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HIGHER SCHOOL CERTIFICATE MARKING AND RELATED CASUAL EMPLOYEES RATES OF PAY AND CONDITIONS AWARD 2021

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Education Standards Authority.

(Case No. 18374 of 2022)

Before Chief Commissioner Constant

9 February 2022

AWARD

| Clause No. | Subject Matter |
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SECTION 1 - THE AWARD**1. Title**

This award shall be known as the (Higher School Certificate Marking and Related Casual Employees) Rates of Pay and Conditions Award 2021.

2. Intention

- 2.1 This award provides for increases in rates of pay and those allowances that are not regulated by other instruments consistent with the NSW Public Sector Wages Policy 2011.

3. Definitions

- 3.1 "the Act" means the *Government Sector Employment Act 2013*.
- 3.2 "Assistant Supervisor of Marking" means a person employed as such to assist the Supervisor of Marking.
- 3.3 "Chief Executive Officer" means the person holding or acting in the office of the Chief Executive Officer of the NSW Education Standards Authority pursuant to section 8 of the *Education Standards Authority Act 2013*. The Chief Executive Officer is the Agency Head pursuant to section 28 of the *Government Sector Employment Act 2013*. Reference to the Chief Executive Officer may from time to time refer to his/her delegate, meaning a person delegated by the Chief Executive Officer to perform functions associated with the office.
- 3.4 "Corporate marking" means the marking, pilot marking, briefing, standards setting and other activities associated with HSC examinations, whether written or other, carried out at centres designated by the Chief Executive Officer during the day and night.
- 3.5 "Discrepant" means a difference in the marks allocated to a student's examination response which has been double marked which exceeds the parameters set out in sub clause 4.2 of this award. For questions where a single mark is awarded by each examiner, two marks are discrepant if their difference is equal to or greater than a fixed proportion of the maximum mark value of the question.
- 3.6 "Executive Director" means the person holding or acting in the Senior Executive position appointed with responsibility for the Higher School Certificate programs pursuant to the *Government Sector Employment Act 2013*. Reference to the Executive Director may from time to time refer to his/her delegate, meaning a person delegated by the Executive Director to perform functions associated with the position.
- 3.7 "External Marker" means a person employed as such to undertake a program of marking of the HSC and paid by the number of questions, papers or parts of papers marked, with additional payment on an hourly basis for briefing and pilot marking.
- 3.8 "External Marking" means the marking, pilot marking, briefing, standards setting and other activities associated with HSC examinations, whether written or other, where the responses are collected by or

- delivered to the markers to mark in their own time, and at individual locations including domestic locations.
- 3.9 "Double Marking" means a process where two markers make independent judgements concerning the relative merit of a student's examination response and each allocates a mark in accordance with the approved marking scheme and with each marker being unaware of the mark allocated by the other marker.
- 3.10 "Employees" means Markers, External Markers, Senior Markers, Assistant Supervisors of Marking, Supervisors of Marking, LOTE Examiners and LOTE Casuals.
- 3.11 "HSC" means the Higher School Certificate examination.
- 3.12 "Itinerant marking" means the marking, pilot marking, briefing, standards setting and other activities associated with HSC examinations, whether written or other, which occurs at various successive locations and where the markers travel between these decentralised locations at which the responses are produced or held.
- 3.13 "Languages other than English (LOTE) Examiner" means a person employed as such released from their normal teaching duties while on full pay during the normal working day, to conduct speaking and listening skills examinations in languages other than English at schools, colleges or special examination centres designated by the Chief Executive Officer for students other than those being taught as part of the Examiner's normal teaching duties. LOTE Examiners do not assign marks.
- 3.14 "Languages other than English (LOTE) Casual" means a person employed as such (who is not normally employed in a teaching position for which paid relief is provided) to conduct speaking and listening skills examinations in languages other than English at schools, colleges or special examination centres designated by the Chief Executive Officer. LOTE Casuals do not assign marks.
- 3.15 "Marker" means a person employed as such for the purpose of Corporate marking, External marking or Itinerant marking.
- 3.16 "Marking Staff" means all persons employed in the classifications of Markers, Senior Markers, Assistant Supervisors of Marking and Supervisors of Marking.
- 3.17 "NESA" means the NSW Education Standards Authority a statutory body corporate established by section 4 of the *Education Standards Authority Act 2013*.
- 3.18 "Onscreen Marking" means the marking of examination responses provided to Marking Staff or External Markers via the internet or a computer network.
- 3.19 "Paid Relief" means the reimbursement made to a school, college or school system to cover the employment of a replacement teacher to replace the teacher involved in marking or the Languages other than English (LOTE) Examiner conducting languages other than English examinations (as per definition), with the intention that the reimbursement made is to enable a replacement teacher to perform the normal duties of the teacher involved in marking or the teacher conducting languages other than English examinations.
- 3.20 "Parties" means the Chief Executive Officer and the unions.
- 3.21 "Senior Marker" means a person employed as such to undertake marking as required and to supervise a team of markers under the direction of the Supervisor of Marking and the Assistant Supervisor of Marking.
- 3.22 "Supervisor of Marking" means a person employed as such to manage the marking operation in particular subjects, courses or parts of courses as determined by the Chief Executive Officer.
- 3.23 "Unions" means the Australian Education Union New South Wales Teachers Federation Branch, the NTEU New South Wales and the Independent Education Union of Australia, NSW/ACT Branch.

SECTION 2 - CONDITIONS OF MARKING AND RELATED MATTERS

4. HSC Marking Procedures

- 4.1 Double Marking shall be used for questions which require an extended response such as essays, creative writing and responses to literature and will be used in all subjects where double marking was applied in the 1998 HSC.
- 4.2 The identification of discrepant marks will be made in accordance with the following parameters:
- (a) For questions where a single mark is awarded by each examiner - where the difference between the two examiners' marks is equal to or greater than one-third of the range of marks allocated to the question.
 - (b) Where the mark awarded for the question comprises marks awarded to a number of part questions - where the difference between the total mark awarded for the question by each examiner is equal to or greater than one-quarter of the range of marks.
- 4.3 Where marks for a student's examination response are found to be discrepant pursuant to sub-clause 4.2, the student's examination response will undergo a third independent marking.
- 4.4 The parties to the award agree to consult in relation to the application of double marking and discrepant marking prior to each marking period.

5. Marking of Written Papers

- 5.1 Pen-and-paper marking is undertaken by marking staff travelling to a centre to mark between 4.00 p.m. and 9.00 p.m. Monday to Friday and either 8.30 am and 4.30 pm or 9.00 a.m. and 5.00 p.m. on Saturdays.
- 5.2 A proportion of marking of written papers may occur between 9 am and 5.30 pm Monday to Friday in the case only of:
- (a) briefing, pilot marking, standards setting and other related duties performed during the day prior to the commencement of evening marking at a centre or at the conclusion of the marking program for a course; and
 - (b) corporate marking performed in accordance with sub-clauses 5.3 to 5.5, referred to as day marking.
- 5.3 The particular subjects, courses or parts of courses to be marked by corporate marking between 9 am and 5.30 pm Monday to Friday:
- (a) in the Sydney metropolitan area will be rotated from year to year and will not include subjects, courses or parts of courses in which there is itinerant marking;
 - (b) in areas outside the Sydney metropolitan area may be rotated from year to year and will not include subjects, courses or parts of courses in which there is itinerant marking.
- 5.4 No more than 12 per cent of the total hours of written marking shall be marked by corporate marking between 9 am and 5.30 pm Monday to Friday.
- 5.5 Onscreen Marking of HSC papers and questions, on a Corporate or External Marking basis will be used for those subjects, courses or questions as determined by the Chief Executive Officer, at his or her discretion without limit each year.
- 5.6 Each year the parties agree to consult over the operation of corporate marking between 9 am and 5.30 pm Monday to Friday in the preceding marking period. Such consultation shall include, without being limited to, discussion of the following issues - the mix of metropolitan and non-metropolitan corporate

marking between 9 am and 5.30 pm Monday to Friday and the subjects in which corporate marking between 9 am and 5.30 pm Monday to Friday is utilised.

6. Privacy

The parties note the regulations to the *Education Act* 1990.

SECTION 3 - CONDITIONS OF EMPLOYMENT

7. Duties of Marking Staff

7.1 Marking Staff

Without limiting the generality of sub-clause 7.2, the duties of marking staff involve attendance at designated venues or external settings for External Markers according to a program determined by the Chief Executive Officer comprising pilot marking, marking, briefing, standards setting and other activities associated with examination scripts, projects and performances for Higher School Certificate assessment purposes. These activities can take place in a range of school, marking centre and external settings.

7.2 Duties as Directed

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

8. Hours of Work

8.1 The ordinary hours of work for Employees shall be:

- (a) Monday to Friday Corporate Marking HSC:
 - (i) 9 am to 5.30 pm;
 - (ii) 4 pm to 9 pm.
- (b) Saturday Corporate Marking HSC and the conducting of languages other than English speaking and listening skills examinations on Saturdays 8.30 am to 4.30 pm or 9 am to 5 pm.
- (c) Itinerant Marking - 9 am to 3.30 pm Monday to Friday, 9 am to 5 pm Saturday.
- (d) External Marking - outside the hours midnight to 6 am. At the request of Markers, Supervisors of Marking may request the Executive Director to vary the hours of work for particular subjects to outside the hours midnight to 5 am.

8.2 Provided that, with the exception of External Markers, all other Employees will be entitled to a meal break of either a half-hour, if agreed by a majority of markers at the initial briefing session by vote supervised by the Supervisor of Marking, or one-hour between the hours, as applicable, of:

- (a) 12.30 pm to 2 pm, Monday to Friday;
- (b) 6 pm to 7.30 pm, Monday to Friday;
- (c) 12.30 pm to 2 pm, Saturday.

- 8.3 With the exception of External Markers, employees will be entitled to a morning and afternoon tea break of ten minutes each on each work day which will count as time worked.
- 8.4 Hours of work for Languages other than English (LOTE) Examiners shall be pursuant to the minimum shift engagement of three hours between 9 am to 3.30 pm on weekdays.
- 8.5 With the exception of External Markers, and at the request of the markers of a particular subject, Supervisors of Marking may ask the Executive Director to vary the hours of work for that subject as follows:
- (a) Commencing work at 8.30 am and finishing at 4.30 pm on Saturdays.
 - (b) Commencing work at 4 pm and finishing at 9.15 pm and 8.45 pm respectively on Monday to Friday.
 - (c) If a half hour meal break is elected pursuant to clause 8.2, either commencing work a half hour later or finishing work a half hour earlier.
- 8.6 Subject to the progress of marking in particular subjects, courses or parts of courses, Supervisors of Marking may request the Executive Director to allow an unpaid lay night where no marking is undertaken in a particular subject, courses or parts of courses on that night.
- 8.7 Itinerant examiners shall have up to one hour of unpaid travelling time, with one hour for lunch for the remuneration as applicable according to whether they are released from full-time teaching or not as set out in paragraphs 15.2.2 and 15.2.3 respectively. All other marking shall be remunerated at the applicable rates as set out in paragraphs 15.2.1 and 15.2.4. Additional travelling time shall be paid at the weekday rate as set out in paragraph 15.2.3.
- 8.8 Employees engaged in Corporate Marking may, subject to the agreement of the majority of employees affected, reach agreement with the relevant Supervisor of Marking and the Executive Director to work beyond the scheduled finishing times described in sub-clause 8.1. In the event this involves Employees working beyond their regular shift of:
- (a) 9 am to 5.30 pm weekdays until 6.30 pm
 - (b) 9 am to 5 pm Saturday until 6.30 pm
 - (c) 8.30 am to 4.30 pm Saturday until 6.00 pm

then a further meal allowance is payable notwithstanding the provisions of sub-clause 15.5.

9. Provision of Facilities

- 9.1 Tea/Coffee
- 9.1.1 Adequate tea, coffee, milk, sugar and refrigerator facilities will be provided at each marking centre.
 - 9.1.2 Access of employees to tea and coffee facilities will, at all times, be subject to the directions of the Supervisors of Marking to ensure minimal interruption to the marking process.
 - 9.1.3 Employees will supply their own cups for tea and coffee during the employment.
- 9.2 Work Health and Safety
- 9.2.1 Marking centres will be clean and tidy prior to the commencement of marking each day in accordance with work health and safety legislation standards.

- 9.2.2 The parties to the award will monitor and address any work health and safety issues arising from the implementation of onscreen marking.

9.3 Proof of Identity

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

9.4 Other Facilities

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

10. Recruitment and Appointment of Marking Staff

10.1 Supervisors of Marking

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

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

10.1.2 Substantial and recent teaching experience at a senior level.

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

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

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

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

10.2 Criteria for Marker Selection

10.2.1 NESA will ensure that subject specific criteria used by the Supervisor of Marking (SOM) when making his/her selection/non-selection conforms with the general selection criteria and has been applied consistently across the subject/course.

The following general criteria will be used in selecting markers.

10.2.1.1 Total number of years teaching the subject/course - As a general guide, three years' experience teaching the subject/course at a senior level will be regarded as a minimum requirement for appointment as a marker.

10.2.1.2 Recent teaching of the subject/course - As a general guide, an applicant who has not taught the course/subject in the last 3 years is regarded as not having recent teaching experience.

10.2.1.3 Retired applicants - The requirement for adequate recency of teaching will mean that, in most cases, retired applicants will not be eligible for appointment.

10.2.1.4 Qualifications - Normally a degree with a major in the subject or a program of study deemed to be equivalent is required for appointment as a marker.

- 10.2.1.5 Current position within the school - School Principals are not eligible for appointment as a marker. Preference is given to teachers directly involved in the organisation and teaching of the subject.
- 10.2.1.6 Part-time and casual teachers - In most cases, applicants who are casual teachers will not have sufficient teaching experience. However, there may be instances where the applicant is a casual teacher but has had experience teaching blocks of senior classes which may amount to the minimum required years teaching experience for appointment.
- 10.2.1.7 Turnover of markers - Where there are sufficient suitable applicants a minimum of 10 per cent of markers appointed each year will not have marked previously. This is a policy aimed at increasing the pool of teachers with marking experience in each subject.
- In subjects where the number of applicants exceeds the number of available positions, a limit on the number of years for appointment to marking may be applied.
- 10.2.1.8 Topic expertise - Where necessary, an applicant may be appointed on the basis of the expertise they have in a particular area of the subject/course.
- 10.2.1.9 Previous satisfactory marking - Although previous marking experience should be considered in determining an applicant's qualifications for appointment, NESAs will not automatically reappoint a marker from the previous year. Markers deemed to have an unsatisfactory performance level may not be appointed in subsequent years.
- 10.2.1.10 Other relevant experience in promoting the subject - An applicant who has not had any recent experience teaching the course or the subject may be appointed if NESAs deem their experience relevant to the marking program.
- 10.2.1.11 Distance - Appointment of markers will be restricted to teachers who can ensure that they will be able to commence marking as scheduled each day. Any applicant who is outside reasonable distance from the marking centre must show ability to get there on time.
- Applicants who live a long distance from the marking centres but have indicated that they intend to take leave if appointed will be considered eligible in terms of this criterion.
- 10.2.1.12 Declaration and approval - The application must include a declaration by the Principal or Dean of Studies at TAFE or relevant supervisor that
- (i) the information provided by the applicant is, to the best of their knowledge, correct;
 - (ii) the application is approved.
- 10.2.1.13 Selection of markers is based on the information provided on the application. NESAs will not contact an applicant who has not provided information that is crucial in determining that person's eligibility. Applicants are responsible for providing complete and accurate information.
- 10.2.1.14 If a marker's application is submitted after the closing date, the applicant will only be appointed if there is a shortage of qualified applicants.

- 10.2.1.15 In selecting markers, consideration will be given to a balanced representation of markers from Government Schools, Catholic Schools, Independent Schools, Institutes of TAFE and universities.

10.2.2 Criteria Specific to Marker Selection -

- 10.2.2.1 Appointment to more than one marking session - In order to give as many suitably qualified applicants the opportunity to participate in marking, applicants will generally be appointed to only one course and to one session where there is both a practical and written component.
- 10.2.2.2 Appointed markers will need to be available for all marking sessions, including briefing and pilot marking, and will have agreed to this and all other conditions of employment when submitting their application. Applicants who do not agree to the conditions of employment will not be appointed.

10.3 Criteria Specific to Selection of Marking Staff for Onscreen Marking

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

10.4 Provision of Information

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

11. Termination of Services

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

12. Qualifications

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

13. Reporting of Performance

A system of appraisal of performance of Employees will be undertaken during the HSC marking. This will involve provision of an individual report at the conclusion of marking to Employees showing:

- (i) an overall grading of his/her performance;
- (ii) supporting information relating to accuracy and rate of marking;
- (iii) an indication of his/her attendance record throughout the marking;
- (iv) a written comment describing his/her performance throughout the marking; and for Senior Markers
- (v) an indication of his/her performance relating to leading a marking team, the production of marking kits and monitoring marking.

14. Family Leave Provisions

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

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

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

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

14.2 Personal Carers entitlement for Employees

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

14.2.1.1 A family member for the purposes of above is:

a spouse or family member; or

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

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

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

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

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

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

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

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

14.3 The Employee, shall if required,

14.3.1 Establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or

14.3.2 Establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such an emergency resulted in the person concerned requiring care by the Employee.

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

14.4 The Employee must, as soon as reasonably practical and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the Employee will inform the employer within 24 hours of the absence (drawn from AIRC order (PR964989)).

14.5 Bereavement entitlements for Employees

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

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

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

14.5.4 The Employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the Employee will inform the employer within 24 hours of the absence (Drawn from AIRC order (PR964989)).

SECTION 4 - RATES OF PAY AND ALLOWANCES

15. Rates of Pay and Allowances

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

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

Table 2 - External and Corporate Per Unit marking rates

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

Table 4 - Other Rates and Allowances

Table 5 - Hourly Rates floor to apply to Corporate Onscreen Marking

15.2 Rates of Pay

Subject to the provisions of paragraph 15.2.7:

15.2.1 Weeknight/Saturday rates are hourly rates paid to Employees from 3.30 pm on any weekday and for all time worked on a Saturday. These rates include a loading of 11.4% on the Weekday rates to compensate for all disabilities.

15.2.2 The Weekday Supplementary rates apply to Employees from 9 am on a weekday until 3.30 pm for Corporate Marking and Itinerant Marking where a teacher is released on pay from another employer.

15.2.3 The Weekday rates apply to Employees from 9 am on a weekday until 3.30 pm for Corporate Marking and Itinerant Marking where the Employee is not normally employed in a teaching position for which paid relief is provided during marking. This provision does not apply to those Employees to which paragraph 15.2.2 applies.

15.2.4 Sunday rates are hourly rates paid to employees for all times worked on Sundays and attract a loading of 50% above the Weekday rate.

15.2.5 Languages other than English (LOTE) examiners and casuals shall be paid at the rates specified at Table 1 for markers, except in the case of LOTE Examiners who work less than a full day on weekdays who are to be paid at the hourly rates specified at Table 3, calculated by dividing the Weekday Supplementary rates at paragraph 15.2.2 by $5\frac{1}{2}$ being the number of paid hours compensated by the Weekday Supplementary rates.

15.2.6 External Per Unit Marking Rates:

- (a) Where marking is conducted in an External marking mode the rates for such External marking are as set out in Table 2 provided that where the paper is less than three hours in length the rate is determined as a fraction of the three hour rate e.g. for a two hour paper the payment is two thirds of the three hour rate.
- (b) Where the marking is undertaken on a question basis the payment will be calculated by dividing the relevant rate for such paper by the number of questions unless otherwise specified in sub-paragraph 15.2.6(c) or in Table 2.
- (c) For Onscreen HSC marking, other than Mathematics courses, where the marking is undertaken on a question basis the Per Unit Rate of Pay method of payment will be calculated by multiplying the relevant rate for each paper by the percentage of the total mark value of the paper represented by the question concerned.
- (d) Mathematics courses are paid on a per mark basis as set out in Table 2.
- (e) Corporate Onscreen HSC markers' remuneration will be based on the greater of:
 - (i) the total number of papers or questions marked onscreen multiplied by the applicable Per Unit Rate of Pay; and,
 - (ii) the total hours of overall Onscreen Marking undertaken, multiplied by the applicable hourly rate of pay as specified in Table 5 of Schedule 1. For this purpose, the total hours of Onscreen Marking undertaken by individual markers will be the elapsed time of Onscreen Marking as recorded by NESA's onscreen marking software for each marker.

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

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

15.2.9 Senior Markers engaged in corporate or external onscreen marking and working as Senior Markers according to fixed hours will be remunerated according to Table 1, Schedule 1.

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

15.4 Minimum Payments

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

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

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

15.4.4 Corporate Markers engaged

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

15.4.5 Itinerant Markers engaged:

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

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

15.5 Meal Allowance

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

15.6 Travel Allowances

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

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

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

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

- (a) the Travel Allowance as set out in Item 3 of Table 4; and in addition (where applicable).
- (b) for travel in excess of 40 km per day from the person's daily place of residence during the marking period to the marking centre and return, up to a maximum of 160 km where the person provides evidence of the additional travel involved. The amount shall be an amount per kilometre as set out in Item 4(b) of Table 4; or
- (c) when the supplementary kilometre allowance at paragraph (b) above is not claimed on a daily basis and subject to the person's usual place of residence being outside the Sydney metropolitan area and more than 100 kilometres from the marking centre, the Travel Allowance as set out in item 5 of table 4, Schedule 1 once per engagement;

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

15.7 Subsistence Allowances for Itinerant Marking

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

15.8 The allowances contained in sub-clauses 15.5, 15.6 (except for the allowances payable pursuant to sub-paragraph 15.6.3(c) and paragraph 15.6.4 and sub-clause 15.7 shall be adjusted in accordance with the rates as approved from time to time by the Department of Premier and Cabinet. (The allowances payable pursuant to 15.6.3(c) and 15.6.4 shall be adjusted in accordance with pay increases to this award).

16. Deduction of Unions' Membership Fees

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

17. Superannuation

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

18. Salary Sacrifice to Superannuation

- 18.1 Notwithstanding the salaries prescribed by Schedule 1, Monetary Rates, an employee may elect, subject to the agreement of the employee's department or agency, to sacrifice a portion of the wage/salary payable under clause 15, Rates of Pay and Allowances, to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. In this clause, "superannuable salary" means the employee's salary as notified from time to time to the New South Wales public sector superannuation trustee corporations.
- 18.2 Where the employee has elected to sacrifice a portion of that payable salary to additional employer superannuation contributions:
- (a) subject to Australian Taxation law, the sacrificed portion of salary will reduce the salary subject to appropriate PAYG taxation deductions by the amount of that sacrificed portion; and
 - (b) any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this award or any applicable award, Act or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the said clause 15 in the absence of any salary sacrifice to superannuation made under this award.
- 18.3 the Employee May Elect to Have the Portion of Payable Salary which is Sacrificed to Additional Employer Superannuation Contributions:
- (a) paid into the superannuation scheme established under the *First State Superannuation Act 1992* as optional employer contributions; or
 - (b) subject to the department or agency's agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.
- 18.4 Where an employee makes an election in terms of sub-clause 18.3 of this clause, the employer shall pay the portion of salary, the subject of election, to the relevant superannuation fund.
- 18.5 Where the employee is a member of a superannuation scheme established under:
- (a) the *Police Regulation (Superannuation) Act 1906*;
 - (b) the *Superannuation Act 1916*;
 - (c) the *State Authorities Superannuation Act 1987*;
 - (d) the *State Authorities Non-contributory Superannuation Act 1987*; or
 - (e) the *First State Superannuation Act 1992*,
- the employee's department or agency must ensure that the amount of any additional employer superannuation contributions specified in sub-clause 18.1 of this clause is included in the employee's superannuable salary which is notified to the New South Wales public sector superannuation trustee corporations.
- 18.6 Where, prior to electing to sacrifice a portion of his/her salary to superannuation, an employee had entered into an agreement with his/her department or agency to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in sub-clause 18.5 of this

clause, the department or agency will continue to base contributions to that fund on the salary payable under clause 15 to the same extent as applied before the employee sacrificed portion of that salary to superannuation. This clause applies even though the superannuation contributions made by the department or agency may be in excess of superannuation guarantee requirements after the salary sacrifice is implemented.

SECTION 5 - AWARD COMPLIANCE AND RELATED MATTERS

19. Nomination of Unions' Representatives

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

20. Dispute Resolution Procedures

- 20.1 Subject to the provisions of the *Industrial Relations Act 1996*:
- 20.1.1 Should any dispute, question or difficulty arise concerning industrial matters occurring in a particular workplace, then the employee or the union's workplace representative will raise the matter with relevant Supervisor of Marking as soon as practicable.
- 20.1.2 The Supervisor of Marking will discuss the matter with the employee or the union's workplace representative with a view to resolving the matter or by negotiating an agreed method and time frame for proceeding.
- 20.1.3 Should the above procedure be unsuccessful in producing a resolution of the dispute, question or difficulty or should the matter be of a nature which involves multiple workplaces, then the employee or the union may raise the matter with the Executive Director with a view to resolving the dispute, question or difficulty or by negotiating an agreed method and time frame for proceeding.
- 20.1.4 Where the procedures in the preceding paragraph do not lead to resolution of the dispute, question or difficulty, the matter will be referred to the Chief Executive Officer and the Branch Secretary, Division Secretary and General Secretary of the respective unions. They or their nominees will discuss the dispute, question or difficulty with a view to resolving the matter or by negotiating an agreed method and time frame for proceeding.
- 20.1.5 Should the above procedures not lead to a resolution, then either party may apply to the Industrial Relations Commission of New South Wales.
- 20.2 Whilst the procedures outlined in sub-clause 20.1 of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or, in the case involving health and safety, if practicable, normal work shall proceed in a manner which avoids any risk to the health and safety of any staff member or member of the public.

21. No Further Claims

- 21.1 Except as provided by the *Industrial Relations Act 1996*, there shall be no further rates of pay or conditions claims by the parties prior to 31 December 2021 in relation to matters expressly contained in this award.

22. Anti-Discrimination

- 22.1 It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.

- 22.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.
- 22.3 Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 22.4 Nothing in this clause is to be taken to affect:
- (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- 22.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

23. Work Health and Safety

- 23.1 For the purposes of this clause, the following definitions shall apply:
- (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust, corporation and/or person) which has at its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that employer which, might otherwise have been carried out by the other employer's own employees.
- 23.2 If the employer engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises, the employer shall do the following (either directly, or through the agency of the labour hire or contract business):
- (a) consult with employees of the labour hire business and/or contract business regarding the workplace health and safety consultative arrangements;
 - (b) provide employees of the labour hire business and/or contract business with the appropriate health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (c) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (d) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

- 23.3 Nothing in this clause is intended to affect or detract from any obligation or responsibility upon a labour hire business under the *Work Health and Safety Act 2011* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- 23.4 Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

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

24. Area Incidence and Duration

- 24.1 This award:
- 24.1.1 This award rescinds and replaces the Higher School Certificate Marking and Related Casual Employees Rates of Pay and Conditions Award 2019 published 20 December 2019 (385 I.G. 825).
- 24.1.2 This award shall commence on 1 July 2021 with a nominal term until and including 30 June 2022.
- 24.2 Covers all casual employees employed by NESA pursuant to the Act engaged to mark the Higher School Certificate examinations at various locations determined by the Chief Executive Officer, NSW Education Standards Authority.

SCHEDULE 1

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

| Classification | Weekday Rates | | Weekday Supplementary Rates | | Weeknights and Saturday Rates | | Sunday Rates | |
|---------------------------------|---------------|--------|-----------------------------|--------|-------------------------------|--------|---------------|--------|
| | Per Hour from | | Per Day from | | Per Hour from | | Per Hour from | |
| | 1/7/20 | 1/7/21 | 1/7/20 | 1/7/21 | 1/7/20 | 1/7/21 | 1/7/20 | 1/7/21 |
| | 0.3% | 2.04% | 0.3% | 2.04% | 0.3% | 2.04% | 0.3% | 2.04% |
| Marker | 83.81 | 85.52 | 81.23 | 82.89 | 93.35 | 95.25 | 125.67 | 128.23 |
| LOTE Examiner | - | - | 81.23 | 82.89 | 93.35 | 95.25 | 125.67 | 128.23 |
| LOTE Casual | 83.81 | 85.52 | - | - | 93.35 | 95.25 | 125.67 | 128.23 |
| Senior Marker | 104.00 | 106.12 | 95.82 | 97.77 | 115.82 | 118.18 | 156.01 | 159.19 |
| Assistant Supervisor of Marking | 120.26 | 122.71 | 110.84 | 113.10 | 133.96 | 136.69 | 180.34 | 184.02 |
| Supervisor of Marking | 133.21 | 135.93 | 122.76 | 125.26 | 148.37 | 151.40 | 199.88 | 203.96 |

Table 2- External and Corporate Per Unit Marking Rates on and from

| HSC | 1/7/2020 | 1/7/2021 |
|----------------------------------|----------------|----------------|
| (a) Mathematics | Rates per mark | Rates per mark |
| Mathematics Standard 1 | 0.2216 | 0.2261 |
| Mathematics Standard 2 | 0.2216 | 0.2261 |
| | Rates per mark | Rates per mark |
| Mathematics/Mathematics Advanced | 0.3164 | 0.3229 |
| Mathematics Extension 1 | 0.3430 | 0.35 |

| | | |
|--|--------|--------|
| Mathematics Extension 2 | 0.3746 | 0.3822 |
| (b) Other subjects | | |
| Payments will be on a per three hour paper basis | | |
| 2 unit paper | 30.08 | 30.69 |
| Extension paper | 37.57 | 38.34 |

Table 3 - Languages Other than English (LOTE) Examiners Hourly Rates on and from

| | | |
|--|------------------------------------|-------------------------------------|
| A. Weekday Examining | 1/7/2020 Rates per hour 0.3% | 1/7/2021 Rates per hour 2.04% |
| 1. Languages other than English (LOTE) Examiners | 14.79 | 15.09 |

Table 4 - Other Rates and Allowances

| Item No. | Clause No. | Brief Description | 1/7/2020 Amount \$ | 1/7/2020 Amount \$ | 1/7/2021 Amount \$ | 1/7/2021 Amount \$ |
|----------|-------------------------|---|-------------------------|--------------------------|-------------------------|--------------------------|
| | | | (a) Daily Rate \$ | (b) Hourly Rate \$ | (a) Daily Rate \$ | (b) Hourly Rate \$ |
| 1 | 15.7 | Travelling Allowance - | | | | |
| | | Capital City Rate | 324.45 | 13.52 | 324.45 | 13.52 |
| | | Newcastle | 310.45 | 12.94 | 310.45 | 12.94 |
| | | Wagga Wagga | 280.45 | 11.69 | 280.45 | 11.69 |
| | | Port Macquarie | 297.45 | 12.39 | 297.45 | 12.39 |
| | | Maitland | 288.45 | 12.02 | 288.45 | 12.02 |
| | | Wollongong | 291.45 | 12.14 | 291.45 | 12.14 |
| | | Orange | 291.45 | 12.14 | 291.45 | 12.14 |
| | | Broken Hill | 280.45 | 11.69 | 280.45 | 11.69 |
| | | Dubbo | 260.15 | 10.84 | 260.15 | 10.84 |
| | | Bathurst | 271.45 | 11.31 | 271.45 | 11.31 |
| | | Other Country Centres | 240.15 | 10.01 | 240.15 | 10.01 |
| 2 | 15.5 | Meal Allowance (based on the Overtime Meal rate which is the same for breakfast, lunch or dinner, provided by the Dept of Premier & Cabinet Review of Meal, Travelling and other Allowances). | 2020 31.95 | | 2021 31.95 | |
| 3 | 15.6.1 15.6.3(a) | Travel Allowances (based on 40 km multiplied by the use of private motor vehicle casual rate pursuant to clause (15.8). Employees engaged in Corporate Marking in metropolitan areas of Sydney, Newcastle and Wollongong. Markers engaged in Corporate marking outside the metropolitan areas of Sydney, Newcastle and Wollongong | 11.52 per day | | 11.52per day | |

| | | | | |
|-----|-----------|--|-------------------------------|-------------------------------|
| 4 | | Motor Vehicle allowance - distances exceeding travel to and from usual place of residence and usual place of work: | | |
| (a) | 15.6.2 | Itinerant markers | 0.72 | 0.72 |
| (b) | 15.6.3(b) | Markers engaged in Corporate marking outside the metropolitan areas of Sydney, Newcastle and Wollongong in excess of 40 km up to maximum 160 km per day | 0.288 | 0.288 |
| | | | 1/7/2020 | 1/7/2021 |
| 5 | 15.6.3(c) | Travel Allowance fixed payment for: Markers engaged in Corporate marking outside the metropolitan areas of Sydney, Newcastle and Wollongong not claiming the allowance at 15.6.3(a) on a daily basis whose usual place of residence is outside the Sydney metropolitan area in excess of 100 km from the marking centre | 156.54 | 159.73 |
| | 15.6.4 | Itinerant markers who reside outside Sydney metropolitan area attending briefing sessions inside the Sydney metropolitan area where the person's usual place of residence is in excess of 100 km from the briefing session venue. | 247.30 once per engagement | 252.35 once per engagement |
| 6 | 15.2.7 | External Onscreen Marking ICT Allowance for use of ICT facilities Broadband | 13.29 once per engagement | 13.56 once per engagement |

Table 5 - Hourly Rates Floor to Apply to Corporate Onscreen marking:

| Classification | Weekday Rates | | Weekday Supplementary | | Weeknights and Saturday Rates | | Sunday Rates | |
|----------------|---------------|--------|-----------------------|--------|-------------------------------|--------|---------------|--------|
| | Per Hour from | | Per Day from | | Per Hour from | | Per Hour from | |
| | 1/7/20 | 1/7/21 | 1/7/20 | 1/7/21 | 1/7/20 | 1/7/21 | 1/7/20 | 1/7/21 |
| | 0.3% | 2.04% | 0.3% | 2.04% | 0.3% | 2.04% | 0.3% | 2.04% |
| Marker | 83.01 | 84.70 | 80.45 | 82.09 | 92.47 | 94.36 | 124.46 | 127.00 |

N. CONSTANT, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

(1327)

SERIAL C9461

CROWN EMPLOYEES (DEPARTMENT OF REGIONAL NSW) OPERATIONAL STAFF AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 134835 of 2021)

Before Commissioner Sloan

14 October 2021

REVIEWED AWARD

PART A

Arrangement

PART A

| Clause No. | Subject Matter |
|------------|--|
| 1. | Title of the Award |
| 2. | Definitions |
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| 4. | School Based Apprentices |
| 5. | Saving of Rights |
| 6. | Minimum Qualification Requirements and Commencing Rates |
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| 11. | Hours of Work - Day Work |
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| 17. | Grievance and Dispute Settling Procedures |
| 18. | Deduction of Union Membership Fees |
| 19. | Anti-Discrimination |
| 20. | Area Incidence and Duration |

PART B

MONETARY RATES

Table 1 - Salaries

Table 2 - Allowances

Table 3 – Expense Related Allowances

1. Title of the Award

- (i) This Award will be known as the Crown Employees (Department of Regional NSW) Operational Staff Award.

2. Definitions

- (i) "Act" means - the *Government Sector Employment Act 2013*.
- (ii) "Apprentice" means - an Apprentice assigned to a role, for the duration of their apprenticeship, in a trade covered by the Crown Employees (Skilled Trades) Award.
- (iii) "Association" means - the Public Service Association and the Professional Officers' Association Amalgamated Union of New South Wales.
- (iv) "Department" means Department of Regional NSW, as specified in Schedule 1 of the *Government Sector Employment Act 2013*.
- (v) "Farm Assistant", "Livestock Attendant", "Senior Livestock Attendant", "Laboratory Craftsman" and "Senior Laboratory Craftsman" means - a member of staff who is assigned to a role designated as such.
- (vi) "Farm Supervisor" means - a member of staff who is assigned to a role designated as such.
- (vii) "Gardener-experienced" means - a member of staff, not being a gardener-tradesperson, as defined, who is temporarily assigned to role as gardener in the absence of or unavailability of a gardener-tradesperson and who, by experience, is capable of performing gardening work to a satisfactory level.
- (viii) "Gardener-labourer" means - a member of staff who is assigned to a role to assist a gardener or to assist generally in gardening work and may be required to carry out under the supervision of a gardener any of the work set out in the definition of "gardener-tradesperson" and includes the operation of small petrol or electricity driven hand mowers and the like.
- (ix) "Gardener-labourer 1st class" means - a garden labourer who is capable of and required from time to time to drive and/or operates motorised tractor hauled or mechanical equipment used in gardening, tree lopping, paving, kerb making, rockery building and landscaping.
- (x) "Gardener-Tradesperson" means - a member of staff who has satisfactorily completed an apprenticeship in the industry of horticulture and gardening and holds the Horticulture Certificate of NSW TAFE or a certificate of equal or higher status and is assigned to a role as a tradesperson in horticulture, gardening, green keeping, floral decoration and all phases of allied works, such as rockery building, paving, landscaping and the like. Provided that a member of staff who had been assigned to a role as a "gardener" under the Crown Employees (Operational Staff - Department of Agriculture) Award published 1 May 1998 (304 I.G. 750) and who through ongoing experience described, will for the purpose of the Award be deemed to be a gardener tradesperson.
- (xii) "Handyperson" means - a member of staff who is assigned to a role designated as such and who carries out minor repairs and maintenance of farm buildings, structures and equipment.
- (xiii) "Industrial Relations Secretary" means the Secretary of the Department of Premier and Cabinet, or as otherwise specified in Schedule 1 of the *Government Sector Employment Act 2013*.
- (xiv) "Job Evaluation" means - a methodology agreed to between the parties to grade Operational Staff roles under this Award.
- (xv) "Leading Hand" means - a member of staff who is an assigned to role designated as such and who supervises a particular operation(s).
- (xvi) "Maintenance Operator" means - a member of staff who is assigned to a role designated as such and who carries out repairs and maintenance of farm buildings, structures and equipment and is assigned to a role that requires possession of a trade qualification as a condition of employment.
- (xvii) "Maintenance Supervisor" means - a member of staff who is assigned to a role of Building Supervisor that requires possession of a trade qualification as a condition of employment.

- (xviii) "Member of Staff" for the purposes of this Award, means a person employed as an employee on probation, or employee, employed in any capacity under the provisions of Part 4, Division 5 of the Act, who is classified under this Award.
- (xix) "Normal Work" normal work as defined in clause 17, Grievance and Dispute Settling Procedures, is defined as the duties, responsibilities and capabilities relevant to the Role Description of a member, or members of staff at the time of a grievance, dispute or difficulty.
- (xx) "Operational Staff" means - all members of staff assigned to roles described in this clause.
- (xxi) "Prior Learning" means - recognising formal skills and experience.
- (xxii) "Public Service" means - the Public Service of New South Wales as defined in the *Government Sector Employment Act 2013*.
- (xxiii) "Role" means - a role to which a member of staff has been assigned.
- (xxiv) "Salary Rates" means - the ordinary time of pay for the member of staff's grading, excluding shift allowances, weekend penalties and all other allowances not regarded as salary.
- (xxv) "Secretary" means the Secretary of the Department of Regional NSW as specified in Schedule 1 of the *Government Sector Employment Act 2013*
- (xxvi) "Service" means - continuous service for salary purposes.
- (xxvii) "Supervisor-Special Grade" means - a member of staff assigned to the role of supervisor who, in the opinion of the Secretary, has special responsibilities involving supervision of another supervisor and more than one major field of activity
- (xxviii)

"Unions" means - The Australian Workers Union, New South Wales Branch, Australian Manufacturing Workers Union, New South Wales Branch, the Electrical Trades Union of Australia, New South Wales Branch, Communications, Electrical & Plumbing Union, Plumbing Division (NSW Branch); and the Construction, Forestry, Mining and Energy Union, New South Wales Branch.

