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INDUSTRIAL GAZETTE

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CONTENTS

Vol. 383, Part 4

14 December 2018

Pages 1082 — 1493

		Page
Awards and Determinations —		
Crown Employees (Fire & Rescue NSW Tradespersons) Award 2018	AIRC	1082
Crown Employees (Fire & Rescue NSW Tradespersons) Award 2018	VIRC	1117
Health Employees' (State) Award 2018	AIRC	1128
Health Employees' Conditions of Employment (State) Award 2018	AIRC	1146
Hospital Scientists (State) Award	AIRC	1206
Operational Ambulance Managers (State) Award	AIRC	1246
Operational Ambulance Officers (State) Award	AIRC	1276
Public Hospital Career Medical Officers (State) Award 2017	AIRC	1321
Public Hospital Medical Officers (State) Award 2017	AIRC	1353
Public Hospitals (Medical Superintendents) Award 2017	AIRC	1383
Public Hospitals (Professional and Associated Staff) Conditions of Employment (State) Award 2017	AIRC	1414
Staff Specialists (State) Award 2018	AIRC	1453
INDEX FOR VOLUME 383		1491
END OF VOLUME 383 OF THE N.S.W. INDUSTRIAL GAZETTE		

NEW SOUTH WALES

INDUSTRIAL GAZETTE

Printed by the authority of the Industrial Registrar

CROWN EMPLOYEES (FIRE & RESCUE NSW TRADESPERSONS) AWARD 2018

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Fire and Rescue NSW.

(Case No. 2018/200964)

Before Chief Commissioner Kite

13 July 2018

AWARD

Arrangement

PART A

Clause No.	Subject Matter
1.	Definitions
2.	Hours
3.	Payment of Wages
4.	Rates of Pay
5.	Parties Bound
6.	Savings of Rights
7.	Relationship to Acts/Awards for Apprenticeships
8.	Union Subscriptions
9.	Fleet Tradespersons Multi-skilling
10.	Additional Wage Rates
11.	Team Leader Allowance and Higher Duties
12.	Technician Allowance
13.	Authorised Heavy Vehicle Allowance
14.	On Call Allowance
15.	Trade Employees Working Together
16.	Tool Allowance
17.	Apprentice Tool Loan
18.	Fire Equipment Allowance
19.	Apprentice to Tradesperson
20.	Special Rates
21.	Maintenance of Existing Service and Personal Allowances
22.	Overtime and Penalty Rates
23.	Meal Allowance
24.	Travelling Time and Fares
25.	Travelling Expenses
26.	Annual Leave
27.	Annual Leave Loading
28.	Holidays
29.	Rostered Days Off
30.	Long Service Leave
31.	Sick Leave
32.	Bereavement Leave
33.	Clothing
34.	Insurance of Tools
35.	Procedure on Charge
36.	Higher Grade Pay

37. Anti-Discrimination
38. Term of Employment
39. Grievance and Dispute Resolution Procedures
40. Personal/Carer's Leave - August 1996
41. Maternity Leave
42. Parental Leave
43. Adoption Leave
44. Family and Community Service Leave
45. Trade Union Leave
46. Supplementary Labour
47. Salary Packaging Arrangements
48. Workplace Reform Program
49. Calculations
50. No Extra Claims
51. Area, Incidence and Duration

PART B

MONETARY RATES

Table 1 - Wages

Table 2 - Other Rates and Allowances - from the Crown
Employees (New South Wales Fire Brigades -
Maintenance, Construction and Miscellaneous Staff)
Award

Table 3 - Allowances - from NSW Fire Brigades Maintenance
and Miscellaneous Staff Enterprise Agreement 2008

PART A

1. Definitions

"Commissioner" means the Commissioner of Fire & Rescue NSW (FRNSW) holding office as such under the *Government Sector Employment Act 2013*.

The Industrial Relations Secretary means the employer for industrial purposes pursuant to the *Government Sector Employment Act 2013*.

"Discharge" means termination of service with FRNSW as a consequence of retrenchment, reorganisation or shortage of work or other reason for which the employer may not be entirely responsible.

"Dismissed" means termination of service with FRNSW for inefficiency, neglect of duty, or misconduct.

"Employee" means all persons who are permanently or temporarily employed under the *Government Sector Employment Act 2013* and who, as at the operative date of this Award, occupy one of the positions covered by this Award, or who, after that date, are appointed to or employed in one of such positions.

"Fire Vehicle Repairer" this classification is an amalgamation of the following classifications: Automotive Electrical; Motor Mechanic; Painter (Vehicle); Fitter and Body Maker. Each of the individual classifications receive an appropriate tool allowance in addition to the wage for a Fire Vehicle Repairer.

"FRNSW" or "Employer" means Fire & Rescue NSW.

"Headquarters" means any office, workshop, store, depot, or other place of employment at which an employee is regularly required to work or from which the employee's work is directly controlled and to which the employee has been attached.

"Resignation" means voluntarily leaving the service of FRNSW.

"Skilled Trades Award" means the Crown Employees (Skilled Trades) Award.

"Union" means the:

Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch;

Electrical Trades Union of Australia, New South Wales Branch;

New South Wales Fire Brigade Employees Union; and

Construction, Forestry, Mining and Energy Union (New South Wales Branch)

having regard for their respective coverage.

2. Hours

- 2.1 The ordinary working hours of employees shall not exceed 38 hours per week, to be worked not exceeding 8 hours per day, as determined by FRNSW.
- 2.2 The ordinary working hours of cleaners shall not exceed 35 hours per week, to be worked in shifts not exceeding 8 hours per day, as determined by FRNSW.
- 2.3 FRNSW may require an employee to perform duty beyond the hours determined under subclause 2.1 of this clause but only if it is reasonable for the employee to be required to do so. An employee may refuse to work additional hours in circumstances where the working of such hours would result in the employee working unreasonable hours. In determining what is unreasonable the following factors shall be taken into account:
 - 2.3.1 the employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements,
 - 2.3.2 any risk to employee health and safety,
 - 2.3.3 the urgency of the work required to be performed during additional hours, the impact on the operational commitments of the organisation and the effect on client services,
 - 2.3.4 the notice (if any) given by FRNSW regarding the working of the additional hours, and by the employee of their intention to refuse the working of additional hours, or
 - 2.3.5 any other relevant matter.

3. Payment of Wages

- 3.1 All wages shall be paid fortnightly and payment shall be into a bank account specified by the employee, or other financial institutions acceptable to FRNSW and Unions.
- 3.2 Wages shall be paid not later than Thursday in any pay week.

4. Rates of Pay

- 4.1 Adult Employees - The minimum weekly rate of pay for each classification shall be as expressed in Table 1 - Wages, of Part B, Monetary Rates, and is payable for all purposes of the Award. This amount incorporates the following; Basic Wage, Margins, Special Loadings, Trades Allowance and Industry Allowance.
- 4.2 Juniors - The unapprenticed juniors employed by FRNSW shall be paid the following percentages of the appropriate classifications:

Age	Percentage per week (%)
At 17 years of age and under	55
At 18 years of age	67.5
At 19 years of age	80
At 20 years of age	92.5

5. Parties Bound

- 5.1 This Award is binding upon the Industrial Relations Secretary and Fire & Rescue NSW and the following industrial organisations of employees:

Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch;

Electrical Trades Union of Australia, New South Wales Branch;

New South Wales Fire Brigade Employees Union; and

Construction, Forestry, Mining and Energy Union (New South Wales Branch).

6. Savings of Rights

- 6.1 Except as provided for by this Award, no employee shall suffer a reduction in the employee's rate of pay or any loss or diminution of the employee's conditions of employment as a consequence of the amalgamation of the NSW Fire Brigades Maintenance and Miscellaneous Staff Enterprise Agreement 2008 and the Crown Employees (New South Wales Fire Brigades - Maintenance, Construction and Miscellaneous Staff) Award.

7. Relationship to Acts/Awards for Apprenticeships

- 7.1 In regards to Apprentices, this Award shall also be read and interpreted in conjunction with:
- 7.1.1 the *Apprenticeship and Traineeship Act 2001*, provided that where there is any inconsistency between this Act and this Award, the Act shall prevail to the extent of any inconsistency.
- 7.2 The Skilled Trades Award (as defined) provided that where there is any inconsistency between this Award and the Skilled Trades Award, this Award shall prevail to the extent of any inconsistency.

8. Union Subscriptions

- 8.1 The Department agrees, subject to prior written authorisation by an employee, to deduct Union subscriptions from the pay of the authorising employee, in accordance with Treasury Guidelines.

9. Fleet Tradespersons Multi-Skilling

- 9.1 Following the provision of adequate in-house training where necessary, all classifications shall be required to undertake a range of appropriate cross-classification activities, within statutory limitations.
- 9.2 Employees shall be required to undertake such cross-classification activities in order to complete the whole job or when there is insufficient work in an employee's normal classification or where the re-allocation of staff is required to meet Departmental emergencies.
- 9.3 The final responsibility for all such cross-classification activities shall remain with the classification historically responsible for those activities. Notwithstanding this provision any employee who undertakes cross-classification activities in terms of subclause 9.1 is required to carry out those activities in a responsible and competent manner.

- 9.4 While Apprentice Training Shall be Principally Focused on Those Activities Specific to Each Apprentice's Trade Classification, the Department Shall, Where Possible, Coordinate and Make Available Work of a Similar Nature and Skill to that Contained in the Modules Studied from Time to Time By the Apprentice as Part of Their External Technical and Further Education Studies.
- 9.5 The work of a 'similar nature and skill' referred to in subclause 9.4, shall where appropriate be made available to Apprentices for the purposes of overtime.
- 9.6 Employees will identify and select spare parts as required from the store during normal work hours and after hours. When using parts from the store the employees will record parts usage, utilizing the systems provided which may be written or electronic. Where necessary employees will provide information as required to assist in parts identification and provide the part number itself with reference to manuals - paper and electronic.
- 9.7 Appliance servicing will continue in Station on a State-wide basis.

10. Additional Wage Rates

- 10.1 Electricians - An electrician who is the holder of a New South Wales electrician's licence shall be paid the amounts set in Item 1 of Table 2.
- 10.2 Lead Burner - The ordinary rates for lead burners shall be calculated by adding to the rate prescribed for journeyman plumbers in this Award the sum set in Item 2 of Table 2.
- 10.3 Plumber - The ordinary rates of wages for employees in each of the undermentioned classifications shall be calculated by adding to the rate prescribed in clause 4, Rates of Pay, the amounts set in Table 2 in relation to the following:
- 10.3.1 When required to act on a Plumber's licence, as set out in Item 3 of Table 2.
- 10.3.2 When required to act on a Gasfitter's licence, as set out in Item 4 of Table 2.
- 10.3.3 When required to act on a Drainer's licence, as set out in Item 5 of Table 2.
- 10.3.4 When required to act on a Plumber's and Gasfitter's licence, as set out in Item 6 of Table 2.
- 10.3.5 When required to act on a Plumber's and Drainer's licence, as set out in Item 7 of Table 2.
- 10.3.6 When required to act on a Gasfitter's and Drainer's licence, as set out in Item 8 of Table 2.
- 10.3.7 When required to act on a Plumber's, Gasfitter's and Drainer's licence, as set out in Item 9 of Table 2.
- 10.4 A plumber or drainer who may be required by FRNSW to act on any of the above licences during the course of employment is entitled to be paid at the rate per hour mentioned in this clause for every hour of employment whilst liable to be called upon by the FRNSW to act on the licence or licences whether the employee has in any hour in fact acted on such licence or not.
- 10.5 Electric Welding Certificate - A plumber being the holder of a Office of Industrial Relations, Department of Commerce, oxy-acetylene or electric welding certificate who may be required by the employer to act on either of the certificates during the course of his or her employment shall be entitled to be paid for every hour of employment on work the nature of which is such that is done by or under the supervision of the holder of a certificate or while not performing but supervising such work the sum set in Item 10 of Table 2 per hour for each certificate in addition to rates for journeyman plumber in this Award.
- 10.6 Computing Quantities - Employees, excluding Team Leaders and charge hands, who are regularly required to compute or estimate quantities or materials in respect to the work performed by other employees shall be paid an additional amount in Item 11 of Table 2, per day or part thereof.

