the first pay period to commence on or after 4 April 2007.

P. J. CONNOR, Commissioner

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POLICE ASSOCIATION SALARIED OFFICERS (STATE) AWARD 2000

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Police Association of New South Wales, Industrial Organisation of Employees.

(No. IRC 3633 of 2006)

Before The Honourable Justice Boland

18 December 2006

VARIATION

1. Delete the "CONTENTS" of the award published 12 January 2001 (321 I.G. 506) and insert in lieu thereof the following new arrangement, and renumber the clauses in the body of the award accordingly:

1. Arrangement

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Area, Incidence and Duration
4.	Payment
5.	Hours
6.	Overtime
7.	Recall
8.	Meal Break
9.	Meal Allowance
10.	Amenities
11.	Provision of Telephones & Vehicles
12.	Exceptions
13.	Other Conditions of Employment
14.	Staff Superannuation Scheme
15.	Sacrifice Pay to Superannuation
16.	Sacrifice Pay for Other Benefits
17.	Evaluation of a New Position
18.	Re-Evaluation of Positions
19.	Redundancy
20.	Public Holidays
21.	Annual Leave
22.	Long Service Leave
23.	Sick Leave
24.	Maternity Leave
25.	Parental Leave
26.	Adoption Leave
27.	Maternity, Parental and Adoption Leave for Casual Employees
28.	Right to Request further Maternity, Parental or Adoption Leave
29.	Communication During Maternity, Parental or Adoption Leave
30.	Family and Community Service Leave
31.	Bereavement Leave
32.	Sick Leave to Care for a Family Member
33.	Use of Unpaid Leave As Personal Carer's Leave

34. Use of Annual Leave as Personal Carer's Leave
35. Time off In Lieu of the Payment of Overtime
36. Make Up Time
37. Anti – Discrimination
38. Part Time
39. Casual Employees
40. Temporary Employees
41. Job Sharing
42. Workers Compensation
43. Entitlement to Higher Duties Allowance when Relieving in Other Positions
44. Payment of Allowance when Relieving in Other Positions
45. Grievance Settlement Procedures
46. Existing Privileges
47. No Further Claims
48. Monetary Rates
49. Pay Link

2. Insert after subclause (a) of Clause 21, Annual Leave, the following new subclause:
 - (b) 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.
3. Insert a new subclause (a) in Clause 24, Maternity Leave and renumber existing subclauses to read as (b) to (h) respectively:
 - (a) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
4. Insert in subclause (b) of clause 24, Maternity Leave, after the words "An employee", the following:

"as defined in Section 53 of the *Industrial Relations Act 1996* (NSW),"
5. Insert a new subclause (a) in Clause 25, Parental Leave, and renumber existing clauses (a) to (e) to read as (b) to (f) respectively:
 - (a) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
6. Insert in subclause (b) of clause 25, Parental Leave after the words "An employee", the following:

"as defined in Section 53 of the *Industrial Relations Act 1996* (NSW),"
7. Delete the words appearing in paragraph (i) of subclause (b) of clause 25, Parental Leave the following:

"with pay"
8. Insert after subclause (e) of clause 25, Parental Leave, the following new subclause (f):
 - (f) An employee who has applied for parental leave and prior to the expected date of birth or adoption, completed not less than 40 weeks' continuous service, shall be paid at the ordinary rate of pay for a period not exceeding 1 week or the period of parental leave taken, whichever is the lesser period.
9. Renumber subclause (f) of clause 25, Parental Leave, to read as subclause (g), and delete the word "Extended" and substitute the following:

"Except as provided in subclause (f) of this clause, "

10. Insert the following new subclause (a) in clause 26, Adoption Leave, and renumber existing subclauses (a) to (g) to read as (b) to (h) respectively:
 - (a) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
11. Delete subclause (b) of clause 26, Adoption Leave and insert in lieu thereof the following:
 - (b) An employee, as defined in Section 53 of the *Industrial Relations Act 1996* (NSW), adopting a child, as defined in clause 55 (4) of the *Industrial Relations Act 1996* (NSW), shall be entitled to be granted adoption leave.
12. Delete paragraphs (i) and (ii) of subclause (b) of clause 26, Adoption Leave and insert the following:
 - (i) an unbroken period of up to 3 weeks at the time of the placement of the child with the employee (short adoption leave), and
 - (ii) a further unbroken period in order to be the primary care-giver of the child (extended adoption leave).
13. Insert after clause 26, Adoption Leave, the following new clauses 27, 28 and 29 as follows:

27. Maternity, Parental and Adoption Leave for Casual Employees

- (a) An employer must not fail to re-engage a regular casual employee, as defined in Section 53 of the *Industrial Relations Act 1996* (NSW), because:
 - (i) the employee or employee's spouse is pregnant; or
 - (ii) the employee is or has been immediately absent on Maternity, Parental or Adoption leave.
 - (iii) 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.

28. Right to Request Further Maternity, Parental Or Adoption Leave

- (a) An employee entitled to Maternity, Parental or Adoption leave may request the employer to allow the employee:
 - (i) to extend the period of simultaneous unpaid Maternity, Parental or Adoption leave use up to a maximum of eight weeks;
 - (ii) to extend the period of unpaid Maternity, Parental or Adoption leave for a further continuous period of leave not exceeding 12 months;
 - (iii) to return from a period of Maternity or Parental leave on a part-time basis until the child reaches school age;
 - (iv) if the child is not yet of school age, to return from a period of adoption leave on a part-time basis until the child reaches school age

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

- (c) The employee's request and the employer's decision made under (28)(a)(ii), 28 (a)(iii) or 28(a)(iv) must be recorded in writing.
- (d) Where an employee wishes to make a request under 28(a)(iii) or 28(a)(iv), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from maternity leave.