3. Salaries

- (i) This award is listed in Schedule A of the Crown Employees (Public Sector - Salaries 2021) Award and salaries payable to employees will be in accordance with that award or any award replacing it. The rates set out at Table 1 and Table 2 of Part B, of this award are subject to the rates as set by the Crown Employees (Public Sector - Salaries 2021) Award or any award replacing it.
- (ii) Existing allowances payable for passing prescribed annual technical college examinations will continue to be paid to apprentices in accordance with the Crown Employees (Skilled Trades) Award.
- (iii) The salary rates in Part B, Monetary Rates, of this Award, are set in accordance with the Crown Employees (Public Sector - Salaries 2021) Award and any variation or replacement Award.

4. School Based Apprentices

- (i) Definition

A school based apprentice is an employee who is undertaking an apprenticeship under a training contract while also enrolled in the Higher School Certificate.

(ii) Wages

- (a) The hourly rates for full time apprentices as set out in this Award will apply to school based apprentices for total hours worked including time deemed to be spent in off-the-job training.
- (b) For the purposes of paragraph (ii)(a) of this clause, where a school based apprentice is a full time school student, the time spent in off-the-job training for which the school based apprentice is paid is deemed to be 25 per cent of the actual hours worked on-the-job each week.
- (c) The wages paid for training time may be averaged over the school term or year.
- (d) Where this Award specifies a weekly rate for full time apprentices, the hourly rate will be calculated by dividing the applicable weekly rate by 38.

(iii) Progression through the Wage Structure

- (a) School based apprentices progress through the wage scale at the rate of 12 months' progression for each two years of employment as an apprentice.
- (b) The rates of pay are based on a standard apprenticeship of four years. The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school based apprentice undertaking the applicable apprenticeship.

(iv) Conversion from a school based apprentice to a full time apprenticeship

Where an apprentice converts from a school based to an ongoing full time apprenticeship, all time spent as a full time apprentice counts for the purpose of progression through the wage scale set out in this Award. This progression applies in addition to the progression achieved as a school based apprentice.

(v) Conditions of Employment

Except as provided by this clause, school based apprentices are entitled to pro rata entitlements of all other conditions of employment contained in this Award.

5. Saving of Rights

No member of staff employed in the Department under another Award, agreement, or determination on 27 March 1997, or thereafter, who is re-classified under this Award will receive a salary which is less than the salary received under the member of staff's former Award, agreement or determination.

6. Minimum Qualification Requirements and Commencing Rates

- (i) The commencing rate of pay for a member of staff who is assigned to a role of Farm Assistant will be the rate of pay prescribed for Grade 1, Step 1.
- (ii) The commencing rate of pay for a member of staff who is assigned to a role of Garden Labourer will be the rate of pay prescribed for Grade 1, Step 1.
- (iii) The commencing rate of pay for a member of staff who is assigned to a role of Handyperson will be the rate of pay prescribed for Grade 1, Step 3.
- (iv) The commencing rate of pay for a member of staff who is assigned to a role of Garden Labourer 1st Class will be the rate of pay prescribed for Grade 1, Step 3.
- (v) Except as provided by subclause (iii) of clause 9 of this Award, the commencing rate of pay for a member of staff who is assigned to role of Leading Hand will be the rate of pay prescribed for Grade 2, Step 1.

- (vi) The commencing rate of pay for a member of staff who is assigned to a role of Gardener-Experienced will be the rate of pay prescribed for Grade 2, Step 1.
- (vii) The commencing rate of pay for a member of staff who is assigned to a role of Maintenance Operator and who possesses a trade qualification, other than plumbing or electrical, will be the rate of pay prescribed for Grade 2, Step 2.
- (viii) The commencing rate of pay for a member of staff who is assigned to role of Maintenance Operator and who possesses a plumbing trade qualification will be the rate of pay prescribed for Grade 2, Step 3.
- (ix) The commencing rate of pay for a member who is assigned to a role of Gardener-tradesperson will be the rate of pay prescribed for Grade 2, Step 3.
- (x) The commencing rate of pay for a member of staff who is assigned to role of Maintenance Operator and who possesses an electrical trade qualification will be the rate of pay prescribed for Grade 3, Step 1.
- (xi) The commencing rate of pay for a member of staff who is assigned to a role of Fitter Operator will be the rate of pay prescribed for Grade 3, Step 3 (however, this rate must not fall below the prescribed rate under the Crown Employee (General Staff - Salaries) Award 2007.
- (xii) The commencing rate of pay for a member of staff who is assigned to a role of Farm Supervisor of a B Grade Research Station will be the rate of pay prescribed for Grade 4, Step 1.
- (xiii) The commencing rate of pay for a member of staff who is assigned to a role of Farm Supervisor of an A Grade Research Station will be the rate of pay prescribed for Grade 5, Step 1.
- (xiv) The commencing rate of pay for a member of staff who is assigned to a role of Gardener Supervisor will be the rate of pay prescribed for Grade 5, Step 2.
- (xv) The commencing rate of pay for a member of staff who is assigned to a role of Gardener Supervisor Special Grade will be the rate of pay prescribed for Grade 5, Step 3.
- (xvi) The commencing rate of pay for a member of staff who is assigned to a role of Maintenance Supervisor will be the rate of pay prescribed for Grade 6, Step 1.

7. Promotional Criteria

- (i) Promotion between grades will be subject to the occurrence of a vacancy and by comparative assessment and demonstrating the ability to undertake the capabilities provided for in the Government Sector Capabilities Framework as outlined in the role description.
- (ii) Movement within the incremental range of a grade will be subject to the acquisition of relevant National Competency Points at the required Australian Qualification Framework (AQF) Level necessary to justify progression to that higher salary level. The specific progression requirements are set out in the Operational Staff Workplace Assessment and Progressional Criteria Handbook.

8. Allowances

- (i) A member of staff employed upon any chokage and who is required to open up any soil pipe, waste pipe, drain pipe or pump conveying offensive material or a scupper containing sewerage or if the member of staff is required to work in a septic tank in operation, will be paid an additional amount per day or part of a day as set out in Item 1 of Table 2 - Salary Related Allowances, of Part B, Monetary Rates.
- (ii) A Maintenance Supervisor or a Maintenance Operator who, as a condition of their employment, is required to possess and use a trade licence will, in addition to the rate of pay prescribed in clause 3, Salaries, be paid any of the allowances as set out in Item 2 of Table 2 as is deemed appropriate.

- (iii) A Maintenance Supervisor, Maintenance Operator or an Apprentice who, as a condition of their employment, is required to provide their normal tools of trade will, in addition to the rate of pay prescribed in clause 3, Salaries, be paid the allowance as set out in Item 1 of Table 3 as is deemed appropriate.

Part-time and casual employees will be paid the hourly equivalent of the above mentioned rates respectively, calculated as follows:

| | | |
|------------------------------|---|----|
| Appropriate annual allowance | x | 1 |
| 52.17857143 | | 38 |

- (iv) Any Operational Staff Grade 2 or above who retain the Leading Hand Allowance as a result of operation of the transitional arrangements prescribed by clause 9 of this Award will, in addition to the appropriate rate of pay prescribed in clause 3, Salaries, be paid an allowance as set out in Item 3 of Table 2 - Salary Related Allowances, of Part B, Monetary Rates. That allowance is to be superable and is to be regarded as salary for all purposes.
- (v) Operational Staff who are required to work a broken shift will be paid an amount per day extra as set out in Item 4 of Table 2 - Salary Related Allowances, of Part B, Monetary Rates.
- (vi) Operational Staff will be paid the appropriate working dog allowance as set out in Item 2 of Table 3 - Expense Related Allowances, of Part B Monetary Rates where the relevant Research Station Manager certifies that the use of staff member's working dog(s) is/are necessary for the efficient conduct of the station's operations.
- (vii) First aid
- (a) A member of staff assigned as a First Aid Officer will be paid a first aid allowance at the rate appropriate to the qualifications held by such member of staff as specified in Item 5 of Table 2 - Salary Related Allowances of Part B, Monetary Rates.
- (b) The First Aid Allowance will not be paid during extended leave or any other continuous period of leave which exceeds four weeks.
- (c) When the First Aid Officer is absent on leave for one week or more and another qualified member of staff is selected to relieve in the First Aid Officer's role, such member of staff will be paid a pro rata first aid allowance for assuming the duties of a First Aid Officer.
- (viii) A member of staff required to work more than one and one half hours after the ordinary ceasing time will be provided with a meal or be paid the appropriate Overtime Meal Allowance as set out Item 3 of Table 3 - Expense Related Allowances, of Part B, Monetary Rates, for such a meal and after the completion of each four hours of continuous overtime thereafter will be paid the appropriate rate as set out in Item 3 of Table 3 - Expense Related Allowances, of Part B, Monetary Rates, for each subsequent meal in addition to the overtime payment.
- (ix) A Maintenance Operator required to hold and act upon a First Class Refrigeration Certification issued by the appropriate Authority or equivalent current NSW certification will be paid the rate as set out in Item 6 of Table 2 - Work Related Allowances, of Part B, Monetary Rates.

9. Leading Hand Allowance - Transitional Arrangements

- (i) Any Operational Staff Grade 2 or above who receives the Leading Hand Allowance as at the date of the first advertisement of the assigned role of Leading Hand established by the former Crown Employees (Operational Staff - NSW Agriculture) Award published 15 November 2002 (337 I.G. 1) will not be financially disadvantaged in the following circumstances:
- (a) where successful in their application for a role of Leading Hand;
- (b) where unsuccessful in the application for a role of Leading Hand; or

- (c) where no application is made for a role of Leading Hand.

Such member of staff will retain their existing allowance until they retire, resign or are promoted. The Leading Hand allowance payable to such member of staff will continue to be adjusted as prescribed by clause 10, Review of Allowances. Such members of staff who are not assigned to an ongoing full time Leading Hand role, but who retain the Leading Hand Allowance, can be called upon to perform Leading Hand duties as the need arises whilst in receipt of this allowance. In all other situations, payment of the Leading Hand Allowance will cease with the assignment of Leading Hands at the respective locations.

- (ii) Trade based Operational Staff who are assigned to Leading Hand roles can be required to perform duties associated with the trade(s) they possess in addition to their Leading Hand duties.
- (iii) Any Operational Staff Grade 1 who received a Leading Hand Allowance immediately prior to being assigned to a role of Leading Hand would commence on Grade 2, Step 2 to avoid any salary reduction arising from the cessation of the Leading Hand Allowance and progress thereafter subject to the agreed competency based progression criteria.

10. Review of Allowances Payable in Terms of this Award

- (i) Adjustment of Allowances - Allowances contained in clause 8, Allowances, of this Award will be reviewed as follows:
 - (a) The following salary related allowances will be reviewed in accordance with variations to the Crown Employees (Public Sector - Salaries 2021) Award or any replacement Award:
 - Chokage Allowance
 - Licence and Registration Allowances
 - Leading Hand Allowance
 - Broken Shift Allowance
 - First Aid Allowance
 - Refrigeration Allowance
 - (b) Tool Allowances will be reviewed in accordance with variations to the Crown Employees (Skilled Trades) Award, or any replacement Award
 - (c) Overtime Meal Allowances will be reviewed in accordance with variations to Meal Allowances prescribed by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 as varied or replaced.
- (ii) Dog Allowances will be adjusted on 1 January each year in line with the increases in the Consumer Price Index for Sydney during the preceding calendar year.

11. Hours of Work - Day Work

- (i) The ordinary working hours will be thirty-eight per week and will be worked in accordance with the following provisions for a rostered work cycle:
 - (a) Except in the case of members of staff engaged in attending livestock, the ordinary working hours will be worked as a twenty-day four-week cycle Monday to Friday, inclusive, with nineteen working days of eight hours each between the hours of 6:00 am and 6:00 pm, with 0.4 of one hour on each day worked accruing as an entitlement to take one rostered day off in each work cycle as a day off paid for as though worked, or a system of nine working days each fortnight between Monday and Friday, inclusive, consisting of eight days at 8.5 hours, one day at 8 hours, and one day being a rostered day off.

- (b) The ordinary working hours of members of staff engaged in attending livestock will be worked as a twenty day, four week cycle of five days per week during the period Monday to Saturday inclusive within nineteen working days of eight hours each between the hours of 6:00 am and 6:00 pm, with 0.4 of one hour on each day worked accruing as an entitlement to take one rostered day off in each work cycle as a day off paid for as though worked.
- (c) The rostered day off will be a Monday or a Friday within the working cycle provided that by agreement of the Department and the member of staff, the rostered day off may be taken on any other day within the work cycle or accrued as an entitlement for a day off to be taken in a subsequent work cycle.

Provided further that no member of staff will be entitled to accrue more than six rostered days off under the terms of this subsection. All rostered days off will be taken by the member of staff as leisure days off, and except as provided for in this subsection, no work will be performed by a member of staff on their rostered off day or days.

- (d) A roster of days off (provided for under this subsection) for each member of staff will be notified to staff prior to the commencement of each working cycle. Unless otherwise decided by mutual agreement staff will be provided with seven (7) working days notice of a change in roster, provided that, in the case of an emergency situation, forty-eight (48) hours notice of a change in roster may be given by the Department.
- (e) Where such rostered day off prescribed by this subclause falls on a public holiday as defined in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 as varied or replaced, the next working day will be taken in lieu of the rostered day off unless an alternative day in that work cycle (or the next work cycle) is agreed in writing between the Department and the member of staff.
- (f) Each day of paid leave taken and any public holidays occurring during the work cycle will be regarded as a day worked for accrual purposes.
- (g) A member of staff who has not worked a complete work cycle, will receive pro-rata accrued entitlements for each day worked (or each fraction of a day worked) or regarded as having been worked in such cycle, payable for the rostered day off or, in the case of termination of employment, on termination.
- (h) Members of staff will commence and cease work at their headquarters or other usual or constant location or as otherwise reasonably directed by the Department.
- (i) Members of staff will be entitled to a meal break each day of not less than half an hour in duration provided that the said meal break will be taken between 11:30 am and 1:30 pm at a time convenient to the Department.
- (j) A tea break during the morning period of not more than twenty minutes duration will be allowed to each individual member of staff, at a time to be arranged by the Department without deduction from their salaries. The Department may grant a tea break of not more than ten minutes duration during both the morning and afternoon periods of the working day in lieu of 20 minute morning tea break.

12. Hours of Work - Shift Work

- (i) The ordinary working hours for shift work will be thirty-eight per week and will be worked in accordance with the following provisions for a four-week work cycle:
 - (a) The ordinary working hours for shift work will be worked as twenty-day four-week cycle of five days per week during the period Monday to Sunday inclusive (except broken shifts) with nineteen working days of eight hours each, with 0.4 of one hour on each shift accruing as an entitlement to take one rostered shift off in each work cycle as a shift off paid for as though worked.

- (b) The rostered shift off will be Monday or a Friday within the working cycle provided that by agreement of the Department and the member of staff the rostered shift off may be taken on any other day within the work cycle or accrued as an entitlement for a shift off to be taken in a subsequent work cycle. Provided that no member of staff will be entitled to accrue more than six shifts off under the terms of this subsection. All rostered shifts off will be taken by the member of staff as a leisure day off, and except as provided for in this subsection no work will be performed by a member of staff on their rostered off shift or shifts.
- (c) A roster of shifts off (provided for under this subsection) for each member of staff will be notified to members of staff prior to the commencement of each working cycle. Unless otherwise decided by mutual agreement staff will be provided with seven (7) working shifts notice of change in roster provided that in the case of an emergency situation, forty-eight (48) hours notice of change in roster may be given by the Department.
- (d) Where such rostered shift off prescribed by this subclause falls on a public holiday as defined in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 as varied or replaced, the next working day will be taken in lieu of the rostered shift off unless an alternative day in that four-week cycle (or the next four-week cycle) is agreed in writing between the employer and the member of staff.
- (e) Each shift of paid leave taken and any public holidays occurring during any cycle of four weeks will be regarded as a shift worked for accrual purposes.
- (f) A member of staff who has not worked a complete four-week cycle will receive pro-rata accrued entitlements for each shift worked (or each fraction of a shift worked) or regarded as having been worked in such cycle, payable for the rostered shift off or, in the case of termination of employment, on termination.
- (g) Shift workers will be allowed a meal break of at least twenty minutes which will be counted as time worked at a time convenient to the Department.

(ii) Shift Allowances

Shift workers will be paid the following shift allowances:

| Shift | Commencing Time | Allowance in Addition to Ordinary Rate |
|-----------|---------------------------------|--|
| Day | at or after 6am | Nil |
| Afternoon | at or after 10am and before 1pm | 10% |
| Afternoon | at or after 1pm and before 4pm | 12½% |
| Night | at or after 4pm and before 4am | 15% |
| Night | at or after 4am and before 6am | 10% |

Provided that shift allowances will not be paid in respect of work done at weekends or on public holidays.

(iii) Penalty Rates

Shift workers will be paid the following rates in respect of work done at weekends or on public holidays.

(a) Weekends

The rate payable to shift workers for work done between midnight Friday and midnight Saturday will be ordinary time and a half. The rate payable to shift workers for work done between midnight Saturday and midnight Sunday will be ordinary time and three quarters.

(b) Public Holidays

The rate payable to shift workers for work done on a public holiday will be double time and a half.

- (iv) Members of staff, other than Operational Staff involved in Dairy Operations, will not be required to work shift work without the prior agreement of the Association or the appropriate Union.

13. Overtime

- (i) For the purposes of this Award, the Secretary or a person authorised by the Secretary, may require a member of staff to perform duty beyond the hours determined under clause 11, Hours of Work - Day Work and clause 12, Hours of Work - Shift Work, of this Award, but only if it is not unreasonable for the member of staff to be required to do so. A member of staff may refuse to work overtime in circumstances where the working of such overtime would result in the member of staff working unreasonable hours. In determining what is unreasonable, the following factors will be taken into account:
- (a) the member of staff's prior commitments outside the workplace, particularly the member of staff's family and carer responsibilities, community obligations or study arrangements;
 - (b) any risk to member of staff health and safety;
 - (c) the urgency of the work required to be performed during overtime, the impact on the operational commitments of the organisation and the effect on client services,
 - (d) the notice (if any) given by the Secretary regarding the working of the overtime, and by the member of staff of their intentions to refuse overtime; or
 - (e) any other relevant matter.
- (ii) Except as hereinafter provided, overtime at the rate of time and one half for the first two hours and double time thereafter will be paid for all time worked:
- (a) in excess of the daily number of rostered hours in one day; or
 - (b) outside the limits of clauses 11 and 12, Hours of Work.
- (iii) Except as provided for in clause 12, all work performed on Sundays and Public Holidays will be paid for at the rate of double time and double time and a half respectively. A member of staff required to work on a Sunday or Public Holiday will receive a minimum payment of 4 hours pay at the rate of double time or double time and a half respectively.
- (iv) In calculating overtime rates, the allowances referred to in clause 12 of the Award will be disregarded.
- (v) A member of staff recalled to work overtime after 6:00 pm on any day other than a Sunday or Public Holiday will receive a minimum payment of 4 hours pay at the appropriate overtime rate. On each recall the member of staff may be required to work 4 hours.
- (vi) A member of staff who works so much overtime-
- (a) between the termination of their ordinary work day or shift, and the commencement of their ordinary work in the next day or shift, that the member of staff has not had at least ten consecutive hours off duty between these times;
 - (b) or on Saturdays, Sundays and Holidays, not being ordinary working days or on a rostered day off, without having had ten consecutive hours off duty in the twenty-four hours preceding their ordinary commencing time on their next ordinary day or shift, will, subject to this subclause, be released after completion of such overtime until the member of staff has had ten hours off duty without loss of pay for ordinary working time occurring during such absence.

Provided that, if on the instructions of the Department, such a member of staff resumes, or continues to work, without having had such ten consecutive hours off duty the member of staff will be paid at double rates until released from duty for the ten hour period and will then be entitled to be absent until the member of staff has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

- (c) The provisions of this subclause will apply in the case of shift workers as if eight hours were substituted for ten hours when overtime is worked-
 - (1) For the purpose of changing shift rosters, or
 - (2) Where a shift worker does not report for duty and a day worker or a shift worker is required to replace such shift worker, or
 - (3) Where a shift is worked by arrangement between the members of staff themselves.
- (vii) A member of staff who is required to work overtime for two hours or more after the normal ceasing time will be allowed, at the expiration of the said two hours, 30 minutes for a meal or crib and thereafter a similar time allowance after every four hours of overtime worked. Time for meals or crib through overtime periods will be allowed without loss of pay, provided that overtime work continues after such break.
- (viii) Where overtime is worked on a Saturday, if work continues after 12 noon, a break for a meal of 30 minutes will be allowed between 12 noon and 1pm which meal break will be taken without loss of pay.
- (ix) Saturday Work - Day Workers All ordinary time worked on Saturdays in accordance with paragraph (i)(b) of clause 11, Hours of Work - Day Work, of this Award, will be paid for at the rate of time and a half.
- (x) Leave in Lieu of Payment a member of staff approved to work overtime may, within two working days following such work, elect to take leave in lieu of payment for all or part of the entitlement in respect of the time so worked. Such leave in lieu will accrue at the rates specified for overtime in this Award i.e., such leave in lieu will accrue at the equivalent computed overtime rate.

Provided that:

- (a) Where the member of staff elects to receive leave in lieu of payment such leave in lieu will be taken at the convenience of the Department.
- (b) Such leave in lieu will be taken in multiples of quarter day only.
- (c) Subject to the convenience of the Department, leave in lieu will be taken within three months of the date accrual, except in the case of leave in lieu in respect of work performed on a public holiday, in which case a member of staff may elect to have such leave in lieu added to annual leave credits.
- (d) A member of staff will be entitled to payment for the balance of any overtime entitlement not taken as leave in lieu.
- (xi) Wherever practicable, overtime at each Station/Centre/Institute will be equitably shared between members of staff on the classification required to work such overtime.

14. Public Service Holiday

- (i) The Public Service Holiday as prescribed by clause 12(C) the Government Sector Employment Regulation 2014 will be a Public Service Holiday/Union Picnic Day for Operational Staff covered by this Award and will be in lieu of any other Picnic Day.

- (ii) All Operational Staff will, as far as practicable, be given and will take this day as the Public Service Holiday/Union Picnic Day and will be paid therefore as for eight hours' work at the rate prescribed in clause 3, Salaries, of this Award. Any member of staff required to work on such day will be paid at the rate of double time and a half for not less than four hours' work. Provided that a member of staff who is required to work on the Public Service Holiday/Union Picnic Day and who fails to comply with such requirement will not be entitled to payment for the day.

15. Job Evaluation

- (i) Roles classified as Operational Staff will be graded in accordance with the accredited Job Evaluation methodology agreed by the Department, Industrial Relations Secretary and Associations/Unions, or any other methodology agreed between the parties during the operation of this Award to grade Operational Staff roles.
- (ii) The grading of Operational Staff roles will be carried out in consultation between the Department and Associations/Unions using the Department's Joint Consultative Committee. This Committee will be the forum for negotiation and consultation on the operation of the Department's Job Evaluation methodology during the operation of this Award.
- (iii) Roles will be evaluated and graded from time to time in the following circumstances:
 - (a) where the nature of a role is significantly changed, or a new role is created.
 - (b) where a role falls vacant, the Department can determine whether it is necessary to evaluate and grade the role prior to advertising the vacancy.
 - (c) at the request of any party to this Award provided that the role assigned to a member of staff has not been evaluated and graded for a minimum of twelve (12) months.
- (iv) Where a member of staff's role is evaluated as falling within a lower or higher grading than that to which the member of staff is presently assigned, then the Department:
 - (a) will examine the feasibility of initiating work redesign changes to the role in order to seek to justify the role's salary range at its existing grading level, or;
 - (b) adhere to existing statutory and related Public Service policies on filling regraded roles if initiating action under paragraph (a) of this subclause is determined to be inconsistent with maintaining Department efficiency, or otherwise impracticable.

16. Appeals Mechanism

- (i) A member of staff will have the right to appeal any decision made by the Department in relation to their progression within the grade.
- (ii) Members of staff will submit a written submission outlining their case to the Director, Industrial Relations within 28 days of the decision being appealed.
- (iii) The Director, Industrial Relations will constitute an appeals committee made up of one Management representative (who will not be the appellant's immediate supervisor), one relevant Association/Union representative and one peer that is acceptable to both Management and the Association/Union.
- (iv) The appeal will be heard within 28 days of it being lodged and the recommendation of the committee will be forwarded to the Secretary or nominee for decision.
- (v) The decision of the Secretary or nominee will be forwarded to the member of staff concerned within 7 working days of the appeal being heard.

17. Grievance and Dispute Settling Procedures

- (i) All grievances and disputes relating to the provisions of this Award will initially be dealt with as close to the source as possible, with graduated steps for further attempts at resolution at higher levels of authority within the Department, if required.
- (ii) A member of staff is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- (iii) Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti-Discrimination Act 1977*) that makes it impractical for the member of staff to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Secretary or delegate.
- (iv) The immediate manager, or other appropriate employee, will convene a meeting in order to resolve the grievance, dispute or difficulty within two (2) working days, or as soon as practicable, of the matter being brought to attention.
- (v) If the matter remains unresolved with the immediate manager, the member of staff may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager will respond within two (2) working days, or as soon as practicable. The member of staff may pursue the sequence of reference to successive levels of management until the matter is referred to the Secretary.
- (vi) The Secretary may refer the matter to the Industrial Relations Secretary for consideration.
- (vii) If the matter remains unresolved, the Secretary will provide a written response to the member of staff and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- (viii) A member of staff, at any stage, may request to be represented by the Association/Union.
- (ix) The member of staff or the Association/Union on their behalf, or the Secretary may refer the matter to the Industrial Relations Commission of NSW if the matter is unresolved following the use of these procedures.
- (x) The member of staff, Association/Union, Department and Industrial Relations Secretary will agree to be bound by any order or determination by the Industrial Relations Commission of NSW in relation to the dispute.
- (xi) Whilst the procedures outlined in subclauses (i) to (ix) of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty will continue unless otherwise agreed between the parties, or, in the case involving work health and safety, if practicable, normal work will proceed in a manner which avoids any risk to the health and safety of any member of staff or member of the public.

18. Deduction of Union Membership Fees

- (i) The union/association will provide the Department with a schedule setting out fortnightly membership fees payable by members of the union/association in accordance with the union's/association's rules.
- (ii) The union/association will advise the Department of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union/association fortnightly membership fees payable will be provided to the Department at least one month in advance of the variation taking effect.
- (iii) Subject to subclauses (i) and (ii) of this clause, the Department will deduct union/association fortnightly membership fees from the pay of any member of staff who is a member of the union/association in

accordance with the union's/association's rules, provided that the member of staff has authorised the Department to make such deductions.

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

19. Anti-Discrimination

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

20. Area, Incidence and Duration

- (i) This Award will apply to Operational Staff described in clause 2, Definitions, of this Award, in the Department of Regional NSW.

- (ii) The members of staff regulated by this Award will be entitled to the conditions of employment as set out in this Award and, except where specifically varied by this Award, existing conditions are provided for under the *Government Sector Employment Act* 2013, the *Government Sector Employment Regulation* 2014, the *Government Sector Employment (General) Rules*, the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* and the *Crown Employees (Public Sector - Salaries 2021) Award* or any Awards replacing these Awards.
- (iii) This award is made following a review under section 19 of the *Industrial Relations Act* 1996 and rescinds and replaces the *Crown Employees (Department of Industry) Operational Staff Award* published 25 October 2019 (385 I.G. 524).

The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act* 1996 and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 14 October 2021.

- (iv) The Award remains in force until varied or rescinded, the period for which it was made having already expired.

PART B

MONETARY RATES

Table 1 - Salaries

Effective from the beginning of the first full pay period to commence on or after 1 July 2021.

| (A) Full time (Annual Rate) | | Common Salary Point | 1.7.2020 Per annum 0.3% \$ | 1.07.2021 Per Annum 2.04% \$ |
|-----------------------------|-------------------------|------------------------|-------------------------------------|---------------------------------------|
| Junior | Under 17 at 17 years | - - | 36704 44566 | 37,453 45,475 |
| Grade 1 | | | | |
| | Step 1 | - | 52428 | 53,498 |
| | Step 2 | 26 | 54367 | 55,476 |
| | Step 3 | 29 | 55836 | 56,975 |
| | Step 4 | 33 | 57776 | 58,955 |
| Grade 2 | | | | |
| | Step 1 | 36 | 59389 | 60,601 |
| | Step 2 | 39 | 61079 | 62,325 |
| | Step 3 | 43 | 63386 | 64,679 |
| | Step 4 | 46 | 64973 | 66,298 |
| Grade 3 | | | | |
| | Step 1 | 46 | 64973 | 66,298 |
| | Step 2 | 50 | 67532 | 68,910 |
| | Step 3 | 53 | 69337 | 70,751 |
| Grade 4 | | | | |
| | Step 1 | 56 | 71297 | 72,751 |
| | Step 2 | 60 | 74077 | 75,588 |
| | Step 3 | 63 | 76420 | 77,979 |
| Grade 5 | | | | |
| | Step 1 | 63 | 76420 | 77,979 |
| | Step 2 | 66 | 78730 | 80,336 |
| | Step 3 | 70 | 81837 | 83,506 |
| Grade 6 | | | | |
| | Step 1 | 73 | 84220 | 85,938 |
| | Step 2 | 76 | 86689 | 88,457 |

| | | | | |
|---|--------|----|---------|----------------|
| | Step 3 | 80 | 90125 | 91,964 |
| (B) Apprentices Full-time (Weekly Rate) | | | | Per Week \$ |
| Year 1 | | - | 525.10 | 535.80 |
| Year 2 | | - | 692.80 | 706.90 |
| Year 3 | | - | 882.60 | 900.60 |
| Year 4 | | - | 1003.00 | 1023.50 |

Table 2 - Salary Related Allowances

Allowances will be reviewed as set out in clause 10 (a) of this award, with the new allowance rates being effective from the beginning of the first full pay period to commence on or after 1 July 2021.

| Item No. | Clause No. | Brief Description | 1.7.2020 \$ | 1.7.2021 \$ |
|----------|------------|--|--------------------|--------------------|
| 1 | 8(i) | Chokage Allowance per day or part thereof | 9.85 | 10.05 |
| 2 | 8(ii) | Maintenance Operator - Licence & Registration Allowances | Per annum | Per annum |
| | | Electricians Licence A Grade | 2730 | 2,786 |
| | | B Grade | 1468 | 1,498 |
| | | Registration Allowance | 2055 | 2,097 |
| | | (a) Plumber's Licence | 2699 | 2,754 |
| | | (b) Gasfitter's Licence | 2699 | 2,754 |
| | | (c) Drainer's Licence | 2329 | 2,377 |
| | | (d) Plumber's/Gasfitter's Licence | 3601 | 3,674 |
| | | (e) Gasfitter's/Drainer's Licence | 3601 | 3,674 |
| | | (f) Plumber's/Drainer's Licence | 3601 | 3,764 |
| | | (g)Plumber's/Gasfitter's/Drainer's Licence | 4971 | 5,072 |
| 3 | 8(iv) | Leading Hand Allowance | Per Annum 2,380 | Per Annum 2,429 |
| 4 | 8(v) | Broken Shift Allowance | Per Day 15.15 | Per Day 15.45 |
| 5 | 8(vii) | Occupational First Aid | Per Week 26.95 | Per Week 27.50 |
| | 8(vii) | First Aid Allowance | 18.10 | 18.45 |
| 6 | 8(ix) | Refrigeration Allowance | Per Annum 721 | Per Annum 736 |

Table 3 – Expense Related Allowances

Adjustment of Allowances in Table 3 will be reviewed as set out in:

Clause 10(i)(b) for Tool Allowances and (c) Overtime Meal Allowances - with the new allowance rates being effective from 1 July 2021.

Clause 10 (ii) for Dog Allowances are adjusted on 1 January each year in line with the increases in the Consumer Price Index for Sydney during the preceding calendar year.

| Item No. | Clause No. | Brief Description | 1.7.2021 FFPP on or after 1/7/2021 (i.e. 0.9% March 2021 Sydney CPI) |
|----------|------------|---|--|
| 1 | 8(iii) | Maintenance Operator & Apprentice Tool Allowances | Per week |
| | | Carpenter | 33.60 |
| | | Electrician | 21.20 |

| | | | |
|---|---------|-------------------------|----------|
| | | Plumber | 36.60 |
| | | Motor Mechanic | 36.60 |
| | | Fitter & Turner | 36.60 |
| | | Welder | 36.60 |
| 2 | 8(vi) | Dog Allowances | Per week |
| | | Dog Allowance - 1 Dog* | 3.99 |
| | | Dog Allowance - 2 Dogs* | 7.94 |
| | | Dog Allowance - 1 Dog | 11.47 |
| | | Dog Allowance - 2 Dogs | 22.93 |
| | | | |
| 3 | 8(viii) | Overtime Meal Allowance | |
| | | First Meal | Per ATO |
| | | Subsequent Meals | Per ATO |

Note: *Where dog is fed meat supplied by the Department

D. SLOAN, *Commissioner*

Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (DEPARTMENT OF REGIONAL NSW) PROFESSIONAL OFFICERS AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 144086 of 2021)

Before Commissioner Sloan

14 October 2021

REVIEWED AWARD

Arrangement

PART A

| Clause No. | Subject Matter |
|------------|---|
| 1. | Title of the Award |
| 2. | Definitions |
| 3. | Salaries |
| 4. | Savings of Rights |
| 5. | Progression Criteria |
| 6. | Appeals Mechanism |
| 7. | Minimum Qualification Requirements and Commencing Rates |
| 8. | Allowances |
| 9. | Job Evaluation |
| 10. | Grievance and Dispute Settling Procedures |
| 11. | Anti-Discrimination |
| 12. | Deduction of Union Membership Fees |
| 13. | Area, Incidence and Duration |

PART B

MONETARY RATES

Table 1 - Salaries

Table 2 - Other Rates and Allowances

PART A

1. Title of the Award

This Award will be known as the Crown Employees (Department of Regional NSW) Professional Officers Award.

2. Definitions

- (i) "Act" means the *Government Sector Employment Act* 2013.
- (ii) "Association/Union" means the Public Service Association and the Professional Officers' Association Amalgamated Union of New South Wales or the Association of Professional Engineers, Scientists and Managers, Australia (NSW Branch) also known as Professionals Australia.

- (iii) "Department" means the Department of Regional NSW, as specified in Schedule 1, Part 1 of the *Government Sector Employment Act 2013*.
- (iv) "Industrial Relations Secretary" means the Secretary of the Department of Premier and Cabinet, or as otherwise defined in Schedule 49(1) of the *Government Sector Employment Act 2013*.
- (v) "Job Evaluation" means a methodology agreed between the parties to grade Professional Officer roles under this Award.
- (vi) "Member of Staff" for the purposes of this Award, means a person employed as an employee on probation, or employee, employed in any capacity under the provisions of Part 4, Division 5 of the Act, who are classified under this Award.
- (vii) "Normal Work" as defined in clause 10, Grievance and Dispute Settling Procedures, is defined as the duties, responsibilities and capabilities relevant to the Role Description, of a member or members of staff, at the time of a grievance, dispute or difficulty.
- (viii) "Professional Officer" means and includes all members of staff employed under the provisions of the Act, who at or after the date of this Award, are assigned to a role of, and were classified as, a Professional Officer under this Award, and who meet the minimum qualification requirements pursuant to clause 7, Minimum Qualification Requirements and Commencing Rates.
- (ix) "Public Service" means the Public Service as defined in Part 4 of the *Government Sector Employment Act 2013*.
- (x) "Role" means a role assigned to an employee as dealt with in Part 4 Division 5 of the *Government Sector Employment Act 2013*.
- (xi) "Salary Rates" means the ordinary time rate of pay for the member of staff's grading, excluding shift allowances, weekend penalties, and all other allowances not regarded as salary.
- (xii) "Secretary" means the Secretary of the Department of Regional NSW.
- (xiii) "Service" means continuous service for salary purposes.

3. Salaries

This award is listed in Schedule A of the Crown Employees (Public Sector - Salaries 2021) Award and salaries payable to employees will be in accordance with that award or any award replacing it. The rates set out at Part B, Table 1 and Table 2 of this award are subject to the rates as set by the Crown Employees (Public Sector - Salaries 2021) Award or any award replacing it.

4. Savings of Rights

At the time of making of this Award, no member of staff covered by this Award will suffer a reduction in their rate of pay or any loss or diminution in his or her conditions of employment as a consequence of the making of this Award.

5. Progression Criteria

- (i) A member of staff who has been in receipt of the maximum salary prescribed for their Grade for 12 months will be eligible to progress to the next Grade, up to Grade 4, subject to satisfying the progression criteria, other than Research Station Managers.
- (ii) Research Station Managers can be graded at level 3, 4 or 5 of the Professional Officers' scale. Research Station Managers will commence at the minimum rate of the grade applicable to the role assigned and will only be filled by comparative assessment and demonstrating the ability to undertake the capabilities outlined in the Government Sector Capabilities Framework and the existence of a vacancy.

- (iii) Single graded roles above Grade 4 will only be filled by comparative assessment and demonstrating the ability to undertake the capabilities outlined in the Government Sector Capabilities Framework and the existence of a vacancy.

6. Appeals Mechanism

- (i) A member of staff will have the right to appeal a decision made by the Department in relation to progression between Grade 1 and Grade 4.
- (ii) A member of staff who wishes to appeal against a decision refusing progression between grades, pursuant to subclause (i) of clause 5, Progression Criteria, must submit a written submission outlining their case to the Director Industrial Relations within twenty eight (28) days of being advised of the decision.
- (iii) The Director Industrial Relations will constitute an appeals panel consisting of one (1) Management representative, one (1) Association representative, and one (1) peer acceptable to the Department and Association.
- (iv) The appeals panel will meet within twenty-eight (28) days of an appeal being lodged by a member of staff. The appeals panel will forward their written recommendation on hearing the appeal to the Secretary, or delegated member of staff, for approval.
- (v) The Secretary, or delegated member of staff, will advise the member of staff who has lodged the appeal of their decision on the appeal within seven (7) days of the appeal being heard.
- (vi) This appeals procedure does not cover matters dealt with by clause 24 of the Rule.

7. Minimum Qualification Requirements and Commencing Rates

The qualifications described in subclauses (i) to (v) of this clause describe the minimum tertiary qualifications required for classification as a Professional Officer. In addition to minimum tertiary qualifications, all Professional Officers must demonstrate the ability to undertake the capabilities outlined in the Government Sector Capability Framework relevant to the relevant role and grade.

- (i) The commencing rate of salary payable to a member of staff who has obtained a degree, or equivalent qualifications, at a recognised University or tertiary institution, requiring a minimum of three years full time study, or other qualifications deemed by the Department to be the equivalent thereof will be the rate prescribed for the first year of service at Grade 1.
- (ii) The commencing rate of salary payable to a member of staff who has in addition to the qualifications specified in subclause (i) of this clause, has completed an additional course study to qualify for degree honours, or has obtained a degree and additional qualifications at a recognised University, and/or tertiary institution, requiring a minimum of four years full time study, or qualifications deemed by the Department to be equivalent thereof, will not be less than the rate prescribed for Grade 1 Year 2.
- (iii) The commencing rate of salary payable to a member of staff who has obtained a relevant post-graduate degree at a recognised University, or other qualifications deemed by the Department to be the equivalent thereof, will not be less than the rate prescribed for Grade 1 Year 3.
- (iv) The commencing rate of salary payable to a member of staff who has obtained a degree in Veterinary Science which is registrable in NSW will not be less than the rate prescribed for Grade 1 Year 4.
- (v) Assignment to either a Grade 8 or 9 role, is not dependent on degree, or post-graduate degree qualifications. For consideration for assignment to a vacant Grade 8 or 9 role, the member of staff who applies for a vacant role at either Grade will have been assessed to hold generic competencies comparable to Levels 7 or 8, of the Australian Qualification Framework (AQF), accredited by the National Training Authority, or to have been assessed as holding generic competencies for Levels 7 and 8 (ASF) which may be developed for National Competency Standards - Public Administration, during the operation of this Award.