- 10.7 A plumber and/or gasfitter and/or drainer who is or will be required to be the holder of a certificate of registration shall be paid the amount in Item 12 of Table 2 per hour in addition to the ordinary rate of pay. This allowance shall be paid for all purposes of the Award with the exception of clause 22, Overtime and Penalty Rates, in which case it shall be paid as a flat rate.

11. Team Leader Allowance and Higher Duties

- 11.1 The Team Leader Allowance as provided for in Table 3 of this Award is in compensation for an employee being appointed as the supervisor of a section. Additionally, Team Leaders are required to undertake planning and scheduling activities as well as provide monthly section reports to the Operations Manager.
- 11.2 An employee covered under this Award engaged for more than half of one day or shift, on duties carrying a higher rate than employee's ordinary classification or entitling the employee to a Team Leader allowance, shall be paid the higher rate or allowance, as the case may be, for such day or shift. If for less than one half of one day or shift, the employee shall be paid the higher rate or allowance, as the case may be, for the time so worked; provided that if an employee is required to act as Team leader at the commencement of a day or shift, the employee shall be paid the appropriate allowance for the whole of such day or shift.

12. Technician Allowance

- 12.1 The Technician Allowance as provided for in Table 3 of this Award is payable when an employee is rostered to work on the aerial component of a fire appliance.

13. Authorised Heavy Vehicle Allowance

- 13.1 An Authorised Heavy Vehicle Inspectors allowance is paid to employees covered under this Award who have successfully completed the Transport Roads and Maritime Services training course and therefore have been issued with a Heavy Vehicle Inspectors Number.
- 13.2 The Heavy Vehicle Inspectors allowance is provided for in Table 3 of this Award and is paid on a daily basis. The allowance is paid irrespective of the number of inspections undertaken. There is no allowance payable per each inspection undertaken. This allowance is subject to incremental adjustment linked to percentage increases in adjustments to rates of pay.

14. On Call Allowance

- 14.1 An On Call Allowance is paid to employees covered under this Award who are working On Call as part of the normal roster or have been directed to work On Call. The On Call roster requires employees to be on call for 7 days per week outside normal work hours. Minimum payment for emergency recall to duty shall be for four hours at appropriate penalty rates.
- 14.2 The On Call allowance is provided for in Table 3 of this Award and is paid on a daily basis with rate variation between normal work days, week-ends and public holidays. This allowance is subject to incremental adjustment linked to percentage increases in adjustments to rates of pay.

15. Trade Employees Working Together

- 15.1 Where two or more trade employees of the same class work together without a technical supervisor and/or responsibility the tradesperson in charge shall in addition to all other payments to which the employee is entitled under this Award be paid per hour at the rate of 1/38 of the rate prescribed by clause 11, Team Leader Allowance.

16. Tool Allowance

- 16.1 Employees of any of the following classifications shall be paid in addition to all other payments to which they are entitled under this Award, a Tool Allowance of the amount per week assigned to the classification as set out in the Tool Allowance Table of Table 3 - Allowances.

Classification

Bodymaker
Motor Mechanic
Painter(Vehicle)
Panel Beater
Automotive Electrician
Electronic Technician
Instrument Maker
Radio Mechanic
Telephone Mechanic
Fitter
Electronic Tradesperson

Apprentices

Motor Mechanic
Automotive Electrician
Fitter
Electronic Technician

17. Apprentice Tool Loan

- 17.1 All new Apprentices to whom clause 5, Tool Allowance, of the Skilled Trades Award (as defined) applies, shall be entitled to apply to the Department for a zero interest loan up to the value of \$1500.00?, for the purpose of equipping themselves, with the pre-requisite tools and equipment for their classification.
- 17.2 On behalf of each new Apprentice, the Department will purchase the required tools and equipment from the Department's recommended supplier.
- 17.3 The selection of tools and equipment shall be those identified by the Department or the Team Leader in charge of the Apprentice.
- 17.4 Upon commencement of employment, each Apprentice shall be issued with the pre- requisite tools and equipment for their trade classification. On receipt of the tool issue, title and ownership of the tools shall become the responsibility of the Apprentice.
- 17.5 Repayment of the loan shall be recouped by the Department, from the Apprentice's weekly tool allowance entitlement. The repayment amount shall equate to the maximum value of the weekly tool allowance entitlement as prescribed by this Award and or clause 5 of the Skilled Trades Award (as defined), as varied.
- 17.6 If for any reason, an Apprentice's employment is terminated prior to full repayment of the loan, the Apprentice shall be liable to repay to the Department the outstanding balance of the loan owing. In this regard, the Department shall be entitled to deduct from the Apprentice's termination payments the value of any outstanding loan.

18. Fire Equipment Allowance

- 18.1 This allowance only applies to Tradespersons in the Fleet and Communications Section.
- 18.1.1 Employees with a minimum of twelve (12) months continuous service covered by this Award shall be paid a fire equipment allowance as set out in Table 3 of this Award, as varied by the provisions of subclause 18.1.2.
- 18.1.2 Apprentices covered by this Award shall be entitled to be paid at the Non-Trades Staff rate of the allowance as set out in Table 3 of this Award after a minimum of twelve (12) months continuous service.

19. Apprentice to Tradesperson

- 19.1 An Apprentice who completes a full four year apprenticeship with FRNSW and then is appointed as a Tradesperson, will commence payment as a Fire Vehicle Repairer at the Thereafter rate of pay.

20. Special Rates

- 20.1 In addition to the wages and allowances prescribed by - clauses 4, Rates of Pay; 10, Additional Wage Rates; 11, Team Leader Allowance; 15, Trade Employees Working Together and 16, Tool Allowance - the following special rates and allowances shall be paid to employees.

20.1.1 Confined Spaces - Working in a place the dimensions or nature of which necessitates working in a stooped or cramped position or without sufficient ventilation; the amount set out in Item 1 of Special Rates in Table 3.

20.1.2 Dirty Work - Work which a Team Leader and tradesperson agree is of a dirty or offensive nature by comparison with the work normally encountered in the trade concerned and for which no other special rates are prescribed shall be paid for by an additional amount at the rate set out in Item 2 of Special Rates in Table 3, above the rate prescribed by this Award.

- 20.2 In the case of disagreement between the Team Leader and tradesperson the latter shall be entitled within 12 hours to ask for a decision on his/her claim by the employer, his/her industrial officer, manager, superintendent or engineer. In such a case a decision shall be given on the worker's claim within 24 hours of it being asked for (unless the time expires on a non-working day, in which case it shall be given on the next working day) or else the said rate shall be paid. In any case where the union is dissatisfied with the decision of the employer, his/her industrial officer, manager or engineer shall have the right to bring such case before the Industrial Relations Commission of New South Wales.

- 20.3 Height Pay -

20.3.1 Employees, working at a height of 7.5 metres from the ground, deck, floor or water shall be paid the amounts set out in Item 3 of Special Rates in Table 3. Height shall be calculated from where it is necessary for the employee to place his hands or tool in order to carry out the work to such ground, deck, floor or water. For the purposes of this subclause, deck or floor means a substantial structure which, even though temporary, is sufficient to protect an employee from falling any further distance. Water level means in tidal waters mean water level. This subclause shall not apply to an employee working on a suitable scaffold erected in accordance with the *Scaffolding and Lifts Act 1912*. An additional amount set in Item 4 of Special Rates in Table 3 shall be paid for every metre beyond that specified in Item 3 of Special Rates in Table 3.

20.3.2 Plasterers required to work on a swing scaffold shall be paid the amount also set out in Item 13 of Special Rates in Table 2.

- 20.4 Hot Places - Working in the shade in places where the temperature is raised by artificial means to between 46 degree Celsius and 54 degree Celsius and places where the temperature exceeds 54 degree Celsius, the amounts set in Item 14 of Special Rates in Table 2. Where work continues for more than two hours in temperatures exceeding 54 degree Celsius, employees shall also be entitled to 20 minutes' rest after every two hours' work without deduction of pay. The temperature shall be decided by the foreman of the work after consultation with the employees who claim the extra rate.

- 20.5 Insulation Material - Employees working in any room or similar area or in any confined (unventilated) space where pumice or other recognised insulating material is being used in insulating work shall be paid the amount set in Item 5 of Special Rates in Table 3, or if the insulating materials be silicate, the amount also set in Item 6 of Special Rates in Table 3, whether they are actually handling such materials or not; provided that such insulating material shall include granulated cork but shall not include cork board or materials contained in unbroken packages.

20.6 Wet Places -

- 20.6.1 An employee working in a place where water other than rain is falling so that his or her clothing shall be appreciably wet and/or water, oil or mud underfoot is sufficient to saturate his/her boots shall be paid the amount set in Item 15 of Special Rates in Table 2, per hour extra; provided that this extra rate shall not be payable in respect of the disabilities provided for in clause 4.1, Industry Allowance, of this Award; nor to an employee who is provided with suitable and effective protective clothing and/or footwear. An employee who becomes entitled to this extra rate shall be paid such rate for such part of the day or shift as he/she is required to work in wet clothing or boots.
- 20.6.2 Where a plumber is required to work in the rain, the plumber shall be paid the amount also set in Item 16 of Special Rates in Table 2, per hour extra for time so worked.
- 20.6.3 An employee called upon to work knee deep in mud or water, shall be paid at the rate also set in Item 17 of Special Rates in Table 2, per day in addition to the ordinary rates of pay prescribed for each day or portion thereof so worked; proved that this subclause shall not apply to an employee who is provided with suitable protective clothing and/or footwear.
- 20.7 Swinging Scaffolds - A payment as set out in Item 18 of Special Rates in Table 2, for the first four hours or any portion thereof, and an additional amount also set in Item 18 of Special Rates in Table 2 for each hour thereafter on any day shall be made to any persons employed:
- 20.7.1 On any type of swing scaffold or any scaffold suspended by rope or cable, bosun's chair, etc.
- 20.7.2 On a suspended scaffold requiring the use of steel or iron hooks or angle irons at a height of 6 metres or more above the nearest horizontal plane.
- 20.8 Provided that solid plasterers when working off a swing scaffold shall receive an additional amount, also set in Item 19 of Special Rates in Table 2, per hour.
- 20.9 Spray Applications - An employee engaged on all spray applications carried out in other than a properly construction booth, approved by the Department of Industrial Relations, shall be paid the amount set in Item 7 of Special Rates in Table 3, per hour extra.
- 20.10 Roof Work - Employees engaged in the fixing or repairing of a roof or any other work in excess of 12 metres from the nearest floor level shall be paid the amount set out in Item 20 of Special Rates in Table 2 per hour extra with a minimum payment also set out in Item 20.
- 20.11 Electric Welding Plumbers - A plumber engaged on electric welding applicable to plumbing shall be paid the amount in Item 21 of Special Rates in Table 2, per hour extra for the time so worked.
- 20.12 Explosive Powered Tools - Employees required to use explosive powered tools shall be paid the amount set in Item 22 of Special Rates in Table 2.
- 20.13 Scaffolding Rigging - An employee who is the holder of a scaffolding or rigging certificate issued by the Office of Industrial relations, Department of Commerce, and is required to act on that certificate whilst engaged on work requiring a certificated employee shall be paid an additional amount set out in Item 23 of Special Rates in Table 2.
- 20.14 Extra Rates not Cumulative - When more than one of the above rates provide payment for disabilities of substantially the same nature then only the highest of such rates shall be payable.
- 20.15 Rates not Subject to Penalty Provisions - The special rates herein prescribed shall be paid irrespective of the time at which the work is performed and shall not be subject to any premium or penalty additions.

20.16 Distant Places -

- 20.16.1 All employees working in districts west and north of and excluding State Highway No. 17 from Tocomwal to Gilgandra, State highway No. 11 from Gilgandra to Tamworth, Trunk Road No. 63 from Yetman and State Highway No. 16 to Boggabilla up to the Western Division boundary and excluding the municipalities through which the road passes shall be paid the amount set out in Item 24 of Special Rates in Table 2, extra per day.
- 20.16.2 All employees working in the Western Division of the State shall be paid the amount also set in Item 24 of Special Rates in Table 2 extra per day.
- 20.16.3 All employees working within the area bounded by and inclusive of the Snowy River from the New South Wales border to Dalgety, thence by road directly from Dalgety to Berridale and on to the Snowy Mountains Highway at Adaminaby thence to Blowering, thence by a line drawn from Blowering southwest to Welarewang, and on to the Murray River, thence in a southeasterly direction along the New South Wales border to the point of commencement shall be paid the amount also set in Item 24 of Special Rates in Table 2 extra per day or part thereof.