29. Communication During Maternity, Parental Or Adoption Leave

- (a) Where an employee is on Maternity, Parental or Adoption leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
 - (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing Maternity, Parental or Adoption leave; and
 - (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing Maternity, Parental or Adoption leave.
 - (iii) 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 maternity 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.
 - (iv) 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 (i) above.

14. Delete subclause (a) of clause 30, Family and Community Service Leave and insert in lieu thereof the following:

- (a) The Employer shall, in the case of emergencies or in personal or domestic circumstances, grant to an employee, other than a casual employee, some or all of the available family and community service leave on full pay.

15. Insert after subclause (e) of clause 31, Bereavement Leave, the following new subclause:

- (f) Bereavement entitlements for casual employees
 - (i) Subject to the evidentiary and notice requirements in subclause 31(b) above, 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 32 (d) Sick Leave to Care For a Family Member.
 - (ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance
 - (iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

16. Delete clause 32, Sick Leave to Care for a Family Member, and insert in lieu thereof the following:

32. Sick Leave to Care for a Family Member

- (a) When family and community service leave provided for in clause 30 above is exhausted, an employee, other than a casual employee, with responsibilities in relation to a class of person set out in subclause (31)(b) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at Clause 23 of the award, for

absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

- (b) The sick leave shall initially be taken from the current leave year's entitlement followed, if necessary, by the sick leave accumulated over the previous 3 years. In special circumstances, the President may grant additional sick leave from the sick leave accumulated during the staff member's eligible service.
- (c) The employee shall, if required,
- (i) Establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (ii) Establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.
 - (iii) In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.
- (d) the entitlement to use sick leave in accordance with this clause is subject to:
- (i) the employee being responsible for the care and support of the person concerned; and
 - (ii) the person concerned being:
 - (1) a spouse of the staff member; or
 - (2) a de facto spouse being a person of the opposite sex to the staff member who lives with the employee as her husband or his wife on a bona fide domestic basis although not legally married to that employee; or
 - (3) a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the staff member or a defacto spouse of the employee; or – a same sex partner who lives with employee as the defacto partner of that staff member on a bona fide domestic basis; or a relative of the staff member who is a member of the same household.
- (e) 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.
- (f) Personal Carers Entitlement for casual employees
- (i) Subject to the evidentiary and notice requirements in 32(c) 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 32(d) who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
 - (ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

- (iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
17. Delete the paragraph appearing in clause 33, Use of Unpaid Leave as Personal Carer's Leave, and insert in lieu thereof the following:
- (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 32 (d) above who is ill or who requires care due to an unexpected emergency.
18. Delete subclause (a) of Clause 34, Use of Annual Leave as Personal Carer's Leave, and insert in lieu thereof the following:
- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
19. Delete subclause (g) of clause 24, Maternity Leave, and insert in lieu thereof the following:
- (g) An employee who, prior to the expected date of birth, completed not less than 40 weeks continuous service, shall be paid at her ordinary rate of pay for a period not exceeding 14 weeks or the period of maternity leave taken, whichever is the lesser period. The employee may elect to take this period at half of her ordinary rate of pay over a period not exceeding 28 weeks or the period of maternity leave, whichever is the lesser period.
20. Delete the number "3" appearing in subclause (f) of clause 26, Adoption Leave, and substitute the number "14".
21. In Table 1 - Classifications of clause 48, Monetary Rates, under the heading "Legal Services" delete the classification "Advisory Officer" and insert in lieu thereof the following:

Classification	Rate of Pay
Advisory Officer	A rate not less than Level 6, Year 1 to Level 8, Year 2

22. In Table 1 - Classifications of clause 48, Monetary Rates, underneath the words "Advisory Officer" insert the following note:
- NOTE: Any Advisory Officer who's most recent date of employment with the employer is on or before 30 April 2006, their Rate of Pay will continue to be as originally agreed, being Level 5 Year 1 to Level 9 Year 2.

23. In Table 1 - Classifications of clause 48, Monetary Rates, under the heading "Industrial Services", delete the classification "Industrial Officer" and insert in lieu thereof the following:

Classification	Rate of Pay
Industrial Officer	A rate not less than Level 6, Year 1 to Level 8, Year 2

24. In Table 1 - Classifications of clause 48, Monetary Rates, underneath the words "Industrial Officer" insert the following note:
- NOTE: Any Industrial Officer who's most recent date of employment with the employer is on or before 30 April 2006, their Rate of Pay will continue to be as originally agreed, being Level 5 Year 1 to Level 9 Year 2.

25. In Table 1 - Classifications, of clause 48, under the heading Field Services, delete the classifications "OHS Co-ordinator" and "Commissioned Police Officers Co-ordinator" and insert in lieu thereof the following:

Classification	Rate of Pay
Field Officer	A rate not less than Level 7, Year 1 to Level 9, Year 2
Coordinator, Senior Officers and Workplace Safety	A rate not less than Level 9, Year 1 to Level 10, Year 2

26. In Table 1 - Classifications, of clause 48, Monetary Rates, under the heading "Industrial Services", insert after the classification "Industrial Officer" the following new classification "Information Officer":

Classification	Rate of Pay
Information Officer	A rate not less than Level 2, Year 1 to Level 3, Year 2

27. Delete subclause (d) of clause 2, Definitions, and insert in lieu thereof the following:

- (d) "Evaluation Committee" means a committee comprising of persons nominated by the employer, persons nominated by the union and persons appropriately qualified in the evaluation method being applied (if available).