8. Allowances

- (i) A member of staff who is assigned to a role in Charge of a Veterinary Laboratory will be paid an allowance of an amount as set out in Item 1 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, which will be calculated as part of the members of staff's salary for all purposes.
- (ii) Members of staff assigned to a role in Charge of a Veterinary Laboratory will be assigned for a period of up to two (2) years, with all future assignments to this role being determined by merit selection following internal advertisement through the relevant Veterinary Laboratory.
- (iii) The allowance referred to in subclause (i) of this clause will be subject to all adjustments made in relation to Allowances included in the Crown Employees (Public Sector - Salaries 2021) Award, or any other subsequent Award(s) establishing allowances in the public service.

9. Job Evaluation

- (i) Roles classified as Professional Officers will be graded in accordance with the accredited Job Evaluation methodology agreed by the Department, the Industrial Relations Secretary and Associations, or any other methodology agreed between the parties during the operation of this Award to grade Professional Officer roles.
- (ii) The grading of Professional Officers roles will be carried out in consultation between the Department and Associations using the Department's Joint Consultative Committee. This Committee will be the forum for negotiation and consultation on the operation of the Department's Job Evaluation methodology during the operation of this Award.
- (iii) Roles will be evaluated and graded from time to time in the following circumstances:
 - (a) where the nature of a role is significantly changed, or a new role is created;
 - (b) where a role falls vacant, the Department can determine whether it is necessary to evaluate and grade the role prior to advertising the vacancy; and
 - (c) at the request of any party to this Award provided that the role occupied by the member of staff has not been evaluated and graded for a minimum of twelve (12) months.
- (iv) Where a member of staff's role is evaluated as falling within a lower or higher grading than that to which the member of staff is presently assigned, then the Department:
 - (a) will examine the feasibility of initiating work redesign changes to the role in order to seek to justify the role's salary range at its existing grading level, or;
 - (b) adhere to existing statutory and related Public Service policies on filling regraded roles if initiating action under paragraph (a) of this subclause is determined to be inconsistent with maintaining Department efficiency, or otherwise impracticable.

10. Grievance and Dispute Settling Procedures

- (i) All grievances and disputes relating to the provisions of this Award will initially be dealt with as close to the source as possible, with graduated steps for further attempts at resolution at higher levels of authority within the Department, if required.
- (ii) A member of staff is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- (iii) Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti-Discrimination Act 1977*) that makes it impractical for the

member of staff to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Secretary or delegate.

- (iv) The immediate manager, or other appropriate employee, will convene a meeting in order to resolve the grievance, dispute or difficulty within two (2) working days, or as soon as practicable, of the matter being brought to attention.
- (v) If the matter remains unresolved with the immediate manager, the member of staff may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager will respond within two (2) working days, or as soon as practicable. The member of staff may pursue the sequence of reference to successive levels of management until the matter is referred to the Secretary.
- (vi) The Secretary may refer the matter to the Secretary for consideration.
- (vii) If the matter remains unresolved, the Secretary will provide a written response to the member of staff and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- (viii) A member of staff, at any stage, may request to be represented by the Association/Union.
- (ix) The member of staff or the Association/Union on their behalf, or the Secretary may refer the matter to the Industrial Relations Commission of NSW if the matter is unresolved following the use of these procedures.
- (x) The member of staff, Association/Union, Department and the Industrial Relations Secretary will agree to be bound by any order or determination by the Industrial Relations Commission of NSW in relation to the dispute.
- (xi) Whilst the procedures outlined in subclauses (i) to (x) of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty will continue unless otherwise agreed between the parties, or, in the case involving work health and safety, if practicable, normal work will proceed in a manner which avoids any risk to the health and safety of any member of staff or member of the public.

11. Anti-Discrimination

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

- (d) a party to this Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.
 - (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
 - (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

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

12. Deduction of Union Membership Fees

- (i) the Union will provide the employer with a schedule setting out union fortnightly membership fees payable by members of the Union in accordance with the union's rules.
- (ii) The union will 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 will be provided to the employer at least one month in advance of the variation taking effect.
- (iii) Subject to (i) and (ii) above, the employer will deduct union fortnightly membership fees from the pay of any employee who is a member of the union in accordance with the union's rules, provided that the employee has authorised the employer to make such deductions.
- (iv) Monies so deducted from employee's pay will be forwarded regularly to the union together with all necessary information to enable the union to reconcile and credit subscriptions to employees' union membership accounts.
- (v) Unless other arrangements are agreed to by the employer and the union, all union membership fees will be deducted on a fortnightly basis.
- (vi) Where an employee has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause will be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

13. Area, Incidence and Duration

The members of staff regulated by this Award will be entitled to the conditions of employment as set out in this Award and, except where specifically varied by this Award, existing conditions are provided for under the *Government Sector Employment Act 2013*, the *Government Sector Employment Regulation 2014*, the *Government Sector Employment (General) Rules 2014*, the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* and the *Crown Employees (Public Sector - Salaries 2021) Award* or any replacement Awards.

This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the *Crown Employees (NSW Department of Industry) Professional Officers Award* published 20 February 2019 (385 I.G. 859).

The changes made to the Award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 14 October 2021.

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

PART B
MONETARY RATES

Table 1 - Salaries

Effective from the beginning of the first full pay period to commence on or after 1.07.2021

| (A) Full Time | | 1.7.2021 Annual Rate 2.04% \$ | Common Salary Points |
|---------------|--------|-------------------------------------|----------------------|
| Grade 1 | Year 1 | 66,298 | 46 |
| | Year 2 | 68,910 | 50 |
| | Year 3 | 72,751 | 56 |
| | Year 4 | 78,736 | 64 |
| | Year 5 | 83,506 | 70 |
| | Year 6 | 88,457 | 76 |
| Grade 2 | Year 1 | 92,788 | 81 |
| | Year 2 | 95,539 | 84 |
| | Year 3 | 98,451 | 87 |
| | Year 4 | 102,403 | 91 |
| Grade 3 | Year 1 | 106,672 | 95 |
| | Year 2 | 110,064 | 98 |
| | Year 3 | 112,255 | 100 |
| | Year 4 | 115,483 | 103 |
| Grade 4 | Year 1 | 120,096 | 107 |
| | Year 2 | 123,693 | 110 |
| | Year 3 | 127,332 | 113 |
| Grade 5 | Year 1 | 131,094 | 116 |
| | Year 2 | 133,712 | 118 |
| Grade 6 | Year 1 | 137,826 | 121 |
| | Year 2 | 142,087 | 124 |
| Grade 7 | Year 1 | 146,734 | 127 |
| | Year 2 | 151,609 | 130 |
| Grade 8 | Year 1 | 159,015 | 132 |
| | Year 2 | 167,027 | 133 |
| Grade 9 | Year 1 | 175,479 | 134 |
| | Year 2 | 184,361 | 135 |

(B) Part-Time Hourly Rate Formulae

$$\frac{\text{Annual Salary}}{52.17857143 \times 35} \times 1 = \text{1 hours pay}$$

Table 2 - Other Rates and Allowances

Effective from the beginning of the first pay period to commence on or after 1.07.2021

| Item No | Clause No | Brief Description | 1.7.2021 Amount 2.04% \$ |
|---------|-----------|---------------------------|--------------------------------|
| 1 | 8(i) | OIC Veterinary Laboratory | 7,823 per annum |

D. SLOAN, *Commissioner*

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(1721)

SERIAL C9469

CROWN EMPLOYEES (GENERAL STAFF - SALARIES) AWARD 2007

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 167345 of 2021)

Before Commissioner Sloan

21 October 2021

REVIEWED AWARD**1. Arrangement****PART A**

| Clause No. | Subject Matter |
|------------|--|
| 1. | Arrangement |
| 2. | Definitions |
| 3. | Parties |
| 4. | Salaries |
| 5. | Hours of Work |
| 6. | Transition Arrangements |
| 7. | Grievance and Dispute Settling Procedure |
| 8. | Anti-Discrimination |
| 9. | Salary Sacrifice to Superannuation |
| 10. | Deduction of Union Membership Fees |
| 11. | Area, Incidence and Duration |

PART B**MONETARY RATES**

Schedule A - Classifications and Rates of Pay

2. Definitions

In this award:

- (i) "Employee" means and includes any person appointed to or performing the duties of any of the roles covered by this award.
- (ii) "Industrial Relations Secretary" or "Secretary" means the employer for industrial purposes under s49 of the *Government Sector Employment Act* 2013.
- (iii) "Union" means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

3. Parties

This award is made between the Industrial Relations Secretary and the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

4. Salaries

- (i) Salaries for classifications covered by this Award are adjusted by the Crown Employees (Public Sector - Salaries 2021) Award (or its replacement) and are found in the salary tables attached to that award.
- (ii) The salaries payable are prescribed in the said Part B.

5. Hours of Work

Employees covered by this award will continue to maintain the existing arrangements regarding hours of work allocated to their classification as determined in their organisation as at the making of this award.

6. Transition Arrangements

In relation to the classification of Photographer Grade 3 as set out in Schedule A - Classifications and Rates of Pay, of Part B, Monetary Rates, the following transitional arrangements will apply in relation to existing staff employed within the Arts portfolio as at the making of this award:

Employees currently employed at the maximum rate as a Photographer Grade 2 within the Arts portfolio will be progressed to the first year rate of Photographer Grade 3 based on their organisation's assessment as to whether all the following criteria apply:

- (i) the employee being at the Photographer Grade 2 level for at least 12 months;
- (ii) work being available (encompassing the criteria for appointment that attaches to the Grade 3 level as set out in Schedule A), and the existence of a Photographer Grade 3 position within the organisation;
- (iii) successful completion of a relevant certificate or degree and/or significant equivalent experience;
- (iv) the employee having used both traditional and digital equipment in their work; and
- (v) the conduct and services of the employee being of a satisfactory standard.

These transitional arrangements will apply in relation to existing employees moving from Grade 2 to Grade 3 Photographer. All future appointments as a Photographer Grade 3 will be based on normal merit selection requirements and the availability of a position at the Grade 3 level.

7. Grievance and Dispute Settling Procedure

- (i) All grievances and dispute resolution relating to the provisions of this award will 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/institute, if required.
- (ii) An employee is required to notify in writing their immediate manager as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter and, if possible, state the remedy sought.
- (iii) Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti-Discrimination Act 1977*) that makes it impractical for the officer to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Agency Head or delegate.
- (iv) The immediate manager, or other appropriate officer, will convene a meeting to resolve the grievance, dispute or difficulty within two (2) working days, or as soon as practicable, of the matter being brought to attention.
- (v) If the matter remains unresolved with the immediate manager, the employee may request to meet the appropriate person at the next level of management to resolve the matter. This manager will respond within two working days, or as soon as practicable. This sequence of reference to successive levels of

management may be pursued by the employee until the matter is referred to the Agency Head or delegate.

- (vi) The Agency Head or delegate may refer the matter to the Industrial Relations Secretary for consideration.
- (vii) If the matter remains unresolved, the Agency Head or delegate will provide a written response to the employee and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking any action, in relation to the matter.
- (viii) An employee, at any stage, may request to be represented by their union.
- (ix) the employee or the Union on their behalf, or the Agency Head or delegate may refer the matter to the Industrial Relations Commission of New South Wales if the matter is unresolved following the use of these procedures.
- (x) The employee, union, agency, and Industrial Relations Secretary will agree to be bound by any order or determination by the Industrial Relations Commission of New South Wales in relation to the dispute.
- (xi) While the procedures outlined in subclauses (i) to (ix) of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty will continue unless otherwise agreed between the parties. In a case involving Work Health and Safety, if practicable, normal work will proceed in a manner that avoids any risk to the health and safety of any employee or member of the public.

8. Anti-Discrimination

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

9. Salary Sacrifice to Superannuation

An employee may elect, subject to the agreement of the agency, to enter into a Salary Packaging Arrangement in accordance with the provisions of Clause 5 of the Crown Employees (Public Sector - Salaries 2021) Award or any variation or replacement Award.

10. Deduction of Union Membership Fees

- (i) The union will provide the employer with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- (ii) The union will 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 will be provided to the employer at least one month in advance of the variation taking effect.
- (iii) Subject to subclauses (i) and (ii) of this clause, the employer will deduct union fortnightly membership fees from the pay of any employee who is a member of the union in accordance with the union's rules, provided that the employee has authorised the employer to make such deductions.
- (iv) Monies so deducted from employee's pay will be forwarded regularly to the union together with all necessary information to enable the union to reconcile and credit subscriptions to employees' union membership accounts.
- (v) Unless other arrangements are agreed to by the employer and the union, all union membership fees will be deducted on a fortnightly basis.
- (vi) Where an employee has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause will be read as requiring the employee to make a fresh authorisation for such deductions to continue.

11. Area, Incidence and Duration

- (i) This award will apply to employees employed in the classifications set out in Schedule A - Classifications and Rates of Pay, of Part B, Monetary Rates. The salary rates in the said Schedule A are set in accordance with the 2007 Award and any variation or replacement award.
- (ii) This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Crown Employees (General Staff - Salaries) Award 2007 published 17 April 2020 (387 I.G. 726), as varied.
- (iii) The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 21 October 2021.
- (iv) This award remains in force until varied or rescinded, the period for which it was made having already expired.

PART B**MONETARY RATES****Schedule A - Classifications and Rates of Pay - General Staff**

Salaries for classifications covered by this Award are adjusted by the Crown Employees (Public Sector - Salaries 2021) Award (or its replacement) and are found in the salary tables attached to that award.

| Classification and Grades | Common Salary Point | 1.7.20 Per annum Ffppoa 0.3% \$ | 1.7.21 Per annum Ffppoa 2.04% \$ |
|---|---------------------|---|--|
| Community Liaison Officer, Department of Education | 57 | 71,926 | 73,393 |
| Aboriginal Community Liaison Officer, Department of Education | | | |
| Year 1 | 58 | 72,635 | 74,117 |
| Year 2 | 61 | 74,827 | 76,353 |
| Year 3 | 64 | 77,162 | 78,736 |
| Year 4 | 67 | 79,535 | 81,158 |
| Farm Foreman, Department of Education | | | |
| Grade A | | | |
| 1st year | 39 | 61,079 | 62,325 |
| 2nd year | 41 | 62,274 | 63,544 |
| 3rd year | 43 | 63,386 | 64,679 |
| Grade B | | | |
| 1st year | 45 | 64,478 | 65,793 |
| 2nd year | 47 | 65,656 | 66,995 |
| 3rd year | 51 | 68,057 | 69,445 |
| Maintenance Officer, Department of Education | | | |
| 1st year | 24 | 53,489 | 54,580 |
| 2nd - 7th year | 25 | 53,928 | 55,028 |
| 8th year | 26 | 54,367 | 55,476 |
| Matrons and Sub-Matrons, Department of Education | | | |
| Matron | | | |
| 1st year | 45 | 64,478 | 65,793 |
| Thereafter | 46 | 64,973 | 66,298 |
| Sub-Matron | | | |
| 1st year | 39 | 61,079 | 62,325 |
| Thereafter | 40 | 61,583 | 62,839 |
| Gallery Services Officer, Art Gallery | | | |
| | 18 | 49,956 | 50,975 |
| | 20 | 50,819 | 51,856 |
| Senior Gallery Services Officer, Art Gallery | | | |
| | 43 | 63,386 | 64,679 |
| | 45 | 64,478 | 65,793 |
| | 47 | 65,656 | 66,995 |
| | 49 | 66,882 | 68,246 |
| Installation Officer, Art Gallery | | | |
| | 26 | 54,367 | 55,476 |
| | 29 | 55,836 | 56,975 |
| | 32 | 57,312 | 58,481 |
| Display Technician, Art Gallery | | | |
| Grade 1 | | | |
| | 45 | 64,478 | 65,793 |
| | 48 | 66,201 | 67,552 |
| | 51 | 68,057 | 69,445 |
| Grade 2 | | | |
| | 55 | 70,636 | 72,077 |
| | 59 | 73,396 | 74,893 |

| | | | |
|---|----|--------|--------|
| Senior Display Technician | 63 | 76,420 | 77,979 |
| | 65 | 77,811 | 79,398 |
| Museum Assistant, Sydney Living Museums | | | |
| Grade 1 - Year 1 | 20 | 50,819 | 5,1856 |
| Grade 1 - Year 2 | 21 | 51,302 | 52,349 |
| Grade 1 - Year 3 | 25 | 53,928 | 55,028 |
| Grade 1 - Year 4 | 27 | 54,804 | 55,922 |
| Grade 2 - Year 1 | 30 | 56,312 | 57,461 |
| Grade 2 - Year 2 | 31 | 56,762 | 57,920 |
| Grade 2 - Year 3 | 34 | 58,318 | 59,508 |
| Grade 2 - Year 4 | 35 | 58,791 | 59,990 |
| Grade 2 - Year 5 | 36 | 59,389 | 60,601 |
| Museum Guide, Sydney Living Museums | | | |
| Year 1 | 28 | 55,267 | 56,394 |
| Year 2 | 30 | 56,312 | 57,461 |
| Year 3 | 32 | 57,312 | 58,481 |
| Year 4 | 34 | 58,318 | 59,508 |
| Year 5 | 36 | 59,389 | 60,601 |
| Year 6 | 39 | 61,079 | 62,325 |
| Chief Guide, Sydney Living Museums | 48 | 66,201 | 67,552 |
| | 51 | 68,057 | 69,445 |
| Preparator, Australian Museum Assistant | | | |
| Preparator (55) | 29 | 55,836 | 56,975 |
| | 34 | 58,318 | 59,508 |
| | 39 | 61,079 | 62,325 |
| | 43 | 63,386 | 64,679 |
| Cadet Preparator (56) | 21 | 51,302 | 52,349 |
| | 25 | 53,928 | 55,028 |
| Chief Preparator | 82 | 91,916 | 93,791 |
| | 84 | 93,629 | 95,539 |
| Preparator (57) Grade I | 46 | 64,973 | 66,298 |
| | 49 | 66,882 | 68,246 |
| | 52 | 68,749 | 70,151 |
| Grade II | 56 | 71,297 | 72,751 |
| | 60 | 74,077 | 75,588 |
| Senior Preparator | 63 | 76,420 | 77,979 |
| | 65 | 77,811 | 79,398 |

D. SLOAN, *Commissioner*

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(1296)

SERIAL C9470

CROWN EMPLOYEES (OFFICE OF SPORT - CATERING OFFICERS) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 168701 of 2021)

Before Commissioner Sloan

22 October 2021

REVIEWED AWARD

Arrangement

PART A

| Clause No. | Subject Matter |
|------------|--|
| 1. | Title |
| 2. | Definitions |
| 3. | Parties |
| 4. | Temporary and Casual Employees |
| 5. | Salaries |
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| 6. | Apprentices |
| 7. | School Based Apprentices |
| 8. | Hours of Duty |
| 9. | Overtime |
| 10. | Leave |
| 11. | Weekends and Public Holidays |
| 12. | Allowance for Temporary Assignment to Higher Non-Executive Roles |
| 13. | Public Service Holiday |
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| 15. | Utilisation of Staff |
| 16. | Uniforms |
| 17. | Grievance and Dispute Settling Procedures |
| 18. | Consultative Committee |
| 19. | Anti-Discrimination |
| 20. | Area, Incidence and Duration |
| 21. | No Extra Claims |

Appendix 1 – Competencies

Appendix 2 - Centre and Academy Locations

PART A

1. Title

- 1.1 This award will be known as the Crown Employees (Office of Sport - Catering Officers) Award.

2. Definitions

- 2.1 "Academy" refers specifically to the Sport and Recreation Centre at Narrabeen and the Sport and Recreation Centre at Jindabyne, the locations of which are provided at Appendix 2.

- 2.2 "Agency" means the Office of Sport.
- 2.3 "Agency -Head" means the Chief Executive of the Office of Sport.
- 2.4 "Centre" means an Agency residential establishment or site as listed at Appendix 2 where instruction is provided in outdoor education, sport and recreation for all members of the community. It also includes any place designated as part of, or as an annex to, such an establishment.
- 2.5 "Centre Manager" means a person occupying a role of Centre Manager or Manager Delivery and Outreach within a Centre or Academy.
- 2.6 "Chief Executive - means the Chief Executive of the Office of Sport".
- 2.7 "Employee" means and includes all persons permanently or temporarily employed under the provisions of the *Government Sector Employment Act 2013* and who as at the operative date of this award were occupying one of the positions covered by this award, or who, after that date, are appointed to or employed in any of such positions.
- 2.8 "Executive Director" means the Executive Director, Regional Delivery.
- 2.9 "Industrial Relations Secretary" has the same meaning as in the *Government Sector Employment Act 2013*.
- 2.10 "Service" means continuous service with the Agency in a position covered by the award.
- 2.11 "Split Shift" means a shift whereby the rostered hours are performed over 2 separate periods, within a maximum span of 15 hours.
- 2.12 "Union" means the Public Service Association and Professional Officers Association Amalgamated Union of New South Wales.

3. Parties

- 3.1 This award has been made between the following parties:

Industrial Relations Secretary

Office of Sport

Public Service Association and Professional Officers Association Amalgamated Union of New South Wales

4. Temporary and Casual Employees

- 4.1 A temporary employee is an employee engaged as a Catering Officer or Senior Catering Officer, consistent with Section 43(1)(b) of the *Government Sector Employment Act 2013*.
- 4.2 A temporary employee may be employed for a regular fixed period.
- 4.3 Temporary employees employed under subclause 4.1 will receive a salary commensurate with the individual's level of knowledge and experience as determined by the Centre Manager in accordance with the rates provided in the Crown Employees (Public Sector - Salaries 2021) Award.
- 4.4 A casual employee is an employee engaged as a Catering Officer or Senior Catering Officer, consistent with Section 43 (1) (c) of the *Government Sector Employment Act 2013*.
- 4.5 A casual employee may be employed on an hourly basis to meet specific short term needs consistent with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

- 4.6 Casual employees will receive an hourly rate commensurate with the individual's level of knowledge and experience as determined by the Centre Manager in accordance with the salaries provided for in the Crown Employees (Public Sector - Salaries 2021) Award and receive a loading of 15 per cent on top of the ordinary hourly rate.

5. Salaries

- 5.1 Salary rates applicable to employees will be payable in accordance with the Crown Employees (Public Sector - Salaries 2021) Award. The level of salary at which an employee is to be remunerated will be determined in accordance with the criteria set out at subclause 5.3 of this clause.
- 5.2 This award is listed in Schedule A of the Crown Employees (Public Sector – Salaries 2021) *Award* and salaries and allowances payable to employees will be in accordance with that award or any award replacing it.
- 5.3 The salary level applicable to an employee will be determined in the following manner:
- 5.3.1 Catering Officers Levels 1 to 3 - The applicable salary will be determined by the Centre Manager in consultation with the Senior Catering Officer, as outlined in subclause 5.9 of this clause, and will be based on the employee meeting the required competencies for the level as defined at Appendix 1.
- Level 4 payable is to:
- (a) Qualified employees who are competent to Level 3; and
 - (b) Employees at Berry Centre who are competent to Level 3 who were remunerated at Level 4 immediately before 22 August 2019.
- 5.3.2 Senior Catering Officers must be competent in all facets of catering, responsible for the overseeing and operation of the catering facilities within a Centre/Academy and responsible for the supervision of at least one employee on a full-time basis. Remuneration will be as follows:
- (a) Unqualified Senior Catering Officers will be paid at Level 4.
 - (b) Qualified Senior Catering Officers will be paid at Level 5.
- 5.4 For the purposes of this clause, qualifications recognised for the purposes of an employee being considered qualified and therefore being entitled to progress to a salary rate subject to qualification as provided for within subclause 5.3 of this clause will be a Certificate 111 in Commercial Cookery or equivalent as determined by the Executive Director.
- 5.5 The total salary provided for in the Crown Employees (Public Sector - Salaries 2021) Award represents a salary plus a loading which incorporates:
- (a) Penalty rates (other than overtime);
 - (b) Broken shifts;
 - (c) Laundry allowance;
 - (d) Annual leave loading.
- The total salary does not include the payment of overtime.
- 5.6 In addition to the salary rates provided for in the Crown Employees (Public Sector - Salaries 2021) Award, an allowance will be payable to employees employed at Academies, other than casual employees in recognition of the additional weekend work responsibilities and the nature of clientele of

the Academies. The amount of this allowance is provided for in the Crown Employees (Public Sector - Salaries 2021) Award.

- 5.7 The hourly rate for casual employees will represent full remuneration for employment and include payment in lieu of annual leave, as provided for by the *Annual Holidays Act 1944*, and compensation for the nature of employment. Casual employees will generally not be entitled to any other leave entitlements unless the employee has served sufficient periods of employment under the *Government Sector Employment Act 2013* or the *Public Sector Employment and Management Act 2002* or the *Public Sector Management Act 1988*, or the *Public Service Acts* of 1902 and 1979, which when combined, qualify the employee for Long Service Leave as provided by the *Long Service Leave Act 1955*, or other leave benefits approved by the Industrial Relations Secretary,
- 5.7.1 Casual employees will also receive the following entitlements in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.
- (a) Unpaid parental leave in accordance with paragraph 12.5.4;
 - (b) Personal Carers' entitlement in accordance with subclause 12.6; and
 - (c) Bereavement entitlement in accordance with subclause 12.7.
- 5.8 Assessment of an employee's entitlement to progression from one level to another based on competencies will be undertaken in the following manner:
- (a) Assessment will be undertaken by the Senior Catering Officer.
 - (b) The entitlement for assessment for progression will not be limited by a specific time period.
 - (c) An assessment may be undertaken at any time at the discretion of the Senior Catering Officer or at the request of the employee to be assessed.
 - (d) Should no assessment be undertaken in accordance with point (c), an assessment will be held on the anniversary of the employee's initial employment.
 - (e) Recommendations of the assessment process will be submitted in writing by the Senior Catering Officer to the Centre Manager for approval. Should the Centre Manager not agree with the Senior Catering Officer's recommendation, the matter will be referred to the Executive Director for determination.
 - (f) Recommendations of the Senior Catering Officer are to be discussed with the assessed employee prior to the assessment being submitted to the Centre Manager.
 - (g) The date of effect of the progression from one level to another will be the date recommended by the officer responsible for undertaking the assessment.
 - (h) The dispute resolution procedures contained under clause 17 may be used if a dispute arises concerning an employee's entitlement to progression and it is not resolved through the use of the above steps.
 - (i) If there is no Senior Catering Officer at the Centre, or the Senior Catering Officer is unavailable, an assessment may be undertaken by the Services Coordinator.
- 5.9 Unqualified employees who wish to undertake a trade test for the purposes of being considered qualified under the terms of this agreement will be entitled to undertake a trade test at the Agency's expense and will be considered on duty for the purpose of undertaking such a test.
- 5.10 Trade tests, as provided for at subclause 5.9 of this clause, will be limited to one test within any twelve month period for each employee.

5A. Calculation of Service

5A1. In calculating years of service for the purpose of this award the following periods are not taken into account:

- (a) Any leave of absence without pay exceeding five days in any calendar year;
- (b) Any period necessary to give full effect to a reduction in salary imposed under sections 68 Unsatisfactory performance of government sector employees and 69 Misconduct – Public Service and other prescribed government sector employees the *Government Sector Employment Act 2013*.”

6. Apprentices

6.1 The wage rate for apprentices will be calculated by applying the following percentages to the Total Salary of a Level 4 employee specified in the Crown Employees (Public Sector - Salaries 2019) Award.

| Four year apprentice cooks | % of Level 4 |
|--|--------------|
| 1st year (or equivalent training stage) | 45 |
| 2nd year (or equivalent training stage) | 60 |
| 3rd year (or equivalent training stage) | 75 |
| 4th year (or equivalent training stage) | 85 |
| Adult, at age 21 or over, regardless of Year of Apprenticeship | 85 |

"Equivalent training stage" recognises that credit may be given for training undertaken prior to the commencement of the apprenticeship or that progression through the wage scale may be accelerated or that the provisions of clause 7, School Based Apprentices, apply.

6.2 Apprentices who reach the age of 21 years prior to completion of their apprenticeship will be paid the rate provided in subclause 6.1 of this clause for an Adult at age 21 or over regardless of the Year of Apprenticeship.

7. School Based Apprentices

7.1 A school based apprentice is an employee who is undertaking an apprenticeship under a training contract while also enrolled in the Higher School Certificate.

7.2 The hourly rates for full time apprentices as set out in this Award will apply to school based apprentices for total hours worked including time deemed to be spent in off-the-job training.

7.3 For the purposes of subclause 7.2 of this clause, where a school based apprentice is a full time school student, the time spent in off the job training for which the school based apprentice is paid is deemed to be 25 per cent of the actual hours worked on the job each week.

7.4 The wages paid for training time may be averaged over the school term or year.

7.5 Where this Award specifies a weekly rate for full time apprentices, the hourly rate will be calculated by dividing the applicable weekly rate by 38.

7.6 School based apprentices progress through the wage scale at the rate of 12 months' progression for each two years of employment as an apprentice.

7.7 The rates of pay are based on a standard apprenticeship of four years. The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school based apprentice undertaking the applicable apprenticeship.

7.8 Where an apprentice converts from a school based to a full-time apprenticeship, all time spent as a full-time apprentice counts for the purpose of progression through the wage scale set out in this Award. This progression applies in addition to the progression achieved as a school based apprentice.

- 7.9 Except as provided by this clause, school based apprentices are entitled to pro rata entitlements of all other conditions of employment contained in this Award.

8. Hours of Duty

- 8.1 Employees will be required to work up to 152 hours over a period of four weeks.
- 8.2 The hours of duty which may be required to be undertaken on any given day will be a minimum of 4 and a maximum of 12, excluding meal breaks. At times, in order to meet client demand, it may be necessary to split the employee's shift. Not more than one split shift would be rostered in any shift.
- 8.3 Hours of duty will not be restricted to specific hours of the day. However hours of duty between 7.00 p.m. and 6.00 a.m. will only be able to be rostered or requested to be undertaken where it is considered that actual client demand requires such hours of duty to be undertaken.
- 8.4 The maximum number of shifts in excess of 10 hours an employee will be rostered for duty on consecutive calendar days will be two. No employee will be rostered for more than 6 shifts in excess of 10 hours in any four week roster cycle.
- 8.5 Employees will not be rostered for more than 10 days in either the first or second fortnight of the four-week roster period or rostered for any more than 10 consecutive calendar days over any period. Employees will be entitled to a minimum of 9 days during any roster cycle for which they are to be rostered off duty.
- 8.6 Employees will be entitled to a minimum of two consecutive days for which they are not rostered on duty in both the first and second fortnights of the four-week roster period.
- 8.7 Employees will be entitled to a minimum of 10 hour break from duty between the cessation of one shift and the commencement of the next. Should no such break be provided, the employee will be entitled to receive payment at overtime rates, as calculated in accordance with clause 9, Overtime, for all work undertaken until such time as a 10 hour break can be provided. This provision does not apply to cessation and recommencement as a consequence of a break within a split shift.
- 8.8 The distribution of weekend, public holiday and out of hour's work will be allocated equitably between all employees subject to the ability of the Centre or Academy to meet client demand.
- 8.9 Employees will not be permitted to work greater than five consecutive hours without taking a break from duty of not less than thirty minutes. This break from duty will be without pay.
- 8.10 Hours of duty will be determined by way of roster, which will be displayed in an area available to all employees not less than 5 days prior to the commencement of the four-week roster cycle.
- 8.11 Rostered hours of duty may be required on any day of the week, Saturdays, Sundays and Public Holidays included.
- 8.12 Rostered hours of duty will be prepared and approved by the Centre Manager or delegate to meet the business requirements of the Centre/Academy. Where possible, the Centre Manager or delegate will consider the needs of the employees and endeavour to equitably distribute work patterns.
- 8.13 In emergency situations, rosters may be varied by the Centre Manager provided that 24 hours notice is given to the employee of such a change.
- 8.14 Should an employee receive insufficient notice as to a variation to their rostered hours of duty in accordance with subclause 8.13, the employee will receive payment at overtime rates for all hours which represent the difference between the hours of duty originally rostered and those being requested of the employee or time in lieu of payment of overtime calculated in accordance with Clause 9, Overtime.

9. Overtime

- 9.1 Overtime refers to:
- (a) all hours of duty undertaken during a four week roster cycle in excess of 152; or
 - (b) all hours of duty undertaken on days which are in excess of 10 in any fortnight (i.e. eleventh, twelfth, thirteenth or fourteenth days rostered in a fortnight); or
 - (c) hours undertaken on the twentieth day of rostered duty in a roster cycle; or
 - (d) hours undertaken beyond the hours of duty rostered on a particular day.
- 9.2 Subject to subclause 9.3, an employee may be required to work reasonable overtime at overtime rates.
- 9.3 An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
- 9.4 For the purposes of subclause 9.3, what is unreasonable or otherwise will be determined having regard to:
- (a) any risk to employee health and safety;
 - (b) the employee's personal circumstances including any family and carer responsibilities;
 - (c) the needs of the workplace or enterprise;
 - (d) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
 - (e) any other relevant matter.
- 9.5 Overtime will be paid to employees at the rate equivalent to double that of the substantive hourly rate of pay calculated by dividing the weekly rate of pay (i.e. annual salary divided by 52.17857) by 38.
- 9.6 An employee may elect to take leave in lieu of payment for all or part of his/her entitlement in respect to the overtime worked. Such leave in lieu may be accrued to a maximum of 80 hours to be utilised at a time convenient to both the employee and the Agency.
- 9.7 Leave in lieu of payment in accordance with subclause 9.6 will accrue at the rate of two hours for each hour's overtime undertaken and proportionately for periods of less than one hour. Proportions of overtime of less than 15 minutes will be disregarded in determining the amount of accrued leave in lieu.
- 9.8 The minimum period of leave in lieu to which an employee may avail themselves is two hours and will be taken in full hour multiples.
- 9.9 Any overtime accrued beyond the maximum prescribed at subclause 9.6, will be automatically paid to the employee.
- 9.10 Managers and employees should make every effort to ensure leave in lieu entitlements are utilised prior to the termination of services. Payment for outstanding leave in lieu balances will only be made on the termination of the employee's services in exceptional circumstances, such as death or debilitating injury or illness, that result in the sudden and early termination of the contract.

10. Leave

- 10.1 Leave entitlements will be calculated in hours based on general public service leave provisions in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

- 10.2 All absences from duty will be determined based on the actual number of hours an employee is absent from duty and debited in two hourly proportions.
- 10.3 Absences from duty which do not total complete two hour portions will be rounded up to the nearest two hour portion for the purposes of debiting leave.

11. Weekends and Public Holidays

- 11.1 Employees who undertake duty on Saturdays, Sundays or Public Holidays will receive compensation of additional recreation leave based on the following scale:

| Number of Saturdays, Sundays and/or Public Holidays worked in a twelve month period | Additional Leave |
|---|------------------|
| 8 - 12 | 1 day |
| 13 - 20 | 2 days |
| 21 - 30 | 3 days |
| 31 - 40 | 4 days |
| 41 or more | 5 days |

- 11.2 The number of days to be worked to entitle an employee to accrue additional recreation leave will refer to the actual number of days an employee is required to undertake duty on either a Saturday, Sunday or Public Holiday irrespective of the number of hours an employee is required to perform on those days.
- 11.3 For the purposes of this clause the 12 month period will commence from the effective date of this award.
- 11.4 Employees may only be rostered on duty on Public Holidays where client demand necessitates the need for them to be on duty.
- 11.5 For the purposes of rostering, Public Holidays will be credited as 8 hours if an employee is not required to attend for duty or is required for duty for a period of less than 8 hours on that day. Should an employee be required to work on a Public Holiday for 8 hours or more, the actual hours of duty on that day will be credited against the roster.
- 11.6 Employees who are required to undertake duty on a Saturday, Sunday or Public Holiday will not be entitled to any additional payment.

12. Allowance for Temporary Assignment to Higher Non-Executive Roles

- 12.1 A public service non-executive who is temporarily assigned by the Agency Head under the *Government Sector Employment Act 2013* to another non-executive role at a higher classification of work than the employee's current classification of work will be paid an allowance in accordance with the provisions of clause 20 of the *Government Sector Employment Regulation 2014*.

13. Public Service Holiday

- 13.1 All employees will be entitled to receive one day off duty each year recognised as the Public Service Holiday.
- 13.2 The Public Service Holiday will be any one of the calendar days which fall within the last calendar fortnight of each year and will be considered as being an 8 hour day for the purposes of credit toward the 152 hour 4-week roster cycle.
- 13.3 Determination of the day to be granted to an employee as a Public Service Holiday will be at the Centre Manager's discretion.
- 13.4 Employees will be advised as to the day on which their Public Service Holiday is to be granted by no later than 1 December of each year.

- 13.5 Public Service Holiday provided for in this clause will be in lieu of all picnic days provided for under industrial instruments governing employees covered by this award.

14. Annual Leave Loading

- 14.1 Total salary rates provided for by the terms of this award incorporate payment for annual leave loading.

15. Utilisation of Staff

- 15.1 Employees may be required, at the direction of the Centre Manager, to undertake duties of a Services Officer.
- 15.2 The discretion of the Centre Manager to utilise staff in accordance with subclause 15.1 will only be used in situations where demand requires.
- 15.3 No employee will be required to undertake functions of a Services Officer for which the employee has not been sufficiently instructed or in the absence of supervision from an appropriately trained person.
- 15.4 Employees will not unreasonably refuse to undertake training and/or instruction in roles and responsibilities of the role of Catering Officer or Services Officer.

16. Uniforms

- 16.1 Employees will be provided with uniforms so as each employee has the following articles available to them:
- 4 pairs of pants;
 - 4 aprons;
 - 4 jackets; and
 - 2 pairs of shoes
- 16.2 Articles of clothing provided in accordance with subclause 16.1 will be replaced upon that particular article of clothing being deemed as unserviceable. The discretion as to the replacement of the article of clothing will be that of the Centre Manager.

17. Grievance and Dispute Settling Procedures

- 17.1 All grievances and disputes relating to the provisions of this award will 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 Agency if required.
- 17.2 An employee is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- 17.3 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 employee to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Agency-Head or delegate.
- 17.4 The immediate manager, or other appropriate officer, will 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.
- 17.5 If the matter remains unresolved with the immediate manager, the employee may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager will

respond within two (2) working days, or as soon as practicable. The employee may pursue the sequence of reference to successive levels of management until the matter is referred to the Agency Head.

- 17.6 The Agency Head may refer the matter to the Industrial Relations Secretary for consideration.
- 17.7 If the matter remains unresolved, the Agency Head will provide a written response to the employee and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- 17.8 An employee, at any stage, may request to be represented by the Association.
- 17.9 The employee or the Association on their behalf, or the Agency Head may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 17.10 The employee, Association, the Agency and the Industrial Relations Secretary will agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- 17.11 Whilst the procedures outlined in subclauses 17.1 to 17.10 of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty will continue unless otherwise agreed between the parties, or, in the case involving work health and safety, if practicable, normal work will proceed in a manner which avoids any risk to the health and safety of any employee or member of the public.

18. Consultative Committee

- 18.1 The parties will use the Agency's Joint Consultative Committee to consider issues raised in relation to the Award and to recommend action if necessary. The parties agree to consider issues in a consultative and cooperative manner.
- 18.2 Recommendations from the Committee will be submitted to the Chief Executive with a request for a report back to the Committee.