20.17 Applying Obnoxious Substances -

- 20.17.1 An employee engaged in either the preparation and/or the application of epoxy based materials or materials of a like nature shall be paid the amount set in Item 8 of Special Rates in Table 3, per hour extra.
- 20.17.2 In addition, employees applying such materials in buildings which are normally air conditioned shall be paid the amount also set in Item 9 of Special Rates in Table 3, per hour extra for any time worked when the air conditioning plant is not operating.
- 20.17.3 Where there is an absence of adequate natural ventilation, the employer shall provide ventilation by artificial means and/or supply an approved type of respirator and in addition protective clothing shall be supplied where recommended by the NSW Department of Health.
- 20.17.4 Employees working in close proximity to employees so engaged shall be paid the amount also set in Item 10 of Special Rates in Table 3 per hour extra.
- 20.17.5 For the purposes of this clause, all materials which include or require the addition of a catalyst hardener and reactive additives or two pack catalyst system shall be deemed to be materials of a like nature.

20.18 Painters shall be paid the amount in Item 25 of Special Rates in Table 2, per hour for burning off paint and applying the first coat.

20.19 Asbestos Eradication -

- 20.19.1 Application - This subclause shall apply to employees engaged in the process of asbestos eradication on the performance of work within the scope of this Award.
- 20.19.2 Definition - Asbestos eradication is defined as work on or about building, involving the removal or any other method of neutralisation of any materials which consist of, or contain, asbestos.
- 20.19.3 Control - All aspects of asbestos eradication work shall be conducted in accordance with the N.S.W. *Occupational Health and Safety Act 2000*, the Occupational Health and Safety (Asbestos Removal Work) Regulation 1996 and the N.S.W. *Construction Safety Act 1912* Regulations concerning construction work involving asbestos and asbestos cement.

- 20.20 Rate of Pay - in addition to the rates prescribed in this Award an employee engaged in asbestos eradication (as defined) shall receive the amount set in Item 11 worked in lieu of Special Rates in Table 3, per hour of special rates as prescribed in clause 20, Special Rates, with the exception of subclauses 20.4, Hot Places, 20.7, Swinging Scaffold and 20.9, Spray Applications (Item 6 of Special Rates in Table 3).
- 20.21 Other Conditions - The conditions of employment, rates and allowances, except so far as they are otherwise specified in this subclause shall be the conditions of employment, rates and allowances of the Award, as varied, from time to time.
- 20.22 Chokages - If an employee is employed upon any chokage and is required to open up any soil pipe, waste pipe, drain pipe, or pump conveying offensive material or a scupper containing sewage or is required to work in a septic tank in operation the employee shall be paid an additional amount set out in Item 26 of Special Rates in Table 2 per day or part of a day.

21. Maintenance of Existing Service and Personal Allowances

- 21.1 An employee covered by this Award who at the date this Award took effect was employed by FRNSW and who was then being paid a service allowance and/or personal allowance shall continue to be paid such service allowance and/or personal allowance in addition to all other payments to which the employee is entitled under this Award so long as the employee remains subject to the provisions of this Award.
- 21.2 Such service and personal allowance shall be part of the weekly wage of the employee for all purposes of this Award.
- 21.3 Except as provided by paragraph 21.1, of this clause no employee of the FRNSW covered by this Award shall be paid any service allowance.

22. Overtime and Penalty Rates

- 22.1 Subject as otherwise provided in this Award, all time worked in excess of the ordinary weekly hours of work shall be overtime and shall be paid for at the rate of time and one-half for the first 2 hours, and double time thereafter.
- 22.2 Each day shall stand alone for the purpose of computation of overtime pursuant to this paragraph.
- 22.3 All time worked on a Saturday shall be at the rate of time and one-half for the first 2 hours and double time thereafter, provided that where in any case of emergency an employee called out for work after 12 noon on Saturday shall be paid at the rate of double time.
- 22.4 All time worked on a Sunday shall be at the rate of double time and all time worked on a Public Holiday shall be at the rate of double time and one-half.
- 22.5 For the purpose of computing the hourly rate the weekly rate shall be divided by the number of ordinary hours per week prescribed for each employee.
- 22.6 An employee required to work 2 hours or more overtime immediately after the usual ceasing time shall be allowed a meal break of 20 minutes, which shall be paid for at the appropriate overtime rate.
- 22.7 The meal break shall be taken at the commencement of the overtime period or later by mutual arrangement with the officer for the time being in charge and the employee.
- 22.8 An employee working overtime shall be allowed a meal break of 20 minutes to be paid for at the appropriate overtime rate, after each 4 hours of overtime actually worked, provided that the employee is required to work at least a further 1 hour after the said 4 hours actually worked.

- 22.9 An employee whose ordinary hours do not include Saturday or Sunday or a public holiday shall be allowed meal breaks with pay only in respect of time worked outside what would be the usual hours of duty on an ordinary working day.
- 22.10 Call back - Minimum payment for emergency recall to duty shall be for four hours at appropriate penalty rates.
- 22.11 An employee may be directed by the FRNSW to work overtime, provided it is reasonable for the employee to be required to do so. An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
- 22.11.1 the employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements,
 - 22.11.2 any risk to employee health and safety,
 - 22.11.3 the urgency of the work required to be performed during overtime, the impact on the operational commitments of the organisation and the effect on client services,
 - 22.11.4 the notice (if any) given by the FRNSW regarding the working of the overtime, and by the employee of their intention to refuse overtime, or
 - 22.11.5 any other relevant matter.

23. Meal Allowance

- 23.1 An employee required to work overtime for one and a half hours or more shall be paid the amount set in Item 1 of Meal Allowance in Table 3 for a meal and after the completion of each four hours on continuous overtime shall be paid the amount also set in Item 2 of Meal Allowance in Table 3 for each subsequent meal in addition to his overtime payment, but such payment need not be made to employees living in the same locality as their place of work who can reasonably return home for meals.
- 23.2 An employee whose ordinary hours do not include a Saturday or Sunday or public holiday, shall receive the meal allowance prescribed by this clause when the time is worked outside what would be the usual hours of duty on an ordinary working day.

24. Travelling Time and Fares

- 24.1 An employee shall be required to proceed to his headquarters and to return to his or her home at ordinary starting and ceasing time at least once on each ordinary working day in the employee's own time and expense.
- 24.2 An employee other than an employee classified as a builder's labourer and who is required to work temporarily or is transferred to work temporarily at a point distant from his or her headquarters shall be paid travelling time for such period at the rate set out in Item 1 of Travelling Time and Other Fares in Table 3 for each day to compensate for excess fares and travelling time to and from places or work, provided that the allowance shall not be payable if the employer provides or offers to provide transport free of charge to the employee in which case an allowance also set in Item 2 of Travelling Time and Other Fares in Table 3 per day shall be paid.
- 24.3 An employee classified as a labourer-builder shall be paid the amount also set in Item 1 of Travelling Time and Other Fares in Table 3 per day as a fare allowance and travelling allowance for travel patterns and costs peculiar to the industry which includes mobility requirements on employees and the nature of employment on construction work.
- 24.4 Subject to the foregoing provisions, a fare shall be deemed to have been incurred if the employee has used a bicycle or other means of locomotion or has walked instead of using public conveyance.

- 24.5 Excess travelling time and fares shall not be payable in the case of an employee permanently transferred or appointed to a new headquarters, in which case the new location shall become headquarters for the purpose of this clause from the date of attachment to the new location.
- 24.6 Where an employee is sent during working hours from one location to another, the FRNSW shall pay all travelling time and fares incurred in addition to the amount it may be liable to pay under this clause.

25. Travelling Expenses

- 25.1 An employee while travelling upon the business of FRNSW away from their accustomed workshop shall be paid:
- 25.1.1 Reasonable expenses incurred for accommodation and meals whilst so travelling.
- 25.1.2 The cost actually incurred for travel by aircraft, rail, road, boat or otherwise.
- 25.1.3 Vouchers shall show the employee's movements on each day and state times of his or her departure and arrival.
- 25.1.4 Travelling expenses to be incurred pursuant to this clause shall, if requested, be paid to the employee concerned in cash on the last working day prior to departure.
- 25.1.5 The meal, accommodation and incidental allowances expressed in NSW Treasury Circulars will be adjusted on 1 July regardless of the date of the issuing of the Circular by the NSW Treasury.. The amounts will be in line with the corresponding allowance amounts for the appropriate financial year published by the Australian Taxation Office (ATO).

26. Annual Leave

- 26.1 Every employee shall be entitled to four weeks leave of absence, exclusive of public holidays, on the completion of each 12 months service, such leave shall be taken within 6 months after it becomes due, and reasonable notice be given by either party when leave is to commence. This clause governs the time in which past Annual Leave accrual should be taken with the exception provided for in clause 26.8. In other words, an employee should work towards taking their Annual Leave from the year before in the first 6 months of the following year, however if there are reasons to the satisfaction of the employee and management of why this cannot be accomplished, then clause 26.8 provides for flexibility.
- 26.2 Where an employee with one or more months' service but less than 12 months' service is discharged, dismissed, resigns, retires or dies, the employee or their legal personal representative shall be paid for each completed week of service an amount equal to one-twelfth of the employee's ordinary weekly rate payable at the date of the termination of service.
- 26.3 After the first completed year of service annual leave shall accrue at the rate of one and two-third days for each completed month of service.
- 26.4 The Annual Leave provisions of clause 31, General Leave Conditions and Accident Pay, of the Skilled Trades Award (as defined), shall apply, as varied by the provision of subclauses 26.5, 26.6, 26.7 and 26.8, to all employees covered by this Award.
- 26.5 Annual Leave shall be taken in accordance with the roster as in 26.6, with the following exceptions:
- 26.5.1 Where an employee is taking Personal Carers leave in line with the provisions of the Award.
- 26.5.2 Where an employee can give 5 working days notice when not on a rostered on call position or the Lube Service Vehicle and the minimum staffing levels can be maintained.
- 26.5.3 Where an employee can organize a shift swap if they are rostered on call or on the Lube Service vehicle provided minimum staffing levels can be maintained.

- 26.6 Annual Leave shall be taken in block periods, the shortest of which not being less than five (5) sequential working days in duration. The block periods shall, in any one year, comply with one of the formats outlined as follows:
- 26.6.1 one block period of four weeks duration; or
- 26.6.2 one block period of three weeks duration followed later by one block period of one weeks duration; or
- 26.6.3 one block period of one weeks duration followed later by one block period of three weeks duration; or
- 26.6.4 one block period of two weeks duration followed later by another one block period of two weeks duration; or
- 26.6.5 four block periods of one weeks duration.
- 26.7 Annual Leave shall be taken in accordance with the roster.
- 26.8 The parties agree to jointly work towards reducing each employees accrual of Annual Leave to the accumulation of twenty (20) days plus the current years entitlement. The only exceptions being, in the case of family emergencies, or with prior notification of a planned extended holiday.

27. Annual Leave Loading

- 27.1 Employees shall be granted an annual leave loading equivalent to 17 1/2 per cent of four weeks' ordinary salary or wages.
- 27.2 The full entitlement to the loading on annual leave that the employee has accrued over the previous leave year is to be paid to the employee on the first occasion sufficient annual leave is taken to permit an absence from duty of at least two consecutive weeks after 1 December in any year.
- 27.3 The loading will apply only to leave accrued in the year ending the preceding 30 November, up to a maximum of four weeks. Leave and salary records are then to be endorsed to indicate that payment of the annual leave loading for the year ended 30 November previous has been made.
- 27.4 In the event of no such absence occurring by 30 November of the following year, the employee being still employed, is to be paid the monetary value of the annual leave loading payable on leave accrued as at 30 November to the previous leave year notwithstanding that the employee has not entered on leave. The leave and salary records are to be endorsed to indicate that payment of the annual leave loading for the previous leave year has been made.
- 27.5 There shall be a leave year ending 30 November in every year. The above scheme will first apply to leave taken on or after 1 December 1974, being leave accrued during the 12 month period to 30 November 1974.
- 27.6 The annual leave loading is not payable when an employee is granted annual leave to the employee's credit, or the monetary value thereof, on resignation, retirement, termination of employment, dismissal, etc.
- 27.7 Broken service during a year does not attract the annual leave loading, e.g., if an employee resigns and is subsequently re-employed during the same year, only the service from the date of re-employment attracts the annual leave loading, subject to the foregoing conditions.
- 27.8 Rate of Payment - The annual leave loading is to be calculated on the salary or wage rate paid for the leave when taken, i.e., new rates granted by Award, agreement, determination, national wage case decision, increment, etc., during the period of leave are to be taken into account unless otherwise prescribed by Award or agreement and, if necessary, retrospective adjustment of the loading is to be made. Where payment is made as at 30 November, because no period of two weeks leave has been

taken during the year, the payment is to be calculated at the rate which would have been paid had the leave been taken at 30 November.