28. Delete clause 17, Evaluation of New Positions, and insert in lieu thereof the following:

17. Evaluation of New Positions

- (a) All Positions held by all employees are indicated in Table 1 Classifications. All employees shall be provided with a written "Job Description" which will include a title, description and list of duties and responsibilities together with the minimum and range of payment applicable to that position and at what level the employee is on at the time of notification.
- (b) If a new position is created that is not in Table 1 Classifications, the employer agrees to form an "evaluation committee" for the purposes of developing a Job Description in consultation with the union. The Job Description will be evaluated by an agreed, independent consultant to establish the minimum pay grade for the position and the range in accordance with Table 2 Rates of Pay. The evaluation committee may also make any other recommendations it determines.
- (c) Nothing in this clause prevents the employer from seeking an external evaluation at any time; however, any such evaluation will require consultation in accordance with subclause (b) above of this clause prior to any implementation.
- (d) Any agreed implementation of an evaluation done in accordance with subclause (b) above of this clause will have effect immediately upon the written notification by the employer to the union and any effected employee pending any variation to this award. If implementation is disputed, Clause 49 - Grievance Settlement Procedures will be followed and implementation of the evaluation will be deferred pending the resolution of the dispute.
29. Insert after subclause (c) of clause 18, Re-Evaluation of Positions, the following new subclauses:
- (d) If it is proposed to re-evaluate an existing position in Table 1 Classifications, the employer agrees to form an "evaluation committee" for the purposes of reviewing a Job Description in consultation with the union. The Job Description will be re-evaluated by an agreed, independent consultant to establish the minimum pay grade for the position and the range in accordance with Table 2 Rates of Pay. The evaluation committee may also make any other recommendations it determines.
- (e) Nothing in this clause prevents the employer from seeking an external re-evaluation at any time; however, any such re-evaluation will require consultation in accordance with this clause prior to any implementation.

- (f) Any agreed implementation of a re-evaluation done in accordance with this clause will have effect immediately upon the written notification by the employer to the union and any effected employee pending any variation to this award. If implementation is disputed, Clause 45 - Grievance Settlement Procedures will be followed and implementation of the evaluation will be deferred pending the resolution of the dispute.

30. Delete clause 39, Casuals, and insert in lieu thereof the following:

39. Casual Employees

- (a) The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.
- (b) A casual employee is an employee who may be engaged intermittently in work of an irregular, occasional and/or unexpected nature, and who is engaged and paid by the hour or may be employed on a regular and systematic basis. Full time, part time and temporary employees are not casual employees.
- (c) A casual employee shall be paid the equivalent of the hourly rate of pay for the appropriate classification plus a loading of 20 per cent with a minimum payment of three hours pay for each start. The 20 per cent loading is not included in the calculation of overtime.
- (d) The casual loading prescribed is in lieu of the entitlements arising under this award of annual leave, sick leave and any day specified in Clause 20 (Public Holidays).
- (e) Casual Conversion
- (i) A casual employee engaged by the employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) The employer shall give the casual employee notice in writing of the provisions of this subclause within four weeks of the employee having attained such period of twelve months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (e)(i), upon receiving notice under paragraph (e)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the Grievance Settlement Procedures.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.

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

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

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the grievance settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (f) Occupational Health and Safety -
- (i) For the purposes of this subclause, the following definitions shall apply:
- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) If the employer engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

- (iii) Nothing in this subclause (f) 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*.
- (g) 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 Grievance Settlement Procedure of this award.
- (h) 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.
31. The variations set out in instructions numbered 1 to 18 shall take effect on and from 19 December 2005.
32. The variations set out in instructions numbered 19 and 20 shall take effect on and from 1 September 2006.
33. The variations set out in instructions numbered 21 to 24 shall take effect on and from 1 May 2006.
34. The variations set out in instructions numbered 25 to 30 shall take effect on and from 18 December 2006.

R. P. BOLAND J

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BREAD INDUSTRY (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 16, Bereavement Leave, of the award published 17 December 2004 (347 I.G. 796), the following new item (vi):
 - (vi) Bereavement entitlements for casual employees
 - (a) Subject to the evidentiary and notice requirements in (ii) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 15.1(c)(ii) of clause 15, Personal Carer's Leave.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
2. Delete 15.1(a) of clause 15, Personal Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 15.1(c)(ii) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 14, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
3. Delete 15.1(b) of clause 15, Personal Carer's Leave, and insert in lieu thereof the following:
 - (b) The employee shall, if required,
 - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.
4. Insert the following notation at the end of clause 15, Personal Carer's Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 22, Settlement of Disputes and Grievances, should be followed.

5. Delete 15.2(a) of clause 15, Personal Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 15.1(c)(ii) above who is ill or who requires care due to an unexpected emergency.
6. Delete 15.3(a) of clause 15, Personal Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
7. Insert the following new item 15.3(d) into clause 15, Personal Carer's Leave, as follows:
 - (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
8. Insert the following new item 7. into clause 15, Personal Carer's Leave, as follows:
 7. Personal Carers Entitlement for casual employees -
 - (1) Subject to the evidentiary and notice requirements in 15.1(b) and 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 15.1(c)(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
 - (2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
9. Insert in the Arrangement the following new clause number and subject matter:

16A. Parental Leave
10. Insert the following new clause 16A, Parental Leave, as follows:

16A. Parental Leave

 - (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
 - (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
 - (a) the employee or employee's spouse is pregnant; or
 - (b) the employee is or has been immediately absent on parental leave.