19. Anti-Discrimination

- 19.1 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.
- 19.2 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.
- 19.3 Under the *Anti-Discrimination Act* 1977, it is unlawful to victimise an employee because the employee has made or may make or as been involved in a complaint of unlawful discrimination or harassment.
- 19.4 Nothing in this clause is to be taken to affect:
 - 19.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;
 - 19.4.2 offering or providing junior rates of pay to persons under 21 years of age;
 - 19.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act* 1977;

- 19.4.4 a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- 19.5 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.
- 19.5.1 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- 19.5.2 Section 56(d) of the *Anti-Discrimination Act 1977* provides:
- "Nothing in the Act affects... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

20. Area, Incidence and Duration

- 20.1 This award will apply to all employees employed for the purposes of cooking and general catering responsibilities in Centres and Academies of the Office of Sport.
- 20.2 The employees regulated by this award will be entitled to the conditions of employment as set out in this award and, except where specifically varied by this award, existing conditions as provided for under the *Government Sector Employment Act 2013*, the *Government Sector Employment Regulation 2014*, the *Government Sector Employment (General) Rules 2014*, the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* and the *Crown Employees (Public Sector - Salaries 2021) Award* or any replacement awards.
- 20.3 This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the *Crown Employees (Office of Sport - Catering Officers) Award* published 27 March 2020 (387 I.G. 499), as varied.
- 20.4 The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 22 October 2021.
- 20.5 This award remains in force until varied or rescinded, the period for which it was made having already expired.

21. No Extra Claims

- 15.1 The no extra claims clause (clause 8) contained in the *Crown Employees (Public Sector - Salaries 2021) Award* will apply to employees covered by this award.

APPENDIX 1

Competencies

Level 1 - Competent in the following aspects of catering:

- (i) Knowledge of cleaning chemicals and their application.
- (ii) Knowledge of basic nutrition.
- (iii) Knowledge of food storage and handling procedures.
- (iv) Knowledge of kitchen and personal hygiene.
- (v) Knowledge of kitchen management and safety.

- (vi) Knowledge of catering equipment and an ability to utilise and operate such equipment.
- (vii) Basic knowledge of Equal Employment Opportunity and Work, Health and Safety Acts.

Level 2 - In addition to the competency requirements of Level 1, competent in the following aspects of catering:

- (i) Ability to oversee stock control and arrange ordering of all food items as required.
- (ii) Knowledge of portion control.
- (iii) Ability to carry out menu planning.
- (iv) Basic knowledge of the Health Act and its relationship to kitchen operation.
- (v) Commitment to Equal Employment Opportunity principles; or
a minimum of 5 years service within a Centre/Academy or equivalent experience and where, in accordance with the staff appraisal process, performance warrants such salary.

Level 3 - in addition to the competency requirements of Level 2, competent in the following aspects of catering:

- (i) Ability to undertake pastry cooking, butchery or other specialised cookery functions as considered appropriate.
- (ii) Ability to organise and undertake catering for functions such as weddings, dinner nights, etc.
- (iii) Ability to perform decoration with regard to food presentation.
- (iv) Ability to cater for special dietary needs. Or
a minimum of 10 years service within a Centre/Academy or equivalent experience and where, in accordance with the staff appraisal process, performance warrants such salary.

APPENDIX 2

Centre and Academy Locations

Berry Sport and Recreation Centre
BERRY 2535

Borambola Sport and Recreation Centre
660A Tarcutta Road
WAGGA WAGGA 2650

Broken Bay Sport and Recreation Centre
BROOKLYN 2083
Lake Ainsworth Sport and Recreation Centre
LENNOX HEAD 2478

Lake Burrendong Sport and Recreation Centre
MUMBIL 2820

Jindabyne Sport and Recreation Centre
JINDABYNE 2627

Lake Keepit Sport and Recreation Centre
GUNNEDAH 2380

Milson Island Sport and Recreation Centre
BROOKLYN 2083
Myuna Bay Sport and Recreation Centre
DORA CREEK 2264

Point Wolstoncroft Sport and Recreation Centre
GWANDALAN 2259

Sydney Academy of Sport
Wakehurst Parkway
NARRABEEN 2101

D. SLOAN, *Commissioner*

Printed by the authority of the Industrial Registrar.

(1635)

SERIAL C9471

CROWN EMPLOYEES (OFFICE OF SPORT - CENTRE MANAGERS) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 143042 of 2021)

Before Commissioner Sloan

22 October 2021

REVIEWED AWARD

PART A

Arrangement

PART A

| Clause No. | Subject Matter |
|------------|---|
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| 2. | Definitions |
| 3. | Parties |
| 4. | Classifications |
| 5. | Appointment and Qualification Requirements |
| 6. | Salaries |
| 6A. | Calculation of Service |
| 7. | General Conditions of Employment |
| 8. | Saving of Rights |
| 9. | Hours of Duty |
| 10. | Residential Requirements |
| 11. | Compensation for On-Call, Out-of-Hours, Weekend and Public Holiday Duty |
| 12. | Annual Leave Loading |
| 13. | Deduction of Union Membership Fees |
| 14. | Anti-Discrimination |
| 15. | No Extra Claims |
| 16. | Area, Incidence and Duration |

PART B

MONETARY RATES

Table 1 - Salaries

Table 2 - Annual Allowance

APPENDIX 1

Centre Locations

1. Title

1.1 This award will be known as the Crown Employees (Office of Sport - Centre Managers) Award.

2. Definitions

"Agency" refers to the Office of Sport.

"Agency Head" means the Chief Executive of the Office of Sport.

"Centre" means a departmental residential or non-residential venue (as listed at Appendix 1). It also includes any place designated as part of, or as annex to, such a venue.

"Centre Manager" means an employee occupying a role of Centre Manager or Manager Delivery and Outreach in a residential Centre.

"Chief Executive" means the Chief Executive of the Office of Sport.

"Executive Director" means the Executive Director Regional Delivery.

"Industrial Relations Secretary" has the same meaning as in the *Government Sector Employment Act 2013*.

"Employee" means and includes all persons employed under the provisions of the *Government Sector Employment Act 2013* and who, as at the operative date of this award, were occupying one of the roles covered by this award or who, after that date, are appointed to or employed in any of such roles.

"Events Coordinator" means an employee assigned to a role of Events Coordinator at a non-residential Centre.

"Manager Delivery and Outreach" means an employee occupying a role of Manager Delivery and Outreach with responsibility for the management of a residential Centre listed in Appendix 1 of this award.

"Non-residential Centre" means a non-residential Venue listed in Appendix 1 of this award.

"Operations Coordinator" means an employee assigned to a role of Operations Coordinator at a non-residential Centre.

"Program Coordinator" means an employee occupying a role of Program Coordinator in a Centre.

"Residential Centre" means a residential Venue listed in Appendix 1 of this award.

"Regional Director" means a Regional Director of the Regional Delivery Group of the Office of Sport.

"Service" means continuous service with the Agency in a role covered by the award.

"Service Coordinator" means an employee occupying a role of Services Co-ordinator in a Centre.

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

"Venue Manager" means an employee occupying a role of Venue Manager at a non-residential Centre.

3. Parties

3.1 This award has been made between the following parties:

Industrial Relations Secretary

Office of Sport

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

4. Classifications

- 4.1 The classifications covered by this award are:

Centre Manager (formerly known as General Manager)

Manager Delivery and Outreach

Venue Manager

Program Coordinator (formerly known as Client Services Coordinator)

Operations Coordinator (formerly known as Operations Manager)

Events Coordinator (formerly known as Events Manager)

Service Co-ordinator

- 4.2 Roles are classified in accordance with the classification and grading system approved by the Industrial Relations Secretary.

5. Appointment and Qualification Requirements

- 5.1 The appointment or employment of employees to vacant roles will be in accordance with the principles of merit. Employees appointed to roles covered by this Award must possess relevant knowledge, skills and experience.
- 5.2 In addition to relevant knowledge, skills and experience, Program Coordinators are required to possess tertiary qualifications in a relevant field as determined by the Executive Director Sport and Recreation. Relevant fields include, but are not limited to, Education, Arts, Social Sciences, Applied Science, Health and Human Movement. The minimum entry level qualification required is a degree or alternatively, Certificate IV (Australian Qualifications Framework - AQF) Outdoor Recreation and relevant industry experience.

6. Salaries

- 6.1 This award is listed in Schedule A of the Crown Employees (Public Sector - Salaries 2021) Award and salaries and allowances payable to employees will be in accordance with that award or any award replacing it. The rates set out at Part B - Tables 1 & 2 of this award are subject to the rates as set by the Crown Employees (Public Sector - Salaries 2021) Award or any award replacing it.

6A. Calculation of Service

- 6A1 In calculating years of service for the purpose of this award the following periods are not taken into account:
- (a) Any period in respect of which an increment is refused in accordance with clause 14, Increments, of the Government Sector Employment Regulation 2014;
 - (b) Any leave of absence without pay exceeding five days in any incremental year;
 - (c) Any period necessary to give full effect to a reduction in salary imposed under sections 68 Unsatisfactory performance of government sector employees and 69 Misconduct - Public Service and other prescribed government sector employees the *Government Sector Employment Act 2013*."

7. General Conditions of Employment

- 7.1 Employees will be entitled to conditions of employment as set out in this award or, where this award is silent, conditions of employment as provided for under the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any replacement award.

8. Saving of Rights

- 8.1 At the time of making of this Award, no employee covered by this Award will suffer a reduction of their rate of pay or diminution in his or her conditions of employment as a consequence of the making of this Award.

9. Hours of Duty

- 9.1 The contract working hours will be 35 hours per week averaged over a four week period. Rostered hours of duty may include any day of the week including Saturday, Sunday and public holidays.
- 9.2 Employees will be rostered for 19 days within a four week roster cycle.
- 9.3 Employees will not be rostered for more than 10 consecutive calendar days over any period.
- 9.4 Employees are entitled to nine days rostered off duty including a minimum of two x two consecutive rostered days off in any four week roster cycle. Where it is not possible to roster 9 days off in a four week roster cycle, the days not taken may be carried over and utilised in the next two roster cycles. If not taken in the next two roster cycles the entitlement will be forfeited, subject to the provisions of subclause 9.5 of this Award.
- 9.5 Where exceptional circumstances arise and it appears that the employee will not be able to take rostered days off carried over in accordance with subclause 9.4 or subclause 11.8 of this Award, the Regional Director may approve the rostered days off being carried forward provided the employee and their supervisor devise a strategy in writing to ensure that the rostered days off are taken. The identified strategy must be reported to and authorised by the Regional Director.
- 9.6 Hours of duty will be determined by way of roster, which will be displayed in an area available to all employees not less than seven days prior to the commencement of the four week roster cycle.
- 9.7 Weekend and public holiday duty is based on client demand at the Centre and will be allocated equitably between the employees covered by this Award.

10. Residential Requirements

- 10.1 Employees employed under this Award at residential venues may be required to reside on-site. However, the Regional Director has the authority to consider exemptions from this requirement.
- 10.2 The manner in which accommodation and food/meals are administered for employees will be consistent with the Agency's Centre meals and accommodation policies.

11. Compensation for On-Call, Out-of-Hours, Weekend and Public Holiday Duty

- 11.1 Employees are entitled to an annual allowance as specified in Table 2 - Annual Allowance, of Part B, Monetary Rates, and 25 days' recreation leave as compensation for out-of-hours, weekend and public holiday work, for being on-call and for duty undertaken after being "called" for duty. Recreation leave will be administered consistent with general public sector provisions.
- 11.2 The annual allowance will be adjusted in accordance with the Crown Employees (Public Sector - Salaries 2021) Award or any replacement award.

- 11.3 "On call" is defined as being available for additional duties, when not on duty performing rostered weekly contract hours. Employees are required to be on call to perform such additional duties (e.g. emergencies) on a rostered basis.
- 11.4 On-call duty will be rostered equitably at each Centre between the employees covered by this Award.
- 11.5 A Centre Manager of a residential Centre may call for expressions of interest from employees in roles other than those roles covered by this award who wish to be considered as alternative on-call employees. This may only be instituted on a long-term basis where there are only two roles covered by this award in the staffing structure. No alternative employee can be forced to assume on-call responsibilities. Any such arrangement must be by agreement between the individual employee and the Centre Manager and will be subject to the approval of the Executive Director. The Executive Director will determine if the nominated employee is required to reside on-site.
- 11.6 The annual allowance may also be paid on a short-term temporary basis to an employee in a role other than those roles covered by this award when the normal recipient is on leave for a period of at least one week. The allowance is payable for the whole period of leave and not only for those days that the temporary recipient is rostered on-call.
- 11.7 Employees selected in terms of subclause 11.5 of this clause to perform on-call duties are deemed to be within the coverage of this award for the purposes of performing on-call duties, recall to duty whilst on-call and receiving the annual allowance as specified in Table 2 - Annual Allowance, of Part B, Monetary Rates.
- 11.8 The annual allowance is payable on a pro-rata basis for part time duty or part year assignments to roles within the coverage of this role or to persons deemed to be within the coverage of this award.
- 11.9 All on-call conditions as determined by this clause will apply to those employees selected. If an employee already receives an allowance for similar after-hours responsibilities under another industrial instrument, the total of their on-call duties will not exceed the total of their duties under the first instrument.
- 11.10 Employees required to be called for duty whilst not rostered on duty and not rostered on call will be entitled to the equivalent time off within the roster cycle. Where it is not possible for time off within that cycle, the time may be carried forward for a maximum of two roster cycles and must be taken in that period. If not taken the entitlement will be forfeited, subject to the provisions of subclause 10.5 of clause 10 Hours of Duty of this Award.
- 11.11 The annual allowance is an all-inclusive payment that represents compensation for all incidences of employment.
- 11.12 No additional entitlement accrues for employees who are called to perform duty whilst on call.

12. Annual Leave Loading

- 12.1 Employees are entitled to an annual leave loading of 17.5% calculated on four weeks recreation leave.

13. Deduction of Union Membership Fees

- 13.1 The union will provide the Agency with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- 13.2 The union will advise the Agency 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 will be provided to the Agency at least one month in advance of the variation taking effect.
- 13.3 Subject to subclauses 13.1 and 13.2, the Agency will 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 Agency to make such deductions.

- 13.4 Monies so deducted from the employee's pay will 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.
- 13.5 Unless other arrangements are agreed to by the Agency and the union, all union membership fees will be deducted on a fortnightly basis.
- 13.6 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 will be read as requiring the employee to make a fresh authorisation in order for such deduction to continue.

14. Anti-Discrimination

- 14.1 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.
- 14.2 It follows that, in fulfilling their obligations under the Grievance and Dispute Settling Procedures prescribed by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 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.
- 14.3 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.
- 14.4 Nothing in this clause is to be taken to affect:
- 14.4.1 Any conduct or act which is specifically exempted from anti-discrimination legislation;
- 14.4.2 Offering or providing junior rates of pay to persons under 21 years of age;
- 14.4.3 Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti Discrimination Act* 1977;
- 14.4.4 A party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- 14.5 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.
- 14.5.1 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- 14.5.2 Section 56(d) of the *Anti-Discrimination Act* 1977 provides:
- "Nothing in the Act affects... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

15. No Extra Claims

- 15.1 The no extra claims clause (clause 8) contained in the Crown Employees (Public Sector - Salaries 2021) Award will apply to employees covered by this award.

16. Area, Incidence and Duration

- 16.1 This award will apply to all employees employed by the Office of Sport who, at the operative date of this award, are employed in the classifications specified in Clause 4, Classifications at the locations specified at Appendix 1 of this award.
- 16.2 Employees selected in terms of subclause 11.5 of clause 11 of this award to perform on-call duties are deemed to be within the coverage of this award for the purposes of performing on-call duties, recall to duty whilst on-call and receiving the annual allowance as specified in Table 2 - Annual Allowance, of Part B, Monetary Rates.
- 16.3 The employees regulated by this award will be entitled to the conditions of employment as set out in this award and, except where specifically varied by this award, existing conditions provided for by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 and the Crown Employees (Public Sector - Salaries 2021) Award or any replacement awards.
- 16.4 The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act* 1996 and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 22 October 2021.
- 16.5 This award is made following a review under section 19 of the *Industrial Relations Act* 1996 and rescinds and replaces the Crown Employees (Office of Sport - Centre Managers) Award published 21 February 2020 (386 I.G. 666), as varied.
- 16.6 This award remains in force until varied or rescinded, the period for which it was made having already expired.

PART B**MONETARY RATES**

This award is listed in Schedule A of the Crown Employees (Public Sector - Salaries 2021) Award and salaries payable to employees will be in accordance with that award or any award replacing it. The rates set out at Table 1 of Part B of this award are subject to the rates as set by the Crown Employees (Public Sector - Salaries 2021) Award or any award replacing it.

Annual incremental progression within a grade or broad banded grades will be on the anniversary of assignment to a role; and subject to satisfying the provisions of clause 13, Increments, of the Government Sector Employment Regulation 2014.

Table 1 - Salaries

Grades and salary rates for classifications in this award are in accordance with *the* Crown Employees Administrative and Clerical Officers Salaries) Award 2007 Grades 4 to 12.

Table 2 - Annual Allowances

| | |
|------------------------------|------------------------------------|
| Allowance | 1.7.21 Per annum 2.04% \$ |
| Annual allowance (Clause 11) | 12,172 |

APPENDIX 1**Centre Locations****Residential Venues**

Berry Sport and Recreation Centre
BERRY 2535

Borambola Sport and Recreation Centre
WAGGA WAGGA 2650

Broken Bay Sport and Recreation Centre
BROOKLYN 2083

Lake Ainsworth Sport and Recreation Centre
LENNOX HEAD 2478

Lake Burrendong Sport and Recreation Centre
MUMBIL 2820

Jindabyne Sport and Recreation Centre
JINDABYNE 2627

Lake Keepit Sport and Recreation Centre
GUNNEDAH 2380

Milson Island Sport and Recreation Centre
BROOKLYN 2083

Myuna Bay Sport and Recreation Centre
DORA CREEK 2264

Point Wolstoncroft Sport and Recreation Centre
GWANDALAN 2259

Sydney Academy of Sport and Recreation
NARRABEEN 2101

Non-Residential Venues

Sydney International Equestrian Centre
HORSLEY PARK NSW 2164

Sydney International Shooting Centre
CECIL PARK NSW 2171
HILL TOP NSW 2575

D. SLOAN, *Commissioner*

CROWN EMPLOYEES (OFFICE OF SPORT - PROGRAM OFFICERS) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 168901 of 2021)

Before Commissioner Sloan

21 October 2021

REVIEWED AWARD

PART A

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PART B

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Table 2 - Rates of Pay - Program Officers - Temporary and Casual Employees

Table 3 - Rates of Pay - Program Officer (Group Leader)

Table 4 - Allowances

SCHEDULES

Schedule 1 - Centre and Academy Locations

2. Title

2.1 This award will be known as the Crown Employees (Office of Sport - Program Officers) Award.

3. Definitions

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

"Agency" means the Office of Sport.

"Agency Head" means the Chief Executive of the Office of Sport.

"AQF" refers to the Australian Qualifications Framework.

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

"Bivouac" refers to an under canvas/camping activity conducted by Program Officers for client groups.

"Centre" refers to an Agency residential establishment or site as listed at Schedule 1 where instruction is provided in outdoor recreation for members of the community. It also includes any place designated as part of, or as an annex to, such an establishment.

"Centre Manager" refers to the Centre Manager or Manager Delivery and Outreach of a Centre of the Agency.

"Chief Executive" means the Chief Executive of the Office of Sport.

"Day Duty" refers to hours of duty performed between 7.00am and 7.30pm but does not include meal breaks or periods where an employee is on call.

"Employee" refers to and includes all persons employed under the provisions of the *Government Sector Employment Act 2013* and who, as at the operative date of this award, were occupying one of the roles covered by this award or who, after that date, are appointed to or employed in any of such roles.

"Executive Director" means the Executive Director, Regional Delivery of the Agency.

"Hours of Duty" refers to the period of time an employee is rostered to deliver client services on day duty, night duty and on duty during a bivouac, but does not include meal breaks or periods where an employee is on call.

"Industrial Relations Secretary" has the same meaning as in the *Government Sector Employment Act 2013*.

"Night Duty" refers to hours of duty performed between 7.30pm and 7.00am but does not include meal breaks or periods where an employee is on call.

"On Call" refers to periods where an employee is required to be in attendance at the workplace or at a bivouac but during which the employee is off duty and is permitted to undertake personal activities including sleep but, where circumstances require it, may be called to duty. Periods of on call will not be regarded as rostered hours of duty.

"Program Officer" refers to an employee employed to deliver programs, services and products encompassing structured educational programs, coordination, coaching and instruction of sport and recreational activities and provision of liaison services to community, sporting, corporate and other client groups.

"Program Officer (Group Leader) Grade 1" refers to an employee employed to provide support services to and liaise with clients using Sport and Recreation Centres, not including facilitation of sport and active recreation activities, or providing support for clients engaged in non-educational activities and programs."

"Program Officer (Group Leader) Grade 2" refers to an employee employed to provide instruction and deliver sport and active recreation programs and activities that do not require the achievement of educational outcomes, or directing the activities of Program Officer (Group Leader) Grade 1 employees in the delivery of non-educational programs."

"Regional Director" means a Regional Director of the Regional Delivery Group of the Agency.

"Regulation" means the Government Sector Employment Regulation 2014.

"Rules" means the Government Sector Employment (General) Rules 2014.

"Sport and Recreation" means the Regional Delivery Group of the Agency.

4. Parties

4.1 This award has been made between the following parties:

- (i) The Industrial Relations Secretary
- (ii) Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales
- (iii) The Office of Sport

5. Appointment and Employment

- 5.1 The appointment or employment of employees to vacant roles will be by competitive merit selection, or by transfer between like roles, as set out in the Act.
- 5.2 Program Officers will be appointed or employed on the basis of possessing tertiary qualifications in a relevant field and appropriate knowledge, skills and experience as determined by the Executive Director. Relevant fields include, but are not limited to, Education, Arts, Social Sciences, Applied Science, Health and Human Movement. The minimum entry level qualification required is a degree or alternatively, Certificate IV (AQF) Outdoor Recreation and relevant industry experience.
- 5.3 Program Officers (Group Leader) are employed on a temporary or casual basis only.
- 5.4 Program Officers (Group Leader) must have completed four years of secondary school and undertake a suitability assessment or have equivalent experience in a similar environment and hold a current Royal Life Saving Society (RLSS) Swim and Survive Award, Resuscitation Award, First Aid Qualification and have obtained Sport and Recreation Activity Accreditation Scheme (SRAAS) accreditation as prescribed by the SRAAS policy. In addition, Program Officers (Group Leader) must provide evidence of experience and/or qualifications.

6. Rates of Pay

- 6.1 This award is listed in Schedule A of the Crown Employees (Public Sector - Salaries 2021) Award and salaries and allowances payable to employees will be in accordance with that award or any award replacing it. The rates set out at Part B - Tables 1, 2, 3 & 4 of this award are subject to the rates as set by the Crown Employees (Public Sector - Salaries 2021) Award or any award replacing it.

6A. Calculation of Service

- 6A1 In calculating years of service for the purpose of this award the following periods are not taken into account:

- (a) Any period in respect of which an increment is refused in accordance with clause 14, Increments, of the Government Sector Employment Regulation 2014;
- (b) Any leave of absence without pay exceeding five days in any incremental year;
- (c) Any period necessary to give full effect to a reduction in salary imposed under sections 68, Unsatisfactory performance of government sector employees and 69, Misconduct - Public Service and other prescribed government sector employees of the *Government Sector Employment Act 2013*."

7. Temporary and Casual Employment

- 7.1 A temporary employee may be employed under section 43(b) of the Act to carry out the duties of a position that is temporarily vacant or to provide additional assistance during busy periods. The nature of the employment will be regular and for a fixed period of time.
- 7.2 A casual employee may be employed under section 43(c) of the Act. The nature of the employment will be irregular, intermittent, of short duration and may have arisen due to unforeseen staff shortages or emergencies.
- 7.3 Temporary and casual Program Officers will be paid on a daily or half daily basis at the appropriate rate prescribed in Table 2 of Part B, of this Award commensurate with their skills, experience and qualifications as determined by the Centre Manager.
- 7.4 The casual rates of pay for Program Officer specified at Table 2 of Part B, include a loading and represent full remuneration for employment (including recreation leave), with the exception of entitlements provided in clause 13, Night Duty Allowance, and at Appendix 1 of this award.
- 7.5 The rates of pay for Program Officer (Group Leader) are specified at Part B, Table 3. These rates represent full remuneration of employment with the exception of entitlements provided under subclause 7.7 of this clause and clause 13, Night Duty Allowance, of this award.
- 7.6 Temporary and casual employees may be engaged for a period of less than one full day within the term of their employment. An employee engaged on a half-day basis (up to 3.5 hours) will attract a salary of 50% of the rate specified at Table 2 of Part B, for program officers or Table 3 for Program Officer (Group Leaders). Duty that extends beyond half day (3.5 hours) will attract the full daily rate of pay.
- 7.7 Temporary Program Officers, Program Officer (Group Leaders) engaged for periods of three months or less will receive 6/46ths of salary earned during their employment in lieu of recreation leave entitlements when their period of employment ends.

8. Mobile Positions

- 8.1 Three ongoing mobile program officer roles may be established by the Agency. These roles will be based at Sport and Recreation's central office however employees assigned to these roles will be deployed across locations where the need arises.
- 8.2 Travel allowances for employees in mobile roles will be payable in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, or any replacement award.
- 8.3 Employees appointed to mobile roles may apply to transfer to an advertised ongoing program officer vacancy at a Centre or Academy after 12 months continuous service in a mobile role. Such transfers will require the approval of the Executive Director.
- 8.4 The Association will be consulted if the Agency proposes to increase the number of mobile roles established.

9. General Conditions of Employment

- 9.1 All other conditions not specified in this award will be provided in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any replacement award.

10. Hours of Duty

- 10.1 The contract hours of duty will be 35 hours per week, exclusive of meal breaks and will be worked over 20 days within a four week roster cycle. Hours of duty may be undertaken on any day of the week and may comprise day duty and night duty.
- 10.2 Employees will be rostered according to client needs and may be required to commence duty at any time during the day.
- 10.3 Rosters will be displayed in an area available to all employees no less than five (5) days before the beginning of the four week roster cycle. A roster may be altered at any time to enable the service of a Centre to be delivered. A minimum of 24 hours notice of roster variations will be given wherever possible.
- 10.4 An employee may be requested to work when a rostered employee is absent from duty on account of illness, in an emergency or due to unforeseen circumstances but only if it is reasonable for the employee to be required to do so.
- 10.5 An employee may refuse to work additional hours resulting from a roster change in circumstances where the working of such hours would result in the employee working unreasonable hours. In determining what is unreasonable, the following factors will be taken into account:
- (i) the employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements;
 - (ii) any risk to employee health and safety;
 - (iii) the urgency of the work required to be performed, the impact on the operational commitments of the organisation and the effect on client services;
 - (iv) the notice (if any) given by the Manager and by the employee of their intention to refuse to work the additional hours, or
 - (v) any other relevant matter
- 10.6 Employees will be rostered for 20 days within a four week roster cycle. Permanent and temporary program officers who are required to undertake duty on days in excess of 20 days in a four week roster cycle will be entitled to accumulate one day compensatory leave for each day worked in excess of twenty.
- 10.7 Night duty and hours worked in excess of 35 hours per week by permanent and temporary program officers are compensated by way of payment of the sport and recreation allowance (see clause 12), additional recreation leave (see subclause 14.2) and compensatory leave (see clause 15).
- 10.8 Meal breaks must be given to and taken by employees. No employee will be required to work continuously for more than 5 hours without a meal break, provided that:-
- 10.8.1 Where it is not possible for an employee to be provided with an uninterrupted meal break, the meal break will be counted as part of the employee's paid hours of duty.
- 10.9 All employees must record their hours of duty each day in an approved form, specifying start and finish times and meal breaks.

10A. Public Holidays

- 10A.1 Employees rostered for duty on a Public Holiday will count the hours actually worked towards their contract hours of duty and the day will be counted as a day worked within the four week roster cycle.
- 10A.2 Public Holiday duty is compensated by way of payment of the sport and recreation allowance (see clause 12) and compensatory leave (see paragraph (ii) of subclause 15.1).
- 10A.3 Employees not rostered for duty on a Public Holiday will count 7 hours towards their contract hours of duty and the day will be counted as a day worked within the four week roster cycle.

11. On Call

- 11.1 Employees may be required to perform on call duties as a regular part of their role to support the safety and welfare of clients. When on call overnight, an employee will be required to reside on site in Centre accommodation in order to respond immediately to emergencies or situations requiring the assistance of an employee.
- 11.2 Employees will be provided with free lodging for each night they are required to be on call overnight.
- 11.3 Employees must report any disturbances to the Centre Manager. If the incident is serious and/or resulted in a significant disruption to the employee's sleep, the Centre Manager will be required to make an assessment of the employee's ability to continue duty if rostered on the next day.
- 11.4 Compensation for on call undertaken by ongoing and temporary program officers is provided through payment of the sport and recreation allowance (see clause 12 of this award) and compensatory leave (see clause 15 of this award).

12. Sport and Recreation Allowance

- 12.1 The sport and recreation allowance prescribed in Table 4 of Part B of this award is payable to all ongoing Program Officers, except as provided at subclause 12.7 of this clause.
- 12.2 Temporary Program Officers will be entitled to the daily allowance prescribed in Table 4 of Part B, for each day they are employed. Casual Program Officers and instructional staff are not entitled to the sport and recreation allowance.
- 12.3 The sport and recreation allowance is payable for all incidences of employment, except as provided at subclause 12.5 of this award, and will be regarded as part of salary for superannuation purposes.
- 12.4 The sport and recreation allowance is in lieu of:
- (i) overtime payments and allowances paid for:
 - night duty and/or on call on up to eight occasions in a roster period
 - weekend work
 - public holiday duty
 - (ii) meal interruptions
 - (iii) working in adverse conditions (for example, but not restricted to, inclement weather).
- 12.5 The sport and recreation allowance does not compensate for employees sleeping outdoors as part of a bivouac, who will be paid a camping allowance as provided in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any replacement award. The camping allowance will be paid at the rate applicable for a Non-Established Camp, as determined by the Industrial Relations Secretary from time to time.

- 12.6 The sport and recreation allowance will be adjusted in accordance with variations to the *Crown Employees (Public Sector - Salaries 2021) Award* or any replacement award.
- 12.7 The sport and recreation allowance will not be payable during temporary assignments to roles that are not covered by this award.

13. Night Duty Allowance

- 13.1 Casual Program Officers are entitled to the night duty allowance prescribed at Table 4 of Part B of this award if they are rostered for night duty or are required to be on call overnight.
- 13.2 Program Officer (Group Leaders) are entitled to the allowance specified at Part B, Table 4, of this award if they are required to be on call overnight.

14. Recreation Leave and Annual Leave Loading

- 14.1 Employees will be entitled to recreation leave as provided for in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any replacement award.
- 14.2 In addition to the entitlements under subclause 14.1 of this clause, employees will be entitled to accrue an additional ten days recreation leave per annum as compensation for day duty performed that is in excess of the contract hours of duty.
- 14.3 An employee will take at least two consecutive weeks of recreation leave every 12 months, except by agreement with the Regional Director in special circumstances.
- 14.4 Employees are entitled to accrue up to a maximum of 40 days recreation leave before they will be directed to take a minimum of two weeks recreation leave within three months of the notification at a time convenient to the Centre.
- 14.5 The employee will be notified when accrued recreation leave reaches 50 days and will be directed to take at least two weeks recreation leave within six weeks of the notification. This leave is to be taken at a time convenient to the Centre.
- 14.6 Rates of pay provided for in this award at Part B, Tables 1, 2 and 3 incorporate payment for annual leave loading.

15. Compensatory Leave

- 15.1 Ongoing and temporary Program Officers will accrue compensatory leave, subject to subclause 15.2 of this clause, in the following circumstances:

- (i) In accordance with subclause 10.6 of clause 10, Hours of Duty, of this award, one day of compensatory leave will accrue for each day worked in excess of 20 in a roster cycle.
- (ii) Employees rostered for duty on a public holiday at any time during the roster cycle will accrue 1.5 days compensatory leave.
- (iii) Employees who are rostered to perform night duty or are required to be on call overnight on more than eight occasions in any roster period will accrue compensatory leave as follows:

one day of compensatory leave will accrue for overnight night duty/on call.

a half day of compensatory leave will accrue for night duty/on call that does not require the employee for the entire night provided a minimum of 7 hours duty in total (day and night duty) has been worked.

Employees can be rostered for night duty or required to be on call overnight on up to eight occasions in each roster period before compensatory leave accrues.

- (iv) The number of nights rostered to achieve accrual of compensatory leave will be on a pro-rata basis for each week of leave taken in a roster period:

Where one week of leave is taken compensatory leave will accrue in accordance with paragraph (iii) of this subclause when the employee is required to perform night duty or be on call overnight on more than 6 occasions.

Where two weeks of leave is taken compensatory leave will accrue in accordance with the said paragraph (iii) when the employee is required to perform night duty or be on call overnight on more than 4 occasions.

Where three weeks of leave is taken compensatory leave will accrue in accordance with the said paragraph (iii) when the employee is required to perform night duty or be on call overnight on more than 2 occasions.

- (v) Hours of duty performed in excess of 40 hours per week will attract compensatory leave, on an hour for hour basis, up to a maximum of 91 hours per annum. Compensatory leave accrued under this paragraph is not counted towards the limit on accumulation set at subclause 15.2 for compensatory leave accrued under paragraphs (i)-(iv) of this subclause.

- 15.2 Employees may accumulate up to ten days compensatory leave accrued in accordance with paragraphs (i), (ii), (iii) and (iv) of subclause 15.1 of this clause.
- 15.3 Employees should use their compensatory leave in the roster cycle following the roster in which it was accrued, wherever possible.
- 15.4 Employees may be directed by the Centre Manager to take accrued compensatory leave during seasonal downturns and quiet times.
- 15.5 Compensatory leave balances should be reduced to zero at the commencement of each year, or before a transfer to another Centre or to a position not covered by this award.

16. Accommodation and Residential Requirements

- 16.1 Program Officers who elect to reside in separate housing accommodation, where available, within a Centre will pay rent on accommodation as determined by the Executive Director.
- 16.2 Program Officers who elect to reside in separate housing accommodation, where available, within a Centre will pay a utilities charge as determined by the Executive Director. This charge will be considered payment of the employee's contribution to the cost of personal electricity, gas/heating and telephone use.
- 16.3 Program Officers who elect to occupy shared accommodation where it is available within a Centre are not required to pay rent on the days when they are rostered on program duty. Rent will be paid at all other times in accordance with the Meals & Accommodation Policy.

17. Staff to Client Ratios

- 17.1 The number of clients to which a Program Officer or Program Officer (Group Leader) will be required to supervise in the participation of an outdoor recreation activity will be limited to 32 unless the employee is accompanied by another adult or visiting teacher.

18. Protective Clothing and Equipment

- 18.1 The Agency will provide ongoing and temporary employees employed for periods in excess of 12 months with the following items:
- (i) 1 x pair of sunglasses (approved by the NSW Cancer Council)

- (ii) 1 x sunhat that provides adequate sun coverage
- (iii) Sunscreen
- (iv) 1 x sleeping bag
- (v) 1 x gortex raincoat
- (vi) 1 x 2-way radio for use during activities held off-site

All items may be retained by the employee, with the exception of the two-way radio which must be returned to the Centre when the employee leaves his/her position.

- 18.2 Ongoing and temporary employees will be paid a laundry allowance as provided in the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* or any replacement award.
- 18.3 Clothing and equipment specified under subclause 18.1 of this clause will be purchased in accordance with NSW Government Procurement Guidelines and where possible, goods will be Australian Made.

19. Immunisations

- 19.1 The Agency will offer all ongoing and temporary employees who are to be employed for three months or longer, immunisations against Hepatitis A and Hepatitis B. The Agency will fund the cost of the injections including the post vaccination serology tests.

20. Accreditations

- 20.1 The Agency will support the continuing first aid and resuscitation accreditation of Program Officers and will fund the cost of the training and provide paid time for the employee to achieve this accreditation.
- 20.2 The Agency may provide support for other accreditations deemed essential for employees at specific locations. These could include, but are not limited to, boat licences and bus licences.

21. Professional Development

- 21.1 The Agency is committed to the professional development of employees. The Agency will identify the training and development needs of employees and provide opportunities for skill and professional development. In turn employees will undertake to professionally develop their skills and knowledge and apply these to the best of their ability.

22. Transfers Between Centres

- 22.1 After two years of continuous service, an employee may apply for transfer to an advertised vacancy at another Centre. Such transfers will require the approval of the Executive Director.
- 22.2 An employee's place of work may be changed by approval of the Executive Director from one Centre to another on a temporary basis for reasons of skills transfer, to meet seasonal or unexpected client demand, emergency or at the employee's request.
- 22.3 If a Centre is closed due to seasonal demand or is temporarily not providing services for reasons of emergency, employees may be required to temporarily relocate to another Centre for up to one roster period with extension by mutual agreement or, alternatively to take accrued leave.
- 22.4 Subclauses 22.2 and 22.3 of this clause will be subject to consultation with the employee and personal circumstances will be taken into account.
- 22.5 Transfers between Centres will be in accordance with the provisions of the Act and the guidelines issues by the Industrial Relations Secretary from time to time.

23. Variable Year Employment

- 23.1 Ongoing employees may choose to take a year's leave after working for a period of four (4) years with the Agency. This leave may be unpaid or paid leave.
- 23.2 Employees may choose to have regular deductions from their pay for the preceding four years to allow for the fifth year of employment to be on full or part pay.
- 23.3 Employees may take advantage of variable year employment for reasons of family responsibilities, academic study, travel, or alternative employment.
- 23.4 Applications for variable year employment will be submitted to the Executive Director for approval. The employee will retain a right of return to their original role.

24. Deduction of Union Membership Fees

- 24.1 The Association will provide the Agency with a schedule setting out fortnightly union membership fees payable by members of the union in accordance with the union's rules.
- 24.2 The Association will advise the Agency of any change to the amount of fortnightly union membership fees made under its rules. Any variation to the schedule of fortnightly union membership fees payable will be provided to the Agency at least one month in advance of the variation taking effect.
- 24.3 Subject to subclauses 24.1 and 24.2 of this clause, the Agency will deduct union fortnightly membership fees from the pay of any employee who is a member of the Association in accordance with the Association's rules, provided that the employee has authorised the Agency to make such deductions.
- 24.4 These deductions from an employee's pay will be forwarded regularly to the Association together with all necessary information to enable the Association to reconcile and credit subscriptions to the employee's union membership accounts.
- 24.5 Unless the Agency and the Association agree to other arrangements, all union membership fees will be deducted on a fortnightly basis.
- 24.6 Where an employee has already authorised the deduction of union membership fees from his or her pay before this clause taking effect, nothing in this clause will be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

25. Anti-Discrimination

- 25.1 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 or responsibilities as a carer.
- 25.2 It follows that in fulfilling their obligations under the Grievance and Dispute Settling Procedures prescribed by the Crown Employees (Public Sector - Salaries 2018) 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.
- 25.3 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.
- 25.4 Nothing in this clause is to be taken to affect:
 - 25.4.1 Any conduct or act which is specifically exempted from anti-discrimination legislation;

- 25.4.2 Offering or providing junior rates of pay to persons under 21 years of age;
- 25.4.3 Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
- 25.4.4 A party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- 25.5 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.
- 25.5.1 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- 25.5.2 Section 56(d) of the *Anti-Discrimination Act 1977* provides:
- "Nothing in the Act affects... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

26. No Extra Claims

- 26.1 The no extra claims clause (clause 8) contained in the Crown Employees (Public Sector - Salaries 2021) Award will apply to employees covered by this award.