- 27.9 Provided adequate notice is given, the annual leave loading will be paid prior to entry on leave, normally at the same time as the advance on salary or wages.
- 27.10 In the case of an employee sent on annual leave pending an inquiry into the employee's services, the annual leave loading is not to be paid.
- 27.11 Retrospective payments will be made to employees who have qualified to receive payment of the annual leave loading since 1 December 1974.

28. Holidays

- 28.1 Subject to subclause (ii) of this clause, the days on which New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Bank Holiday (in lieu of picnic days), Labour Day, Christmas Day, Boxing Day and/or specially proclaimed holidays in any year are observed shall be holidays. An employee shall be entitled to these holidays without loss of pay.
- 28.2 An employee who is absent from duty without reasonable cause on the working day prior to and/or the working day following any holiday shall not be entitled to payment for such holiday.

29. Rostered Days Off

- 29.1 The Rostered Day Off ("RDO") provisions of clause 2, Hours-Day Workers, of the Skilled Trades Award, (as defined) shall apply to all employees employed in the Communications Section. The same provisions, but as varied by the provisions of subclauses 29.2, 29.3, 29.4 & 29.5, shall apply to all other employees covered by this Award.
- 29.2 RDO shall be taken in accordance with the roster. Those staff who are on call and therefore work on the RDO day as part of the roster will normally take their RDO on the following Monday when they are off call.
- 29.3 RDO are to be taken as and when they fall due. There is no provision for the accumulation of untaken days. Under exceptional circumstances, and with prior approval, the clearing of the RDO day may be delayed.
- 29.4 Appropriate records will be kept by the Department of the dates on which each employee takes a RDO. Such records will be available for perusal by the employee on request.
- 29.5 Where an employee is asked and elects to work on the pre-determined RDO, in accordance with subclause 2.1 of clause 2, Hours-Day Workers, of the Skilled Trades Award (as defined), the compensation paid in accordance with subclause 2.5 of the said clause 2 (i.e. Saturday rates), shall be the employee's only entitlement for working on the RDO.

30. Long Service Leave

- 30.1 Long Service Leave, calculated from the date of appointment to the service, shall accrue in accordance with the following entitlement:
- 30.1.1 After service for 10 years, leave for 2 months on full pay or 4 months on half pay.
- 30.1.2 After service in excess of 10 years:
- 30.1.2.1 leave pursuant to paragraph (a), of this subclause; and
- 30.1.2.2 in addition, an amount of leave proportionate to the length of service after 10 years

- 30.1.3 Long Service Leave shall not include annual leave but shall include public holidays occurring during the period when such leave is taken.
- 30.2 Where the service of an employee with at least 5 years' service and less than 7 years' service is terminated by FRNSW for any reasons or by the employee on account of illness, incapacity or domestic or other pressing necessity, the employee shall be entitled after 5 years' service to one month's leave on full pay and for service after 5 years', to a proportionate amount of leave on full pay calculated on the basis of 3 months leave for 15 years' service.
- 30.3 In the event of the death of an employee the value of long service leave due shall be paid to such dependants as FRNSW shall determine.
- 30.3.1 In the event of the termination of the employment of an employee for any reason other than death the money value of long service leave due to the employee shall be paid to such employee as a gratuity.
- 30.3.2 Long service leave as provided by this clause, shall, subject to the exigencies of the service, be granted by the FRNSW as and when such leave becomes due (i.e. after 7 years) or at any time thereafter; provided that notice in writing of intention to take such leave shall be given to the FRNSW by the employee concerned at least 30 days before the date on which the employee desires that such leave should commence.
- 30.4 Notwithstanding anything elsewhere provided by this clause:
- 30.4.1 employees may apply to take pro-rata Long Service leave after the completion of (7) years of service. Additionally employees with such service shall be entitled to pro-rata Long Service leave on resignation or termination.
- 30.4.2 employees may apply to take a period of Long Service leave at double pay provided that:
- 30.4.2.1 The additional payment will be made as a non-superable taxable allowance payable for the period of the absence from work.
- 30.4.2.2 The employees' leave balance will be debited for the actual period of the absence from work and an equivalent number of days as are necessary to pay the allowance.
- 30.4.2.3 Other leave entitlements, e.g. recreation leave, sick leave and Long Service leave will accrue at the single time rate where an employee takes Long Service leave at double time.
- 30.4.2.4 Superannuation contributions will only be made on the basis of the actual absence from work, i.e. at that single time rate.
- 30.4.3 Where a public holiday falls during a period of Long Service leave the employee shall be paid for that day and additionally it shall not be deducted from the period of leave.
- 30.4.4 In respect of public holidays that fall during a period of double pay Long Service leave an employee will not be debited in respect of the leave on a public holiday. The employees leave balance will however be reduced by an additional day to fund the non-superable taxable allowance.

31. Sick Leave

- 31.1 An employee shall be allowed 15 working days sick leave with pay within each 12 months period of entitlement; provided, however, that all such sick leave in excess of two days within each period shall only be granted on the submission of a medical certificate which shall be to the satisfaction of FRNSW.

- 31.2 Sick leave not taken shall be cumulative to a maximum period of 120 days but payment of the monetary equivalent of sick leave not taken shall not be made.
- 31.3 Where an employee with ten or more years' service has taken all sick leave entitlement, FRNSW may, at its discretion, grant further sick leave with or without pay.

32. Bereavement Leave

- 32.1 In no way restricting the right of FRNSW to grant leave for compassionate reasons in other circumstances, an employee shall, on the death within Australia of a wife, husband, parent, brother, sister, child, stepchild, grandparent, parent-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law or grandchild, be entitled, on notice, to leave up to and including the day of the funeral of such relation and such leave shall be without deductions of pay for a period not exceeding two ordinary working days. Proof of such death, shall, if requested, be furnished by the employee to the satisfaction of FRNSW; provided, however, that this clause shall have operation whilst the period of entitlement to leave under it coincides with any other period of entitlement to leave.
- 32.2 For the purpose of this clause, the words "wife" and "husband" shall include a person who lives with the employee as a de facto spouse.
- 32.3 Bereavement entitlements for casual employees
- 32.3.1 Subject to the evidentiary and notice requirements in clause 32.1 casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 41.1.3.2 of clause 40, Personal/Carers Leave.
- 32.3.2 The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- 32.3.3 An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

33. Clothing

- 33.1 Clothing, tools or any articles issued to employees shall be worn or used only in the course of their duties.
- 33.2 Clothing or other articles shall be issued to such employee as FRNSW approves where in its opinion such clothing or article is necessary for:
- 33.2.1 Uniformity of appearance,
- 33.2.2 Protection against material which destroy or damage ordinary clothing,
- 33.2.3 Protection against weather, and
- 33.2.4 Protection against injury to the employee
- 33.3 An employee shall be responsible for the care and upkeep of any clothing issued and new clothing shall not be issued until the previous clothing has been returned to the store and its loss satisfactorily accounted for.
- 33.4 An employee shall also be responsible for tools, equipment and other articles issued or for their loss or damage through misuse or negligence.

- 33.5 An employee shall replace any such clothing, tools, equipment or other articles so lost or damaged through the employee's misuse or negligence or pay such amount in respect thereof which the FRNSW shall determine.
- 33.6 Where full uniform is supplied by FRNSW and is required to be worn by an employee and such uniform becomes soiled or damaged in the execution of duty so as to require dry cleaning or repairs, such dry cleaning and repairs shall be done at the expense of the FRNSW.

34. Insurance of Tools

- 34.1 In respect of those employees entitled under this Award to a tool allowance FRNSW shall insure, and shall keep insured against loss or damage by fire whilst on the employer's premises, such tools of the employee which are used by him/her in the course of his/her employment. The employee shall if requested to do so furnish FRNSW with a list of his/her tools so used.
- 34.2 Any such employee shall be entitled to be reimbursed for the loss of tools up to the value set out in Item 1 of Insurance of Tools of Table 3, provided such tools are lost by theft from a breaking and entering outside working hours while the tools are stored at the FRNSW's direction on the job.

35. Procedure on Charge

- 35.1 When an employee is summoned to appear before a Senior Officer or before FRNSW on a charge, appeal, or other formal inquiry not being a preliminary investigation, the employee shall be given particulars; in writing, of the charge or allegation if any, against the employee at least 48 hours before the hearing of the charge or appeal or the opening of the said inquiry and shall be allowed access, personally or by a representative duly authorised by the employee in writing to all or any of the official papers, correspondence or reports of the FRNSW relating to the charge, appeal or subject to the said inquiry.
- 35.2 The employee also shall be allowed to give and call evidence on the employee's own behalf and to hear all evidence given.
- 35.3 If an employee so requests, the employee may be represented by an Officer of the union before such senior officer of the FRNSW on all such occasions.
- 35.4 No adverse report about an employee shall be placed among the records or papers relating to the employee or noted thereupon unless the employee concerned shall have been shown the said report which shall be evidenced by the employee's signature thereupon unless the employee refuses to sign in which case the union shall be notified by the FRNSW in writing within seven days of such refusal, and shall have been given an opportunity of replying to the report. If the employee so desires a reply shall be in writing, which, together with the adverse report, also shall be placed amongst the records or papers relating to the employee or shall be noted thereupon.
- 35.5 Where FRNSW has for its own purpose caused a transcript copy of proceedings on a charge, appeal or formal inquiry to be taken, a copy of such transcript shall be supplied, free of cost, to the employee concerned, if during the hearing or at the termination of the proceedings a request therefore in writing is made by the employee.
- 35.5.1 After the Senior Officer has announced the recommendation or when the FRNSW has made its decision as the result of a charge or an appeal the employee concerned shall be informed thereof in writing within 7 days after such announcement or decision has been made or has been given as the case may be.

36. Higher Grade Pay

- 36.1 An employee engaged for more than half of one day or shift on duties carrying a higher rate than the employee's ordinary classification or entitling the employee to a Team Leader Allowance shall be paid the higher rate or allowance as the case may be for such day or shift. If for less than one half of one day or shift the employee shall be paid the higher rate or allowance as the case may be for the time so

worked; provided that if an employee is required to act as Team Leader at the commencement of a day or shift the employee shall be paid the appropriate allowance for the whole of such day or shift.

- 36.2 Employees covered under this Award, who are engaged on duties in a classification appearing in the Crown Employees (Public Sector - Salaries 2008) Award, or successor, carrying a higher rate than the employee's ordinary classification, will be paid a higher duties allowance on a day by day basis (regardless of how many days such employee was acting in the higher graded position). This includes an employee who is on-call on a Saturday or Sunday, that is, the higher duties allowance is payable whilst on-call on a weekend. Such higher duties allowance is payable at 7 hours per day only.

37. Anti-Discrimination

- 37.1 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.

- 37.2 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 this Award which, by its terms or operation, has a direct or indirect discriminatory effect.

- 37.3 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.

- 37.4 Nothing in this clause is to be taken to affect:

37.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;

37.4.2 offering or providing junior rates of pay to persons under 21 years of age;

37.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;

37.4.4 a party to this Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

- 37.5 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.

37.5.1 Employers and employees may also be subject to Commonwealth Anti-Discrimination legislation.

37.5.2 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."

38. Term of Employment

- 38.1 An employee shall give to FRNSW and FRNSW shall give to an employee one week's notice of termination of employment, such notice to be given from a normal pay day. This, shall not affect the right of FRNSW to dismiss any employee without notice for inefficiency, neglect of duty or misconduct and in such cases wages shall be paid up to the time of dismissal only.

- 38.2 For the purposes of meeting the needs of the industry, FRNSW may require any employee to work reasonable overtime, including work on Saturdays, Sundays and public holidays at the rate prescribed in

this Award, and unless reasonable excuse exists the employee shall work in accordance with such requirements.