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

(3) Right to request

(a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

(c) Employee's request and the employer's decision to be in writing

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

(d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

(b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

11. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

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BUILDING AND CONSTRUCTION INDUSTRY (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 33, Other Leave, of the award published 31 August 2001 (327 I.G. 279), the following new item 33.3.6:

33.3.6 Bereavement entitlements for casual employees

- 33.3.6.1 Subject to the evidentiary and notice requirements in 33.3.2 casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 33.2.1(c)(ii) of clause 33, Other Leave.
- 33.3.6.2 The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- 33.3.6.3 An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

2. Delete 33.2.1(a) of clause 33, Other Leave, and insert in lieu thereof the following:

- (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 33.2.1(c)(ii) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at subclause 33.1 of clause 33, Other Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

3. Delete 33.2.1(b) of clause 33, Other Leave, and insert in lieu thereof the following:

- (b) The employee shall, if required,
 - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

4. Insert the following notation at the end of 33.2.1(d) of clause 33, Other Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 11, Settlement of Disputes, should be followed.

5. Delete 33.2.2 of clause 33, Other Leave, and insert in lieu thereof the following:

33.2.2 An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 33.2.1(c)(ii) above who is ill or who requires care due to an unexpected emergency.

6. Delete 33.2.3(a) of clause 33, Other Leave, and insert in lieu thereof the following:

(a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

7. Insert the following new item 33.2.3(d) into clause 33, Other Leave, as follows:

(d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

8. Insert the following new item 33.2.7 into clause 33, Other Leave, as follows:

33.2.7 Personal Carers Entitlement for casual employees -

- (1) Subject to the evidentiary and notice requirements in 33.2.1(b) and 33.2.1(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 33.2.1(c)(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

9. Delete clause 34, Parental Leave, and insert in lieu thereof the following:

34. Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
 - (a) the employee or employee's spouse is pregnant; or
 - (b) the employee is or has been immediately absent on parental leave.

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

(3) Right to request

(a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

(c) Employee's request and the employer's decision to be in writing

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

(d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

(b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

10. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

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CLEANING AND BUILDING SERVICES CONTRACTORS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 23, Bereavement Leave, of the award published 24 March 2006 (358 I.G. 502), the following new item (vi):
 - (vi) Bereavement entitlements for casual employees
 - (a) Subject to the evidentiary and notice requirements in (ii) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 22(c)(2) of clause 22, Personal/Carer's Leave.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
2. Delete 22(i)(a) of clause 22, Personal/Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 22(c)(2) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 21, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
3. Delete 22(i)(b) of clause 22, Personal/Carer's Leave, and insert in lieu thereof the following:
 - (b) The employee shall, if required,
 - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

4. Insert the following notation at the end of 22(i)(d) of clause 22, Personal/Carer's Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 38, Grievance Procedure, should be followed.

5. Delete 22(ii)(a) of clause 22, Personal/Carer's Leave, and insert in lieu thereof the following:

- (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 22(c)(2) above who is ill or who requires care due to an unexpected emergency.

6. Delete 22(iii)(a) of clause 22, Personal/Carer's Leave, and insert in lieu thereof the following:

- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

7. Insert the following new item 22(iii)(d) into clause 22, Personal/Carer's Leave, as follows:

- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

8. Insert the following new item (vii) into clause 22, Personal/Carer's Leave, as follows:

- (vii) Personal Carers Entitlement for casual employees -

- (1) Subject to the evidentiary and notice requirements in 22(i)(b) and 22(i)(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 22(c)(2) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

9. Delete clause 24, Parental Leave, and insert in lieu thereof the following:

24. Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
- (a) the employee or employee's spouse is pregnant; or
- (b) the employee is or has been immediately absent on parental leave.

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

(3) Right to request

(a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

(c) Employee's request and the employer's decision to be in writing

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

(d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

(b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

10. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

Printed by the authority of the Industrial Registrar.

CLERICAL AND ADMINISTRATIVE EMPLOYEES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 24, Bereavement Leave, of the award published 14 February 1997 (296 I.G. 619), the following new item 24(vi):
 - (vi) Bereavement entitlements for casual employees
 - (a) Subject to the evidentiary and notice requirements in 24(ii) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 23(i)(c)(2) of clause 23, Personal Carer's Leave.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
2. Delete 23(i)(a) of clause 23, Personal Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 23(i)(c)(2) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 22, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
3. Delete 23(i)(b) of clause 23, Personal Carer's Leave, and insert in lieu thereof the following:
 - (b) The employee shall, if required,
 - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.
4. Insert the following notation at the end of 23(i)(d) of clause 23, Personal Carer's Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 41, Dispute Avoidance and Grievance Procedure, should be followed.

5. Delete 23(ii) of clause 23, Personal Carer's Leave, and insert in lieu thereof the following:
 - (ii) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 23(i)(c)(2) above who is ill or who requires care due to an unexpected emergency.
6. Delete 23(iii)(a) of clause 23, Personal Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
7. Insert the following new item 23(iii)(d) into clause 23, Personal Carer's Leave, as follows:
 - (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
8. Insert the following new item 23(vii) into clause 23, Personal Carer's Leave, as follows:
 - (vii) Personal Carers Entitlement for casual employees -
 - (1) Subject to the evidentiary and notice requirements in 23(i)(b) and 23(i)(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 23(2) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
 - (2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
9. Delete clause 25, Parental Leave, and insert in lieu thereof the following:

25. Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
 - (a) the employee or employee's spouse is pregnant; or
 - (b) the employee is or has been immediately absent on parental leave.The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.
- (3) Right to request
 - (a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

- (c) Employee's request and the employer's decision to be in writing

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

- (d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

10. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

Printed by the authority of the Industrial Registrar.