27. Area, Incidence and Duration

- 27.1 This award will apply to all staff employed by the Agency who are employed in the classifications of Program Officer and Program Officer (Group Leader).
- 27.2 The employees regulated by this award will be entitled to the conditions of employment as set out in this award and, except where specifically varied by this award, existing conditions provided for by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 and the Crown Employees (Public Sector - Salaries 2021) Award or any replacement awards.
- 27.3 This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Crown Employees (Office of Sport - Program Officers) Award published 6 September 2019 (385 I.G. 157), as varied.

The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (385 I.G. 157) take effect on and from 21 October 2021.

- 27.4 Changes made to this award subsequent to it first being published on 11 July 2008 (366 I.G. 159) have been incorporated into this award as part of the review.
- 27.5 The award remains in force until varied or rescinded, the period for which it was made having already expired.

PART B

This award is listed in Schedule A of the Crown Employees (Public Sector - Salaries 2021) Award and salaries payable to employees will be in accordance with that award or any award replacing it. The rates set out at Table 1 of Part B of this award are subject to the rates as set by the Crown Employees (Public Sector - Salaries 2021) Award or any award replacing it.

Annual incremental progression from level to level within the classification of Program Officer will be on the anniversary of assignment to a role; and subject to satisfying the provisions of clause 14, Increments, of the Government Sector Employment Regulation 2014.

The classification of Program Officer (Group Leader) is comprised of two separate grades.

Table 1 - Rates of Pay - Program Officers - Ongoing

| Classification and Grades | 1.7.21 Per annum 2.04% \$ |
|---------------------------|------------------------------------|
| Program Officers | |
| Level 1 | 62,096 |
| Level 2 | 64,528 |
| Level 3 | 68,171 |
| Level 4 | 73,041 |
| Level 5 | 75,474 |
| Level 6 | 79,138 |
| Level 7 | 82,782 |
| Level 8 | 86,443 |
| Level 9 | 90,084 |
| Level 10 | 93,747 |
| Level 11 | 97,383 |
| Level 12 | 99,821 |

Table 2 - Rates of Pay - Program Officers - Temporary and Casual Employees

| | |
|--|----------------------------------|
| Program Officers - Temporary employees | 1.7.21 Per day 2.04% \$ |
| Level 1 | 238.35 |
| Level 2 | 247.05 |
| Level 3 | 260.65 |
| Level 4 | 280.55 |
| Level 5 | 289.25 |
| Level 6 | 302.90 |
| Level 7 | 317.80 |
| Level 8 | 331.35 |
| Level 9 | 345.10 |
| Level 10 | 358.75 |
| Level 11 | 373.65 |
| Level 12 | 382.35 |
| Program Officers - Casual Employees | 1.7.21 Per day 2.04% \$ |
| Level 1 | 267.80 |
| Level 2 | 278.25 |
| Level 3 | 294.00 |
| Level 4 | 314.90 |
| Level 5 | 325.50 |
| Level 6 | 341.20 |
| Level 7 | 357.00 |
| Level 8 | 372.75 |
| Level 9 | 388.45 |
| Level 10 | 404.30 |
| Level 11 | 420.00 |
| Level 12 | 430.40 |

Table 3 - Rates of Pay - Program Officer (Group Leader)

| | |
|----------------------------------|----------------------------------|
| Program Officer (Group Leader) * | 1.7.21 Per day 2.50% \$ |
| Grade 1 | 208.10 |
| Grade 2 | 252.45 |

The Classification of Assistant Group Leader previously contained in the award has been deleted as obsolete.

Table 4 - Allowances

| | |
|---|--------|
| Sport and recreation allowance - Ongoing Employees Program Officers (per annum) | 121.72 |
| Sport and recreation allowance- Temporary Program Officers (per day) | 46.70 |
| Night duty allowance - Casual Program Officers (per night) | 99.60 |
| Night duty allowance - Program Officer (Group Leaders) (per night) | 48.05 |

SCHEDULE 1

CENTRE AND ACADEMY LOCATIONS

Berry Sport and Recreation Centre
660 Coolangatta Road
BERRY NSW 2535

Borambola Sport and Recreation Centre
1980 Sturt Highway
WAGGA WAGGA NSW 2650

Broken Bay Sport and Recreation Centre
BROOKLYN NSW 2083

Lake Ainsworth Sport and Recreation Centre
Pacific Parade
LENNOX HEAD NSW 2478

Lake Burrendong Sport and Recreation Centre
Tara Road
MUMBIL NSW 2820

Jindabyne Sport and Recreation Centre
The Barry Way
JINDABYNE NSW 2627

Lake Keepit Sport and Recreation Centre
Fitness Camp Road
GUNNEDAH NSW 2380

Milson Island Sport and Recreation Centre
BROOKLYN NSW 2083

Myuna Bay Sport and Recreation Centre
Main Road
DORA CREEK NSW 2264

Point Wolstoncroft Sport and Recreation Centre
Kanangra Drive
GWANDALAN NSW 2259

Sydney Academy of Sport and Recreation
Wakehurst Parkway
NARRABEEN NSW 2101

D. SLOAN, *Commissioner*

Printed by the authority of the Industrial Registrar.

(1667)

SERIAL C9472

CROWN EMPLOYEES (OFFICE OF SPORT - SERVICES OFFICERS) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 168930 of 2021)

Before Commissioner Sloan

22 October 2021

REVIEWED AWARD

Arrangement

PART A

| Clause No. | Subject Matter |
|------------|---|
| 1. | Title |
| 2. | Definitions |
| 3. | Parties |
| 4. | Objects of the Award |
| 5. | Temporary and Casual Employees |
| 6. | Salaries |
| 7. | Uniforms and Laundry Allowance |
| 8. | Hours of Duty |
| 9. | Overtime |
| 10. | Leave |
| 11. | Weekends and Public Holidays |
| 12. | Allowance for temporary assignments to higher non-executive roles |
| 13. | Public Service Holiday |
| 14. | Annual Leave Loading |
| 15. | Flexible Use of Staff |
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| 21. | Area, Incidence and Duration |
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SCHEDULES

1. Centre Locations
2. Services Officer Competencies
3. Assistant Services Officer Competencies

PART A

1. Title

This Award will be known as the Crown Employees (Office of Sport - Services Officers) Award.

2. Definitions

“Agency” - Means the Office of Sport.

“Agency Head” - Means the Chief Executive of the Office of Sport.

"Association/PSA" - Means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

"Assistant Services Officer" - Means employees performing work previously performed by the classifications of Gatekeeper, Kiosk Attendant, Kiosk Supervisor, Pool Attendant, Housekeeper and Residential Assistant.

"Centre" - Means an Agency establishment or site as listed at Schedule 1 - Centre Locations. It also includes any place designated as part of, or as an annex to, such an establishment.

“Chief Executive” - Means the Chief Executive of the Office of Sport.

"Emergency" - Means any major and unexpected change in client demand; a sudden staff shortage that could not have been planned for; a major climatic disturbance or other incident that has a significant effect on the safety of clients, staff or structures.

"Employee" - Means all persons employed as an ongoing, temporary or casual employee under the provisions of the *Government Sector Employment Act 2013* and who is at the operative date of this Award were occupying one of the roles covered by this Award, or who after that date, are appointed to or employed in any such role.

"Industrial Relations Secretary" has the same meaning as in the *Government Sector Employment Act 2013*.

"Manager" - Means a person occupying a position of Centre Manager, Manager Delivery and Outreach or Venue Manager within a Centre or Venue.

"Service" - Means continuous service with the Agency.

"Venue" - Means an Agency establishment or site as listed at Schedule 1 - Venue Locations. It also includes any place designated as part of, or as an annex to, such an establishment.

3. Parties

3.1 This award has been made between the following parties:

Public Service Association and Professional Officers Association Amalgamated Union of New South Wales

Office of Sport

Industrial Relations Secretary

4. Objects of the Award

- 4.1 The Agency and the employees covered by this Award are committed to working together to ensure a healthy and safe working environment.
- 4.2 The Agency will provide adequate work health and safety training and systems to support this objective. Employees will cooperate in undertaking that training and applying their knowledge in their duties.
- 4.3 The Agency will provide the means, including training in alternative techniques and products, to ensure that employees apply environmentally sound practices in carrying out their duties.
- 4.4 The Agency and its employees recognise that flexibility and continuous improvement are necessary for the organisation to provide excellent client service. This ability to adjust to the changing needs of

customers and competition within the industry will enhance the organisation's reputation; underpin job security and support the viability of the organisation's business. Employees under this award are an important part of the Centre support team. They apply their skills flexibly and play a critical role in ensuring that the Agency's assets are protected and maintained and that Centres are safe, welcoming and attractive.

- 4.5 The Agency will provide opportunities for employees to develop their skills and undertakes to pay for those skills in accordance with the competency framework and organisational need. The Agency will assist employees to record their achievements and qualifications in a portfolio. This will provide employees with a tangible record of their skills that may be used to further their career development and employment opportunities. In turn employees undertake to develop and apply their skills to the best of their ability.
- 4.6 The Agency and its employees are committed to fostering an excellent quality of working life and fair employment practices. The Agency undertakes to assist employees to balance work and family responsibilities in keeping with its objective of being an employer of choice.
- 4.7 The Agency and its employees value teamwork, open communications and a harmonious workplace and undertake to work together in a spirit of cooperation.

5. Temporary and Casual Employees

- 5.1 A temporary employee is one engaged to undertake the duties covered by this award under section 43(1)(a) of the *Government Sector Employment Act 2013*.
- 5.2 A temporary employee may be employed to undertake work for a regular fixed period to carry out a project or task, to undertake the duties of a vacant role, to provide additional assistance, or for any other reasons that is consistent with section 43(3) of the *Government Sector Employment Act 2013*.
- 5.3 Temporary employees will receive a salary commensurate with the individual's level of knowledge and experience as determined by the Manager in accordance with rates provided in the Crown Employees (Public Sector - Salaries 2021) Award.
- 5.4 A casual employee is one engaged to undertake the duties covered by this award under section 43(1)(c) of the *Government Sector Employment Act 2013*.
- 5.5 A casual employee may be employed to undertake work on an hourly basis to carry out work that is irregular, intermittent, short term, urgent or arising from an emergency or for any other reason that is consistent with section 43(4) of the *Government Sector Employment Act 2013*.
- 5.6 Casual employees will receive a salary commensurate with the individual's level of knowledge and experience as determined by the Manager in accordance with the hourly rates provided in the Crown Employees (Public Sector - Salaries 2021) Award and will receive a 15% loading during the period of employment. At the completion of the employment period, the casual employee will also be paid 4/48th of ordinary pay earned during their period of employment in lieu of annual leave benefits.
- 5.7 Casual Employees will also receive the following entitlements in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009:
 - (a) Unpaid parental leave in accordance with paragraph 12.5.4;
 - (b) Personal Carer's entitlement in accordance with subclause 12.6; and
 - (c) Bereavement entitlement in accordance with subclause 12.7.

6. Salaries

- 6.1 Salary rates are specified in the Crown Employees (Public Sector - Salaries 2021) Award.
- 6.2 Salary rates in this award are set in accordance with the Crown Employees (Public Sector - Salaries 2021) Award or any variation or replacement award.
- 6.3 The salary rates referred to in the Crown Employees (Public Sector - Salaries 2021) Award represent an all-inclusive salary excluding the payment of overtime. The annual salary incorporates compensation for all of the following:
- Machinery allowance;
 - Penalty rates;
 - Qualifications allowance
 - Tool allowance; (all tools required are provided by the Agency)
 - Night work allowance;
 - Annual leave loading
- 6.4 Services Officer salary levels will be determined in accordance with the competency structure outlined at Schedule 2.
- 6.4.1 New ongoing appointees to the NSW Public Service will be appointed on probation in accordance with section 5 of the Government Sector Employment (General) Rules 2014.
- 6.4.2 New appointees will be appointed at a salary commensurate with their skills, experience and qualifications as determined by the Manager, in accordance with the rates provided in the Crown Employees (Public Sector - Salaries 2021) Award.
- 6.4.3 New appointees will be assessed within 3 months of appointment against the competencies required for the level to which they were appointed. Services Officers who are assessed as competent at the level to which they were appointed will receive the salary rate specified in the Crown Employees (Public Sector - Salaries 2021) Award from the date of assessment. If this assessment is not completed within 3 months of the initial date of appointment but the Officer is later assessed as meeting the required competencies, payment at the post-competency rate will be backdated to 3 months from the date of initial appointment.
- 6.4.4 Services Officers and Assistant Service Officers who are assessed as not possessing the competencies required for the level to which they are appointed will be provided with a written report within 2 weeks of the assessment which will state which competencies they have not attained and specify further training and development required. The staff member will be advised that a further assessment will be conducted within 6 months of appointment. Services Officers who are subsequently assessed as competent at the level to which they were appointed will receive the salary rate specified in the Crown Employees (Public Sector - Salaries 2021) Award from the date of assessment.
- 6.4.5 Services Officers who are assessed as not being fully competent at any of the Services Officer Levels and Assistant Services Officers who are assessed as not fully competent at the level they were appointed to at the six month assessment may have their appointment annulled in accordance with section 5 of the Government Sector Employment (General) Rules 2014.
- 6.4.6 Employees appointed on probation to positions classified as Services Officer (Groundsperson) or Services Officer (Gardener) must possess an appropriate trade certificate and will be remunerated at Services Officer Level 4 at the rate specified in the Crown Employees (Public Sector - Salaries 2021) Award. New appointees will be required to demonstrate the essential competencies

required for Services Officer Level 1 at which time they will be remunerated at the rate specified for Services Officer Level 4, in the Crown Employees (Public Sector - Salaries 2021) Award.

- 6.4.7 New appointees to Services Officer (Groundsperson) and Service Officer (Gardener) positions will be assessed within three months of appointment. Services Officer (Groundsperson) and Service Officer (Gardeners) who are assessed as not possessing the competencies required will be provided with a written report within two weeks of the assessment which will state which competencies they have not attained and specify the training and development required. The employee will be advised that a further assessment will be conducted within six months of appointment. Services Officers appointed to these positions who are not assessed as fully competent may have their appointment annulled in accordance with section 5 of the Government Sector Employment (General) Rules 2014.
- 6.4.8 The Agency will provide new appointees with training and development to support the attainment of competencies prescribed for the level at which they were appointed. The provisions of paragraph 6.4.5 of subclause 6.4 of this clause will also apply to new appointees.
- 6.4.9 Temporary employees engaged for 3 months or less will not be required to undertake competency assessment and will be remunerated in accordance with subclauses 5.3 or 5.4 of this award. Temporary employees whose period of employment is extended beyond 3 months will be required to undertake competency assessment for the level at they are employed.
- 6.5 Services Officer Competency Progression
- 6.5.1 Assessment will be held on the anniversary of the initial employment, unless another date is agreed upon by the employee and Manager with the approval of the appropriate Director, for reasons of equity, client demand or safety.
- 6.5.2 Assessment will be undertaken by a member/s of management or staff who have completed the Assessor Skill Set modules of the Certificate IV in Training and Assessment qualification, with the assistance of an independent subject expert if required. The assessor/s will not be an employee of the same Centre as the employee to be assessed.
- 6.5.3 A list of the competencies is attached at Schedule 2.
- 6.5.4 The recommendation of the assessor/s will be provided to and discussed with the employee before being submitted to the Manager for approval.
- 6.5.5 If progression is recommended, the Manager will approve progression from the date the assessment was held provided the employee's manager has also certified that his/her work performance is satisfactory.
- 6.5.6 If there is a dispute over the recommendation, the matter should be handled according to the Grievance Handling and Dispute Settling Procedure in this Award.
- 6.5.7 If progression is not recommended, the employee will be provided with a written report within 2 weeks of the assessment indicating what further development or training is required. A further assessment will be held within 6 months with the employee's agreement. No more than 3 assessments are to be held each year for the one employee.
- 6.5.8 Where the competency is to be assessed by a relevant certificate the Agency will pay for the training and the renewal of certificate if the competency is required at the employee's current Centre.
- 6.5.9 Progression of employees classified and known as Assistant Services Officers Level 1 and 2 including officers previously called Residential Assistant; Housekeeper; Kiosk Attendant; Pool Attendant and Gatekeeper, will be by merit selection to an available vacancy.

6.5.10 Employees classified under this Award as Groundspersons or Gardeners must possess an appropriate trade certificate and will also be required to meet Level 1 essential competencies listed in Schedule 2. Employees under this classification will be appointed by merit selection to an available vacancy and will be remunerated at Services Officer Level 4.

7. Uniforms and Laundry Allowance

- 7.1 Uniforms will be provided and replaced in accordance with the Agency's Uniform Policy.
- 7.2 A laundry allowance will be paid fortnightly to the employee at the rate specified in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any replacement Award.

8. Hours of Duty

- 8.1 Employees are required to work 152 hours over a period of four weeks.
- 8.2 A minimum of 4 hours and a maximum of 12 hours will be required to be worked on any given day, excluding meal breaks.
- 8.3 Hours of duty will not be restricted to specific hours of the day. However, hours of duty will be generally undertaken between 6.00 am and 7.00 pm. Hours to be worked outside of these times will be rostered or requested to be undertaken only when management considers it necessary to meet actual client demand.
- 8.4 Employees will not be rostered for more than two consecutive shifts exceeding 10 hours each. Employees will be rostered for no more than six shifts exceeding 10 hours each in any four-week roster cycle.
- 8.5 Employees will not be rostered for more than 10 days in either the first or second fortnight of the four-week roster period. Nor will they be rostered for more than 7 consecutive days over any period. Employees will be rostered off duty for a minimum of 9 days during any roster cycle. Employees will be rostered off duty for a minimum of two consecutive days in both the first and second fortnights of the four-week roster period.
- 8.6 Employees are not permitted to work more than five consecutive hours without taking a break from duty of not less than thirty minutes. This break from duty is not a paid break.
- 8.7 Hours of duty are to be determined by a roster that must be displayed in an area available to all employees no less than 7 days before the beginning of the four-week roster cycle.
- 8.8 Rostered hours of duty may be required on any day of the week including Saturdays, Sundays and Public Holidays. Employees will not be rostered for duty on more than two weekends in any four-week roster cycle.
- 8.9 The distribution of weekend, Public Holiday and out-of-hours work will be allocated equitably between all employees subject to the ability of the Centre to meet client demand.
- 8.10 In emergencies, rosters may be varied by the Manager or Services Co-ordinator, provided that 24 hours' notice is given to the employee.
- 8.11 If an employee's rostered hours of duty are varied with insufficient notice, as required by subclause 8.10 of this clause, the employee will receive payment at the rate of double time for all hours which represent the difference between the hours of duty originally rostered and those being requested of the employee. The employee may choose to take time in lieu of payment of overtime.
- 8.12 Local arrangements to apply at particular Centres may be negotiated between an employee and the Manager or Services Co-ordinator. All local arrangements must be documented and approved by the relevant Director. The PSA will be informed about permanent or long-term arrangements.

- 8.13 Employees are entitled to a minimum 10 hour break from duty between the end of one shift and the beginning of the next. If such a break is not provided, the employee is entitled to receive payment at overtime rates as calculated in accordance with Clause 9 for all work undertaken until a 10 hour break can be provided.

9. Overtime

- 9.1 Overtime refers to:
- (a) hours of duty undertaken during a four week roster cycle in excess of 152;
 - (b) hours of duty undertaken on days which are in excess of 10 days in any fortnight (.: the eleventh, twelfth, thirteenth or fourteenth days rostered in a fortnight);
 - (c) hours undertaken on the twentieth day of rostered duty in a roster cycle;
 - (d) hours undertaken beyond the hours of duty rostered on a particular day;
 - (e) hours undertaken on any consecutive days worked in excess of 10 days until such time as a break in duty occurs of a minimum of one full day.
- 9.2 Overtime will be paid to employees at double the ordinary hourly rate. This is calculated by dividing the weekly rate of pay (: annual salary divided by 52.17857) by 38.
- 9.3 Overtime will be paid in the first available pay period following the end of the roster cycle.
- 9.4 An employee may choose to take leave in lieu of payment for all or part of his/her overtime entitlement. Leave in lieu may be accrued to a maximum of 80 hours and is to be taken at a time convenient to both the employee and the Agency.
- 9.5 Leave in lieu of payment in accordance with subclause 9.4 will accrue at the rate of two hours for each hour overtime undertaken and proportionately for periods of less than one hour. Proportions of overtime of less than 15 minutes will be disregarded in determining the amount of accrued leave in lieu.
- 9.6 The minimum period of leave in lieu that an employee can take is two hours. Leave in lieu must be taken in full-hour multiples.
- 9.7 Any overtime accrued beyond 80 hours will be automatically paid to the employee.
- 9.8 Managers and employees should make every effort to ensure leave in lieu entitlements are utilised prior to the termination of services. Payment for outstanding leave in lieu balances will only be made on the termination of the employee's services in exceptional circumstances, such as death or debilitating injury or illness, that result in the sudden and early termination of the contract.

10. Leave

- 10.1 Leave entitlements will be calculated in hours based on general Public Service leave provisions included in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.
- 10.2 All absences from duty will be determined based on the actual number of hours an employee is absent from duty and debited in multiples of two hours. Absences from duty, which do not total a multiple of two hours, will be rounded up to the nearest multiple of two hours for the purposes of debiting leave.

11. Weekends and Public Holidays

- 11.1 Employees who undertake duty on Saturdays, Sundays or Public Holidays will receive compensation of additional recreation leave based on the following scale:

| Number of Saturdays, Sundays and/or Public Holidays worked in the year 1 December to 30 November | Additional Leave |
|--|------------------|
| 8 - 12 | 1 day |
| 13 - 20 | 2 days |
| 21 - 30 | 3 days |
| 31 - 40 | 4 days |
| 41 or more | 5 days |

- 11.2 The number of days to be worked to entitle an employee to accrue additional recreation leave refers to the actual number of days the employee is required to undertake duty on either a Saturday, Sunday or Public Holiday. It is irrelevant how many hours the employee is required to perform on those days.
- 11.3 For the purposes of rostering, Public Holidays will be credited as 8 hours even if an employee is not required to attend for duty or is required for duty for less than 8 hours on that day. If an employee is required to work on a Public Holiday for more than 8 hours, the actual hours of duty on that day will be credited against the roster.
- 11.4 Employees required to undertake work on weekends and/or Public Holidays are also entitled to the following additional salary entitlements:

| Number of Saturdays, Sundays and Public Holidays Worked in the year 1 December to 30 November | Additional Salary Entitlement % |
|---|---------------------------------|
| 5 - 9 | $\frac{1}{2}$ |
| 10 - 14 | 1 |
| 15 - 19 | 1 $\frac{1}{2}$ |
| 20 - 24 | 2 |
| 25 - 29 | 2 $\frac{1}{2}$ |
| 30 - 34 | 3 |
| 35 - 39 | 3 $\frac{1}{2}$ % |
| 40 - 44 | 4 |
| 45 - 49 | 4 $\frac{1}{2}$ |
| 50 or more | 5 |

- 11.5 Accrued leave entitlements will be made available to employees on an annual basis on 1 December of each year. Accrued salary entitlements under this clause will be paid to employees in the first available pay period after 1 December each year or the first available pay after a quarterly claim has been lodged.

12. Allowance for Temporary Assignments to Higher Non-Executive Roles

- 12.1 A Public Service non-executive employee who is temporarily assigned by the Agency Head under the Government Sector Employment (General) Rules 2014 to another non-executive role at a higher classification of work than the employee's current classification of work will be paid an allowance in accordance with the provisions of clause 20 of the Government Sector Employment Regulation 2014.

13. Public Service Holiday

- 13.1 All employees will be entitled to receive one day off duty each year as the "Public Service Holiday".
- 13.2 The Public Service Holiday will be any one of the calendar days that fall within the last calendar fortnight of each year and will be considered to be an 8-hour day to be credited towards the 152-hour, 4-week roster cycle.
- 13.3 The Manager will determine which day is to be granted to an employee as a Public Service Holiday.
- 13.4 Employees will be advised of the date of the Public Service Holiday no later than 1 December each year.

- 13.5 The Public Service Holiday provided for in this clause is in lieu of all picnic days provided for under any other industrial instruments.

14. Annual Leave Loading

- 14.1 Total salary rates provided for by this Award incorporate annual leave loading of 17.5% of four weeks' pay at the employee's annual salary or equivalent.

15. Flexible Use of Staff

- 15.1 Employees may be required, at the direction of the Manager or Services Co-ordinator, to undertake general kitchen duties.
- 15.2 The discretion of management to use staff in accordance with subclause 15.1 will be used only in situations where client demand requires it.
- 15.3 No employee will be required to undertake kitchen duties unless they have been sufficiently instructed or are supervised by an appropriately trained person.
- 15.4 An employee's place of work may be changed from one Centre to another on a temporary basis for reasons of skills transfer, to meet seasonal or unexpected client demand, emergency or at the employee's request.
- 15.5 If a Centre is closed due to seasonal demand or is temporarily not providing services for reasons of emergency, employees may be asked either to temporarily relocate to another Centre for up to one roster period with extension available with mutual agreement or, alternatively, to take accrued leave.
- 15.6 Subclauses 15.4 and 15.5 will be subject to consultation with the employee and personal circumstances will be taken into account.
- 15.7 Travelling compensation for employees who are temporarily relocated is governed by clauses 26-33 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

16. Anti-Discrimination

- 16.1 It is the intention of the parties bound by this Award to seek to achieve the object in section 3(f) of the *Industrial Relations Act* 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- 16.2 It follows that in fulfilling their obligations under the Grievance and Dispute Resolution Procedures prescribed by this Award at Clause 18 the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the Award, which, by its terms or operation, has a direct or indirect discriminatory effect.
- 16.3 Under the *Anti-Discrimination Act* 1977 it is unlawful to victimise an employee because the employee has made or may make, or has been involved in, a complaint of unlawful discrimination or harassment.
- 16.4 Nothing in this clause is to be taken to affect:
- (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.
- 16.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.
- 16.5.1 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- 16.5.2 Section 56(d) of the *Anti-Discrimination Act 1977* provides:
- "Nothing in the Act affects... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

17. Work Health and Safety

- 17.1 The Agency is committed to providing a safe and healthy workplace. The Agency will ensure that no employee is requested to perform work for which she/he is not adequately trained. The Agency will provide training in all required aspects of chemicals handling, use of machinery, manual handling and other aspects of work integral to the duties to be carried out.

18. Grievance and Dispute Settling Procedures

- 18.1 All grievances and disputes relating to the provisions of this award will 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 agency, if required.
- 18.2 An employee is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- 18.3 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 employee to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Chief Executive or delegate.
- 18.4 The immediate manager, or other appropriate officer, will 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.
- 18.5 If the matter remains unresolved with the immediate manager, the employee may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager will respond within two (2) working days, or as soon as practicable. The employee may pursue the sequence of reference to successive levels of management until the matter is referred to the "Chief Executive"
- 18.6 The Chief Executive may refer the matter to the Industrial Relations Secretary for consideration.
- 18.7 If the matter remains unresolved, the Chief Executive will provide a written response to the employee and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- 18.8 An employee, at any stage, may request to be represented by the Association.
- 18.9 The employee or the Association on their behalf, or the Chief Executive may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.

- 18.10 The employee, Association, Chief Executive and the Industrial Relations Secretary will agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- 18.11 Whilst the procedures outlined in subclauses 18.1 to 18.10 of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty will continue unless otherwise agreed between the parties, or, in the case involving work health and safety, if practicable, normal work will proceed in a manner which avoids any risk to the health and safety of any employee or member of the public.

19. Deduction of Union Membership Fees

- 19.1 The Association will provide the Agency with a schedule setting out fortnightly union membership fees payable by members of the union in accordance with the union's rules.
- 19.2 The Association will advise the Agency of any change to the amount of fortnightly union membership fees made under its rules. Any variation to the schedule of fortnightly union membership fees payable will be provided to the Agency at least one month in advance of the variation taking effect.
- 19.3 Subject to subclauses 19.1 and 19.2 of this clause, the Agency will deduct union fortnightly membership fees from the pay of any employee who is a member of the Association in accordance with the Association's rules, provided that the employee has authorised the Agency to make such deductions.
- 19.4 These deductions from an employee's pay will be forwarded regularly to the Association together with all necessary information to enable the Association to reconcile and credit subscriptions to the employee's union membership accounts.
- 19.5 Unless the Agency and the Association agree to other arrangements, all union membership fees will be deducted on a fortnightly basis.
- 19.6 Where an employee has already authorised the deduction of union membership fees from his or her pay before this clause taking effect, nothing in this clause will be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

20. Consultative Committee

- 20.1 The parties will use the Agency's Joint Consultative Committee to consider issues raised in relation to the Award and to recommend action if necessary. The parties agree to consider issues in a consultative and cooperative manner.
- 20.2 Recommendations from the Committee will be submitted to the Chief Executive with a request for a report back to the Committee.

21. Area, Incidence and Duration

- 21.1 This award will apply to all employees employed for the purposes of providing general services to Centres and Venues.
- 21.2 The employees regulated by this award will be entitled to the conditions of employment as set out in this award and, except where specifically varied by this award, existing conditions provided for by the *Government Sector Employment Act 2013*, the *Government Sector Employment (General) Rules 2014*, the *Government Sector Employment Regulation 2014*, the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* and the *Crown Employees (Public Sector - Salaries 2021) Award* or any replacement awards.
- 21.3 This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the *Crown Employees (Office of Sport - Services Officers) Award* published 15 May 2020 (388 I.G. 145), as varied.

- 21.4 The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act* 1996 and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 22 October 2021.
- 21.5 This award remains in force until varied or rescinded, the period for which it was made having already expired.
- 21.6 Changes made to this award subsequent to it first being published on 26 October 2007 (364 I.G. 15) have been incorporated into this award as part of the review process.

22. No Extra Claims

- 22.1 The no extra claims clause (clause 8) contained in the Crown Employees (Public Sector - Salaries 2021) Award will apply to employees covered by this award.

SCHEDULE 1

Centre Locations

Addresses at which the Enterprise is carried out:

Berry Sport and Recreation Centre
660 Coolangatta Road
BERRY NSW 2535

Borambola Sport and Recreation Centre
1980 Sturt Highway
WAGGA WAGGA NSW 2650

Broken Bay Sport and Recreation Centre
BROOKLYN NSW 2083

Lake Ainsworth Sport and Recreation Centre
Pacific Parade
LENNOX HEAD NSW 2478

Lake Burrendong Sport and Recreation Centre
Tara Road
MUMBIL NSW 2820

Jindabyne Sport and Recreation Centre
The Barry Way
JINDABYNE NSW 2627

Lake Keepit Sport and Recreation Centre
Fitness Camp Road
GUNNEDAH NSW 2380

Milson Island Sport and Recreation Centre
BROOKLYN NSW 2083

Myuna Bay Sport and Recreation Centre
Main Road
DORA CREEK NSW 2264

Point Wolstoncroft Sport and Recreation Centre
 Kanangra Drive
 GWANDALAN NSW 2259

Sydney Academy of Sport and Recreation
 Wakehurst Parkway
 NARRABEEN NSW 2101

Venue Locations

Sydney International Equestrian Centre
 Wallgrove Road
 HORSLEY PARK NSW 2164

Sydney International Regatta Centre
 Gate A, Old Castlereagh Rd
 CASTLEREAGH NSW 2749

Sydney International Shooting Centre
 Elizabeth Drive
 CECIL PARK NSW 2171

Southern Highlands Regional Shooting Complex
 Wattle Ridge Rd
 HILL TOP NSW 2575

SCHEDULE 2

Services Officer Competencies

Services Officer - Level 1

*Services Officer (Groundsperson)

*Services Officer (Gardener)

Officers must possess all essentials plus 2 Additional competencies

| Key Task | Competency Required | Competency/Measurement |
|--|--|---|
| Essential Requirements | | |
| 1. Drive Motor Vehicles | Ability to operate general Centre vehicles including the recording of usage | Must hold a Class C drivers licence |
| 2. Understanding of WH&S | An ability to perform tasks/duties required at this level to WH&S regulations. | Demonstrated ability to follow safe work practices consistent with appropriate guidelines. |
| 3. Basic Grounds and Workplace Maintenance using minor plant | An ability to perform duties to WH&S regulations and agency policy and procedure requirements. | Demonstrated ability to: <ul style="list-style-type: none"> - Maintain playing fields including marking; - Maintain existing gardens - Undertake mowing and brush cutting using minor plant to manufacturer's specifications including refuelling and usage recording - Utilise and maintain basic irrigation equipment |

| | | |
|---|---|--|
| | | - Maintain drainage systems including sewer and storm water blockages. |
| 4. Minor Building Maintenance | An ability to perform duties to WH&S regulations. | Demonstrated ability in areas such as: - Repairing and maintaining Flyscreens - Maintaining light bulbs and fluorescent tubes - Building cleaning not covered by contracted services (e.g. spillage) |
| 5. Handling of Goods and Stores | An ability to perform duties to WH&S regulations and Agency policy and procedure requirements. | Demonstrated ability to: - Transport materials and equipment - Lift and handle goods and stores in a safe manner (manual handling) |
| 6. Awareness of the Agency's Child Protection Policy | An ability to work in a manner consistent with the principles and guidelines outlined in this policy. | Policy guidelines are read, understood and are followed. Agency training in child protection is completed. |
| 7. Work in a manner consistent with equity principles | An ability to work in a manner consistent with equity Principles. | Equity guidelines are followed. |
| 8. Client Liaison | An ability to present a professional appearance and manner. | Demonstrates a consistent level of professional appearance and manner in all liaison and interaction with clients. Comply with Agency uniform policies and guidelines. |
| 9. Basic swimming pool maintenance | An ability to maintain and supervise a swimming pool to institutional and small public pool level. | Undertake relevant modules of the TAFE Statement of Attainment Aquatic Operations, or an equivalent qualification. |
| Additional Requirements | | |
| 10. Fire management | An ability to assist in general fire and bush fire prevention and fire control. | Demonstrated ability to: - Implement reduction in fire fuel build up; - Use fire fighting equipment including pumps and fire extinguishers; - Use and maintain hydrants and fire hose reels. - Possess a knowledge of maintaining fire breaks. |
| 11. First aid | Undertake St. John's Ambulance Certificate or equivalent. | Certification. |
| 12. Power Tool Operation | Ability to utilise general power tools in a safe manner. | Knowledge of the safe operation and an ability to use a range of power tools such as drills, saws and sanders consistent with the requirements of day-to-day maintenance. |
| 13. Catering | General knowledge of kitchen operations and an ability to assist Catering Officers. | Knowledge of and ability to apply: - Basic food preparation; - Hygiene and waste disposal processes; - Food storage and handling; - Kitchen safety. |

| | | |
|---|--|---|
| 14. Maintenance of Minor Plant | An ability to maintain a range of Minor plant to operational level. | Can demonstrate an ability to undertake routine maintenance to ensure that minor plant is maintained in operational condition (e.g. change mower blades). |
| 15. Radio Operation (in Centres with radio systems) | Ability to operate radios as per Agency and Australian Communications Authority protocols. | Knowledge of radio operation protocol and an ability to apply this knowledge to A satisfactory level. |

***NOTE**

Employees engaged as Services Officer (Gardener) and Services Officer (Groundsperson) are required to possess one of the following indicated qualifications (or an equivalent qualification) in addition to the competency requirements listed for Services Officer Level 1:

| | |
|----------------------------------|--|
| Services Officer (Gardener) | Horticulture Certificate III Horticulture (Landscape) Certificate III Horticulture (Parks and Gardens) Certificate III |
| Services Officer (Groundsperson) | Horticulture Certificate III Horticulture (Turf Management) Certificate III Services Officer- Level 2 |

Services Officer - Level 2

Officers must possess all Essentials from this and previous levels plus 2 Additional Competencies

| Key Task | Competency Required | Competency/Measurement |
|--|--|---|
| Essential Requirements | | |
| 1. Power Tool Operation | Ability to utilise general power tools in a safe manner. | Knowledge of the safe operation and ability to use a range of power tools such as drills, saws and sanders consistent with the requirements of day- to-day maintenance. |
| 2. Catering | General knowledge of kitchen operations and an ability to assist Catering Officers. | Knowledge of and ability to apply: - Basic food preparation; - Hygiene and waste disposal processes; - Food storage and handling; - Kitchen safety. |
| 3. Radio Operation (in Centres with radio systems) | Ability to operate radios as per Agency and Australian Communications Authority Protocols. | Knowledge of radio operation protocol and an ability to apply this knowledge. |
| 4. Electrical | Ability to apply safety practices with regard to general electrical maintenance. | Demonstrate: - Knowledge of OHS guidelines in relation to electrical equipment - Ability to operate generators and replace fuses. |
| 5. Minor plant maintenance | Ability to maintain a range of minor plant to specified guidelines and procedures. | Demonstrated ability to undertake routine maintenance. |
| Additional Requirements | | |
| 6. Fire management | An ability to assist in general fire and bushfire prevention and fire control. | Demonstrated ability to: - Implement reduction in fire fuel build up; - Use fire fighting equipment including pumps and fire extinguishers; |

| | | |
|--|---|---|
| | | <ul style="list-style-type: none"> - Use fire fighting vehicles and/or implements; - Use and maintain hydrants and fire hose reels; - Possess knowledge of establishing fire breaks. |
| 7. First aid | Undertake St. John's Ambulance Certificate or equivalent. | Certification. |
| 8. Administration (General) | Ability to maintain Administrative Records in relation to plant and other equipment. | Demonstrated understanding of the Agency's administrative systems that relate to plant and equipment utilisation and an ability to use relevant systems. |
| 9. Drive Power Boat | Ability to operate Agency powered watercraft. | Hold a current Recreational boating licence where required. |
| 10. Drive Motor Vehicles (Small bus or truck up to 8.0 tonne GVM - for Centres that have these vehicles) | Ability to drive Agency bus (up to 30 passengers) or a truck with no more than two axles and a GVM of up to but not exceeding 8.0 tonnes. | Hold an appropriate current licence (Class LR) and demonstrate ability to drive a mini bus and/or truck. |