38.3 In the event of wet weather, no deduction from wages shall be made subject to the following conditions:

38.3.1 An employee shall continue working until such time as the officer in charge orders the employee to cease work.

38.3.2 An employee shall stand by as directed by the officer in charge.

38.3.3 An employee shall report for duty as directed.

38.4 The absence of an employee from work for a continuous period exceeding five working days without the consent of the employer and without notification to the employer shall be prima facie evidence that the employee has abandoned employment.

38.5 Provided that if within a period of 14 days from the employee's last attendance at work or the date of the employee's last absence in respect of which notification has been given or consent has been granted an employee has not established to the satisfaction of the FRNSW that the absence was for reasonable cause, the employee shall be deemed to have abandoned employment.

38.6 Termination of employment by abandonment in accordance with this subclause shall operate as from the date of the last attendance at work or the last day's absence in respect of which consent was granted, or the date of the last absence in respect of which notification was given to the employer, whichever is the later.

38.6.1 No payment in respect of wages, annual leave or long service leave shall be assigned or charged to any person but shall be paid to the employee entitled thereto, or may be paid to the employee entitled thereto, or may be paid to a person authorised by the employee to receive the same.

38.6.2 FRNSW shall be entitled to deduct out of an employee's wages such sum as the employee requests in writing in respect of contributions or payments for purposes approved by FRNSW.

39. Grievance and Dispute Resolution Procedures

39.1 All grievances and disputes relating to the provisions of this Award shall initially be dealt with as close to the source as possible, with graduated steps for further attempts at resolution at higher levels of authority within the appropriate Department, if required.

39.2 A staff member is required to notify in writing their immediate manager, as to the substance of the grievance, dispute, or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.

39.3 The immediate manager shall convene a meeting in order to resolve the grievance, dispute or difficulty within two (2) working days, or as soon as practicable, of the matter being brought to attention.

39.4 If the matter remains unresolved with the immediate manager, the staff member may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager shall respond within two (2) working days, or as soon as practicable. This sequence of reference to successive levels of management may be pursued by the staff member until the matter is referred to the Commissioner.

39.5 The Commissioner may refer the matter to the Industrial Relations Secretary for consideration.

39.6 If the matter remains unresolved, the Commissioner shall provide a written response to the staff member and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.

39.7 A staff member, at any stage, may request to be represented by their Union.

- 39.8 The staff member or the Union on their behalf, or the Commissioner may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 39.9 The staff member, Union, FRNSW and Industrial Relations Secretary shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- 39.10 Whilst the procedures outlined in subclauses 39.1 to 39.9 of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or, in the case involving occupational health and safety, if practicable, normal work shall proceed in a manner which avoids any risk to the health and safety of any staff member or member of the public.

40. Personal/Carer's Leave - August 1996

40.1 Use of Sick Leave -

40.1.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 40.1.3.2 who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 21 of the Award, for absences to provide care and support, for such persons when they are ill. Such leave may be taken for part of a single day.

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

40.1.3 The entitlement to use sick leave in accordance with this subclause is subject to:

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

40.1.3.2 the person concerned being:

40.1.3.2.1 a spouse of the employee; or

40.1.3.2.2 a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person 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

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

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

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

(i) "relative" means a person related by blood, marriage or affinity;

(ii) "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and

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

- 40.1.4 An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
- 40.2 Unpaid Leave for Family Purpose -
- 40.2.1 An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in 1.1.3(ii) above who is ill.
- 40.3 Annual Leave -
- 40.3.1 An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
- 40.3.2 Access to annual leave, as prescribed in paragraph 40.3.1 above, shall be exclusive of any shutdown period provided for elsewhere under this Award.
- 40.3.3 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.
- 40.3.4 An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
- 40.4 Time Off in Lieu of Payment for Overtime -
- 40.4.1 An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.
- 40.4.2 Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is, an hour for each hour worked.
- 40.4.3 If, having elected to take time as leave in accordance with paragraph 40.4.1 above, the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.
- 40.4.4 Where no election is made in accordance with paragraph 40.4.1, the employee shall be paid overtime rates in accordance with the Award.
- 40.5 Make-up Time -
- 40.5.1 An employee may elect, with the consent of the 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.
- 40.5.2 An employee on shift work may elect, with the consent of the employer to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.
- 40.6 Rostered Days Off -
- 40.6.1 An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- 40.6.2 An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.

- 40.6.3 An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.
- 40.6.4 This subclause is subject to the employer informing each union which is both party to the Award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.
- 40.7 Personal Carers Entitlement for casual employees -
- 40.7.1 Subject to the evidentiary and notice requirements in 40.1.2 and 40.1.4 casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 40.1.3.2 of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- 40.7.2 The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- 40.7.3 An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

41. Maternity Leave

- 41.1 A staff member who is pregnant shall, subject to this clause, be entitled to be granted maternity leave as follows:
- 41.1.1 for a period up to 9 weeks prior to the expected date of birth; and
- 41.1.2 for a further period of up to 12 months after the actual date of birth.
- 41.2 A staff member who has been granted maternity leave may, with the permission of the Department Head, take leave after the actual date of birth:
- 41.2.1 full-time for a period of up to 12 months; or
- 41.2.2 part-time for a period of up to 2 years; or
- 41.2.3 as a combination of full-time and part-time over a proportionate period of up to 2 years.
- 41.3 A staff member who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- 41.4 A staff member who resumes duty before her child's first birthday or on the expiration of 12 months from the date of birth of her child shall be entitled to resume duty in the position occupied by her immediately before the commencement of maternity leave, if the position still exists.
- 41.5 If the position occupied by the staff member immediately prior to maternity leave has ceased to exist, but there are other positions available that the staff member is qualified for and is capable of performing, the staff member shall be appointed to a position of the same grade and classification as the staff member's former position, subject to the mobility provisions of the *Government Sector Employment Act 2013*.
- 41.6 A staff member who:

- 41.6.1 applied for maternity leave within the time and in the manner determined by the Department Head; and
- 41.6.2 prior to the expected date of birth, completed not less than 40 weeks' continuous service, shall be paid at her ordinary rate of pay for a period not exceeding 14 weeks, or 28 weeks at half pay, or the period of maternity leave taken, whichever is the lesser period.
- 41.7 Except as provided in paragraph (f) of this subclause, maternity leave shall be granted without pay.

42. Parental Leave

- 42.1 A staff member is entitled to take parental leave in respect of each pregnancy of the spouse or partner as follows:
- 42.1.1 short parental leave - an unbroken period of one week at the ordinary rate of pay, or 2 weeks at half pay at the time of the birth of the child or other termination of the spouse's or partner's pregnancy;
- 42.1.2 extended parental leave - for a period not exceeding 12 months, less any short parental leave already taken by the staff member as provided for in subparagraph (1) of paragraph (a) of this subclause in order to assume the primary care giving responsibilities.
- 42.2 Extended parental leave may commence at any time up to 2 years from the date of birth of the child.
- 42.3 A staff member who has been granted parental leave may, with the permission of the Department Head, take such leave:
- 42.3.1 full-time for a period not exceeding 12 months; or
- 42.3.2 part-time over a period not exceeding 2 years; or
- 42.3.3 partly full-time and partly part-time over a proportionate period of up to 2 years.
- 42.4 A staff member who resumes duty immediately on the expiration of parental leave shall:
- 42.4.1 if the position occupied by the staff member immediately before the commencement of that leave still exists, be entitled to be placed in that position; or
- 42.4.2 if the position occupied by the staff member has ceased to exist, but there are other positions available that the staff member is qualified for and is capable of performing, the staff member shall be appointed, to a position of the same grade and classification as the staff member's former position, subject to the mobility provisions of the *Public Sector Employment and Management Act 2002*.
- 42.5 Except as provided in paragraph (a) (1) of this subclause, parental leave shall be granted without pay.
- 42.6 Refer to the *Industrial Relations Act 1996 (NSW)*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996 (NSW)*.
- 42.7 An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
- 42.7.1 the employee or employee's spouse is pregnant; or
- 42.7.2 the employee is or has been immediately absent on parental leave.
- 42.7.3 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.

- 42.8 Right to request - An employee entitled to parental leave may request the employer to allow the employee:
- 42.8.1 to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
 - 42.8.2 to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - 42.8.3 to return from a period of parental leave on a part-time basis until the child reaches school age;
 - 42.8.4 to assist the employee in reconciling work and parental responsibilities.
 - 42.8.5 The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
 - 42.8.6 Employee's request and the employer's decision to be in writing. The employee's request and the employer's decision made under 42.8.2 and 42.8.4 must be recorded in writing.
 - 42.8.7 Request to return to work part-time - Where an employee wishes to make a request under 42.8.4 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.
 - 42.8.8 Communication during parental leave - Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
 - 42.8.8.1 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
 - 42.8.8.2 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.
 - 42.8.8.3 The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
 - 42.8.8.4 The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

43. Adoption Leave

- 43.1 A staff member adopting a child and who will be the primary care giver shall be entitled to be granted adoption leave:
- 43.1.1 for a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
 - 43.1.2 for such period, not exceeding 12 months on a full-time basis, as the Department Head may determine, if the child has commenced school at the date of the taking of custody.

- 43.2 A staff member who has been granted adoption leave may, with the permission of the Department Head, take leave:
- 43.2.1 full-time for a period not exceeding 12 months; or
 - 43.2.2 part-time over a period not exceeding 2 years; or
 - 43.2.3 partly full-time and partly part-time over a proportionate period of up to 2 years.
- 43.3 Adoption leave shall commence on the date that the staff member takes custody of the child concerned, whether that date is before or after the date on which a court makes an order for the adoption of the child by the staff member.
- 43.4 A staff member who resumes duty immediately on the expiration of adoption leave shall:
- 43.4.1 if the position occupied by the staff member immediately before the commencement of that leave still exists, be entitled to be placed in that position; or
 - 43.4.2 if the position so occupied by the staff member has ceased to exist, but there are other positions available that the staff member is qualified for and is capable of performing, the staff member shall be appointed, to a position of the same grade and classification as the staff member's former position, subject to the mobility provisions of the *Government Sector Employment Act 2013*
- 43.5 A staff member who will be the primary care giver from the date of taking custody of the adopted child shall be entitled to payment at the ordinary rate of pay for a period not exceeding 14 weeks, or 28 weeks at half pay of adoption leave or the period of adoption leave taken, whichever is the lesser period if the staff member:
- 43.5.1 applied for adoption leave within the time and in the manner determined by the Department Head; and
 - 43.5.2 prior to the commencement of adoption leave, completed not less than 40 weeks' continuous service.
- 43.6 With the exception of subclause 43.5, adoption leave shall be granted without pay.
- 43.7 Special Adoption Leave - A staff member shall be entitled to special adoption leave without pay for up to 2 days to attend interviews or examinations for the purposes of adoption. Special adoption leave may be taken as a charge against recreation leave, extended leave, flexitime or family and community service.

44. Family and Community Service Leave

- 44.1 The Department Head shall grant to an employee some or all of the available family and community service leave on full pay, for reasons relating to family responsibilities, performance of community service or emergencies.
- 44.2 Such cases may include but not be limited to the following:
- 44.2.1 compassionate grounds - such as the death or illness of a close member of the family or a member of the employee's household;
 - 44.2.2 emergency accommodation matters up to one day, such as attendance at court as defendant in an eviction action, arranging accommodation, or when required to remove furniture and effects;
 - 44.2.3 emergency or weather conditions, such as when flood, fire or snow or disruption to utility services etc. threaten property and/or prevent an employee from reporting for duty;

- 44.2.4 attending to family responsibilities such as citizenship ceremonies, parent/teacher interviews or attending child's school for other reasons;
- 44.2.5 attendance at court by an employee to answer a charge for a criminal offence, only if the Department Head considers the granting of family and community service leave to be appropriate in a particular case;
- 44.2.6 attendance at a competitor in major amateur sport (other than Olympic or Commonwealth Games) for staff members who are selected to represent Australia or the State; and
- 44.2.7 absence during normal working hours to attend meetings, conferences or to perform other duties, for an employee holding office in Local Government, and whose duties necessitate absence during normal working hours for these purposes, provided that the employee does not hold a position of Mayor of a Municipal Council, President of a Shire Council or Chairperson of a County Council.
- 44.3 The maximum amount of family and community service leave on full pay which may, subject to this Award, be granted to a staff member shall be the greater of the leave provided in subclauses 44.3.1 or 44.3.2 of this clause.
- 44.3.1 2½ of the employee's working days in the first year of service and, on completion of the first year's service, 5 of the employee's working days in any period of 2 years; or
- 44.3.2 After the completion of 2 years' continuous service, the available family and community service leave is determined by allowing 1 day's leave for each completed year of service less the total amount of family and community service leave previously granted to the employee.
- 44.4 If available family and community service leave is exhausted as a result of natural disasters, the Department Head shall consider applications for additional family and community service leave, if some other emergency arises. On the death of a person as described in 40.1.3 of clause 40, Personal/Carer's Leave - August 1996, additional paid family and community service leave of up to 2 days may be granted on a discrete, per occasion basis to an employee.
- 44.5 In cases of illness of a family member for whose care and support the employee is responsible, paid sick leave in accordance with subclause 40.1.3 of clause 40 of this Award shall be granted when paid family and community service leave has been exhausted.