CLUB EMPLOYEES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 26, Full-Time and Part-Time Employees, of the award published 26 November 2004 (347 I.G. 431), the following new item 26.1.8:

26.1.8 Bereavement entitlements for casual employees

- 26.1.8.1 Subject to the evidentiary and notice requirements in 26.1.6(b) 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 26.4.1(d) of clause 26, Full-Time and Part-Time Employees.
- 26.1.8.2 The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- 26.1.8.3 An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

2. Delete 26.4.1(a) of clause 26, Full-Time and Part-Time Employees, and insert in lieu thereof the following:

- (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 26.4.1(d) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at subclause 26.6 of clause 26, Full-Time and Part-Time Employees of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

3. Delete 26.4.1(b) of clause 26, Full-Time and Part-Time Employees, and insert in lieu thereof the following:

- (b) The employee shall, if required,
 - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

4. Insert the following notation at the end of 26.4.1(e) of clause 26, Full-Time and Part-Time Employees:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 30, Settlement of Disputes, should be followed.

5. Delete 26.4.2(a) of clause 26, Full-Time and Part-Time Employees, and insert in lieu thereof the following:

- (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 26.4.1(d) above who is ill or who requires care due to an unexpected emergency.

6. Delete 26.4.3(a) of clause 26, Full-Time and Part-Time Employees, and insert in lieu thereof the following:

- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

7. Insert the following new item 26.4.3(d) into clause 26, Full-Time and Part-Time Employees, as follows:

- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

8. Insert the following new item 26.4.4A into clause 26, Full-Time and Part-Time Employees, as follows:

26.4.4A Personal Carers Entitlement for casual employees -

- (1) Subject to the evidentiary and notice requirements in 26.4.1(b) and 26.4.1(e) 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 26.4.1(d) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

9. Insert the following new subclause 26.7, into clause 26, Full-Time and Part-Time Employees, as follows:

26.7 Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).

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

- (a) the employee or employee's spouse is pregnant; or

- (b) the employee is or has been immediately absent on parental leave.

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

(3) Right to request

- (a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

- (c) Employee's request and the employer's decision to be in writing

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

- (d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

10. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

Printed by the authority of the Industrial Registrar.

COMMERCIAL TRAVELLERS, &c. (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 45, Bereavement Leave, of the award published 9 November 2001 (329 I.G. 329), the following new subclause (f):
 - (f) Bereavement entitlements for casual employees
 - (i) Subject to the evidentiary and notice requirements in 45(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 24.1(c)(ii) of clause 24, Personal/Carer's Leave.
 - (ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
2. Delete 24.1(a) of clause 24, Personal/Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 24.1(c)(ii) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 23, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
3. Delete 24.1(b) of clause 24, Personal/Carer's Leave, and insert in lieu thereof the following:
 - (b) The employee shall, if required,
 - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

4. Insert the following notation at the end of 24.1(d) of clause 24, Personal/Carer's Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 44, Dispute Procedures, should be followed.

5. Delete 24,2(a) of clause 24, Personal/Carer's Leave, and insert in lieu thereof the following:

- (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 24.1(c)(ii) above who is ill or who requires care due to an unexpected emergency.

6. Delete 24,3(a) of clause 24, Personal/Carer's Leave, and insert in lieu thereof the following:

- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

7. Insert the following new item 24,3(d) into clause 24, Personal/Carer's Leave, as follows:

- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

8. Insert the following new subclause 7 into clause 24, Personal/Carer's Leave, as follows:

7. Personal Carers Entitlement for casual employees -

- (1) Subject to the evidentiary and notice requirements in 24.1(b) and 24.1(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 24.1(c)(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

9. Insert in the Arrangement the following new clause number and subject matter:

23A. Parental Leave

10. Insert the following new clause 23A, Parental Leave, as follows:

23A. Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:

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

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

(3) Right to request

- (a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

- (c) Employee's request and the employer's decision to be in writing

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

- (d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

11. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

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HAIRDRESSERS', &c. (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 26, Bereavement Leave, of the award published 23 July 2004 (345 I.G. 452), the following new item 26(7):
 - (7) Bereavement entitlements for casual employees
 - (a) Subject to the evidentiary and notice requirements in 26(2) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 25(1)(c)(ii) of clause 25, Personal/Carer's Leave.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
2. Delete 25(1)(a) of clause 25, Personal/Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 25(1)(c)(ii) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 24, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
3. Delete 25(1)(b) of clause 25, Personal/Carer's Leave, and insert in lieu thereof the following:
 - (b) The employee shall, if required,
 - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.
4. Insert the following notation at the end of 25(1)(d) of clause 25, Personal/Carer's Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 32, Dispute Procedure, should be followed.

5. Delete 25(2)(a) of clause 25, Personal/Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 25(1)(c)(ii) above who is ill or who requires care due to an unexpected emergency.
6. Delete 25(3)(a) of clause 25, Personal/Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
7. Insert the following new item 25(3)(d) into clause 25, Personal/Carer's Leave, as follows:
 - (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
8. Insert the following new item 25(7) into clause 25, Personal/Carer's Leave, as follows:
 - (7) Personal Carers Entitlement for casual employees -
 - (a) Subject to the evidentiary and notice requirements in 25(1)(b) and 25(1)(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 25(1)(c)(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
 - (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.
9. Insert in the Arrangement the following new clause number and subject matter:

24A. Parental Leave

10. Insert the following new clause 24A, Parental Leave, as follows:

24A. Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
 - (a) the employee or employee's spouse is pregnant; or
 - (b) the employee is or has been immediately absent on parental leave.