Services Officer- Level 3

Officers must possess all essentials from this and previous levels plus 7 Additional

| Key Task | Competency Required | Competency/Measurement |
|--|---|---|
| Essential Requirements | | |
| 1. Basic building and construction maintenance | Ability to undertake general maintenance requirements on existing buildings and/or constructions within SafeWork NSW guidelines. | Demonstrated ability to: <ul style="list-style-type: none"> - Carry out repairs to indoor and outdoor furnishings, sashes and doors; - Correctly prepare various surfaces for painting; - Paint/repaint buildings, fittings, furniture, marine equipment, etc; - Undertake minor sign writing work; - Replace, repair and extend fencing including safety fencing. |
| 2. Plumbing and drainage maintenance | Ability to maintain existing plumbing and drainage facilities to WH&S regulations and Agency policy and procedure requirements. | Demonstrated ability to: <ul style="list-style-type: none"> - Undertake repairs to taps, showers; - Clear blockages in toilet pans, urinals and sewer lines; - Read and record levels of water and/or gas |
| 3. Basic road repairs | Ability to maintain existing road facilities. | Demonstrated ability to make minor repairs to roads and footpaths |
| 4. First Aid | Undertake St. John's Ambulance Certificate or equivalent. | Certification. |
| 5. Drive motor vehicles (Small Bus or truck up to 8.0 tonne GVM) - for Centres that have these vehicles. | Ability to drive Agency bus (up to 30 passengers) or a truck with no more than two axles and a GVM of up to but not exceeding 8.0 tonnes. | Hold an appropriate current licence (Class LR) and demonstrate an ability to drive a mini bus and/or truck. |
| 6. Operate tractors with power take-off Implements | Ability to operate tractors with Power Take Off Implements requirements. | Demonstrated ability to use tractors or other PTO equipment implements such as: <ul style="list-style-type: none"> - Spreaders and sprayers - Wood chippers - Post-hole digger |

| | | |
|---|---|--|
| | | <ul style="list-style-type: none"> - Roller mower/slasher - Cement mixer |
| Additional Requirements | | |
| 7. Fire management | An ability to assist in general fire and bushfire prevention and fire control. | Demonstrated ability to: <ul style="list-style-type: none"> - Implement reduction in fire fuel build up; - Use fire fighting equipment including pumps and fire extinguishers; |
| | | <ul style="list-style-type: none"> - Use fire fighting vehicles and/or implements; - Use and maintain hydrants and fire hose reels; - Possess knowledge of establishing firebreaks. |
| 8. Administration (General) | Ability to maintain Administrative records in relation to plant and other equipment. | Demonstrated understanding of the Agency's administrative systems that relate to plant and equipment utilisation and an ability to use relevant systems. |
| 9. Drive Power Boat (for Centres that have powered watercraft) | Ability to operate Agency powered watercraft. | Hold a current Recreational Boating licence where required. |
| 10. Chainsaw operation | Ability to utilise and maintain a chainsaw in an effective and safe manner. | Certified ability to: <ul style="list-style-type: none"> - Complete an appropriate course of instruction in chainsaw operation; - Undertake chainsaw maintenance including sharpening. |
| 11. Backhoe/Front End Loader Operation | Ability to operate a backhoe or a tractor with either a backhoe or a front-end loader attachment requiring a SafeWork NSW Authority permit. | Must hold a current SafeWork NSW approved permit for the operation of a front-end loader, backhoe or backhoe attachments to a tractor. |
| 12. Advanced road repairs | Ability to maintain existing road facilities. | Demonstrated ability to grade and maintain gravel roads including gutters, drainage and reforming. |
| 13. Welding | Ability to apply basic welding skills. | Certified ability to: <ul style="list-style-type: none"> - Undertake silver and normal soldering; - Undertake repairs in plastic including repairs to canoes; - Undertake repairs in aluminium including repairs to boats |
| 14. Elevated Work Platform (Scaffold) for Centres or Academies that have this equipment | Ability to use an elevated work platform in a safe and effective manner. | Hold a current SafeWork NSW approved permit to operate an Elevated Work Platform. |
| 15. Advanced Building and Construction Maintenance. | Ability to undertake advanced maintenance requirements on existing buildings and/or constructions within SafeWork NSW guidelines | Demonstrated ability to; <ul style="list-style-type: none"> - Undertake repairs to all buildings including sheet roofing; - Undertake repairs to existing brickwork; - Undertake minor building demolition. |
| 16. Plumbing and Drainage Maintenance | Ability to maintain plumbing and drainage facilities to WH&S regulations and Agency policy and procedure requirements. | Demonstrated ability to: <ul style="list-style-type: none"> - Undertake repairs to cisterns, basins, water supply lines and urinals; - Inspect valves; |

| | | |
|------------------------|--|--|
| | | - Install and maintain sprinkler/irrigation systems. |
| 17. Resuscitation | Theoretical knowledge of Cardio Pulmonary Resuscitation (CPR) and ability to apply both with and without oxygen equipment. | Certification by the Royal Life Saving Society Australia (RLSSA) to advanced resuscitation level. |
| 18. Greens Maintenance | Ability to maintain greens | Demonstrated; - Knowledge and ability to apply knowledge of golf course preparation and maintenance including green keeping. - Ability to undertake chemical treatment of golf course. |

Services Officer - Level 4

Officers must possess all Essentials from this and previous levels plus 4 Additional

| Key Task | Competency Required | Competency/Measurement |
|--------------------------------------|---|--|
| Essential Requirements | | |
| 1. Building and Construction | Ability to construct structures which do not require development applications. | Demonstrated ability to: - Construct simple structures including shade areas, sheds and seating; - Construct retaining walls; - Pour and finish paths, slabs and kerbing; - Undertake concrete formwork and reaper work; - Prepare for and lay paving; - Undertake repairs to all buildings including sheet roofing; - Undertake repairs to existing brickwork; - Undertake minor building demolition; |
| 2. Plumbing and Drainage Maintenance | Ability to maintain existing plumbing and drainage facilities to WH&S regulations and Agency policy and procedure requirements. | Demonstrated ability to: - Undertake repairs to cisterns, basins, water supply lines and urinals; - Inspect valves - Install and maintain sprinkler/irrigation systems |
| 3. Fire Management | An ability to assist in fire prevention and fire control. | Demonstrated ability to: - Implement reduction in fire fuel build up; - Use fire fighting equipment including pumps and fire extinguishers; - Use and maintain hydrants and fire hose reels; - Implement reduction in fire fuel build up - Possess knowledge of establishing and maintaining firebreaks |

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|--|---|---|
| 4. Backhoe/Front-End Loader Operation | Ability to operate a backhoe or a tractor with either a backhoe or front-end loader attachment requiring a SafeWork NSW Authority permit. | Hold a current SafeWork NSW approved permit for the operation of a front-end loader, backhoe or backhoe attachments to a tractor. |
| 5. Chemical Handling | Knowledge of the safe storage, handling and use of chemicals. | Demonstrated knowledge of and ability to apply knowledge with regard to: - WH&S guidelines with regard to storage, handling and use of chemicals; - Materials for the control of domestic Pests - Herbicides for noxious weeds control; - Maintenance of water filtration and/or purification systems including the use of associated |
| | | chemicals. The employee must be certified in each of the areas outlined above. |
| 6. Drive Power Boat (for Centres that have registered powered water craft) | Ability to operate Agency powered watercraft. | Must hold a current Recreational Boating licence where required. |
| 7. Elevated Work Platform (Scaffold) for Centres that have this equipment | Ability to use an elevated work platform in a safe and effective manner. | Must hold a current SafeWork NSW approved permit to operate an Elevated Work Platform. |
| Additional Requirements | | |
| 8. Administration (General) | Ability to maintain administrative records in relation to plant and other equipment. | Demonstrated understanding of the Agency's administrative systems that relate to plant and equipment utilisation and an ability to use relevant systems. |
| 9. Basic Cookery | Ability to undertake basic cookery in emergency situations or to assist Catering Officers. | Demonstrated application of basic cookery skills to a level satisfactory to the supervisor. |
| 10. Resuscitation | Theoretical knowledge of Cardio Pulmonary Resuscitation (CPR) and ability to apply both with and without oxygen equipment. | Certification by the Royal Life Saving Society Australia (RLSSA) to advanced resuscitation level. |
| 11. Chainsaw operation | Ability to utilise and maintain a chainsaw in an effective and safe manner. | Certified ability to: - Complete an appropriate course of instruction in chainsaw operation; - Undertake chainsaw maintenance including sharpening. |
| 12. Welding | Ability to apply basic welding skills | Certified ability to: - Undertake silver and normal soldering; - Undertake repairs in plastic including repairs to canoes; - Undertake repairs in aluminium including repairs to boats. |
| 13. Greens maintenance | Ability to maintain greens | Demonstrated: - Knowledge and ability to apply knowledge of golf course preparation and maintenance including green keeping. - Ability to undertake chemical treatment of golf course. |

| | | |
|--|---|--|
| 14. Drive motor vehicle (large bus) | Ability to meet the requirements necessary to drive a Agency bus licensed to carry in excess of 30 passengers | Hold a current Class MR or HR drivers licence |
| 15. Drive a commercially registered power vessel | Ability to drive a power vessel that is registered under the NSW Waterways commercial survey code. | Hold commercial vessel licence (Marine Coxswain's licence) where required. |
| 16. Advanced Road Repairs | Ability to maintain existing road facilities. | Demonstrated ability to grade and maintain gravel roads including gutters, drainage and reforming. |

Notes:

Location Specific Competencies

In recognition of the fact that some Centres require Services Officers to possess competencies that are site specific, the following conditions will be applicable:

Competency Requirements

At sites where facility uniqueness, Centre remoteness or general access conditions dictate, the Agency reserves the right to stipulate which desirable competencies are to be regarded as essential at Level 2 and above. The number of competencies that may be stipulated will not exceed 2 from the following table.

| Centre or Academy Feature | Competency (or Qualification) Stipulated |
|-----------------------------|--|
| Golf Course | Horticulture Certificate III |
| Extensive Gardens | Horticulture (Turf Management) Certificate II or III |
| Exclusive Water Access | Drive commercially registered vessel |
| Bus Exceeding 30 Passengers | Drive Motor Vehicle (Large Bus) |

In recognition of the fact that some site-specific competencies may involve training and/or certification additional to those training or qualification requirements normally considered to be applicable to Services Officers, employees may be required to demonstrate the ability and willingness to undertake such training in order to acquire the necessary competencies.

SCHEDULE 3

Assistant Services Officer - Competencies

Assistant Services Officer Level 1

Competencies marked with an * are essentials. Manager to determine requirements for Assistant Service Officer Level 1 according to Centre requirements.

| Key Task | Competency Required | Competency/Measurement |
|--|--|--|
| 1. Understanding of WH&S* | Perform tasks/duties required at this level to WH&S regulations. | Demonstrated ability to follow safe work practices consistent with appropriate guidelines. |
| 2. Basic grounds and workplace maintenance using minor plant | Perform duties to WH&S regulations and Agency policy and procedure requirements. | Demonstrated ability to: <ul style="list-style-type: none"> - Maintain playing fields including marking; - Maintain existing gardens - Undertake mowing and brush cutting using minor plant to manufacturers specifications including refuelling and usage recording - Utilise and maintain basic irrigation equipment |

| | | |
|---|---|--|
| | | - Maintain drainage systems including sewer and storm water blockages. |
| 3. Minor building maintenance | Perform duties to WH&S regulations. | Demonstrated ability in areas such as: - Repairing and maintaining flyscreens - Maintaining light bulbs and fluorescent tubes - Building cleaning not covered by contracted services (e.g. spillage) |
| 4. Handling of goods and stores | Perform duties to WH&S regulations and Agency policy and procedure requirements. | Demonstrated ability to: - Transport materials and equipment - Lift and handle goods and stores in a safe manner (manual handling) |
| 5. Awareness of the Agency's Child Protection Policy* | An ability to work in a manner consistent with the principles and guidelines outlined in this policy. | Policy and guidelines are read, understood and are followed. Agency training in child protection is completed. |
| 6. Work in a manner consistent with equity principles* | Work in a manner consistent with equity principles. | Equity guidelines are followed. |
| 7. Client liaison* | Present a professional appearance and manner. | Demonstrates a consistent level of professional appearance and manner in all liaison and interaction with clients. Comply with Agency uniform policies and guidelines. |
| 8. Work as a member of a team* | Perform tasks requiring coordination and harmony within a team. | Constructive contribution to team. |
| 9. Kitchen and dining room duties | General knowledge of kitchen operations and an ability to assist Catering Officers. | Knowledge of and ability in: - Basic hygienic food preparation; - Hygiene and waste disposal processes; - Hygienic food storage and handling; - Kitchen safety. - Fine and other dining room procedures. - Safe operation of commercial dishwashers - Handling kitchen cleaning chemicals |
| 10. Maintenance of Minor Plant | Maintain a range of Minor plant to operational level. | Demonstrated ability to undertake routine maintenance to ensure that minor plant is maintained in operational condition (e.g. Change mower blades). |
| 11. Receive and handle cash from clients and visitors | Receive and reconcile cash transactions and provide receipts where required. | Demonstrated ability to perform tasks including documentation with accuracy and timeliness. |
| 12. Assist in preparing and maintaining residential and client facilities | Undertake household chores including making beds, changing and laundering linen and general cleaning. | Perform tasks in a hygienic and timely manner. |

| | | |
|---|--|--|
| 13. Basic swimming pool maintenance | An ability to maintain and supervise a swimming pool to institutional and small public pool level. | Undertake relevant modules of the TAFE Statement of Attainment Aquatic Operations, or an equivalent qualification. |
| 14. Control groups of visitors to sporting events | Ensure orderly and safe crowd control | Hold security licence. |
| 15. Make and look up client bookings | Document bookings for Centre facilities such as tennis court. | Ability to operate CIMS or equivalent system. |
| 16. Drive motor vehicles | Operate general Centre vehicles including recording usage. | Must hold an RTA Class C drivers |

Assistant Services Officer Level 2.

Officers must possess essential competencies from Level 1 and additional competencies from Level 1 & 2 as determined as being required by the Manager.

| Key Task | Competency Required | Competency/Measurement |
|-------------------------------------|--|--|
| 1. Supervision skills | Direct and oversight the operations of staff performing duties within area of responsibility. | Demonstrate an ability to: - plan work priorities in a team based environment; - provide clear direction in the completion of tasks; - monitor the performance of accountable staff; and - provide training to accountable staff. - roster staff equitably. |
| 2. Large scale laundering | Ensure Centre linen supply is laundered and hygiene | Demonstrate an ability to handle large volumes of linen to ensure continuity and hygiene maintained. |
| 3. Resuscitation | Theoretical knowledge of Cardio Pulmonary Resuscitation (CPR) and ability to apply both with and without oxygen equipment. | Certification by the Royal Life Saving Society Australia (RLSSA) to advanced resuscitation level. |
| 4. First aid | Undertake St. John Ambulance Certificate or equivalent. | Certification |
| 5. Basic swimming pool maintenance. | An ability to maintain and supervise a swimming pool to institutional and small public pool level. | Undertake relevant modules of the TAFE Statement of Attainment Aquatic Operations, or an equivalent qualification. |
| 6. Undertake stock control. | Order stock and maintain Inventory | Demonstrate ability to ensure stock is adequate and accountable documents are maintained. |

D. SLOAN, *Commissioner*

MISCELLANEOUS WORKERS' - KINDERGARTENS AND CHILD CARE CENTRES, &c. (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 201351 of 2021)

Before Commissioner Sloan

19 October 2021

REVIEWED AWARD

1. Arrangement

PART A

| Clause No. | Subject Matter |
|------------|---|
| 1. | Arrangement |
| 2. | Name of Award |
| 3. | Definitions |
| 4. | Contract of Employment |
| 4A. | Secure Employment Provisions |
| 5. | Hours |
| 6. | Implementation of 38 Hour Week |
| 7. | Rostered Days Off Duty |
| 8. | Classification Structure |
| 9. | Wages |
| 10. | Additional Rates and Allowances |
| 11. | Saturday and Sunday Work |
| 12. | Overtime |
| 13. | Make up Time |
| 14. | Payment of Wages |
| 15. | Miscellaneous Conditions |
| 16. | Job Sharing |
| 17. | Relieving in Other Positions |
| 18. | Sick Leave |
| 19. | Public Holidays |
| 20. | Annual Leave |
| 21. | Annual Leave Loading |
| 22. | Long Service Leave |
| 23. | Parental Leave |
| 24. | Personal Carers Leave |
| 25. | Bereavement Leave |
| 26. | Jury Service |
| 27. | Redundancy |
| 28. | In Service: Preschools and OOSHC Centres |
| 29. | Meetings and Activities |
| 30. | Professional Development, Training & Planning |
| 31. | Examination and Study Leave |
| 32. | Supported Wage |
| 33. | Superannuation |
| 34. | Anti-Discrimination |
| 35. | Dispute Settling Procedure |
| 36. | Exemptions |

- 37. Salary Packaging
- 38. Leave Reserved
- 39. Area Incidence and Duration

PART B

MONETARY RATES

Table 1A - Wages - Support Worker Classifications

Table 1B- New Wages - Child Care Classifications Long Day Care

Table 1C - New Wages - Child Care Classifications Pre-Schools

Table 2 - Additional Rates and Allowances

Appendix A - Record of Casual Employment

Appendix B - Parental Leave

2. Name of Award

This Award will be known as the Miscellaneous Workers Kindergarten and Child Care Centres (State) Award.

3. Definitions

- (i) Full-Time Employee - means an employee employed and paid by the week subject to clause 4, Contract of Employment and subclause 5(i) of the award.
- (ii) Part-time Employee - means an employee who works a constant number of ordinary hours less than the ordinary number of hours prescribed for full-time employees in subclause (i) of this clause and subclause 5(i) of the award.
- (iii) Casual Employee - means an employee engaged and paid as such.

Notation: Certain casual employees may have rights to make an election to convert their employment under the provisions of clause 4A of this award.

- (iv) Temporary Employee
 - (a) means an employee engaged to work full-time or part-time for a specified period which is not more than two years but not less than 20 days.
 - (b) Such employees will be engaged solely for the following specified purposes:
 - (1) to replace existing employees proceeding on annual leave, maternity leave, long service leave, workers compensation or leave without pay;
 - (2) to occupy specially funded positions;
 - (3) to occupy positions approved by the Department of Community Services which vary a centre's licence;
 - (4) to occupy positions resulting from seasonal employment fluctuations in a locality;
 - (5) to occupy positions resulting from increases in enrolments.

Notation: Employees engaged pursuant to (4) and (5), above, will not be engaged in such a way that would displace existing employees or future permanent employees.

- (v) Day - means the period from midnight to midnight.
- (vi) Union - means United Voice, New South Wales Branch.
- (vii) Night Shift - means any shift finishing subsequent to midnight and at or before 8.00am or any shift commencing at or after midnight and before 5.00am.
- (viii) Afternoon Shift - means any shift finishing after 6.30pm and at or before midnight.
- (ix) Early Morning Shift - means any shift commencing at or after 5.00am and before 6.30am.
- (x) Night Shift, Non-rotating - means any shift system in which night shifts are worked which do not rotate or alternate with another shift so as to give the employee at least one third of the employee's working time off night shift in each roster cycle.

4. Contract of Employment

- (i)
 - (a) All employees will be engaged on a probationary period of three months.
 - (b) Except for the first three months of employment, the employment of a full-time or part time employee may be terminated by a week's notice given by either party or by the payment or forfeiture, as the case may be, of one week's wages in lieu of such notice. This will not affect the right of an employer to dismiss any employee without notice for misconduct and in such cases wages will be paid up to the time of dismissal only.
 - (c) During the first three months of employment, the employment may be terminated by a day's notice given by either party or by the payment or forfeiture, as the case may be, of one day's wages in lieu of such notice.
- (ii) Payment During Vacations: Notwithstanding the foregoing provisions, where an establishment is closed during a vacation period and no work is available, an employee will be paid the ordinary rate of pay during such a period provided that during the Christmas vacation only an employee with insufficient credit of annual leave to maintain the ordinary rate of pay during the said vacation period may be stood down without pay for a maximum of four weeks.

Provided further that where the employment of an employee is terminated by the employer in accordance with the provisions of this clause through no fault of the employee during the vacation, and such employee whose services are so terminated is re-employed by the same employer before the expiration of two weeks after the commencement of the next term, the contract of employment will not be deemed to have been broken for the purposes of the *Long Service Leave Act 1955*. Any period of non-employment of any such employee who is so re-employed will not count as qualifying service for the purposes of such Act.

- (iii) The employment of a casual employee may be terminated by one hour's notice.
- (iv) Upon request by an employee, the employer will give an employee a signed statement of service upon termination. Such statement will certify the period of commencing and ceasing employment and the class of work upon which the employee was employed. Note: with respect to casual employees, see paragraph (e) of subclause (i) of clause 8, Classification Structure, of this award.
- (v) Employees terminating employment will be paid all wages and other monies due at the time of termination, including any payments which may be due in lieu of annual leave and/or long service leave.

(vi) Flexibility of Work

- (a) An employer may direct an employee to carry out such duties as are within the limits of the employee's skills, competence and training consistent with the classification structure of this award, provided that such duties are not designed to promote de-skilling.
- (b) Persons employed as Child Care Workers may be required to assist with duties incidental to their primary contact care role.
- (c) Any direction issued by an employer will be consistent with the employer's responsibilities to provide a safe and healthy working environment.

4A. Secure Employment Provisions

(i) Objective of this Clause

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

(ii) Casual Conversion

- (a) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months will subsequently have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (b) Every employer of such a casual employee will give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (c) Any casual employee who has a right to elect under paragraph (ii)(a), upon receiving notice under paragraph (ii)(a) 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 must consent to or refuse the election, but must not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so will be fully stated and discussed with the employee concerned, and a genuine attempt must be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment will be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (d) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (ii)(c), the employer and employee will, in accordance with this paragraph, and subject to paragraph (ii)(c), discuss and agree upon:
 - (1) whether the employee will convert to full-time or part-time employment; and

- (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award 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.

- (g) Following an agreement being reached pursuant to paragraph (e), the employee will 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 will be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (h) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

(iii) Work Health and Safety

- (a) For the purposes of this subclause, the following definitions will apply:
 - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (b) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises will do the following (either directly, or through the agency of the labour hire or contract business):
 - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (c) Nothing in this subclause (iii) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Work Health and Safety Act 2011* or the *Workplace Injury Management and Workers Compensation Act 1998*.

(iv) Disputes Regarding the Application of this clause

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

(v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

(vi) Exemption

The above mentioned casual conversion clause will not apply to persons who perform work pursuant to the *Technical and Further Education Commission Act 1990*.

5. Hours

(i) Ordinary Working Hours - The ordinary working hours, inclusive of crib breaks, will not, without payment of overtime, exceed an average of thirty eight per week. Such hours will be worked as follows:

(a) Day Workers - Between the hours of 6.30 a.m. and 6.30 p.m., Monday to Friday inclusive. The above hours will be worked on each day in either one or two shifts provided that the total hours worked on any day does not exceed the applicable hours provided for in clause 6 Implementation of 38 Hour Week without payment for overtime.

(b) Shift Workers - Fixed shifts of a duration provided for in clause 6, Implementation of 38 Hour Week, to be worked on five days of the week, Monday to Sunday inclusive.

(ii) Notification of Hours - The employer must, by legible notice displayed at some place accessible to the employees, notify the ordinary hours of commencing and ceasing work and the ordinary times of meal or crib breaks. Such hours, once notified, will not be changed without the payment of overtime except by seven days' clear notice to the employee, or by mutual agreement between the employer and employee to waive or shorten the notice period, or due to an emergency outside the employer's control.

Any dispute as to the existence of an emergency will be dealt with in accordance with the dispute settling procedure of this award.

Notation: An 'emergency' must be given its ordinary meaning. It is not to be understood to comprehend routine events, such as an employee having to remain at the end of their rostered hours, when a parent fails to arrive on time to collect a child. Such work, if required will involve overtime to which the award overtime provisions will apply.

Notation: For part time employees see subclause (iii) of clause 12, Overtime.

(iii) Rest Pauses - All employees will be allowed a rest break of ten minutes per shift between the second and third hour from starting time and, if the work exceeds seven hours from starting time the employee will be allowed a further rest break of ten minutes, to be taken at a time mutually convenient to the employer and the employees in the establishment concerned, subject to the provisions relating to the supervision of children under the *Children and Young Persons (Care and Protection) Act 1998*.

(iv) Crib Breaks - Not more than thirty minutes nor less than twenty will be allowed to employees each day for a midday crib break between the fourth and fifth hour if such employee's shift exceeds five hours from commencement of work. Such crib breaks will be counted as time worked.

Provided however that employee may, by agreement with the employer, leave the premises during the crib break. Where such reasonable request has been made by an employee, the employer will give favourable consideration to any such request having regard to the provisions of the *Children and Young Persons (Care and Protection) Act 1998* relating to supervision of children. Such time away from the

premises will not count as time worked nor will any payment be made for such time. A record of unpaid lunch periods will be kept in the Time and Wages records.

- (v) Unpaid Meal breaks for those employed on or after 28 August 2000. An employer may direct an employee engaged on or after 28 August 2000 to take an unpaid meal break of up to thirty minutes between the fourth and fifth hour of the employee's shift provided that the shift exceeds five hours and having regard to the provisions of the *Children and Young Persons (Care and Protection) Act 1998* relating to supervision of children. During this unpaid time, the employee may leave the premises.
- (vi) Unpaid Meal breaks for those employed prior to 28 August 2000. With the prior written agreement of the employee, an employer may direct an employee engaged prior to 28 August 2000 to take an unpaid meal break of up to thirty minutes between the fourth and fifth hour of the employee's shift provided that the shift exceeds five hours and having regard to the provisions of the *Children and Young Persons (Care and Protection) Act 1998* relating to supervision of children. The prior agreement of the employee will be recorded in the time and wages record. During this unpaid time, the employee may leave the premises.
- (vii) Employee performing duties during meal break. If an employee is required to perform duties during and unpaid meal break, the employee will be paid at time and one half for the time worked with a minimum payment as for fifteen minutes work. Where the employee works more than fifteen minutes, the payment will be as for thirty minutes.

6. Implementation of 38 Hour Week

6A. Ordinary Hours of Work

- (i) The ordinary hours of work must not exceed an average of 38 per week, as provided in clause 5, Hours, of this award.
- (ii) In respect of employees engaged prior to 28 August 2000, the 38 hour week is to be implemented by the working of a 19 day month in accordance with subclause 6B. Provided that, with the consent of the employee, the ordinary hours of work may be implemented in accordance with (b), (c), (d), or (e) of paragraph (iii) of this clause. The consent of the employee must be in writing and a notation of the consent will be kept in the time and wages record.
- (iii) In respect of employees engaged on or after 28 August 2000, ordinary hours of work in accordance with clause 5, Hours, of this award, may be implemented in one of the following ways:-
 - (a) by working a 19 day month; or
 - (b) by working 3 x 10 hour shifts and 1 x 8 hour shift per week; or
 - (c) by working 4 x 9.5 hour shifts per week; or
 - (d) by working 5 x 7.6 hour shifts per week; or
 - (e) by working 4 x 8 hour shifts and 1 x 6 hour shift per week.

6B. 19 Day Month

- (iv) An employee will accrue two hours per week or 0.4 of an hour (i.e., 24 minutes) for each eight hour shift or day worked, to give an entitlement to take an accrued rostered day off in each four week cycle as though worked.
- (v)
 - (a) Each day of paid leave taken (including annual leave but not including long service leave or any period of paid or unpaid stand-down as provided in subclause 4(ii) of this award)

and any public holiday occurring during any cycle of four weeks will be regarded as a day worked for accrual purposes. Provided however that accrued days off will not be regarded as part of annual leave for any purpose.

- (b) Notwithstanding the provisions of subparagraph (a) of this paragraph, an employee will be entitled to no more than 12 paid accrued days off in any twelve months of consecutive employment.
- (c) An employee who has not worked a complete four week cycle in order to accrue a rostered day off, will be paid a pro rata amount for credits accrued for each day worked in such cycle payable for the rostered day off or, in the case of termination of employment, on termination, (i.e. an amount of 24 minutes for each 8 hour day worked).
- (vi) Subject to paragraph (v) of this clause, an employee will accrue an entitlement to rostered days off in any twelve months of consecutive employment to the extent provided in the following table:

| Number Of Weeks Establishment Open Per Year | Accrued Days Off Per Year |
|--|---------------------------|
| 41 weeks | 10.25 |
| 42 weeks | 10.50 |
| 43 weeks | 10.75 |
| 44 weeks | 11.00 |
| 45 weeks | 11.25 |
| 46 weeks | 11.50 |
| 47 weeks | 11.75 |
| 48 weeks - 52 weeks | 12.00 |

6C. Implementation of 19 Day Month

- (vii) By mutual agreement between the employer and employee concerned, the employer may fix one work day in every fourth week as an accrued rostered day off to the extent of such rostered days off accrued in accordance with paragraph (vii) of this subclause 6B; or Accumulation
- (viii) Establishments Operating 48 - 52 Weeks

The employee may accrue sufficient accrued days off to enable such days to be taken as rostered days off to a maximum block of five (5) days at any one time in any twelve (12) months of consecutive employment, and provided that no two (2) blocks of rostered days off will follow on consecutively.

The employee will take such rostered days off by mutual agreement with the employer.

- (ix) Establishments Operating 41 - 47 Weeks

Accumulated rostered days off will be taken during non-term time, including but not limited to the period of paid stand-down provided in subclause 4(ii) of this award.

6D. Part Time Employees

- (a) A part time employee as defined in clause 3 (ii) of this award who is regularly rostered to work ordinary hours over five days per week will accrue an entitlement to rostered days off in the same ratio of weeks worked to accrued days as set out in subclause (vi) of this clause. A part time employee may choose to be paid the appropriate higher hourly rate (that is a rate based on a 38-hour divisor, as set out in clause 7(ii) in lieu of accruing an entitlement to rostered days off subject to mutual agreement between employer and employee. A notation of such agreement will be kept in the Time and Wages Records.

Provided that in respect of part time employees engaged on or after 28 August 2000, the employer may require that such employee be paid the higher rate in lieu of the rostered day off.

- (b) Where rostered days off are taken the provisions of subclause 6C of this clause will apply.
- (c) A part-time employee as defined in subclause (ii) of clause 3, Definitions, who works less than five days per week will be paid for all hours worked (on the basis of a 38-hour divisor) subject to subclause (iv) of clause 9, Wages, in lieu of an entitlement to rostered days off subject to mutual agreement between the employer and the employee/s.

6E. Casual Employees

A casual employee as defined in subclause (iii) clause 3, Definitions, will be paid for all hours worked subject to subclause (v) of clause 9, Wages, in lieu of an entitlement to accrued days off prescribed by this clause.

7. Rostered Days Off Duty

- (i) Rostering
 - (a) Notice - Except as provided in paragraph (b), an employee will be advised by the employer at least four weeks in advance of the day or days he or she is to be rostered off duty.
 - (b) Substitution - An individual employee with the agreement of the employer may substitute the day he or she is rostered off duty for another day.
 - (c) Payment of Wages - Subject to clause 14, Payment of Wages, of this award, where an employee is paid by cash or cheque and such employee is rostered off duty on a day which coincides with pay day, such employee will be paid no later than the working day immediately following pay day.
 - (d) Accumulation - Rostered days off may accumulate in accordance with subclause (iv) of clause 6, Implementation of 38 Hour Week, of this award.
- (ii) Payment of Rostered Days Off - For every ordinary hour paid for, payment to the employee of one twentieth (5%) of the hourly rate will be withheld by the employer and then paid in the pay week in which the employee's rostered day off is taken. Notation: The withholding of payment for rostered days off for part time employees may also be implemented by applying a divisor of 40 in lieu of a 38 divisor to the appropriate full time rate of pay used to determine the part time rate applicable.
- (iii) Rostered Day Off Falling on a Public Holiday - Where an employee's rostered day off falls on a public holiday the employee and the employer will agree to the substitution of an alternative day off. Provided however that where such agreement is not reached the substituted day may be determined by the employer.
- (iv) Sick Leave and Rostered Days Off - An employee is not eligible for sick leave in respect of absences on rostered days off as such absences are outside the ordinary hours of duty.
- (v) Bereavement & Rostered Days Off - An employee will not be entitled to payment for Bereavement leave in respect of absences on rostered days off as such absences are outside the ordinary hours of duty.
- (vi) Work on Rostered Day Off - Except as provided in paragraph (b) of subclause (i) of this clause, any employee required to work on a rostered day off will be paid in accordance with the provisions of clause 12, Overtime, of this award and an alternative day will be granted as a rostered day off.

8. Classification Structure

(i) Implementation of Classification Structure

- (a) The employer will determine the appropriate classification for each position in the service having regard to the needs of the service. The employer may choose not to appoint anyone to a particular classification in the Award, subject to the provisions of the *Children and Young Persons (Care and Protection) Act 1998* and/or the Children's Services Regulations 2004.
- (b) An employee will be appointed to the position and the corresponding classification in this award having regard to the duties required by the employer to be undertaken by the employee, the qualifications of the employee and the employee's length of service.
- (c) An employee will commence on the step in the appropriate classification commensurate with the number of years of employment in early childhood and child care services for children aged 0 - 12 years whether conducted by the employer or not and will progress thereafter in accordance with the award.

Progression through the steps of each classification in this clause for part-time and casual employees will be based on full-time equivalent service.

- (d) Calculation of Employment: When calculating employment for the purposes of this clause, one year of employment may be deducted for every period of five year's absence from early childhood and child care services.
- (e) Employment History on Engagement:
 - (1) Full time or Part time employees - upon engagement, an employee will establish the employee's employment history in early childhood and child care services for the purposes of determining, where necessary, the appropriate step applicable under the classification structure set out in subclause (ii) of this clause.
 - (2) Casual employees - a casual employee will maintain and keep up to date a record of employment as set out in Appendix A of this award. Such record will be signed by the employer at the conclusion of each period of casual employment.
- (f) An employee may apply for a higher classification when a position becomes available in the service subject to the employee possessing the requisite qualifications and appropriate selection procedures for the particular service being followed.
- (g) Any dispute in relation to the implementation of the classification structure will be dealt with in accordance with clause 35, Dispute Settling Procedure, of this award.
- (h) Translation
 - (1) Existing employees whose duties fall within the classification structure set out in this award should confer with their employer and seek to reach agreement on any translation that may apply to the employee's classification as a result of the introduction of new classifications in this award.
 - (2) Employees will translate to new classifications, if applicable, on the basis of the following principles:

where an existing employee retains their existing classification, they will retain their current incremental position in that classification based on their years of experience in the industry;

where an existing employee is subsequently reclassified to a higher classification, they will be paid at the rate for the classification to which they are appointed to in accordance with 8(i)(c).

Co-ordinators will be classified according to their qualifications, the service type, and the number of licensed child care places.

New employees will be classified and paid according to the appropriate table in Part B Monetary Rates of this award.

(ii) Classification Structure

An employer will classify the position to which an employee is appointed in accordance with the following structure:

Child Care Support Worker (as defined)

Child Care Support Worker (Qualified Cook) (as defined)

Child Care Worker (as defined)

| Step | |
|------|---|
| 1 | on engagement without early childhood or child care service |
| 2 | after 1 year's employment in this classification, or the satisfactory completion of an AQF Certificate III in Children's Services (with less than 12 months employment in an early childhood or child care service) |
| 3 | after 2 year's employment in this classification |
| 4 | after 3 year's employment in this classification |
| 5 | after 1 year's employment in this classification, in addition to the satisfactory completion of an AQF Certificate III in Children's Services. |

Advanced Child Care Worker (as defined)

| Step | |
|------|--|
| 1 | on engagement with early childhood or child care service |
| 2 | after 1 year's employment in this classification |
| 3 | after 2 year's employment in this classification |

Advanced Child Care Worker (Qualified) (as defined)

| Step | |
|------|--|
| 1 | on engagement with early childhood or child care service |
| 2 | after 1 year's employment in this classification |
| 3 | after 2 year's employment in this classification |
| 4 | required to supervise other Associate Diploma or Diploma qualified employees within the group they have responsibility for |

Assistant Co-ordinator (as defined)

Assistant Co-ordinator Qualified (as defined)

Co-ordinator (as defined)

| Level | | |
|-------|----------------|---|
| 1 | OOSH | on engagement with an Out Of School Hours centre |
| 2 | LDC/Pre-School | on engagement with long day care or Pre-School service up to 29 licensed places |

| | | |
|---|----------------|---|
| 3 | LDC/Pre-School | on engagement with long day care or Pre-School service up to 69 licensed places. |
| 4 | LDC/Pre-School | on engagement with long day care or Pre-School service with 70 licensed places or more. |

Co-ordinator Qualified (as defined)

| Level | | |
|-------|----------------|---|
| 1 | OOSH | on engagement with an Out Of School Hours Centre |
| 2 | LDC/Pre-School | on engagement with long day care or Pre-School service up to 29 licensed places |
| 3 | LDC/Pre-School | on engagement with long day care or Pre-School service up to 69 licensed places. |
| 4 | LDC/Pre-School | on engagement with long day care or Pre-School service with 70 licensed places or more. |

- (iii) Child Care Support Worker means an employee appointed by the employer to perform some or all of the following duties:

assisting a qualified cook;

laundry work;

cleaning;

gardening;

cooking (where the employee is unqualified);

driving (as part of other duties);

handy work; and

other duties as required by the employer as are within the knowledge, skills and capabilities of the carer, including duties at a higher classification; provided that this does not promote de skilling.

- (iv) Child Care Support Worker (Qualified Cook) - means an employee who holds basic qualifications in cooking, and who is appointed by the employer to cook meals in the service. An employee in this classification may be required by the employer to perform other duties as required by the employer as are within the knowledge, skills and capabilities of the employee including duties at a higher or lower classification; provided that this does not promote de skilling.

- (v) Child Care Worker - means a carer appointed by the employer to contribute to the development of and assist in the implementation of the child care program under the general direction of and responsible to a supervisor who is regularly present with the group of children. Qualifications are not required for Steps 1 to 4.

- (a) An employee who has completed an AQF Certificate III in Children's Services will be paid no less than Child Care Worker Step 2.

- (b) An employee who has completed both an AQF Certificate III in Children's services and 12 months equivalent full-time service in a child care service, or has successfully completed an approved Certificate III traineeship of no less than 12 months duration, will be classified at Step 5.

- (c) An employee at this level is responsible for their own work and may be required by the employer to perform some or all of the following duties:

positively interact with children, give each child individual attention and comfort as required;

assist to implement daily routines;

assist with ensuring a safe, healthy and clean indoor and outdoor environment for children;

supervise the activities of a group of children for short periods of time during the day;

work with other staff members to ensure the smooth running of the service subject to the service policies and procedures;

understand and work according to the service policies and procedures;
assist in the development and/or evaluation of the program;

assist in the observation and evaluation of the children's development;

assist with the recording of children's development and assist in planning for the ongoing development of the child;

communicate with parents as instructed;

attend to incidental cleaning and housekeeping or associated with individual and group activities, experiences and routines;

perform incidental administrative duties including but not limited to: completing receipts, signing deliveries, ruling up the roll, checking the roll and the like;

other duties as required by the employer as are within the knowledge, skills and capabilities of the carer, including duties at a lower classification; provided that this does not promote de skilling.

(d) An employee at this level may be required by the employer to possess and maintain a current first aid certificate recognised under the *Children and Young Persons (Care and Protection) Act 1998*.

(e) Employees appointed to the position of child care worker, but required to perform the duties of an advanced child care worker, will be paid the higher rate applicable to that classification.

(vi) Advanced Child Care Worker - means an unqualified carer appointed by the employer with the responsibility to develop, plan and implement the child care program. An employee at this level is responsible to the overall employer of a service and may be responsible for the direction of other staff within the group for which they have responsibility. An employee at this level may be required by the employer to perform some or all of the following duties:

has direct responsibility for the management of a group or groups of children in conjunction with the employer of the service;

ensure the maintenance of a healthy and safe work environment;

ensure a safe, healthy and clean indoor and outdoor environment for children;

liaise with parents as to needs of the children and the service;

maintain appropriate and up-to-date records;

ensure that programs are planned, implemented and evaluated for each child in their care;

ensure that all regulations, licensing guidelines, service policies and procedures are observed;

carry out administrative duties which relate to effective room management and child care responsibilities;

other duties as required by the employer as are within the knowledge, skills and capabilities of the carer, including duties at a lower classification; provided that this does not promote de skilling.

An employee at this level is required to possess and maintain a current first aid certificate recognised under the *Children and Young Persons (Care and Protection) Act 1998* as amended and administer first aid as required.

An employee at this level will be required to continue to demonstrate the skills and knowledge required for the position.

- (vii) **Advanced Child Care Worker: Qualified** - means a qualified carer who holds a Diploma in Children's Services, an Associate Diploma in Social Science (Child Studies) from TAFE or equivalent qualifications which are recognised under the *Children and Young Persons (Care and Protection) Act 1998* as amended, appointed by the employer with the responsibility to develop, plan and implement the child care program. An employee at this level is responsible to the overall employer of a service and may be responsible for the direction of other staff within the group for which they have responsibility. An employee at this level may be required by the employer to perform some or all of the following duties:

has direct responsibility for the management of a group or groups of children in conjunction with the employer of the service;

ensure the maintenance of a healthy and safe work environment;

ensure a safe, healthy and clean indoor and outdoor environment for children;

liaise with parents as to needs of the children and the service;

maintain appropriate and up-to-date records;

ensure that programs are planned, implemented and evaluated for each child in their care;

ensure that all regulations, licensing guidelines, service policies and procedures are observed;

carry out administrative duties which relate to effective room management and child care responsibilities;

other duties as required by the employer as are within the knowledge, skills and capabilities of the carer including duties at a lower classification; provided this does not promote de skilling.