45. Trade Union Leave

- 45.1 The granting of leave with pay will apply to the following activities undertaken by a trade union delegate, as specified below:
- 45.1.1 annual or biennial conferences of the delegate's union;
- 45.1.2 meetings of the union's Executive, Committee of Management or Councils;
- 45.1.3 annual conference of the Unions NSW and the biennial Congress of the Australian Council of Trade Unions;
- 45.1.4 attendance at meetings called by Unions NSW involving a public sector trade union which requires attendance of a delegate;
- 45.1.5 attendance at meetings called by the Industrial Relations Secretary, as the employer for industrial purposes, as and when required;
- 45.1.6 giving evidence before an Industrial Tribunal as a witness for the trade union;
- 45.1.7 local meetings between the Union and Management

46. Supplementary Labour

- 46.1 The parties to this agreement recognise that at times of peak workloads and when staff are on long term absences there may be a requirement to use supplementary labour in order to meet criteria deadlines.
- 46.2 This supplementary labour may be casual or temporary and;
- 46.2.1 arranged through or with an Employment Agency of bona-fide contractors; or
- 46.2.2 in accordance with the provisions of the *Government Sector Employment Act 2013*.
- 46.3 It is not the Department's intention to use supplementary labour as an alternative to filling vacant permanent positions.

47. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation

- 47.1 The entitlement to salary package in accordance with this clause is available to:
- 47.1.1 permanent full-time and part-time employees;
- 47.1.2 temporary employees, subject to the Department or agency's convenience; and
- 47.1.3 casual employees, subject to the Department or agency's convenience, and limited to salary sacrifice to superannuation in accordance with subclause 47.7.
- 47.2 For the purposes of this clause:
- 47.2.1 "salary" means the salary or rate of pay prescribed for the employee's classification in Table 1 - Wages of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.
- 47.2.2 "post compulsory deduction salary" means the amount of salary available to be packaged after payroll deductions required by legislation or order have been taken into account. Such payroll deductions may include, but are not limited to, taxes, compulsory superannuation payments, HECS payments, child support payments, and judgement debtor/garnishee orders.
- 47.3 By mutual agreement with the Industrial Relations Secretary, an employee may elect to package a part or all of their post compulsory deduction salary in order to obtain:
- 47.3.1 a benefit or benefits selected from those approved by the Industrial Relations Secretary; and
- 47.3.2 an amount equal to the difference between the employee's salary, and the amount specified by the Industrial Relations Secretary for the benefit provided to or in respect of the employee in accordance with such agreement.
- 47.4 An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.
- 47.5 The agreement shall be known as a Salary Packaging Agreement.
- 47.6 Except in accordance with subclause 47.7, a Salary Packaging Agreement shall be recorded in writing and shall be for a period of time as mutually agreed between the employee and the Industrial Relations Secretary at the time of signing the Salary Packaging Agreement.
- 47.7 Where an employee makes an election to sacrifice a part or all of their post compulsory deduction salary as additional employer superannuation contributions, the employee may elect to have the amount sacrificed:
- 47.7.1 paid into the superannuation fund established under the *First State Superannuation Act 1992*; or

- 47.7.2 where the employer is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or
- 47.7.3 subject to the Department or agency's agreement, paid into another complying superannuation fund.
- 47.8 Where the employee makes an election to salary sacrifice, the employer shall pay the amount of post compulsory deduction salary, the subject of election, to the relevant superannuation fund.
- 47.9 Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:
- 47.9.1 *Police Regulation (Superannuation) Act 1906*;
- 47.9.2 *Superannuation Act 1916*;
- 47.9.3 *State Authorities Superannuation Act 1987*; or
- 47.9.4 *State Authorities Non-contributory Superannuation Act 1987*,
- the employee's Department or agency must ensure that the employee's superable salary for the purposes of the above Acts, as notified to the SAS Trustee Corporation, is calculated as if the Salary Packaging Agreement had not been entered into.
- 47.10 Where the employee makes an election to salary package, and where the employee is a member of a superannuation fund other than a fund established under legislation listed in subclause 47.9 of this clause, the employee's Department or agency must continue to base contributions to that fund on the salary payable as if the Salary Packaging Agreement had not been entered into. This clause applies even though the superannuation contributions made by the Department or agency may be in excess of superannuation guarantee requirements after the salary packaging is implemented.
- 47.11 Where the employee makes an election to salary package:
- 47.11.1 subject to Australian Taxation law, the amount of salary packaged will reduce the salary subject to appropriate PAYG taxation deductions by the amount packaged; and
- 47.11.2 any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this agreement or any applicable Award, Act or statute which is expressed to be determined by reference to the employee's rate of pay, shall be calculated by reference to the rate of pay which would have applied to the employee in Table 1 - Wages of this Award if the Salary Packaging Agreement had not been entered into.
- 47.12 The Industrial Relations Secretary may vary the range and type of benefits available from time to time following discussion with the Union. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.
- 47.13 The Industrial Relations Secretary will determine from time to time the value of the benefits provided following discussion with the Union. Such variations shall apply to any existing or future Salary Packaging Agreement from the date of such variation. In this circumstance, the employee may elect to terminate the Salary Packaging Agreement.

48. Workplace Reform Program

- 48.1 The parties agree that this Award, in providing a single classification and rate of pay for all tradespersons in the Fleet Section, including appropriate allowances, provides appropriate compensation in recognition of multi-skilling and changes made to working arrangements through consultation and cooperation. Workplace reform will continue - but not limited to - the following issues:

- Consultation with the parties in relation to the implementation of this Award, and
- Ensuring Equal Employment Opportunity and recognition of merit.

49. Calculations

- 49.1 In relation to Part B of this Award, and specifically Tables 1, 2 and 3, per week amounts are rounded to the nearest ten cents, per day to the nearest cent, and per hour to the cent.

50. No Extra Claims

- 50.1 The parties agree that, during the term of this Award, there will be no extra wage claims, claims for improved conditions of employment or demands made with respect to the employees covered by the Award and, further, that no proceedings, claims or demands concerning wages or conditions of employment with respect to those employees will be instituted before the Industrial Relations Commission or any other industrial tribunal.
- 50.2 The terms of the preceding paragraph do not prevent the parties from taking any proceedings with respect to the interpretation, application or enforcement of existing Award provisions.

51. Area, Incidence and Duration

- 51.1 The Crown Employees (Fire & Rescue NSW Tradespersons) Award 2018 rescinds and replaces the Crown Employees (Fire & Rescue NSW Tradespersons) Award 2017 published 18 August 2017 (381 I.G. 399).
- 51.2 Historically rates of pay and wage related allowances expressed in the Crown Employees (New South Wales Fire Brigades - Maintenance, Construction and Miscellaneous Staff) Award have had a nexus with the Crown Employees Wages Staff (Rates of Pay) Award and its successors. However, after the date of the making of the Crown Employees (Fire & Rescue NSW Tradespersons) Award 2012 this nexus ceased.
- 51.3 This Award shall apply to all employees in the classifications specified in Part B, Monetary Rates, Table 1 - Wages in the employment of Fire & Rescue NSW.
- 51.4 The term of this Award is 1st of July 2018 until 30th of June 2019, and will remain in force thereafter until rescinded.

PART B

MONETARY RATES

Table 1- Wages

Classifications from the Crown Employees (New South Wales Fire Brigades - Maintenance, Construction and Miscellaneous Staff) Award

Clause 4, Rates of pay Classification	From 1/7/2018 2.5% per week \$
(a) Electrical Department - Automotive Electrical	1110.70
Battery Fitter	1110.70
Electrical Fitter	1113.80
Trades Assistant (Electrical Department)	891.80
Labourer-General (Electrical Department)	718.30
(b) Workshops Department - Blacksmith/Welder	1052.10

Bodymaker	1041.30
Draughtsperson - 1st year	961.80
- 2nd year	1004.70
- 3rd year	1052.10
- 4th year	1110.70
- thereafter	1163.30
Welder	1052.10
Fitter and/or Turner	1012.60
Motor Mechanic	1041.30
Motor Trimmer	1041.30
Painter (Vehicle)	1041.30
Panel Beater	1041.30
Signwriter (Vehicle)	1012.60
Trades assistant (Mechanical Workshops)	860.50
Labourer - General (Mechanical Workshops)	718.30
(c) Boot Factory - Bootmaker	1004.70
(d) Building Maintenance Department - Draughtsperson Building services	
- 1st year	1110.70
- 2nd year	1131.20
- 3rd year	1151.70
- 4th year	1172.50
- thereafter	1204.60
Plumber	1052.10
Bricklayer	1041.30
Carpenter	1041.30
Painter	1041.30
Plasterer	1041.30
Labourer - Builders	1022.60
(e) Cleaner -	921.50
Stores Assistant	970.20
Sailmaker	1012.60
(h) Hose Repair Department - Hose Assembler and Repairer	961.80

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

Classifications from NSW Fire Brigades Maintenance and Miscellaneous Staff Enterprise Agreement 2008

	1/8/2018 2.5% Per week \$
COMMUNICATION SECTION	
Electronic Technician	
- 1st year	1433.20
- 2nd year	1476.30
- 3rd year	1502.70
- 4th year	1534.50
Instrument Maker	1266.60
Radio Mechanic	1209.40
Telephone Mechanic	1209.40
Electronic Tradesperson	1389.20
Electrical Mechanic	1209.40
Trades Assistant	971.40

	1/7/2018 2.5% per week \$
FLEET SECTION	
Fire Vehicle Repairer	
- 1st Year	1225.40
- Thereafter* (Rate = 1st Year + FEA)	1307.70
Trades Assistant	937.10

*inclusive of the Fire Equipment Allowance after 12 months continuous service.

	1/7/2018 2.5% per week \$
APPRENTICES**	
- 1st year	490.70
- 2nd year (Rate = 2nd Year + NT FEA)	706.50
- 3rd year (Rate = 3rd Year + NT FEA)	888.00
- 4th year (Rate = 4th Year + NT FEA)	1014.40
Adult (Rate = Adult + NT FEA)	1014.40

** inclusive in rate after 12 months continuous service an apprentice receives the (Non Trades Staff) Fire Equipment Allowance.