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

(3) Right to request

(a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

(c) Employee's request and the employer's decision to be in writing

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

(d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

(b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

11. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

Printed by the authority of the Industrial Registrar.

JOINERS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 33, Bereavement Leave, of the award published 26 October 2001 (328 I.G. 1142), the following new item 33.6:

33.6 Bereavement entitlements for casual employees

33.6.1 Subject to the evidentiary and notice requirements in 33.2 casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 31.1(c)(ii) of clause 31, Personal/Carer's Leave.

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

33.6.3 An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

2. Delete 31.1(a) of clause 31, Personal/Carer's Leave, and insert in lieu thereof the following:

(a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 31.1(c)(ii) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 30, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

3. Delete 31.1(b) of clause 31, Personal/Carer's Leave, and insert in lieu thereof the following:

(b) The employee shall, if required,

- (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
- (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

4. Insert the following notation at the end of 31.1(d) of clause 31, Personal/Carer's Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 49, Settlement of Disputes, should be followed.

5. Delete 31.2(a) of clause 31, Personal/Carer's Leave, and insert in lieu thereof the following:

- (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 31.1(c)(ii) above who is ill or who requires care due to an unexpected emergency.

6. Delete 31.3(a) of clause 31, Personal/Carer's Leave, and insert in lieu thereof the following:

- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

7. Insert the following new item 31.3(d) into clause 31, Personal/Carer's Leave, as follows:

- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

8. Insert the following new item 31.7 into clause 31, Personal/Carer's Leave, as follows:

31.7 Personal Carers Entitlement for casual employees -

- (1) Subject to the evidentiary and notice requirements in 31.1(b) and 31.1(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 31.1(c)(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

9. Delete clause 32, Parental Leave, and insert in lieu thereof the following:

32. Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
- (a) the employee or employee's spouse is pregnant; or
- (b) the employee is or has been immediately absent on parental leave.

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

(3) Right to request

(a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

(c) Employee's request and the employer's decision to be in writing

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

(d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

(b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

10. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

Printed by the authority of the Industrial Registrar.

METAL, ENGINEERING AND ASSOCIATED INDUSTRIES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into subclause 7.4.7 of clause 7.4, Personal/Carers Leave, of the award published 8 June 2001 (325 I.G. 209), the following new item 7.4.7(e):

7.4.7(e) Bereavement entitlements for casual employees

- (i) Subject to the evidentiary and notice requirements in 7.4.1(b) 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 7.4.1(c)(ii) of clause 7.4, Personal/Carer's Leave.
- (ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

2. Delete 7.4.1(a) of clause 7.4, Personal/Carer's Leave, and insert in lieu thereof the following:

7.4.1(a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 7.4.1(c)(ii) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 7.3, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

3. Delete 7.4.1(b) of clause 7.4, Personal/Carer's Leave, and insert in lieu thereof the following:

(b) The employee shall, if required,

- (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
- (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

4. Insert the following notation at the end of 7.4.1(d) of clause 7.4, Personal/Carer's Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 3.2, Dispute Resolution Procedure, should be followed.

5. Delete 7.4.2 of clause 7.4, Personal/Carer's Leave, and insert in lieu thereof the following:

7.4.2 An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 7.4.1(c)(ii) above who is ill or who requires care due to an unexpected emergency.

6. Delete 7.4.3(a) of clause 7.4, Personal/Carer's Leave, and insert in lieu thereof the following:

7.4.3(a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

7. Insert the following new item 7.4.3(d) into clause 7.4, Personal/Carer's Leave, as follows:

7.4.3 (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

8. Insert the following new item 7.4.6A into clause 7.4, Personal/Carer's Leave, as follows:

7.4.6A Personal Carers Entitlement for casual employees -

- (1) Subject to the evidentiary and notice requirements in 7.4.1(b) and 7.4.1(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 7.4.1(c)(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

9. Delete clause 7.6, Parental Leave, and insert in lieu thereof the following:

7.6 Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
 - (a) the employee or employee's spouse is pregnant; or
 - (b) the employee is or has been immediately absent on parental leave.

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

(3) Right to request

(a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

(c) Employee's request and the employer's decision to be in writing

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

(d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

(b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

10. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

Printed by the authority of the Industrial Registrar.

PLUMBERS AND GASFITTERS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 33, Bereavement Leave, of the award published 25 February 2000 (313 I.G. 709), the following new item 33(vi):
 - (vi) Bereavement entitlements for casual employees
 - (a) Subject to the evidentiary and notice requirements in 33(ii) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 38(1)(c)(ii) of clause 38, Personal Carer's Leave.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
2. Delete 38(1)(a) of clause 38, Personal Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 38(1)(c)(ii) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 31, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
3. Delete 38(1)(b) of clause 38, Personal Carer's Leave, and insert in lieu thereof the following:
 - (b) The employee shall, if required,
 - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.
4. Insert the following notation at the end of 38(1)(d) of clause 38, Personal Carer's Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 52, Settlement of Disputes, should be followed.

5. Delete 38(2)(a) of clause 38, Personal Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 38(1)(c)(ii) above who is ill or who requires care due to an unexpected emergency.
6. Delete 38(3)(a) of clause 38, Personal Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
7. Insert the following new item 38(3)(d) into clause 38, Personal Carer's Leave, as follows:
 - (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
8. Insert the following new item 33(7) into clause 38, Personal Carer's Leave, as follows:
 - (7) Personal Carers Entitlement for casual employees -
 - (1) Subject to the evidentiary and notice requirements in 38(1)(b) and 38(1)(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 38(1)(c)(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
 - (2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
9. Delete clause 37, Parental Leave, and insert in lieu thereof the following:

37. Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
 - (a) the employee or employee's spouse is pregnant; or
 - (b) the employee is or has been immediately absent on parental leave.