An employee at this level is required to possess and maintain a current first aid certificate recognised under the *Children and Young Persons (Care and Protection) Act 1998* as amended, and administer first aid as required.

An employee at this level will be required to continue to demonstrate the skills and knowledge required for the position.

Advanced Child Care Worker Qualified Step 4 means a qualified carer who holds the Associate Diploma in Social Science (Child Studies), Diploma in Children's Services or equivalent qualifications which are recognised under the *Children and Young Persons (Care and Protection) Act 1998* as amended, and who is appointed by the employer to a position where the employee is required to supervise other Associate Diploma or Diploma qualified employees within the group they have responsibility for.

- (viii) **Assistant Co-ordinator** - means carer appointed by the employer to perform administrative and management functions which assist in the co-ordination administration and management of a service, under direction from and responsible to a supervisor who is regularly present at the service. In addition to those of an Advanced Child Care Worker, an employee at this level may be required by the employer to perform some or all of the following duties:

Supervise, direct and co-ordinate the activities of groups of children across the service.

Co-ordinate and manage day-to-day staffing matters across the service.

Perform administrative duties which assist in the effective management of the service.

Ensure that groups within the service meet programming, planning administrative and regulatory requirements.

other duties as required by the employer which are within the knowledge, skills and capabilities of the carer, including duties at a lower classification; provided that this does not promote de skilling.

An employee will not be regarded as working at this level for undertaking responsibilities such as evaluating and improving the activities of a service.

An employee will not be regarded as working at this level for relieving in a supervisory position to fill a temporary absence where the provisions of clause 17, 'Relieving Other Positions' of this Award apply.

An employee at this level is required to possess and maintain a current first aid certificate recognised under the *Children and Young Persons (Care and Protection) Act 1998* as amended, and administer first aid as required.

- (ix) Assistant Co-ordinator Qualified means a carer who holds a Diploma in Children's Services, or an Associate Diploma in Social Science (Child Studies) from TAFE or equivalent qualifications which are recognised under the *Children and Young Persons (Care and Protection) Act 1998* as amended, appointed by the employer to perform administrative and management functions which assist in the co-ordination administration and management of a service, under direction from and responsible to a supervisor who is regularly present at the service. In addition to those of an Advanced Child Care Worker Qualified, an employee at this level may be required by the employer to perform some or all of the following duties:

Supervise, direct and co-ordinate the activities of groups of children across the service.

Co-ordinate and manage day-to-day staffing matters across the service.

Perform administrative duties which assist in the effective management of the service.

Ensure that groups within the service meet programming, planning administrative and regulatory requirements.

other duties as required by the employer which are within the knowledge, skills and capabilities of the carer, including duties at a lower classification; provided that this does not promote de skilling.

An employee will not be regarded as working at this level for undertaking responsibilities such as evaluating and improving the activities of a service.

An employee at this level is required to possess and maintain a current first aid certificate recognised under the *Children and Young Persons (Care and Protection) Act 1998* as amended, and administer first aid as required.

- (x) Co-ordinator - means a carer appointed by the employer to co-ordinate, administer and manage a service. An employee at this level is required to perform all of the following duties:

be accountable to the employer for the administration of the service;

co-ordinate and manage the day-to-day operations of the service;

manage staff through liaison and consultation with the employer;

oversee and ensure the implementation and maintenance of a healthy, safe and clean environment for staff and children;

ensure day-to-day administrative tasks are completed appropriately, including requirements for funding and licensing;

ensure the Service adheres to all relevant regulations and licensing guidelines;

ensure all appropriate records are maintained;

liaise with and consult with parents regarding the needs of the children and the community;

liaise with management to ensure that all matters and procedures relating to government funding are complied with in accordance with appropriate guidelines and, where applicable, submissions for funding to relevant authorities are made and funds applied in accordance with the relevant guidelines and approvals;

assist with the preparation of budgets in consultation with the employer, making appropriate recommendations and manage service financial responsibilities within approved levels;

attend meetings as required by the employer consistent with position responsibilities.

In addition an employee may be required to perform some or all of the following duties:

develop, implement and evaluate service policies and procedures and ensure these and licensing conditions are met in consultation with the employer;

prepare and present reports regarding Service issues;

develop goals and directions for the service in consultation with staff and management in line with early childhood policy and practice;

ensure that Government guidelines on priority access to services are adhered to;

other duties as required by the employer which are within the knowledge, skills and capabilities of the carer, including duties at a lower classification; provided that this does not promote de skilling.

An employee at this level is required to possess and maintain a current first aid certificate recognised under the *Children and Young Persons (Care and Protection) Act 1998* as amended, and administer first aid as required.

- (xi) Co-ordinator: Qualified means a qualified carer who holds the Diploma in Children's Services, an Associate Diploma in Social Science (Child Studies) from TAFE or equivalent qualifications which are recognised under the *Children and Young Persons (Care and Protection) Act 1998* as amended, and who is appointed by the employer to co-ordinate, administer and manage a service. An employee at this level is required to perform the following duties:

be accountable to the employer for the administration of the Service;

co-ordinate and manage the day-to-day operations of the service;

manage staff through liaison and consultation with the employer;

oversee and ensure the maintenance and implementation of a healthy, safe and clean environment for staff and children;

ensure day-to-day administrative tasks are completed appropriately, including requirements for funding and licensing;

ensure the Service adheres to all relevant regulations and licensing guidelines;

ensure all appropriate records are maintained;

liaise with and consult with parents regarding the needs of the children and the community;

liaise with management to ensure that all matters and procedures relating to government funding are complied with in accordance with appropriate guidelines and, where applicable, submissions for funding to relevant authorities are made and funds applied in accordance with the relevant guidelines and approvals;

assist with the preparation of budgets in consultation with the employer, making appropriate recommendations and manage service financial responsibilities within approved levels;

attend meetings as required by the employer consistent with position responsibilities.

In addition an employee may be required to perform some or all of the following duties:

acts as Authorised Supervisor in accordance with the *Children and Young Persons (Care and Protection) Act* 1998 as amended, where required by the employer;

develop, implement and evaluate Service policies and procedures and ensure these and licensing conditions are met in consultation with the employer;

prepare and present reports regarding service issues;

develop goals and directions for the service in consultation with staff and management in line with early childhood policy and practice;

ensure that government guidelines on priority access to services are adhered to;

other duties as required by the employer which are within the knowledge, skills and capabilities of the carer, including duties at a lower classification; provided that this does not promote de skilling.

An employee at this level is required to possess and maintain a current first aid certificate recognised under the *Children and Young Persons (Care and Protection) Act* 1998 as amended, and administer first aid as required.

- (xii) Co-ordinator Level 1 (Out Of Schools Hours) - means a Co-ordinator (as defined) appointed to an OOSH service who does not hold a Diploma Children's Services, an Associate Diploma in Social Science (Child Studies), or equivalent qualifications which are recognised under the *Children and Young Persons (Care and Protection) Act* 1998 as amended.
- (xiii) Co-ordinator Level 2 - LDC / Pre School means a Co-ordinator (as defined) appointed to a Long Day Care or Pre School service of up to 29 licensed places.
- (xiv) Co-ordinator Level 3 - LDC / Pre School means a Co-ordinator (as defined) appointed to a Long Day Care or Pre School service of between 30 and 69 licensed places.
- (xv) Co-Ordinator Level 4 - LDC / Pre School means a Co-ordinator (as defined) appointed to a Long Day Care or Pre School service of 70 licensed places or more.
- (xvi) Co-ordinator Qualified Level 1 (Out Of School Hours) means a Co-ordinator Qualified (as defined) appointed to an OOSH service.
- (xvii) Co-ordinator Qualified Level 2 - LDC / Pre School means a Co-ordinator Qualified (as defined) appointed to a Long Day Care or Pre School service of up to 29 licensed places.
- (xviii) Co-ordinator Qualified Level 3 - LDC / Pre School means a Co-ordinator Qualified (as defined) appointed to a Long Day Care or Pre School service of between 30 and 69 licensed places.

- (xix) Co-ordinator Qualified Level 4 - LDC / Pre School means a Co-ordinator Qualified (as defined) appointed to a Long Day Care or Pre School service of 70 licensed places or more.

9. Wages

(i) Full-Time Employees

- (a) Rates:- The minimum rate of pay for the classifications as set out in clause 8, Classification Structure, of employees engaged in Long day Care Centres or services operating more than 41 weeks per year will be the rates as set out, in Tables 1B and 1C - Wages, of Part B, Monetary Rates.
- (b) Rates:- The minimum rate of pay for the classifications as set out in clause 8, Classification Structure, of employees engaged in Pre-Schools or services operating 41 weeks per year will be the rates as set out, in Tables 1B and 1D - Wages, of Part B, Monetary Rates.
- (c) The rates of pay in this award include the adjustments payable pursuant to orders made in the the State Wage Case 2020. These adjustments may be offset against:
 - (i) any equivalent overaward payments, and/or
 - (ii) award wage increases other than State Wage Case adjustments.

- (ii) Savings Clause - Leading Hand and First Aid Allowance: With the exception of employees classified as Co-ordinators under the new structure, an employee who is employed as at July 8, 1997 and who is currently appointed as a leading hand and/or appointed first aid attendant and is in receipt of an allowance for such appointment(s) will continue to receive the amount of such allowance(s), as an over award payment, whilst they continue in employment in that position with that employer.

(iii) Part time Employees:

- (a) Rates - For each hour worked during ordinary time, part-time employees will be paid the hourly equivalent of the minimum weekly wage prescribed by this award for the class of work performed by them.
- (b) Minimum Starts
 - 1. Child Care Support Worker. A part-time employee engaged as a Child Care Support Worker or Child Care Support Worker (Qualified Cook) working a single shift on any day will be paid a minimum of two hours for each start.
 - 2. Out of School Hours Care. A part-time employee working a single shift will be paid a minimum of two hours for each start.
 - 3. Broken Shift Workers. A part-time employee working a broken shift pursuant to paragraph (a) Day Workers of subclause (i) of clause 5, Hours, of this award, will be paid a minimum of two hours for each of the two shifts so worked.
 - 4. All other part-time employees will be paid a minimum of three hours for each start.

(iv) Casual Employees

- (a) Rates. Casual employees, for each hour worked during ordinary time will be paid the hourly equivalent of the minimum weekly wage prescribed by this award for the class of work performed by them, plus an additional amount of 15 per centum of the appropriate weekly rate. Casuals are entitled to annual leave payments under the *Annual Holidays Act 1944*. The employer must make the payment by adding an additional one twelfth of the ordinary time casual hourly rate to the aggregate ordinary pay after each engagement.

(b) Minimum Starts

1. Child Care Support Worker A casual employee engaged as a Child Care Support Worker or Child Care Support Worker (Qualified Cook) working a single shift on any day will be paid a minimum of two hours for each start.
 2. Out of School Hours Care A casual employee working a single shift will be paid a minimum of two hours for each start.
 3. Broken Shift Workers A casual employee working a broken shift pursuant to paragraph (a) Day Workers of subclause (i) of clause 5, Hours, of this award, will be paid a minimum of two hours for each of the two shifts so worked.
 4. All other casual employees will be paid a minimum of three hours for each start.
- (v) The hourly rates for part-time and casual employees will be calculated to the nearest whole cent, any amount less than half a cent in the result to be disregarded.
- (vi) Juniors: Junior Child Care Workers employed will be paid the following percentages of the appropriate adult rate of pay specified for the classification under which the junior is engaged:

| Age | Percentage (per week) |
|-----------------------|-----------------------|
| Under 17 years of age | 70 |
| At 17 years of age | 80 |
| At 18 years of age | 90 |
| At 19 years of age | 100 |

The above mentioned percentages will be calculated to the nearest ten cents, provided however that any broken part of ten cents in the result less than five cents will be disregarded.

- (vii) Junior Employees (Special Conditions): Junior employees employed otherwise than in accordance with subclause (vii), of this clause, will be paid the appropriate adult rate of pay. The employment of junior employees is further subject to the following conditions: -
- (a) The ratio of juniors to adults employed in any capacity in any establishment will not exceed the following ratios -

Where up to 20 children are catered for - one junior to one adult.

Where over 20 children are catered for - one junior to two adults.
 - (b) Junior employees engaged as trainee Advanced Child Care Worker will be required, as a condition of employment, to train as such employees will attend the Associate Diploma of Social Science (Child Studies) Course or such other technical college course as is necessary.
 - (c) The employer will, in respect of each trainee Advanced Child Care Worker, pay all fees and charges necessary to attend and complete the said course and will, if necessary, allow the employee time off duty without deduction of pay to attend the said course.

10. Additional Rates and Allowances

- (i) Straight Shifts: The following additional allowances for shift work will be paid to employees in respect of work performed during ordinary hours for shifts as defined in subclauses (vii), (viii), (ix) and (x) of clause 3, Definitions, of this award:

| | Percentage |
|---------------------|------------|
| Early morning shift | 10% |
| Afternoon shift | 15% |

| | |
|---|-------|
| Night shift, rotating with day or afternoon shift | 17.5% |
| Night shift, non-rotating | 30% |

- (ii) Broken Shifts - Employees working broken shifts as provided in paragraph (a) of subclause (i), of clause 5, Hours, will be paid the following additional allowances:
- (a) For each broken shift so worked - a shift allowance in accordance with Item 1 of Table 2, Additional Rates and Allowances, of Part B, Monetary Rates.
 - (b) Excess fares allowance - at the rate in accordance with Item 2 of the said Table 2.
- (iii) Uniform Laundry Allowance - In the event of an employee being required to wear a uniform such uniform will be provided by and laundered at the employer's expense, or, by mutual agreement, such employees will be paid a uniform laundry allowance, in accordance with Item 3 of the said Table 2.
- (iv) Cooks Uniform Laundry Allowance - Where an employer requires a cook to wear an ordinary white overall or wrap, coat, cap, apron and trousers, usually worn by cooks, such garments will be laundered either at the employer's expense or at the option of the employer, the employee will be paid a cooks uniform laundry allowance, in accordance with Item 4 of the said Table 2.
- (v) First Aid Certificate:
- (a) If an employer requires an employee who is not required to have a first aid certificate under the award definition of the classification, to obtain and/or maintain such a qualification, the employee will be allowed time off without loss of pay for the purpose of completing the course required. The cost of the course will be met by the employer.
 - (b) Employers who require employees to attend to medical procedures such as administering epi pens, suppositories and drip feeding will ensure staff are adequately trained in such procedures, before being required to undertake them. The cost of any such training will be met by the employer.
- (vi) Qualification Allowances
- (a) An employee who has completed successfully the Commercial Cookery Basic Training Course at TAFE or a course deemed by the employer to be an equivalent qualification, will be paid an additional allowance in accordance with Item 5 of the said Table 2, such amount will be part of the ordinary rate of pay for all award purposes.
 - (b) An employee who has completed successfully the Hotel and Restaurant Cookery Course at the Sydney Technical college or a course deemed by the employer to be an equivalent qualification, will be paid an allowance in accordance with Item 6 of the said Table 2, such amount will be part of the ordinary rate of pay for all award purposes.
 - (c) An employee will advise the employer of the date of completion of such course as specified in paragraph (a) and/or (b) of this subclause.
- (vii) The rate of pay for a Support Worker (Qualified Cook) provided for in subclause (i) of clause 9, Wages, of this award will include any allowance for the responsibility of directing or supervising the duties of an assistant cook when such is employed.
- (viii) Board and Lodging: An employer will not be compelled to board and/or lodge any worker but where board and/or lodging are provided the employer will be entitled to deduct in respect of all workers the following amounts: -
- (a) For full board of twenty-one (21) meals per week, an amount equal to 18.5 per cent of the adult basic wage.

- (b) For full lodging for seven (7) days per week, an amount equal to 7 per cent of the adult basic wage.
- (c) Whereby mutual consent, part board and/or part lodgings are provided the deductions referred to in subclauses (a) and (b), of this clause, may be made on a pro-rata basis. Non-residential employees will not suffer any deductions for meals provided unless by mutual consent.
- (ix) **Authorised Supervisor Allowance:** An employee (other than a Co-ordinator: Qualified or a Co-ordinator) who is required by the employer to act as an Authorised Supervisor in accordance with the *Children and Young Persons (Care and Protection) Act 1998*, as amended, will be paid an amount as set out in Item 8, of the said Table 2. The daily rate for such allowance will be calculated by dividing the weekly allowance by 5.

11. Saturday and Sunday Work

- (i) **Ordinary Hours - Shift Workers -** Shift workers required to work their ordinary hours on a Saturday and/or Sunday will as prescribed by paragraph (i)(b) of clause 5, Hours, of this award, be paid for all time so worked at the following rates:

| | |
|---------------|-------------------|
| Saturday Work | Time and one-half |
| Sunday Work | Double time |

- (ii) The rates prescribed in this clause will be in substitution for and not cumulative upon the shift work allowances prescribed in subclause (i) of clause 10, Additional Rates and Allowances, of this award.
- (iii) **Overtime - Day Workers**
 - (a) Overtime performed on Saturday will be paid for at the rate of time and one half for the first three hours and double time thereafter with a minimum payment of not less than four hours at such rate.
 - (b) Overtime performed on Sundays will be paid for at the rate of double time.
- (iv) **Overtime - Shift Workers**
 - (a) Overtime performed on Saturday will be paid for at the rate of time and one half for the first two hours and double time thereafter.
 - (b) Overtime performed on Sundays will be paid for at the rate of double time.

12. Overtime

- (i) Subject to subclause (iii) of this clause and subclauses (iii) and (iv) of clause 11, Saturday and Sunday Work, of this award, for all work done outside ordinary hours the rates of pay will be time and one half for the first two hours and double time thereafter. In computing overtime each day's work will stand alone.
- (ii) Where overtime or extra shifts are required to be worked, the employer will give preference for such work to employees as classified and covered by the terms of this award where it is reasonably practicable to do so.
- (iii) **Part-time employees -**

If a part-time employee agrees to work additional hours, the additional hours must be paid at the same rate as full time employees are paid under the award. The work must be paid for at the ordinary hourly rate for all hours unless they fall outside the ordinary hours fixed by this Award for full-time employees. Any hours worked in addition to ordinary full-time hours must be paid at the overtime rate applicable to full-time employees under this Award.

- (iv) Meal Money: An employee required to work overtime in excess of one and one half hours will either be paid an allowance in accordance with Item 7 of Table 2 of Part B, Monetary Rates or be supplied with a meal of equivalent value.
- (v) Time Off in Lieu of Overtime: Where an employee performs duty on overtime the employee may at the employee's request and with the agreement of the employer subsequently be released from duty in ordinary hours subject to the following conditions:
 - (a) The agreement will be in writing and be kept with the time and wages records;
 - (b) Where an employee takes subsequent time off the relevant and equivalent period of overtime will be paid for at ordinary rates of pay; all other overtime worked and in respect of which time off is not taken will be paid for at the appropriate overtime rate otherwise provided in this award;
 - (c) Where an employee elects to take any period/s of time off in ordinary hours in accordance with this clause such time off will be with pay and will equate to the relevant period/s of overtime worked;
 - (d) Time off may be taken only in respect of overtime worked between Monday to Friday inclusive;
 - (e) Payment for any period/s of overtime worked and in relation to which the employee elects to take time off may be paid by the employer to the employee in the pay period in which the time off is taken;
 - (f) An employee may not accumulate more than 20 hours of equivalent time off which will be taken within four weeks of its accrual. Where such time off is not taken the period/s of overtime referable thereto will be paid for in the next relevant pay period at the appropriate overtime rate otherwise applicable.
- (vi) Reasonable Overtime: Subject to clause (vii) an employer may require an employee to work reasonable overtime at overtime rates.
- (vii) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
- (viii) For the purposes of clause (vii) what is unreasonable or otherwise will be determined having regard to:
 - (1) any risk to employee's health and safety;
 - (2) the employee's personal circumstances including any family responsibilities;
 - (3) the needs of the workplace or enterprise;
 - (4) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
 - (5) any other relevant matter.

13. Make Up Time

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

14. Payment of Wages

- (i) Wages will be paid weekly or fortnightly in ordinary working time. An employee kept waiting after the normal ceasing time for the payment of wages will be paid at overtime rates from the normal ceasing

time until payment is made. Casual employees will be paid within one hour of the termination of the employment or on the normal pay day for the establishment.

- (ii) Where an employer and employee agree, the employee may be paid the employee's wages by cheque or direct transfer into the employee's bank (or other recognised financial institution) account. Notwithstanding this provision, if the employer and the majority of employees agree, all employees may be paid their wages by cheque or direct transfer into an employee's bank (or other recognised financial institution) account.
- (iii) Where payment is made by cheque the employer will ensure that clearance of such cheque is made available by the appropriate bank or, alternatively, an employer may make a direct deposit by cheque to the appropriate bank for transfer to nominated employee accounts to ensure access by the employee to wages on the nominated pay day.

15. Miscellaneous Conditions

- (i) Boiling Water: Hot water will be provided by the employer where practicable.
- (ii) Accommodation for Meals: Employers will allow employees to partake of their meals, crib breaks or tea breaks in a suitable place protected from the weather and every such employee will leave such place in a thoroughly clean condition.
- (iii) Rubber Boots: Where employees are required to work outside or in toilets in wet conditions they will be supplied with rubber boots, which should remain the property of the employer.
- (iv) Rubber Gloves: Where employees are required to clean toilets or to use acids or other injurious substances or detergents they will be supplied with rubber gloves, which will remain the property of the employer and will be replaced by the employer when unserviceable.
- (v) Dressing Accommodation: Where it is necessary or customary for employees to change their dress or uniform suitable dressing rooms or dressing accommodation and individual lockable lockers will be provided.
- (vi) Clean overalls will be supplied by the employer for all outdoor staff where such employee requires same.
- (vii) A first aid kit will be supplied and be readily available to all employees.
- (viii) All materials, equipment, etc. required for the work and for cleaning purposes will be supplied by the employer.
- (ix) Protective clothing, overalls or uniforms supplied pursuant to this award will remain the property of the employer and will be returned upon termination of employment.

16. Job Sharing

- (i) Definitions 'Job Sharing' may be defined as the occupation of a full-time or part-time position by two employees (job sharers) sharing all of the duties and responsibilities of the position.
- (ii) General Employment Conditions
 - (a) A job share position will only be created by mutual agreement between the employer and the employee occupying the position to be job shared.
 - (b) Subject to the provisions of subclause (iii) of this clause relating to overtime, job sharers will be employed on pro-rata hours, wages and conditions for the relevant classification or grade of the position filled.

- (c) Before any job sharing arrangements are approved, the employer will provide each prospective job sharer with a copy of this clause and obtain her or his acceptance of the job share position to be worked.
 - (d) Job sharers will discuss with the employer arrangements to determine how the job is to be split and agree the hours to be worked by each job sharer including the arrangements to be adopted when one job sharer is absent.
 - (e) Where a job share position is of a specific duration and instead of being filled by two existing employees an additional employee must be engaged to share the position, such additional employee will be advised that the position is only available for the duration sought and approved.
- (iii) Hours of Duty
- (a) The hours of work of job sharers will be worked in accordance with clause 5, Hours, of this award.
 - (b) The hours of job sharers once established will not be changed except by mutual consent of both the job sharers and the employer or subject to the operational requirement of the centre. Where an employer is required to change a job sharers hours because of the operational requirement of the centre, the employer will give the job share employees notice in accordance with subclause (ii) of clause 5, Hours, of this award.
 - (c) The total weekly hours of job sharers of a full-time position will not exceed an average of 38 hours per week to be worked in accordance with Clause 6, Implementation of the 38 Hour Week. Hours worked in excess of the arrangements set out in the said Clause 6 by a job sharer will be paid in accordance with clause 12, Overtime, of this award.
 - (d) Job Sharers will not be entitled to accrue credits towards rostered days off provided for under clause 6, Implementation of 38 Hour Week and clause 7, Rostered Days Off Duty, of this award.
- (iv) Leave
- (a) Job sharers will be entitled to all leave provisions available under this award on a pro rata basis.
 - (b) Job sharers may take annual leave or other leave at the same time or separately.
 - (c) Job sharers may be asked and may agree to cover for the absences of the other job share employees. Such coverage may be either for part of the absence or for the full period.
 - (d) All leave arrangements wherever possible will be made by mutual agreement between both job sharers and the employer.
 - (e) Where a job share employee agrees to cover for the other job share employee whilst he or she is on leave, they will be paid at ordinary rates for the extra days or extra hours worked subject to the provisions of paragraph (f) of this subclause.
 - (f) Where the absence of one job sharer on leave is covered by the other job sharer the aggregate number of hours worked will not exceed those of a full-time employee without the payment of overtime.
- (v) Redundancy. Subject to the provisions of clause 27, Redundancy, of this award where a job share position is made redundant then the job sharers will be entitled to the provisions of the said clause 27.
- (vi) Termination of Employment
- (a) The position of a job sharer may be terminated in accordance with the relevant provisions of clause 4, Contract of Employment, of this award.

- (b) Where one job sharer has terminated the position of the remaining job sharer will not be prejudiced.
- (c) Where one job-sharer has terminated, the position may be filled internally or externally provided that any replacement employee is advised of the job share nature of the position and particularly when the position is of a specific duration, or the remaining job-sharer may be offered the option of occupying the full position on a permanent basis.
- (d) Any replacement employee will also be advised of the provisions of this clause applying to the job share position.

17. Relieving in Other Positions

- (i) Employees employed at work for which a higher rate is fixed will be paid such higher rate whilst so employed. If employed for four hours or more on the higher class of work employees will be paid the higher rate for the whole of that day.
- (ii) Where an employee is called upon to perform duties for which a lower rate is fixed the employee will suffer no reduction in pay.

18. Sick Leave

For exemptions to certain provisions of this clause for certain categories of employees, see clause 36, Exemptions, of this award.

- (i) A full time employee is entitled to 15 days sick leave in the first year of employment, and 12 days in each subsequent year. Any leave accrued and not utilised accumulates to a maximum of 120 days.
- (ii) A part time employee is entitled to pro rata sick leave commensurate with the proportion which their ordinary hours bears to 38 hours per week.
- (iii) The employee will provide to the employer a doctors certificate in respect of absences of two days or more or where the sick leave occurs before or after a public holiday, rostered day off or weekend.
- (iv) A Statutory Declaration will be accepted in respect of any single day absences.
- (v) The employee will, as soon as reasonably practicable and in any case within 24 hours of the commencement of such absence, inform the employer of an inability to attend for duty and, and as far as practicable, the estimated duration of the absence.

Payment During the Initial Three Months of Service

- (vi) Paid sick leave which may be granted to a staff member in the first three months of service will be limited to five days' paid sick leave unless the centre approves otherwise. Paid sick leave in excess of five days granted in the first three months of service will be supported by a satisfactory medical certificate.
- (vii) Following the completion of three months of service with an employer the employee will be entitled to the balance of leave not taken up to a maximum of 15 days in the first year of service.

Infectious Diseases at the Centre or Service

- (viii) Consideration will be given to extending the sick leave amount in the circumstances where an infectious disease or illness has been identified at the centre, and an employee is subsequently infected.

Workers Compensation

- (ix) An employee will not be entitled to sick leave for any period in respect of which the employee is entitled to workers compensation.

- (x) Notwithstanding anything contained in subclause (i), of this clause, a weekly employee suffering injury through an accident arising out of and in the course of employment (not being an injury in respect of which there is an entitlement to workers' compensation) necessitating his or her attendance during working hours on a doctor, chemist or trained nurse, or at a hospital, will not suffer any deduction from his or her pay for the time (not exceeding four hours) so occupied on the day of the accident and will be reimbursed by the employer for all expenses reasonably incurred in connection with such attendance and expenses will include fares.

Definition of Week

- (xi) For the purpose of this clause "week" means: -
 - (a) In the case of part-time employees - the number of ordinary weekly hours regularly worked by such employees;
 - (b) in the case of all other weekly employees - thirty eight hours.

Savings for sick leave accruals

- (xii) Employees engaged at 7 March 2006 who have accrued in excess of 120 days of sick leave under previous accruals will not have their entitlement reduced as a consequence of this award. Such accruals in excess of 120 days will, as of 7 March 2006 be capped at that higher level, and that level will form the maximum accrual for the employee whilst employed by the same employer.
- (xiii) Current employees will receive the sick leave allowances in subclause (i) of this clause on their next anniversary with their current employer.

19. Public Holidays

- (i) The days on which the following holidays are observed will be holidays, namely, New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day and Boxing Day and any day which may hereafter be proclaimed as a public holiday throughout the State of New South Wales, and the first Monday in August or such other day as is mutually agreed between the employer and an employee or the employer and the majority of employees. Provided that for pre-schools operating 41 weeks per year only, the first Monday in August may be subsumed into a period of paid stand-down provided in subclause 4(ii) of this award.
- (ii) The above holidays falling on an ordinary working day will be paid for if not worked, irrespective of such holidays falling in a vacation period.
- (iii) Employees required to work on any of the above holidays will be paid at the rate of double time and one-half with a minimum payment of four hours at such rate.
- (iv)
 - (a) Where a holiday occurs on the rostered day off of a seven day shift worker as provided for in paragraph (i)(b) of clause 5, Hours, and:
 - (1) the employee is not required to work on that day, the employer will pay such employee eight hours' ordinary pay in respect of such day;
 - (2) the employee is required to work on that day, the employer will pay such employee eight hours' ordinary pay in respect of such time and in addition at the rate of time and one-half for the first eight hours (with a minimum payment of four hours) and double time and one-half thereafter.
 - (b) The employer may, in lieu of the payment of eight hours' ordinary pay prescribed in paragraph (a) of this subclause, add a day to the annual leave period.

- (c) Any day or days added in accordance with this subclause will be the working day or working days immediately following the annual leave period to which the employee is entitled to under clause 20, Annual Leave, of this award.
- (d) Where the employment of an employee has been terminated and the employee thereby becomes entitled under section 4 of the *Annual Holidays Act 1944*, to payment in lieu of an annual holiday with respect to a period of employment, the employee will be entitled also to an additional payment for each day accrued to the employee under this clause at the appropriate ordinary rate of pay, if payment has not already been made in accordance with paragraph (a) of this subclause.
- (v) For the purpose of this clause any employee whose ordinary hours of work commence before and continue past midnight will be regarded as working on a holiday only if the greater number of the employee's working hours fall on the holiday, in which case all time worked will be regarded as holiday work; provided that if the number of ordinary hours worked before and past midnight is equal, all ordinary time worked will be regarded as time worked on the day on which the shift commenced.

20. Annual Leave

- (i) All employees except seven day shift workers - see *Annual Holidays Act 1944*.
- (ii) Seven Day Shift Workers - in addition to the leave provided by section 3 of the *Annual Holidays Act 1944*, a seven day shift worker at the end of each year of employment will be entitled to the additional leave as prescribed below: -
 - (a) If during the year of employment the employee has served continuously as a seven day shift worker, the additional leave with respect to that year will be one week.
 - (b) If during the year of employment the employee has served only a portion of it as a shift worker, the additional leave will be 3.5 hours for each completed month of employment as a shift worker, or provided that where the additional leave is or comprises a fraction of a day, such fraction will not form part of the leave period and any such fraction will be discharged by payment only.

Where the employment of a seven day shift worker is terminated and the shift worker thereby becomes entitled under section 4 of the *Annual Holidays Act 1944*, to payment in lieu of an annual holiday with respect to a period of employment, he or the shift worker will be entitled to an additional payment of 3.5 hours at such ordinary rate of pay for each completed month of service as a seven day shift worker.

- (iii) For the purposes of this clause, a seven day shift worker means an employee whose ordinary working hours includes Sundays and/or holidays on which the shift worker may be regularly rostered for work.

21. Annual Leave Loading

- (i) In this clause the *Annual Holidays Act 1944*, is referred to as "the Act".
- (ii) Before an employee is given and takes his or her annual holiday, or where, by agreement between the employer and the employee the annual holiday is given and taken in more than one separate period, then before each of such separate periods, the employer will pay the employee a loading determined in accordance with this clause (Note: The obligation to pay in advance does not apply where an employee takes an annual holiday wholly or partly in advance - see subclause (vi)).
- (iii) The loading is payable in addition to the pay for the period of holidays given and taken and due to the employee under the Act and this award.
- (iv) The loading is to be calculated in relation to any period of annual holiday to which the employee becomes or has become entitled under the Act and this award (but excluding days added to compensate for public or special holidays worked or public or special holidays falling on an employee's rostered day off not worked), or where such a holiday is given and taken in separate periods, then in relation to each such separate period. (Note: See subclause (vi) as to holidays taken wholly or partly in advance).

- (v) The loading is the amount payable for the period or the separate period, as the case may be, stated in subclause (iv) of this clause at the rate per week of 17.5 per cent of the appropriate ordinary weekly time rate of pay prescribed by this award for the classification in which the employee was employed immediately before commencing his or her annual holiday together with, where applicable, the following allowances prescribed by clause 10, Additional Rates and Allowances, in subclause (vii) Leading Hands and subclause (vi) Qualification Allowances, of this award, but will not include any other allowances, penalty rates, shift allowances, overtime rates or any other payment prescribed by this award.
- (vi) No loading is payable to an employee who takes an annual holiday wholly or partly in advance; Provided that, if the employment of such an employee continues until the day when he or she would have become entitled under the Act to an annual holiday, the loading then becomes payable in respect of the period of such holiday, and is to be calculated in accordance with subclause (v), of this clause, applying the award rates of wages payable on that day. This subclause applies where an annual holiday has been taken wholly or partly in advance and the entitlement to the holiday arises after that date.
- (vii) Where, in accordance with the Act the employer's establishment or part of it is temporarily closed down for the purpose of giving an annual holiday or leave without pay to the employee concerned -
 - (a) an employee who is entitled under the Act to an annual holiday and who is given and takes such a holiday will be paid the loading calculated in accordance with subclause (v), of this clause;
 - (b) an employee who is not entitled under the Act to an annual holiday and who is given and takes leave without pay will be paid in addition to the amount payable to him or her under the Act such proportion of the loading that would have been payable to him or her under this clause if he or she had become entitled to an annual holiday prior to the close down as his or her qualifying period of employment in completed weeks bears to 52.
- (viii)
 - (a) When the employment of an employee terminates for a cause other than misconduct and at the time of the termination the employee has not been given and has not taken the whole of an annual holiday to which he or she became entitled he or she will be paid a loading calculated in accordance with subclause (v), of this clause, for the period not taken.
 - (b) Except as provided in paragraph (a), of this subclause, no loading is payable on the termination of an employee's employment.
- (ix) This clause extends to an employee who is given and takes an annual holiday and who would have worked as a shift worker if he or she had not been on holiday; Provided that, if the amount to which the employee would have been entitled by way of shift work allowances and weekend penalty rates for the ordinary time (not including time on a public or special holiday) which the employee would have worked during the period of the holiday exceeds the loading calculated in accordance with this clause, then that amount will be paid to the employee in lieu of the loading.
- (x) By agreement between the employer and employee, the loading may be calculated in relation to such period of an employee's annual holiday as is equal to the period of annual holiday to which the employee is entitled for the time being under the *Annual Holidays Act 1944* at the end of either each calendar year or at the end of each year of the employee's employment. The employer will identify the payment on the employee's payslip when the payment is made.

Any agreement made pursuant to subclause (x) will be recorded in writing in the time and wages record.

22. Long Service Leave

See *Long Service Leave Act 1955*.

23. Parental Leave

- (i) See Appendix B to this award.
- (ii) 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.

- (iii) Right to request

- (a) An employee entitled to parental leave may request the employer to allow the employee:
 - (1) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
 - (2) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - (3) 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 will 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 subparagraphs 23(iii)(a)(2) and 23(iii)(a)(3) must be recorded in writing.

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

Where an employee wishes to make a request under subparagraph 23(iii)(a)(3), 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.

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

- (b) The employee will 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 or other contact details which might affect the employer's capacity to comply with paragraph 23(iv)(a).

24. Personal/Carers Leave

For exemptions to the provisions of this clause for certain categories of employees see clause 36, Exemptions of this award.

(i) Use of sick leave

- (a) An employee with responsibilities in relation to a class of person set out in subparagraph 24(i)(c)(2) who needs their care and support will be entitled to use, in accordance with this subclause, any sick leave entitlement which accrues after September 12th, 1996 for absences to provide care and support for such persons when they are ill or who require care due to an unexpected emergency.

- (b) The employee will, if required,

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

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

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

- (1) the employee being responsible for the care and support of the person concerned; and
- (2) the person concerned being:
 - (a) a spouse of the employee; or
 - (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
 - (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
 - (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
 - (e) a relative of the employee who is a member of the same household, where for the purposes of this paragraph:
 - 1. "relative" means a person related by blood, marriage or affinity;
 - 2. "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and

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

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

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee will 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 settling procedure at Clause 35 should be followed.

(ii) 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 subparagraph 24(i)(c)(2) above, who is ill or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

(iii) Annual leave

- (a) To give effect to this clause an employee may elect, with the consent of the employer, to take annual leave not exceeding ten days in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph 24(iii)(a) above, will be exclusive of any shutdown period provided for elsewhere under this award.
- (c) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

(iv) Time Off in Lieu of Payment for Overtime

- (a) An employee may elect, with the consent of their employer, to take time off in lieu of payment of overtime at a time or times agreed with the employer.
- (b) Arrangements for taking overtime as time off will be governed by clause 12, Overtime, of the Award.

(v) Make-up time

An employee may elect, with the consent of their employer, to work "make-up time" in accordance with clause 13, Make Up Time, of the Award.

(vi) Grievance process

In the event of any dispute arising in connection with any part of this clause, such dispute will be processed in accordance with the dispute settling provisions of this award.

(vii) Personal Carers Entitlement for casual employees

- (a) Subject to the evidentiary and notice requirements in paragraphs 24(i)(b) and 24(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 subparagraph 24(i)(c)(2) 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 will 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.

25. Bereavement Leave

- (i) An employee other than a casual employee will be entitled to up to two days bereavement leave without deduction of pay, up to and including the day of the funeral, on each occasion of the death of a person prescribed in (iii) below. Provided that where the death of a relative as defined occurs outside Australia and a memorial service is held, one day's leave without loss of any ordinary pay will be allowed.
- (ii) The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.
- (iii) Bereavement leave will be available to the employee in respect to the death of a person prescribed by subparagraph (i)(c)(2) of clause 24, Personal/Carer's Leave, provided that for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- (iv) An employee will not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
- (v) Bereavement leave may be taken in conjunction with other leave available under subclauses (i), (ii), (iii) (iv) and (v) of clause 24 Personal/Carers Leave of this Award. In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.
- (vi) Bereavement entitlements for casual employees
 - (a) Subject to the evidentiary and notice requirements in subclause 25(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 subparagraph 24(i)(c)(2).
 - (b) The employer and the employee will 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.

26. Jury Service

- (i) An employee will be allowed leave of absence during any period when required to attend for jury service.
- (ii) During such leave of absence, an employee will be paid the difference between the jury service fees received and the employee's normal rate of pay as if working.
- (iii) An employee will be required to produce to the employer proof of jury service fees received and proof of requirement to attend and attendance on jury service and will give the employer notice of such requirement as soon as practicable after receiving notification to attend for jury service.

27. Redundancy

(i) Application

- (a) This clause will apply in respect of full time and part time employees as set out in clause 9, Wages.
- (b) In respect to employers who employ more than 15 employees immediately prior to the termination of employment of employees, in the terms of subclause (v) of this clause.
- (c) Notwithstanding anything contained elsewhere in this award, this clause will not apply to employees with less than one year's continuous service and the general obligation on employers will 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.
- (d) Notwithstanding anything contained elsewhere in this award, this clause will 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.