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

Table 2 - Other Rates and Allowances

from the Crown Employees (New South Wales Fire Brigades - Maintenance, Construction and Miscellaneous Staff) Award

Item	Clause 10, Additional Wage Rates	1/7/2018 2.5%
1	10.1 Electricians: An electrician who is the holder of A Grade Licence (per week) B Grade Licence (per week)	49.10 26.40
2	10.2 Lead Burner - The ordinary rates for lead shall be calculated by adding to the rate prescribed for journey person Plumbers in this Award (per hour)	0.90
3	10.3 Plumber when required to act on a Plumbers Licence (per hour)	1.27
4	10.3.2 When required to act on a Gasfitters Licence (per hour)	1.27
5	10.3.3 When required to act on a Drainers Licence (per hour)	1.05
6	10.3.4 When required to act on a Plumbers and Gasfitters Licence (per hour)	1.70
7	10.3.5 When required to act on a Plumbers and Drainers Licence (per hour)	1.70
8	10.3.6 When required to act on Gasfitters and Drainers Licence (per hour)	1.70
9	10.3.7 When required to act on a Plumber's, Gasfitter's and Drainer's Licence (per hour)	2.31
10	10.5 Electric Welding Certificate (per hour)	0.71
11	10.6 Computing Quantities (per day)	5.80
12	10.7 Certificate of Registration (per hour)	0.74

Clause 20. Special Rates		
13	20.3.2 Plasterers working on swing scaffold (per hour)	0.84
14	20.4 Hot Places (per hour)	0.75
15	20.6 Wet Places - Water other than rain (per hour)	0.75
16	20.6.2 Plumber in the rain (per hour)	0.75
17	20.6.3 Knee deep water/mud (per day)	6.34
18	20.7 Swinging Scaffolds for the first four hours or any portion thereof, and for each hour thereafter	5.79 1.16
19	20.8 Plasterers working on swing scaffold (per hour)	0.16
20	20.10 Roof work (per hour)	0.96
21	20.11 Electric Welding (per hour)	0.27
22	20.12 Explosive Powered Tools (per day)	2.67
23	20.13 Scaffolding Rigging (per hour)	0.75
24	20.16 Distant Places- 20.16.1 West and North of State Highway 17 etc. (per day) 20.16.2 Western Division (per day) 20.16.3 Snowy River to Dalgety etc. (per day)	1.20 1.96 1.96
25	20.18 Painters - burning off paint and applying the first coat (per hour)	0.74
Clause 20.22 Chokages		
26	Chokages (per day or part of a day)	8.24

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

Table 3 - Allowances

from NSW Fire Brigades Maintenance and Miscellaneous Staff Enterprise Agreement 2008

Item	ALLOWANCES	1/7/2018 2.5% \$
1	Team Leader Allowance (per week)	184.20
2	Technician Allowance (per week)	154.40
3	Heavy Vehicle Inspectors Allowance (per day)	2.26
4	On Call Allowance - Monday to Friday (per day)	21.83
5	On Call Allowance - Saturday, Sunday & Public Holidays (per day)	33.23

Item	Clause 20, SPECIAL RATES	1/7/2018 2.5% \$
1	20.1.1 Confined Spaces	1.03
2	20.1.2 Dirty Work	0.87
3	20.3.1 Height Pay - 7.5 metres	0.92
4	20.3.1 Height Pay - every metre beyond	0.74
5	20.5 Insulation Material	0.87
6	20.5 Insulation Material - if Silicate	1.03
7	20.9 Spray Applications (per hour)	0.86
8	20.17.1 Applying Noxious Substances - Epoxy (per hour)	1.03
9	20.17.2 Applying Noxious Substances - Air Conditioning (per hour)	0.66
10	20.17.4 Applying Noxious Substances - Close Proximity (per hour)	0.82
11	20.20 Asbestos Eradication (per hour)	2.86

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

Clause 16, TOOL ALLOWANCES	1/7/2016 per week \$
Bodymaker	30.80
Motor Mechanic	30.80
Painter (Vehicle)	7.50
Panel Beater	30.80
Automotive Electrician	30.80
Electronic Technician	19.46
Instrument Maker	19.46
Radio Mechanic	19.46
Telephone Mechanic	19.46
Fitter	30.80
Electronic Tradesperson	19.46

Apprentices	
Motor Mechanic	30.80
Automotive Electrician	30.80
Fitter	30.80
Electronic Technician	19.46

Increases in the Tool Allowance will be based upon increases expressed in the Crown Employees (Skilled Trades) Award. These amounts will be administratively adjusted when the Crown Employees (Skilled Trades) Award increases.

Clause 18, FIRE EQUIPMENT ALLOWANCE	1/7/2018 2.5% per week \$
Fire Equipment Allowance (FEA) - Trades**	82.40
Fire Equipment Allowance (FEA) - Non Trades	61.60

** At the completion of 12 months continuous service

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

Item	Clause 23, MEAL ALLOWANCE	1/7/2016 per meal \$
1	After 1½ hour overtime	14.90
2	Each 4 hours thereafter	12.80

Item	Clause 24, TRAVELLING TIME AND OTHER FARES	1/7/2016 per day \$
1	Other than Builders' Labourers	24.00
2	Employer providing transport	9.60

Item	Clause 34, INSURANCE OF TOOLS	1/7/2016 per day \$
1	Maximum claim for loss of tools	1790.10

Increases in meal allowance, travelling time and other fares and insurance of tools will be based upon increases expressed in the Crown Employees (Skilled Trades) Award. These amounts will be administratively adjusted when the Crown Employees (Skilled Trades) Award increases.

P.M. KITE, Chief Commissioner.

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(315)

SERIAL C8845**CROWN EMPLOYEES (FIRE & RESCUE NSW TRADESPERSONS)
AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Fire and Rescue NSW.

(Case No. 2018/304419)

Before Chief Commissioner Kite

31 October 2018

VARIATION

1. Delete the Arrangement of award published 14 December 2018 (383 I.G. 1117) and insert in lieu thereof the following:

1. Definitions
2. Hours
- 2b. Rostered Days Off
3. Payment of Wages
4. Rates of Pay
5. Parties Bound
6. Savings of Rights
7. Relationship to Acts/Awards for Apprenticeships
8. Union Subscriptions
9. Fleet Tradespersons Multi-skilling
- 9b. FVR Classification Structure & Labour Flexibility
10. Additional Wage Rates
- 10b. Special Rates
11. Team Leader Allowance and Higher Duties
- 11b. Higher Grade Pay
12. Authorised Heavy Vehicle Allowance
13. On Call Allowance
14. Tool Allowance
15. Apprentice Tool Loan
16. Fire Equipment Allowance
17. Apprentice to Tradesperson
18. Overtime and Penalty Rates
19. Meal Allowance
20. Travelling Time and Fares
21. Travelling Expenses
22. Annual Leave
23. Annual Leave Loading
24. Holidays
24. Long Service Leave
26. Sick Leave
27. Bereavement Leave
28. Clothing
29. Insurance of Tools
30. Procedure on Charge
31. Anti-Discrimination
32. Term of Employment
33. Grievance and Dispute Resolution Procedures
34. Personal/Carer's Leave - August 1996
35. Maternity Leave
36. Parental Leave

- 37. Adoption Leave
- 38. Family and Community Service Leave
- 39. Trade Union Leave
- 40. Supplementary Labour
- 41. Salary Packaging Arrangements
- 42. Calculations
- 43. No Extra Claims
- 44. Area, Incidence and Duration

PART B

MONETARY RATES

Table 1 - Wages

Table 2 - Allowances - from NSW Fire Brigades Maintenance and Miscellaneous Staff Enterprise Agreement 2008

2. Delete the first paragraph in clause 1, Definitions of Part A and insert in lieu thereof the following:

"Commissioner" means the Commissioner of Fire & Rescue NSW (FRNSW) holding office as such under the *Government Sector Employment Act 2013*, or his/her delegate.

3. Insert after subclause 2.1 of clause 2, Hours, the following new paragraph:

2.1.1 The ordinary working hours of Fire Vehicle Repairers shall not exceed 76 hours per fortnight, to be worked not exceeding 8.5 hours per day, as determined by FRNSW.

4. Insert after clause 2, Hours, the following new clause:

2b. Rostered Days Off

- 2b.1 The Rostered Day Off ("RDO") provisions of clause 2, Hours-Day Workers, of the Skilled Trades Award, (as defined) shall apply to all employees employed in the Communications Section. The same provisions, but as varied by the provisions of subclauses 2b.2, 2b.3, 2b.4, 2b.5 & 2b.6, shall apply to all other employees covered by this Award.
- 2b.2 RDO shall be taken in accordance with the roster. Those staff who are on call and therefore work on the RDO day as part of the roster will normally take their RDO on the following Monday when they are off call.
- 2b.3 RDO are to be taken as and when they fall due unless a special arrangement is agreed to pursuant to sub clause 2b.6.3 or;
- 2b.3.1 under exceptional circumstances, where the clearing of the RDO day may be delayed, with prior approval.
- 2b.4 Appropriate records will be kept by the Department of the dates on which each employee takes a RDO. Such records will be available for perusal by the employee on request.
- 2b.5 Where an employee is asked and elects to work on the pre-determined RDO, in accordance with subclause 2.1 of clause 2, Hours-Day Workers, of the Skilled Trades Award (as defined), the compensation paid in accordance with subclause 2.5 of the said clause 2 (i.e. Saturday rates), shall be the employee's only entitlement for working on the RDO.
- 2b.6 Employees may elect, with the consent of the employer, to take a rostered day off at any time.
- 2b.6.1 An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.

2b.6.2 An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.

2b.6.3 This subclause is subject to the employer informing each union which is both party to the Award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility and providing a reasonable opportunity for the union(s) to participate in negotiations.

5. Delete subclauses 9.1, 9.2 and 9.3 of clause 9, Fleet Tradespersons Multi-skilling and re-number remaining subclauses as follows:

9.1 While Apprentice training shall be principally focused on those activities specific to each Apprentice’s trade classification, the Department shall, where possible, coordinate and make available work of a similar nature and skill to that contained in the modules studied from time to time by the Apprentice as part of their external Technical and Further Education studies.

9.2 The work of a ‘similar nature and skill’ referred to in subclause 9.4, shall where appropriate be made available to Apprentices for the purposes of overtime.

9.3 Employees will identify and select spare parts as required from the store during normal work hours and after hours. When using parts from the store the employees will record parts usage, utilizing the systems provided which may be written or electronic. Where necessary employees will provide information as required to assist in parts identification and provide the part number itself with reference to manuals - paper and electronic.

9.4 Appliance servicing will continue in Station on a State-wide basis.

6. Insert after clause 9, Fleet Tradespersons Multi-Skilling, the following new clause:

9b. FVR Classification Structure and Labour Flexibility

9b.1 Fire Vehicle Repairers (FVR) employed by FRNSW perform, both on a planned and emergency basis, a variety of manual and technical tasks related to preventative and corrective maintenance and mechanical repairs. Those tasks include the performance of peripheral and incidental tasks and assisting other staff so as to complete the whole job.

9b.2 In recognition of the skills and knowledge brought to the performance of tasks by FVR’s, the following classification structure is to be applied from the first full pay period to commence on or after the 1 July 2018. Levels 2, 3 and 4 however, cannot be accessed earlier than 31 October 2018.

Fire Vehicle Repairer	Definition	% of Weekly Wage
Level 1	Holds relevant Trades certificate	100%
Level 2	Required to use skills/knowledge of other trades of 120 hours & at completion of 12 months continuous service	105%
Level 3	Required to use skills/knowledge of other trades of 240 hours	110%
Level 4	Required to use skills/knowledge of other trades of 360 hours	115%

Note: Actual rates are shown in Part B and will be increased with annual movements to wage and wage related allowances.

9b.3 Approved courses in respect of skills/knowledge no longer regularly required shall not be counted for progression purposes.

9b.3.1 Approved Courses - are TAFE courses and any others that FRNSW approves, in consultation with the relevant Union. Courses approved however must relate to the acquisition of new skills (performing additional functions) and not simply the modernisation or updating of current work practices or methods (performing the same functions better/differently - for example, personal OH&S related courses, updated inventory or programmed maintenance systems, new computer software etc.).

Placement

9b.4 FRNSW will determine where each tradesperson should be placed within the classification structure, in consultation with the relevant Union.

9b.4.1 This must be done firstly by determining which skills/knowledge, above classification level 1 skills, are regularly required of the tradesperson and secondly, in relation to each of those, determining whether the relevant approved course has been successfully completed or, alternatively, in respect of FVR's in employment as at 1 July 2018, determining whether the skills/knowledge possessed by the tradesperson is equivalent to skills/knowledge acquired from successfully undertaking the approved course.

9b.4.2 Where the FVR in question is placed within a classification in the structure greater than level 1, the employee is to be paid the higher rate from the first full pay period to commence on or after that date that the higher skill/knowledge was regularly required of the tradesperson.

Progression

9b.5 Progression to classification levels 2, 3 and 4 is to be on the basis of the FVR in question having successfully undertaken at least 120 hours of additional approved course/s, and, being required to regularly use the skills/knowledge acquired in such courses. Approved courses in respect of skills/knowledge no longer regularly required shall not be counted for progression purposes.

9b.5.1 FRNSW will determine which and how many employees are to be regularly required to use additional skills/knowledge for which a higher classification level is to be paid.

9b.5.2 FVR's at classification levels 2, 3 and 4 are responsible for maintaining the additional skills/knowledge to a standard equivalent to that of having successfully undertaken a current approved course/s in order to continue to be paid the higher classification level.

Equivalent Skills

9b.6 For the purposes of progression under the foregoing clause, FRNSW, in consultation with the relevant Union, may determine that the skills/knowledge possessed by and regularly required of a FVR who was in employment as at 1 July 2018, should be considered equivalent to skills/knowledge acquired from successfully undertaking an approved course/s. Any such decision requires that the FVR in question be credited with hours equivalent to that of the relevant approved course/s.