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

(3) Right to request

(a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

(c) Employee's request and the employer's decision to be in writing

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

(d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

(b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

10. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

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REAL ESTATE INDUSTRY (CLERICAL AND ADMINISTRATIVE) (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 25, Bereavement Leave, of the award published 24 October 2003 (341 I.G. 820), the following new item 25(f):
 - (f) Bereavement entitlements for casual employees
 - (i) Subject to the evidentiary and notice requirements in (b) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 24.1(c)(2) of clause 24, Personal/Carer's Leave.
 - (ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
2. Delete 24.1(a) of clause 24, Personal/Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 24.1(c)(2) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 23, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
3. Delete 24.1(b) of clause 24, Personal/Carer's Leave, and insert in lieu thereof the following:
 - (b) The employee shall, if required,
 - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

4. Insert the following notation at the end of 24.1(d) of clause 24, Personal/Carer's Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 36, Dispute Avoidance and Grievance Procedure, should be followed.

5. Delete 24.2 of clause 24, Personal/Carer's Leave, and insert in lieu thereof the following:

24.2 Unpaid Leave for Family Purpose

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 24.1(c)(2) above who is ill or who requires care due to an unexpected emergency.

6. Delete 24.3(a) of clause 24, Personal/Carer's Leave, and insert in lieu thereof the following:

- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

7. Insert the following new item 24.3(d) into clause 24, Personal/Carer's Leave, as follows:

- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

8. Insert the following new item 24.6 into clause 24, Personal/Carer's Leave, as follows:

24.6 Personal Carers Entitlement for casual employees -

- (1) Subject to the evidentiary and notice requirements in 24.1(b) and 24.1(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 24.1(c)(2) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

9. Delete clause 26, Parental Leave, and insert in lieu thereof the following:

26. Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
- (a) the employee or employee's spouse is pregnant; or

- (b) the employee is or has been immediately absent on parental leave.

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

(3) Right to request

- (a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

- (c) Employee's request and the employer's decision to be in writing

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

- (d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

10. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

Printed by the authority of the Industrial Registrar.

STOREMEN AND PACKERS, GENERAL (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 30, Bereavement Leave, of the award published 18 August 2000 (317 I.G. 1097), the following new item (vii):
 - (vii) Bereavement entitlements for casual employees
 - (a) Subject to the evidentiary and notice requirements in (ii) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 26A(1)(c)(ii) of clause 26A, Personal Carer's Leave.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
2. Delete 26A(1)(a) of clause 26A, Personal Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 26A(1)(c)(ii) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 26, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
3. Delete 26A(1)(b) of clause 26A, Personal Carer's Leave, and insert in lieu thereof the following:
 - (b) The employee shall, if required,
 - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

4. Insert the following notation at the end of 26A(1)(d) of clause 26A, Personal Carer's Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 5, Dispute Procedure, should be followed.

5. Delete 26A(2)(a) of clause 26A, Personal Carer's Leave, and insert in lieu thereof the following:

- (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 26(1)(c)(ii) above who is ill or who requires care due to an unexpected emergency.

6. Delete 26A(3)(a) of clause 26A, Personal Carer's Leave, and insert in lieu thereof the following:

- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

7. Insert the following new item 26A(3)(d) into clause 26A, Personal Carer's Leave, as follows:

- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

8. Insert the following new item (7) into clause 26A, Personal Carer's Leave, as follows:

- (7) Personal Carers Entitlement for casual employees -

- (1) Subject to the evidentiary and notice requirements in 26A(1)(b) and 26A(1)(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 26A(1)(c)(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

9. Insert in the Arrangement the following new clause number and subject matter:

26B. Parental Leave

10. Insert the following new clause 26B, Parental Leave, as follows:

26B. Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:

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

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

(3) Right to request

- (a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

- (c) Employee's request and the employer's decision to be in writing

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

- (d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

11. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

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TRANSPORT INDUSTRY (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 21, Bereavement Leave, of the award published 20 April 2000 (315 I.G. 192), the following new item 21.4:

21.4 Bereavement entitlements for casual employees

21.4.1 Subject to the evidentiary and notice requirements in 21.2 casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 20.1.3 of clause 20, Personal/Carer's Leave.

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

21.4.3 An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

2. Delete 20.1.1, of clause 20, Personal/Carer's Leave, and insert in lieu thereof the following:

20.1.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 20.1.3 who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 19, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

3. Delete 20.1.2 of clause 20, Personal/Carer's Leave, and insert in lieu thereof the following:

20.1.2 The employee shall, if required,

- (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
- (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

4. Insert the following notation at the end of 20.1.4 of clause 20, Personal/Carer's Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 24, Disputes Resolution Procedure, should be followed.

5. Delete 20.2 of clause 20, Personal/Carer's Leave, and insert in lieu thereof the following:

20.2 Unpaid Leave for Family Purpose

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 20.1.3 above who is ill or who requires care due to an unexpected emergency.

6. Delete 20.3.1, of clause 20, Personal/Carer's Leave, and insert in lieu thereof the following:

20.3.1 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.

7. Insert the following new item 20.3.4 into clause 20, Personal/Carer's Leave, as follows:

20.3.4 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.