(ii) Introduction of Change

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer will notify the employees who may be affected by the proposed changes and the union to which they belong.
- (b) 'Significant effects' include termination of employment, major changes in the composition, operation or size of the 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.

Provided that where this award makes provision for alteration of any of the matters referred to herein, an alteration will be deemed not to have significant effect.

(iii) Employers Duty to Discuss Change

- (a) The employer will discuss with the employees affected and the union to which they belong, inter alia, the introduction of the changes referred to in subclause (ii) of this clause, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and will give prompt consideration to matters raised by the employees and/or the union in relation to the changes.
- (b) The discussion will commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in subclause (ii) of this clause.
- (c) For the purpose of such discussion, the employer will provide to the employees concerned and the union to which they belong all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that any employer will not be required to disclose confidential information the disclosure of which would adversely affect the employer.

(iv) Discussions Before Terminations

- (a) Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone pursuant to paragraph (a) of subclause (ii), of this clause and that decision may lead to the termination of employment, the employer will hold discussions with the employees directly affected and with the union to which they belong.

- (b) The discussions will take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of paragraph (a) of this subclause and will 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.
- (c) For the purposes of the discussion the employer will, 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 workers normally employed and the period over which the terminations are likely to be carried out. Provided that any employer will not be required to disclose confidential information the disclosure of which would adversely affect the employer.

(v) Notice for Changes in Production, Program, Organisation or Structure

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 paragraph (a) of subclause (ii) of this clause.

- (a) In order to terminate the employment of an employee the employer will give to the employee the following notice:

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

- (b) In addition to the notice above, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, will be entitled to an additional week's notice.
- (c) Payment in lieu of the notice above will 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.

(vi) Notice for Technological Change

This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from 'technology' in accordance with paragraph (a) of subclause (ii) of this clause:

- (a) In order to terminate the employment of an employee the employer will give to the employee 3 months notice of termination.
- (b) Payment in lieu of the notice above will be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (c) The period of notice required by this subclause to be given will 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.

(vii) Time Off During the Notice Period

- (a) During the period of notice of termination given by the employer an employee will 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.

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

(viii) 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 will be entitled to the same benefits and payments under this clause had the employee remained with the employer until the expiry of such notice. Provided that in such circumstances the employee will not be entitled to payment in lieu of notice.

(ix) Statement of Employment

The employer will, 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.

(x) Notice to Centrelink

Where a decision has been made to terminate the employment of employees, the employer will 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.

(xi) Centrelink Separation Certificate

The employer will, 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.

(xii) Transfer to Lower Paid Duties

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

(xiii) Severance Pay

Where the employment of an employee is to be terminated pursuant to subclause (v) of this clause, subject to further order of the Industrial Relations Commission, the employer will pay the following severance pay in respect of a continuous period of service:

- (a) If an employee is under 45 years of age, the employer will pay in accordance with the following scale:

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

- (b) Where an employee is 45 years old or over, the entitlement will be in accordance with the following scale:

| Years of Service | 45 Years of Age & 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 |

- (c) 'Weeks Pay' means the all purpose rate of pay for the employee concerned at the date of termination, and will include, in addition to the ordinary rate of pay, over award payments, shift penalties and all purpose allowances paid in accordance with this award.

(xiv) 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 (xiii) of this clause.

The Industrial Relations Commission will have regard to such financial and other resources of the employer concerned as the Industrial Relations Commission thinks relevant, and the probable effect paying the amount of severance pay in subclause (xiii) of this clause will have on the employer.

(xv) 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 (xiii) of this clause if the employer obtains acceptable alternative employment for an employee.

(xvi) Procedures Relating to Grievances

Grievances relating to individual employees will be dealt with in accordance with clause 33, Dispute Settling Procedure, of this award.

28. In-Service - Pre-Schools and Out of School Hours Care Centres

- (i) This clause will apply only to pre-schools operating 41 weeks per year and out of school hours care centres operating 41 weeks per year.
- (ii) Employees may be required to attend in-service courses totalling up to an accrued value time of 38 hours duration in any calendar year. In computing attendance at in-service courses, each year will stand alone.
- (iii) Attendance at such in-service courses may be during stand-down (non-term) time.
- (iv) An employee attending in-service courses outside his or her ordinary hours of work will accrue such hours as 'accrued value time' at the rate of one and a half hours accrued for each of the first two hours of such in-service attended and two hours accrued for each additional hour of in-service attendance thereafter. In computing 'accrued value time' each day's in-service will stand alone.

Such 'accrued value time' will count towards hours of attendance at in-service courses in accordance with subclause (ii) of this clause.

29. Meetings and Activities

An employee may be required to attend up to a maximum of two hours per month and co-ordinators up to four hours per month where such time involves parental meetings, staff meetings and other duties not including the supervision of children without any payment being due. Part-time employees may be required to attend such meetings outside of ordinary hours on a pro rata basis.

Any hours required to be worked in excess of those specified above will be paid in accordance with clause 12, Overtime, of this award.

30. Professional Development, Training and Planning

- (a) Employees are responsible for ensuring that they are aware of new developments in early childhood education. However, the parties recognise that continuing professional development of employees is a joint responsibility of both the employer and the employee.
- (b) The employer may request an employee to attend any courses in non-term time or after hours relating to professional development, training and planning. The employee cannot unreasonably refuse to attend such courses, provided that a full-time employee who receives no more than four weeks' annual leave in a calendar year will receive time in lieu for time spent at any courses outlined in this clause.
- (c) Any dispute in relation to attendance will be dealt with in accordance with clause 35, Dispute Settling Procedure of this award.

31. Examination and Study Leave

An employee who for the purpose of obtaining the Certificate III in Children's Services or the Diploma in Children's Services enrolls at a College of Technical and Further Education will be granted leave with pay on the day of any examination required in the course. Provided that such leave of absence will only be approved where a month's prior notice is given to enable alternate staffing arrangements to be effected.

32. Supported Wage

Definition:

- (i) This clause defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award. In the context of this clause, the following definitions will apply:
 - (a) "Supported wage system" means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in "(Supported Wage System: Guidelines and Assessment Process)".
 - (b) "Accredited assessor" means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.
 - (c) "Disability support pension" means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.
 - (d) "Assessment instrument" means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

Eligibility criteria

- (ii) Employees covered by this clause will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award,

because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of Disability Support Pension.

(The clause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their current employment).

(The award does not apply to employers in respect of their facility, program, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of, or eligible for, a disability support pension, except with respect to an organisation which has received recognition under section 10 or section 12A of the Act, or if a part only has received recognition, that part).

Supported Wage Rates

- (iii) Employees to whom this clause applies will be paid the applicable percentage of the rate of pay prescribed by this award for the class of work which the person is performing according to the following schedule:

| Assessed Capacity Rate (Subclause (d)) | % of Prescribed Award |
|---|-----------------------|
| *10% | 10% |
| 20% | 20% |
| 30% | 30% |
| 40% | 40% |
| 50% | 50% |
| 60% | 60% |
| 70% | 70% |
| 80% | 80% |
| 90% | 90% |

Provided that the amount payable will not be less than \$45.00 per week.

* Where a person's assessed capacity is ten percent, they will receive a high degree of assistance and support.

Assessment of capacity

- (iv) For the purpose of establishing the percentage of the award rate to be paid to an employee under this award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:
- the employer and the union party to the award, in consultation with the employee or, if desired by any of these.
 - the employer and an accredited Assessor from a panel agreed by the parties to the award and the employee.

Lodgement of assessment instrument

- (v)
- All assessment instruments under the condition of this clause, including the appropriate percentage of the award wage to be paid to the employee, will be lodged by the employer with the Registrar of the Industrial Relations Commission.
 - All assessment instruments will be agreed and signed by the parties to the assessment, provided that where the union which is party to the award/agreement, is not a party to the assessment, it

will be referred by the Registrar to the union by certified mail and will take effect unless an objection is notified to the Registrar within ten working days.

Review of Assessment

- (vi) The assessment of the applicable percentage should be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review will be in accordance with the procedures for assessing capacity under the Supported Wage System.

Other Terms and Conditions of Employment

- (vii) Where an assessment has been made, the applicable percentage will apply to the wage rate only. Employees covered by the provisions of the clause will be entitled to the same terms and conditions of employment as all other employees covered by this award paid on a pro rata basis.

Workplace Adjustment

- (viii) An employer wishing to employ a person under the provisions of this clause will take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other employees in the area.

Trial Period

- (ix)
 - (a) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provision of this clause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
 - (b) During the trial period the assessment of capacity will be undertaken and the proposed wage rate for a continuing employment relationship will be determined.
 - (c) The minimum amount payable to the employee during the trial period will be no less than \$45.00 per week.
 - (d) Work trials should include induction or training as appropriate to the job being trialled.
 - (e) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under subclause (iv) of this clause.

33. Superannuation

A. Definitions

- (i) "CARE" means Care Superannuation.
- (ii) "HESTA" means the Health Employees Superannuation Trust Australia, constituted by deed made 30 July 1987.
- (iii) "Union" means United Voice, New South Wales Branch.
- (iv) "Eligible employee" means:
 - (a) a full-time employee engaged under the terms and conditions of this Award.

- (b) a part-time or casual employee engaged under the terms and conditions of the above Award who earns two hundred dollars (\$200.00) or more per calendar month.
- (v) "Ordinary time earnings" means the weekly rate of pay for the employee's classification (including leading hand allowances, broken shift allowance, excess fares allowance, toilet cleaning allowance, qualification allowances and shift work premiums) and any overaward payments for ordinary hours of work.

B. Fund

- (i) For the purposes of this clause, contributions made by employers will be made as follows:
 - (a) the employer will offer each employee a choice between H.E.S.T.A., CARE or another superannuation fund of their choice
 - (b) the employee will nominate the fund into which contributions will be made.
- (ii) Each employer bound by this award will sign and execute an agreement to become a participating employer to either H.E.S.T.A., CARE or other superannuation fund dependent upon the fund chosen by the employee.
- (iii) Each employer bound by this award will become party to H.E.S.T.A., CARE or other superannuation fund upon the acceptance of the respective Trustee of a Deed of Adoption, duly signed and executed by each employer and the respective Trustee.
- (iv) An employee will become eligible to join their nominated superannuation fund in accordance with the following:
 - (a) in the case of an employee who is employed at 1 July 1988, from the beginning of the first pay period commencing on or after 1 July 1988, and
 - (b) in the case of an employee employed after 1 July 1988, from the beginning of the first pay period commencing on or after the employee's date of engagement.
- (v) An employer will take all necessary steps to ensure an eligible employee becomes a member of the fund.

C. Contributions

- (i) Each employer will pay to the respective Trustee in respect of each eligible employee an amount equal to three per centum of employee's ordinary time earnings for all ordinary hours worked from the date the employee becomes eligible in accordance with subclause (iv) of clause 3, Definitions, of this award.
- (ii) A pro-rata deduction will be made from the weekly contribution payable for any unauthorised absence of at least one day's duration.
- (iii) An employer will not be required to contribute during any period of unpaid leave - such as unpaid sick leave, maternity leave or the like, or periods of workers compensation beyond the expiry of any entitlement to full pay in accordance with the *Workers Compensation Act 1987*. Further an employer will not be required to make additional contributions in respect of annual leave paid out on termination.
- (iv) Contributions will be made at the end of each calendar month for periods of employment worked during that month.
- (v) Notwithstanding the date upon which an employee signs an Application Form, contributions in accordance with subclause (I) of this clause will be made from the date when the employee became eligible for membership.

D. Records

The employer will retain all records relating to the calculation of payments due to the fund/s in respect of each employee and such records will be retained for a period of six years.

E. Exemptions

Employers of employees who are contributions or eligible to become contributors to the following Superannuation Funds or any scheme/s replacing such Funds will be exempt from the provisions of this Award:

State Superannuation Fund

State Public Service Superannuation Scheme

Public Authorities Superannuation Scheme

34. Anti-Discrimination

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

Notes

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

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

35. Dispute Settling Procedure

The parties agree that, subject to the provisions of the New South Wales *Industrial Relations Act* 1996, all grievances, claims or disputes will be dealt with in the following manner so as to ensure the orderly settlement of the matters in question.

- (i) Any grievance or dispute which arises will, where possible, be settled by discussion on the job between the employee(s) and the employee's immediate supervisor.
- (ii) If the matter is not resolved at this level, it will be further discussed between the affected employee(s), the union delegate (if any) or contact and the employer. Both the employer's industrial representative and the employee's union representative may be notified.
- (iii) If no agreement is reached the union representative or contact will discuss the matter with the employer's nominated industrial relations representative.
- (iv) Whilst the foregoing procedure is being followed work will continue normally. No party will be prejudiced as to the final settlement by the continuance of work in accordance with this subclause.
- (v) Should the matter still not be resolved it may be referred by the parties to the Industrial Relations Commission of New South Wales for settlement.

36. Exemptions

The provisions of clause 24, Personal/Carers Leave, clause 25, Bereavement Leave and subclause (iv) of clause 18, Sick Leave, will not apply to employees of the following:

- (a) licensed child care centres, child minding centres, day nurseries and pre-school kindergartens attached to or operated by a non-Government school; or
- (b) licensed child care centres, child minding centres, day nurseries and pre-school kindergartens operated by a Catholic Diocese, a Catholic religious order or a Catholic parish; or
- (c) licensed child care centres, child minding centres, day nurseries and pre-school kindergartens operated by the following organisations:
 - (A) Society of St Vincent de Paul;
 - (B) AMIGOSS Co-operative Limited;
 - (C) Camperdown Child Care Centre Limited;
 - (D) Wunanbiri Pre-School; and
 - (E) St Patrick's SHOOSH Care Association Inc.

Such employees will continue to be entitled to family leave provisions and additional sick leave in the first year of employment contained in the Miscellaneous Workers Kindergartens and Child Care Centres Family Leave (Catholic Kindergartens, Child Care Centres and Others and Independent Schools) (State) Award published 17 November 1995 (289 I.G. 519) as varied.

37. Salary Packaging

- (i) Where agreed between the employer and a full-time or part-time employee, an employer may offer salary packaging in respect of salary. Neither the employer nor the employee may be compelled to enter into a salary packaging agreement.

- (ii) Salary packaging will mean that the employee will have part of their salary packaged into a fringe benefit which does not constitute a direct payment to the employee but is payable to a bona fide third party.
- (iii) The terms and conditions of such a package will not, when viewed objectively, be less favourable than the entitlements otherwise available under this award and will be subject to the following provisions:
 - (a) the employer will ensure that the structure of any agreed remuneration package complies with taxation and other relevant legislation;
 - (b) where there is an agreement to salary package, the agreement will be in writing and made available to the employee;
 - (c) the employee will have access to details of the payments and transactions made on their behalf. Where such details are maintained electronically, the employee will be provided with a printout of the relevant information;
 - (d) the employer has the right to vary or withdraw from a salary packaging agreement and/or withdraw from offering salary packaging in the event of changes to the operation of legislation that are detrimental to, or increase the costs of, salary packaging arrangements;
 - (e) prior to entering into any salary packaging agreements, the employee will be given the opportunity by the employer to seek independent advice in respect of salary package arrangements including advice from the union;
 - (f) in the event that the employer withdraws from a salary packaging agreement, the individual employee's salary will revert to whichever is the higher of:
 - (i) the ordinary time rate of pay that applied to the employee prior to the commencement of the salary packaging agreement; or
 - (ii) the applicable rate specified in Part B, Monetary Rates, of this Award.
 - (g) notwithstanding any of the above arrangements, the employer or employee may cancel any salary packaging agreements by the giving of one month's notice of cancellation to the other party;
 - (h) Superannuation Guarantee Contributions will be calculated with reference to the ordinary time rate of pay the employee would have been entitled to receive but for the salary packaging arrangement;
 - (i) any allowance, penalty rates, overtime, payment for unused leave entitlements will be calculated by reference to the ordinary time rate of pay which would have applied to the employee but for the salary packaging arrangement
 - (j) unless there is agreement between the employer and the employee to the contrary, all salary packaging arrangements will cease during any period of leave without pay, including periods of unpaid sick leave.

38. Leave Reserved

Leave is reserved to Employers First to apply in relation to unpaid meal break and crib break provisions in the Award.

39. Area, Incidence and Duration

This award is made following a review under section 19 of the *Industrial Relations Act* 1996 and rescinds and replaces the Miscellaneous Workers' - Kindergartens and Child Care Centres, &c. (State) Award published 6 September 2019 (385 I.G. 187), as varied.

It will apply to all persons of the classes herein provided for within the jurisdiction of the Kindergartens, &c. (State) Industrial Committee.

The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act* 1996 and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 16 December 2018.

This award will take effect on and from 19 October 2021 until varied or rescinded, the period for which it was made already having expired.

PART B

MONETARY RATES

TABLE 1A

WAGES - SUPPORT WORKER CLASSIFICATIONS

| Classification | Rate at 16/12/2018 \$ | Rate at 16/12/2020 \$ 2.5% |
|------------------------------------|--------------------------|----------------------------------|
| Support Worker | 771.80 | 791.10 |
| Support Worker (Qualified Cook) | 789.04 | 808.80 |

TABLE 1B

NEW WAGES - CHILD CARE CLASSIFICATIONS IN LONG DAY CARE

| Level | Step | Rate at 16/12/2018 \$ | Rate at 16/12/2020 \$ 2.5% |
|------------------|------|--------------------------|----------------------------------|
| CCW | 1 | 881.50 | 903.50 |
| | 2 | 888.70 | 910.90 |
| | 3 | 895.70 | 918.10 |
| | 4 | 902.80 | 925.40 |
| | 5 | 911.40 | 934.20 |
| ACCW | 1 | 920.10 | 943.10 |
| | 2 | 938.00 | 961.50 |
| | 3 | 968.90 | 993.10 |
| ACCWQ | 1 | 985.00 | 1009.60 |
| | 2 | 1085.60 | 1112.70 |
| | 3 | 1138.20 | 1166.70 |
| | 4 | 1194.80 | 1224.70 |
| Asst Co-ord | | 1004.10 | 1029.20 |
| Asst Co-ord Qual | | 1221.30 | 1251.80 |
| Co-Ord OOSH | L1 | 1075.90 | 1102.80 |
| Co-Ord LDC | L2 | 1102.40 | 1130.00 |
| | L3 | 1138.60 | 1167.10 |
| | L4 | 1184.00 | 1213.60 |

| | | | |
|------------------|----|---------|---------|
| Co-Ord Qual OOSH | | 1314.50 | 1347.40 |
| | | | |
| Co-Ord Qual LDC | L2 | 1340.80 | 1374.30 |
| | L3 | 1377.10 | 1411.50 |
| | L4 | 1422.60 | 1458.20 |

TABLE 1C**NEW WAGES - CHILD CARE CLASSIFICATIONS IN PRE-SCHOOLS**

| Level | Step | Rate at 16/12/2018 \$ | Rate at 16/12/2020 \$ 2.5% |
|---------------------|------|--------------------------|----------------------------------|
| CCW | 1 | 849.60 | 870.80 |
| | 2 | 856.60 | 878.00 |
| | 3 | 863.30 | 884.90 |
| | 4 | 870.10 | 891.90 |
| | 5 | 878.50 | 900.50 |
| | | | |
| ACCW | 1 | 886.70 | 908.90 |
| | 2 | 905.00 | 927.60 |
| | 3 | 932.70 | 956.00 |
| ACCWQ | 1 | 950.30 | 974.10 |
| | 2 | 1045.70 | 1071.80 |
| | 3 | 1096.30 | 1123.70 |
| | 4 | 1150.90 | 1179.70 |
| | | | |
| Asst Co-ord | | 967.70 | 991.90 |
| | | | |
| Asst Co-ord Qual | | 1176.40 | 1205.80 |
| | | | |
| Co-ord OOSH | L1 | 1041.00 | 1067.00 |
| | | | |
| Co-Ord Pre-School | L2 | 1067.60 | 1094.30 |
| | L3 | 1103.80 | 1131.40 |
| | L4 | 1149.40 | 1178.10 |
| | | | |
| Co-Ord Qual OOSH | | 1270.70 | 1302.50 |
| | | | |
| Co-Ord Qual Pre-Sch | L2 | 1297.10 | 1329.50 |
| | L3 | 1333.30 | 1366.60 |
| | L4 | 1378.70 | 1413.20 |

TABLE 2**Additional Rates and Allowances**

| Item No. | Clause No. | Brief Description | Amount 16/12/2018 \$ | Amount 16/12/2020 \$ |
|----------|------------|--------------------------------------|---------------------------------|---------------------------------|
| 1 | 10(ii)(a) | Broken Shift | 77.90 Per week 15.60 Per day | 79.80 Per week 16.00 Per day |
| 2 | 10(ii)(b) | Excess Fares | 10.60 | 10.90 |
| 3 | 10(iii) | Uniform: Laundry Allowance | 5.60 | 5.70 |
| 4 | 10(iv) | Cooks Uniforms: Laundry Allowance | 9.00 | 9.20 |

| | | | | |
|---|-----------|--|----------------------------|----------------------------|
| 5 | 10(vi)(a) | Qualification Allowance Commercial Cookery Basic Certificate | | |
| 6 | 10(vi)(b) | Hotel & Restaurant Cookery Certificate | 16.30 | 16.70 |
| 7 | 12(iv) | Meal Money | 8.70 | 8.90 |
| 8 | 10(ix) | Authorised Supervisor | 42.10 Weekly 8.50 daily | 43.20 Weekly 8.70 daily |

Note: The rates at Table 1A, Table 1B, Table 1C and Table 2 reflect the adjustments made to the wage and wage related allowances of the awards listed in Annexure B to the orders made in the State Wage Case 2020.

APPENDIX A

RECORD OF CASUAL EMPLOYMENT

EMPLOYEE'S RECORD TO BE MAINTAINED BY EMPLOYEE

1. Name:
2. Number of years of training:
3. Name of qualification:
4. Year of attainment of this qualification:

| Period of engagement (from date to date) | No. of days/hours worked in total, classification; years trained & step | Name, address & telephone number of Centre | Signed by Centre Director (signature, date & name) |
|---|--|--|--|
| | | | |
| | | | |
| | | | |

APPENDIX B

PARENTAL LEAVE

Set out below are the provisions relating to Parental Leave contained in Part 4, Chapter 2, of the *Industrial Relations Act 1996*.

Division 1 - Parental Leave Generally

53. Employees to Whom Part Applies

This Part applies to all employees, including part time employees, but does not apply to casual or seasonal employees.

54. Entitlement to Unpaid Parental Leave

- (1) An employee is entitled to a total of 52 weeks unpaid parental leave in connection with the birth or adoption of a child, as provided by this Part.
- (2) Parental leave is not to extend beyond 1 year after the child was born or adopted.

Note: See also Part 5 relating to entitlements to part time work agreements.

55. What is Parental Leave?

- (1) For the purposes of this Part, parental leave is maternity leave, paternity leave or adoption leave.

- (2) Maternity leave is taken by a female employee in connection with the pregnancy or the birth of a child of the employee. Maternity leave consists of an unbroken period of leave.
- (3) Paternity leave is leave taken by a male employee in connection with the birth of a child of the employee or of the employee's spouse. Paternity leave consists of:
 - (a) an unbroken period of up to one week at the time of the birth of the child or other termination of the pregnancy (short paternity leave), and
 - (b) a further unbroken period in order to be the primary care-giver of the child (extended paternity leave).
- (4) Adoption leave is leave taken by a female or male employee in connection with the adoption by the employee of a child under the age of 5 years (other than a child who has previously lived continuously with the employee for a period of at least 6 months or who is a child or step child of the employee or of the employee's spouse). Adoption leave consists of:
 - (a) an unbroken period of up to 3 weeks at the time of the placement of the child with the employee (short adoption leave), and
 - (b) a further unbroken period in order to be the primary care giver of the child (extended adoption leave).
- (5) For the purposes of this Part, spouse includes a de facto spouse.

Note: Employees are also entitled to special maternity leave for recovery from a termination of pregnancy or illness related to pregnancy (section 71) and to special adoption leave up to 2 days to attend interviews or examinations for the purposes of adoption (section 72). The requirement of unbroken periods of leave is subject to section 63 (employee and employer may agree to interruption of parental leave by return to work).

56. This Part Provides Minimum Entitlements

- (1) This Part sets out the minimum entitlements of employees to parental leave.
- (2) The provisions of an industrial instrument, contract of employment or other agreement (whether made or entered into before or after the commencement of this Part) do not have effect to the extent that they provide an employee with a benefit that is less favourable to the employee than the benefit to which the employee is entitled under this Part.

57. Length of Service for Eligibility

- (1) An employee is entitled to parental leave only if the employee has had at least 12 months of continuous service with the employer.
- (2) Continuous service is service under one or more unbroken contracts of employment, including:
 - (a) any period of authorised leave or absence, and
 - (b) any period of part time work.

Note: Under Part 8 of this Chapter a period of service in the business of a former employer counts as service with a new employer to whom the business concerned has been transferred.

58. Notices and Documents Required to be Given to Employer

- (1) Maternity Leave

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

- (a) The employee should give a least 10 weeks' written notice of the intention to take the leave.
- (b) The employee must, at least 4 weeks before proceeding on leave, give written notice of the dates on which she proposes to start and end the period of leave.
- (c) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that she is pregnant and the expected date of birth.
- (d) The employee must, before the start of leave, provide a statutory declaration by the employee stating, if applicable, the period of any paternity leave sought or taken by her spouse.

(2) Paternity Leave

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

- (a) In the case of extended paternity leave, the employee should give at least 10 weeks' written notice of the intention to take the leave.
- (b) The employee must, at least 4 weeks before proceeding on leave, give written notice of the dates on which he proposes to start and end the period of leave.
- (c) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that his spouse is pregnant and expected date of birth.
- (d) In the case of extended paternity leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:
 - (i) if applicable, the period of any maternity leave sought or taken by his spouse, and
 - (ii) that he is seeking that period of extended paternity leave to become the primary care giver of a child.

(3) Adoption Leave

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

- (a) In the case of extended adoption leave, the employee should give written notice of any approval or other decision to adopt a child at least 10 weeks before the expected date of placement.
- (b) The employee must give written notice of the dates on which the employee proposes to start and end the period of leave, as soon as practicable after the employee is notified of the expected date of placement of the child but at least 14 days before proceeding on leave.
- (c) The employee must, before the start of leave, provide a statement from an adoption agency or another appropriate body of the expected date of placement of the child with the employee for adoption purposes.
- (d) In the case of extended adoption leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:

- (i) if applicable, the period of any adoption leave sought or taken by his or her spouse, and
 - (ii) that the employee is seeking that period of extended adoption leave to become the primary care giver of a child.
- (4) An employee does not fail to comply with this section if the failure was caused by:
 - (a) the child being born (or the pregnancy otherwise terminating) before the expected date of birth, or
 - (b) the child being placed for adoption before the expected date of placement, or if it was not otherwise reasonably practicable to comply in the circumstances.

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

- (5) An employee must notify the employer of any change in the information provided under this section within 2 weeks after the change.
- (6) If required by the employer, an employee who applies for parental leave is to give the employer a statutory declaration, or enter into an agreement with the employer, that for the period of the leave the employee will not engage in any conduct inconsistent with the employee's contract of employment.

59. Continuity of Service

- (1) Parental leave does not break an employee's continuity of service, but is not to be taken into account in calculating an employee's period of service for any purpose.
- (2) However, parental leave counts as service for any purpose authorised by law or by any industrial instrument or contract of employment.

60. Parents not to take Parental Leave at the same time

- (1) An employee is not entitled to parental leave at the same time as his or her spouse is on parental leave under this Part.
- (2) If this section is contravened the period of parental leave to which the employee is entitled under this Part is reduced by the period of leave taken by his or her spouse.
- (3) This section does not apply to short paternity leave or short adoption leave.

61. Cancellation of Parental Leave

- (1) Before Starting Leave

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

- (a) the employee withdraws the application for leave by written notice to the employer, or
- (b) the pregnancy concerned terminates other than by the birth of a living child or the placement of the child concerned does not proceed.

(2) After Starting Leave

If:

- (a) the pregnancy of an employee or an employee's spouse terminates other than by the birth of a living child while the employee or spouse is on parental leave, or
- (b) the child in respect of whom an employee is then on parental leave dies, or
- (c) the placement of a child for adoption purposes with an employee then on adoption leave does not proceed or continue, the employee is entitled to resume work at a time nominated by his or her employer within 2 weeks after the date on which the employee gives his or her employer a notice in writing stating that the employee intends to resume work and the reason for the intended resumption.

(3) Special Leave not Affected

This section does not affect an employee's entitlement to special maternity leave under section 71.

62. Parental Leave and Other Leave

- (1) An employee may take any annual leave or long service leave (or any part of it) to which the employee is entitled instead of or in conjunction with parental leave.
- (2) However, the total period of leave cannot be so extended beyond the maximum period of parental leave authorised by this Part.
- (3) Any paid sick leave or other paid absence authorised by law or by an industrial instrument or contract of employment is not available to an employee on parental leave, except if the paid absence is annual leave or long service leave or with the agreement of the employer.

63. Employee and Employer may agree to Interruption of Parental Leave by Return to Work

- (1) An employee on parental leave may, with the agreement of the employer, break the period of leave by returning to work for the employer, whether on a full time, part time or casual basis.
- (2) The period of leave cannot be extended by such a return to work beyond the maximum period of leave authorised by this Part.
- (3) Nothing in this section affects any other work undertaken by the employee during parental leave.

Note: - Section 58(6) requires the employee when taking parental leave to provided the employer with a statutory declaration, or enter into an agreement with the employer, that the employee will not engage during leave in any conduct inconsistent with the employee's contract.

64. Extension of Period of Parental Leave

- (1) An employee may extend the period of parental leave once only by giving the employer notice in writing of the extended period at least 14 days before the start of the extended period. The period of leave cannot be extended by such a notice beyond the maximum period of leave authorised by this Part.
- (2) An employee may extend the period of parental leave at any time with the agreement of the employer. The period of leave can be extended by such an agreement beyond the maximum period of leave authorised by this Part.
- (3) This section applies to an extension of leave while the employee is on leave or before the employee commences leave.

65. Shortening of Period of Parental Leave

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

66. Return to Work after Parental Leave

- (1) An employee returning to work after a period of parental leave is entitled to be employed in:
 - (a) the position held by the employee immediately before proceeding on that leave, or
 - (b) if the employee worked part time because of the pregnancy before proceeding on maternity leave - the position held immediately before commencing that part time work, or
 - (c) if the employee was transferred to a safe job under section 70 before proceeding on maternity leave - the position held immediately before the transfer.
- (2) If the position no longer exists but there are other positions available that the employee is qualified for and is capable of performing, the employee is entitled to be employed in a position as nearly as possible comparable in status and pay to that of the employee's former position.
- (3) This section extends to a female employee returning to work after a period of leave under section 71 (special maternity leave and sick leave).
- (4) An employer who does not make available to an employee a position to which the employee is entitled under this section is guilty of an offence.

Maximum penalty: 100 penalty units.

Note: - An employee returning to work after parental leave may also have an entitlement to work part time under an industrial instrument or a part time work agreement under Part 5.

Division 2 - Miscellaneous Provisions

67. Employer's Obligations

- (1) Information to employees on becoming aware that an employee (or an employee's spouse) is pregnant, or that an employee is adopting a child, an employer must inform the employee of:
 - (a) the employee's entitlements to parental leave under this Part, and
 - (b) the employee's obligations to notify the employer of any matter under this Part.

An employer cannot rely on an employee's failure to give a notice or other document required by this Part unless the employer establishes that this subsection has been complied with in relation to the employee.

- (2) Records an employer must keep, for at least 6 years, a record of parental leave granted under this Part to employees and all notices and documents given under this Part by employees or the employer.

Maximum penalty: 20 penalty units.

68. Termination of Employment Because of Pregnancy or Parental Leave

- (1) An employer must not terminate the employment of an employee because:

- (a) the employee or employee's spouse is pregnant or has applied to adopt a child, or
- (b) the employee or employee's spouse has given birth to a child or has adopted a child, or
- (c) the employee has applied for, or is absent on, parental leave, but otherwise the rights of an employer in relation to termination of employment are not affected by this Part.

Maximum penalty: 100 penalty units.

- (2) For the purposes of establishing such a termination of employment, it is sufficient if it is established that the alleged reason for termination was one of two or more reasons for termination.
- (3) This section does not affect any other rights of a dismissed employee under this or any other Act or under any industrial instrument or contract of employment, or the rights of an industrial organisation representing such an employee.

Note: A dismissed employee may also make a claim under Part 6 (unfair dismissals).

69. Replacement Employees

- (1) A replacement employee is a person who is specifically employed as a result of an employee proceeding on parental leave (including as a replacement for an employee who has been temporarily promoted or transferred in order to replace the employee proceeding on parental leave).
- (2) Before a replacement employee is employed, the employer must inform the person of the temporary nature of the employment and of the rights of the employee on parental leave to return to work.

Maximum penalty: 50 penalty units.

- (3) A reference in this section to an employee proceeding on parental leave includes a reference to a pregnant employee exercising a right under section 70 to be transferred to a safe job.

70. Transfer to a Safe Job

- (1) This section applies whenever the present work of a female employee is, because of her pregnancy or breastfeeding, a risk to the health or safety of the employee or of her unborn or new born child. The assessment of such a risk is to be made on the basis of a medical certificate supplied by the employee and of the obligations of the employer under the *Occupational Health and Safety Act 1983*.
- (2) The employer is to temporarily adjust the employee's working conditions or hours of work to avoid exposure to that risk.
- (3) If such an adjustment is not feasible or cannot reasonably be required to be made, the employer is to transfer the employee to other appropriate work that:
 - (a) will not expose her to that risk and
 - (b) is as nearly as possible comparable in status and pay to that of her present work.
- (4) If such a transfer is not feasible or cannot reasonably be required to be made, the employer is to grant the employee maternity leave under this Part (or any available paid sick leave) for as long as is necessary to avoid exposure to that risk, as certified by a medical practitioner.
- (5) An employer who does not comply with any obligation imposed on the employer by this section is guilty of an offence.

Maximum penalty (subsection (5)): 50 penalty units.

71. **Special Maternity Leave and Sick Leave** If the pregnancy of an employee terminates before the expected date of birth (other than by the birth of a living child), or she suffers illness related to her pregnancy, and she is not then on maternity leave:
- (a) the employee is entitled to such period of unpaid leave (to be known as special maternity leave) as a medical practitioner certifies to be necessary before her return to work, or
 - (b) the employee is entitled to such paid sick leave (either instead of or in addition to special maternity leave) as she is then entitled to and as a medical practitioner certifies to be necessary for her return to work.
72. **Special Adoption Leave** An employee who is seeking to adopt a child is entitled to up to 2 days unpaid leave if the employee requires that leave to attend compulsory interviews or examinations as part of the adoption procedure.

KINDERGARTENS, &c, (STATE) INDUSTRIAL COMMITTEE

Industries and Callings

All persons employed in or in connection with child care, child minding centres, day nurseries and pre-school kindergartens in the State, excluding the County of Yancowinna; excepting -

Persons employed as teachers or teachers in training but not excepting unqualified teachers' aides, helpers or assistants;

Persons employed as teachers' aides in pre-school kindergartens and nurseries within the grounds of public schools;

Persons employed by the Department of Corrective Services;
Drivers of vehicles;

Employees of all city, municipal, shire and county councils;

Employees in child minding centres in public hospitals;

and excepting also employees within the jurisdiction of the following Conciliation Committees -

Private Hospital Employees (State);

Trained Nurses, &c. Other Than In Hospitals, &c, (State);

Voluntary Care Association Employees (State).

D. SLOAN, *Commissioner*

Printed by the authority of the Industrial Registrar.

TRANSPORT INDUSTRY - GENERAL CARRIERS CONTRACT DETERMINATION 2017

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 77087 of 2022)

Before Commissioner Sloan

12 April 2022

VARIATION

1. Insert after Schedule H - Superannuation Contribution Arrangements, in the arrangement of the contract determination published 24 August 2020 (387 I.G. 924) the following new Schedule I:

Schedule I - Temporary Fuel Surcharge

2. Insert after Schedule H - Superannuation Contribution Arrangements the following Schedule I:

SCHEDULE I - TEMPORARY FUEL SURCHARGE

1. APPLICATION

- 1.1 This Schedule applies to all Contracts of Carriage to which Part 4 of this Determination applies, other than Contracts of Carriage performed by a Light Vehicle.

2. BACKGROUND

- 2.1 This Schedule was introduced by the IRC in Matter No. 2022/77087 as a temporary measure to respond to significant fluctuations in the price of fuel arising from the war in Ukraine and the temporary inability for Contract Carriers to claim fuel tax credits.

3. THE SURCHARGE

- 3.1 In addition to all other amounts set out in this Determination, a Principal Contractor must pay a Contract Carrier an additional amount (the Temporary Fuel Surcharge).
- 3.2 For pay periods commencing between 18 April 2022 and 16 May 2022, the Temporary Fuel Surcharge shall be:

| Vehicle Carrying Capacity | Surcharge (per km) |
|---|-----------------------|
| Rigid-carrying capacity over 3 and including 5 tonnes | \$0.11 |
| Rigid-carrying capacity over 5 and including 8 tonnes | \$0.18 |
| Rigid-carrying capacity over 8 and including 10 tonnes | \$0.27 |
| Rigid-carrying capacity over 10 and including 12 tonnes | \$0.27 |
| Rigid-carrying capacity over 12 and including 14 tonnes | \$0.27 |
| Rigid-carrying capacity over 14 tonnes or more | \$0.34 |
| Single Axle Prime Mover | \$0.34 |
| Bogie Axle Prime Mover | \$0.42 |

- 3.3 Where Schedule C (which deals with waterfront and container depots) applies to a Contract of Carriage, the Principal Contractor may elect to pay the following Temporary Fuel Surcharge in lieu of the amount in clause 3.2:

| Vehicle Carrying Capacity | Surcharge (per km) |
|---|-------------------------------|
| Rigid-carrying capacity over 8 and including 10 tonnes | \$3.72 |
| Rigid-carrying capacity over 10 and including 12 tonnes | \$3.72 |
| Rigid-carrying capacity over 12 and including 14 tonnes | \$3.72 |
| Rigid-carrying capacity over 14 tonnes or more | \$4.77 |
| Single Axle Prime Mover | \$4.79 |
| Bogie Axle Prime Mover | \$5.81 |

4. REVIEW

- 4.1 The Temporary Fuel Surcharge shall be reviewed on a monthly basis.
- 4.2 The Temporary Fuel Surcharge shall be calculated by updating the fuel component of the Cost Model with the mean of all weekly retail diesel prices (NSW State Average) published by the Australian Institute of Petroleum for weeks ending in the prior calendar month.
- 4.3 Parties shall calculate the Temporary Fuel Surcharge and provide the results to the IRC by the second Monday of each calendar month.
- 4.4 The revised Temporary Fuel Surcharge will apply from the third Monday in each calendar month.
- 4.5 As the Temporary Fuel Surcharge responds to fluctuations in fuel prices, it may increase or decrease from time to time.

5. OTHER PROVISIONS

- 5.1 The Temporary Fuel Surcharge may be offset by any payments made to a Contract Carrier in excess of the amounts prescribed elsewhere in this Determination.
- 5.2 Leave is reserved for any party to apply to vary the operation of this Schedule in circumstances where the Principal Contractor:
- (a) provides the Contract Carrier with fuel, either for free or at a cost below the prevailing market rate;
 - (b) directly reimburses the Contract Carrier for some or all of their fuel costs; or
 - (c) otherwise compensates the Contract Carrier for their fuel costs.
3. This variation will take effect on 18 April 2022.

D. SLOAN, Commissioner.