8. Insert the following new item 20.7 into clause 20, Personal/Carer's Leave, as follows:

20.7 Personal Carers Entitlement for casual employees -

- (1) Subject to the evidentiary and notice requirements in 20.1.2 and 20.1.4 casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 20.1.3 of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

9. Delete clause 22, Parental Leave, and insert in lieu thereof the following:

22. Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
 - (a) the employee or employee's spouse is pregnant; or
 - (b) the employee is or has been immediately absent on parental leave.

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

(3) Right to request

(a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

(c) Employee's request and the employer's decision to be in writing

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

(d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

(b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

10. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

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REAL ESTATE INDUSTRY (STATE) AWARD 2003, THE

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

VARIATION

1. Insert into clause 36, Compassionate Leave, of the award published 14 April 2006 (358 I.G. 826), the following new item (vi):
 - (vi) Bereavement entitlements for casual employees
 - (a) Subject to the evidentiary and notice requirements in (ii) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 16A(1)(c)(ii) of clause 16A, Personal Carer's Leave.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
2. Delete 16A(1)(a) of clause 16A, Personal Carer's Leave, and insert in lieu thereof the following:
 - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 16A(1)(c)(ii) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 16, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
3. Delete 16A(1)(b) of clause 16A, Personal Carer's Leave, and insert in lieu thereof the following:
 - (b) The employee shall, if required,
 - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.
4. Insert the following notation at the end of 16A(1)(d) of clause 16A, Personal Carer's Leave:

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 18, Grievance Procedure, should be followed.

5. Delete 16A(2) of clause 16A, Personal Carer's Leave, and insert in lieu thereof the following:

(2) Unpaid Leave for Family Purpose

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 16A(1)(c)(ii) above who is ill or who requires care due to an unexpected emergency.

6. Delete 16A(3)(a) of clause 16A, Personal Carer's Leave, and insert in lieu thereof the following:

(a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

7. Insert the following new item 16A(3)(c) into clause 16A, Personal Carer's Leave, as follows:

(c) 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.

8. Insert the following new item (7) into clause 16A, Personal Carer's Leave, as follows:

(7) Personal Carers Entitlement for casual employees -

(1) Subject to the evidentiary and notice requirements in 16A(1)(b) and 16A(1)(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 16A(1)(c)(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

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

(3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

9. Insert in the Arrangement the following new clause number and subject matter:

16B. Parental Leave

10. Insert the following new clause 16B, Parental Leave, as follows:

16B. Parental Leave

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

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

(a) the employee or employee's spouse is pregnant; or

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

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

(3) Right to request

(a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

(c) Employee's request and the employer's decision to be in writing

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

(d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

(b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

11. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to section 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright J, President, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON Industrial Registrar.

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SECURITY INDUSTRY (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Correction to Serial C4656 published 20 October 2006

(361 I.G. 521)

(No. IRC 1511 of 2006)

CORRECTION

1. Delete the reference "24.1 and 24.2 " and substitute the following:

24.1 and 24.1.1

G. M. GRIMSON *Industrial Registrar.*

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**CROWN EMPLOYEES (EDUCATION EMPLOYEES DEPARTMENT
OF CORRECTIVE SERVICES) CONSENT AWARD 2006**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Correction to Serial C4690 published 6 October 2006

(361 I.G. 164)

(No. IRC 1330 of 2006)

CORRECTION

1. Delete in instruction 1 the reference of the award published "28 July 2006 (360 I.G. 371)" and substitute the following:

20 May 2005 (351 I.G. 58).

G. M. GRIMSON *Industrial Registrar.*

Printed by the authority of the Industrial Registrar.

ENTERPRISE AGREEMENTS APPROVED BY THE INDUSTRIAL RELATIONS COMMISSION

(Published pursuant to s.45(2) of the *Industrial Relations Act 1996*)

EA07/7 - Family Planning NSW and NSW Nurses' Association Enterprise Agreement 2007

Made Between: Family Planning New South Wales Ltd -&- the New South Wales Nurses' Association.

New/Variation: Replaces EA04/63.

Approval and Commencement Date: Approved and commenced 19 April 2007.

Description of Employees: The agreement applies to all nursing employees employed by Family Planning NSW, located at 328-336 Liverpool Road, Ashfield NSW 2131, who fall within the coverage of the Nurses, Other Than in Hospitals, &c. (State) Award 2006.

Nominal Term: 31 Months.

EA07/8 - Teachers' Enterprise Agreement 2007-2010 for Trustees of the Jesuit Fathers, trading as Saint Ignatius, Riverview

Made Between: Trustees of the Jesuit Fathers, trading Saint Ignatius, Riverview -&- the Association of Independent Schools of New South Wales.

New/Variation: New.

Approval and Commencement Date: Approved 19 March 2007 and commenced 1 February 2007.

Description of Employees: The agreement applies to all employees of the Jesuit Fathers, trading as Saint Ignatius, Riverview, located at Tambourine Bay Road, LANE COVE NSW 2066 in respect of all work done by Teachers (including Casual, Temporary and Part-time Teachers) for the school, who fall within the coverage of the Teachers (Independent Schools) (State) Award 2007.

Nominal Term: 36 Months.

EA07/9 - Sydney Opera House Enterprise Agreement 2006

Made Between: Sydney Opera House Trust -&- the Media, Entertainment and Arts Alliance New South Wales.

New/Variation: New.

Approval and Commencement Date: Approved and commenced 30 April 2007.

Description of Employees: The agreement applies to all employees employed by the Sydney Opera House Trust located at Bennelong Point, Sydney NSW 2000, (except Senior Executive Service positions, Senior Officers and employees covered by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006, who fall within the coverage of the Sydney Opera House (Staff) Award 2000.

Nominal Term: 26 Months.

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