No Double Counting

9b.7 There will be no credit toward progression to a higher classification level in relation to the performance of any function for which payment of an allowance is already made.

Leading Hand Allowances

9b.8 Leading hand allowances, where applicable, will be paid in addition to the skills based increment of the tradesperson in question.

Disputes

9b.9 The Grievance and Dispute Resolution Procedures of this award should be utilised if any disputes arise concerning implementation of this clause.

7. Delete subclauses 10.2 to 10.7 of clause 10, Additional Wage Rates:
8. Insert after subclause 11.2 of clause 11, Team Leader Allowance and Higher Duties, the following new subclause:
 - 11.3 Where payment of the Team Leader allowance is due because of a temporary vacancy of more than five days, acting up will not be distributed to employees or paid in increments of less than 5 days per employee. Provided the employee actually acts up for 5 or more consecutive days.
9. Insert after clause 11, Team Leader Allowance and Higher Duties, the following new clause:
 - 11b.1 An employee engaged for more than five consecutive weekdays, on duties carrying a higher rate than the employee's ordinary classification or entitling the employee to a Team Leader Allowance shall be paid the higher rate or allowance as the case may be.
 - 11b.2 Employees covered under this Award, who are engaged on duties in a classification appearing in the Crown Employees (Public Sector - Salaries 2008) Award, or successor, carrying a higher rate than the employee's ordinary classification, will be paid a higher duties allowance on a day by day basis (regardless of how many days such employee was acting in the higher graded position). This includes an employee who is on-call on a Saturday or Sunday, that is, the higher duties allowance is payable whilst on-call on a weekend. Such higher duties allowance is payable at 7 hours per day only.
10. Delete Clause 12, Technician Allowance and re-number subsequent clauses accordingly:
11. Insert after subclause 12.2 of clause 12, Authorised Heavy Vehicle Allowance, the following new subclause:
 - 12.3 As directed by the department, suitably qualified fire vehicle repairers covered by this award will be required to obtain and maintain a Heavy Vehicle Inspector Number and undertake inspections as required as part of their normal duties.
12. Delete clause 13, On Call Allowance and insert in lieu thereof the following new clause:

13. On Call Allowance

- 13.1 An On Call Allowance is paid to employees covered under this Award who are working On Call as part of the normal roster or have been directed to work On Call. Minimum payment for emergency recall to duty shall be for four hours at appropriate penalty rates.
- 13.2 The On Call allowance provided for in Table 2A of this Award shall apply to all employees except those provided for in subclause 13.3.
- 13.3 The On Call allowance provided for in Table 2B of this Award shall apply only to Fire Vehicle Repairers.
- 13.4 The On Call allowance at subclause 13.3 comes into effect from the date this Award is varied in 2018.
- 13.5 The On Call allowances at subclauses 13.3 and 13.4 are subject to incremental adjustment linked to percentage increases in adjustments to rates of pay.
13. Delete clause 15, Trade Employees Working Together and re-number subsequent clauses accordingly:
14. Delete clause 16, Fire Equipment Allowance and insert in lieu thereof the following:

16. Fire Equipment Allowance

- 16.1 This allowance only applies to Tradespersons in the Fleet and Communications Section.

16.1.1 Employees with a minimum of twelve (12) months continuous service covered by this Award shall be paid a fire equipment allowance as set out in Table 2 of this Award, as varied by the provisions of subclause 16.1.2.

16.1.2 Apprentices covered by this Award shall be entitled to be paid at the Non-Trades Staff rate of the allowance as set out in Table 2 of this Award after a minimum of twelve (12) months continuous service.

15. Delete clause 20, Special Rates and re-number subsequent clauses accordingly:

16. Delete clause 22, Annual Leave and insert in lieu thereof the following:

22. Annual Leave

22.1 Every employee shall be entitled to four weeks leave of absence, exclusive of public holidays, on the completion of each 12 months service, such leave shall be taken within 6 months after it becomes due, and reasonable notice be given by either party when leave is to commence. This clause governs the time in which past Annual Leave accrual should be taken with the exception provided for in clause 22.6. In other words, an employee should work towards taking their Annual Leave from the year before in the first 6 months of the following year, however if there are reasons to the satisfaction of the employee and management of why this cannot be accomplished, then clause 22.6 provides for flexibility.

22.2 Where an employee with one or more months' service but less than 12 months' service is discharged, dismissed, resigns, retires or dies, the employee or their legal personal representative shall be paid for each completed week of service an amount equal to one-twelfth of the employee's ordinary weekly rate payable at the date of the termination of service.

22.3 After the first completed year of service annual leave shall accrue at the rate of one and two-third days for each completed month of service.

22.4 The Annual Leave provisions of clause 31, General Leave Conditions and Accident Pay, of the Skilled Trades Award (as defined), shall apply, as varied by the provision of subclauses 22.5 and 22.6 to all employees covered by this Award.

22.5 Annual Leave shall be subject to pre-approval at least-5 weekdays prior and if approved may be taken in consecutive or single days.

22.6 The parties agree to jointly work towards reducing each employees accrual of Annual Leave to the accumulation of twenty (20) days plus the current years entitlement. The only exceptions being, in the case of family emergencies, or with prior notification of a planned extended holiday.

17. Delete clause 29, Rostered Days Off and re-number subsequent clauses accordingly:

18. Delete Clause 36, Higher Grade Pay and re-number subsequent clauses accordingly:

19. Delete subclause 32.1 of clause 32, Term of Employment, and insert in lieu thereof the following:

32.1 An employee shall give to FRNSW and FRNSW shall give to an employee two weeks' notice of termination of employment, such notice to be given from a normal pay day. This shall not affect the right of FRNSW to dismiss any employee without notice for inefficiency, neglect of duty or misconduct and in such cases wages shall be paid up to the time of dismissal only.

20. Delete subclauses 34.3, Annual Leave and 34.6, Rostered Days Off, of clause 34, Personal/Carer's Leave - August 1996 and re-number subsequent subclauses accordingly:

21. Delete clause 38, Family and Community Service Leave and insert in lieu thereof the following:

38. Family and Community Service Leave

- 38.1 The Department Head shall grant to an employee some or all of the available family and community service leave on full pay, for reasons relating to family responsibilities, performance of community service or emergencies.
- 38.2 Such cases may include but not be limited to the following:
- 38.2.1 compassionate grounds - such as the death or illness of a close member of the family or a member of the employee's household;
 - 38.2.2 emergency accommodation matters up to one day, such as attendance at court as defendant in an eviction action, arranging accommodation, or when required to remove furniture and effects;
 - 38.2.3 emergency or weather conditions, such as when flood, fire or snow or disruption to utility services etc. threaten property and/or prevent an employee from reporting for duty;
 - 38.2.4 attending to family responsibilities such as citizenship ceremonies, parent/teacher interviews or attending child's school for other reasons;
 - 38.2.5 attendance at court by an employee to answer a charge for a criminal offence, only if the Department Head considers the granting of family and community service leave to be appropriate in a particular case;
 - 38.2.6 attendance at a competitor in major amateur sport (other than Olympic or Commonwealth Games) for staff members who are selected to represent Australia or the State; and
 - 38.2.7 absence during normal working hours to attend meetings, conferences or to perform other duties, for an employee holding office in Local Government, and whose duties necessitate absence during normal working hours for these purposes, provided that the employee does not hold a position of Mayor of a Municipal Council, President of a Shire Council or Chairperson of a County Council.
- 38.3 The maximum amount of family and community service leave on full pay which may, subject to this Award, be granted to a staff member shall be the greater of the leave provided in subclauses 38.3.1 or 38.3.2 of this clause.
- 38.3.1 2½ of the employee's working days in the first year of service and, on completion of the first year's service, 5 of the employee's working days in any period of 2 years; or
 - 38.3.2 After the completion of 2 years' continuous service, the available family and community service leave is determined by allowing 1 day's leave for each completed year of service less the total amount of family and community service leave previously granted to the employee.
- 38.4 If available family and community service leave is exhausted as a result of natural disasters, the Department Head shall consider applications for additional family and community service leave, if some other emergency arises. On the death of a person as described in 34.1.3 of clause 34, Personal/Carer's Leave - August 1996, additional paid family and community service leave of up to 2 days may be granted on a discrete, per occasion basis to an employee.
- 38.5 In cases of illness of a family member for whose care and support the employee is responsible, paid sick leave in accordance with subclause 34.1.3 of clause 34 of this Award shall be granted when paid family and community service leave has been exhausted.
22. Delete clause 48, Workplace Reform and re-number subsequent clauses accordingly:

23. Delete Part B, Monetary Rates and insert in lieu thereof the following:

PART B

MONETARY RATES

Table 1- Wages

Classifications from the Crown Employees (New South Wales Fire Brigades - Maintenance, Construction and Miscellaneous Staff) Award

Clause 4, Rates of pay Classification	From 1/7/2017 2.5% per week \$	1/7/2018
(a) Electrical Department - Automotive Electrical	1083.60	1110.70
Battery Fitter	1083.60	1110.70
Electrical Fitter	1086.60	1113.80
Trades Assistant (Electrical Department)	870.00	891.80
Labourer-General (Electrical Department)	700.80	718.30
(b) Workshops Department - Blacksmith/Welder	1026.40	1052.10
Bodymaker	1015.90	1041.30
Draughtsperson - 1st year	938.30	961.80
- 2nd year	980.20	1004.70
- 3rd year	1026.40	1052.10
- 4th year	1083.60	1110.70
- thereafter	1134.90	1163.30
Welder	1026.40	1052.10
Fitter and/or Turner	987.90	1012.60
Motor Mechanic	1015.90	1041.30
Motor Trimmer	1015.90	1041.30
Painter (Vehicle)	1015.90	1041.30
Panel Beater	1015.90	1041.30
Signwriter (Vehicle)	987.90	1012.60
Trades assistant (Mechanical Workshops)	839.50	860.50
Labourer - General (Mechanical Workshops)	700.80	718.30
(c) Boot Factory - Bootmaker	980.20	1004.70
(d) Building Maintenance Department - Draughtsperson Building services		
- 1st year	1083.60	1110.70
- 2nd year	1103.60	1131.20
- 3rd year	1123.60	1151.70
- 4th year	1143.90	1172.50
- thereafter	1175.20	1204.60
Plumber	1026.40	1052.10
Bricklayer	1015.90	1041.30
Carpenter	1015.90	1041.30
Painter	1015.90	1041.30
Plasterer	1015.90	1041.30
Labourer - Builders	997.70	1022.60
(e) Cleaner -	899.00	921.50
Stores Assistant	946.50	970.20
Sailmaker	987.90	1012.60
(h) Hose Repair Department - Hose Assembler and Repairer	938.30	961.80

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

The Communications Section Classification is from the NSW Fire Brigades Maintenance and Miscellaneous Staff Enterprise Agreement 2008

	1/7/2017 2.5% Per week \$	1/7/2018 2.5% Per week \$
COMMUNICATION SECTION		
Electronic Technician		
- 1st year	1398.20	1433.20
- 2nd year	1440.30	1476.30
- 3rd year	1466.00	1502.70
- 4th year	1497.10	1534.50
Instrument Maker	1235.70	1266.60
Radio Mechanic	1179.90	1209.40
Telephone Mechanic	1179.90	1209.40
Electronic Tradesperson	1355.30	1389.20
Electrical Mechanic	1179.90	1209.40
Trades Assistant	947.70	971.40

FRNSW Fire Vehicle Repairer Classification from 1 July 2018 (Levels 2,3,4 from 31 October 2018)

* The relativity is based upon the corresponding amount for FVR without the FEA

Level	Classification	1/7/2017 (not including Clause 16. FEA)	1/7/2018 (+2.5%) (not including Clause 16. FEA)	1/7/18 (+2.5%) (including Clause 16.FEA)
Level 1	Fire Vehicle Repairer	\$1,195.50	\$1,225.40	\$1,307.80*
Level 2	Fire Vehicle Repairer		\$1,286.70	\$1,373.10*
Level 3	Fire Vehicle Repairer		\$1,347.90	\$1,438.30*
Level 4	Fire Vehicle Repairer		\$1,409.20	\$1,491.60*

	1/7/2017 2.5% per week \$	1/7/2018
APPRENTICES**		
- 1st year	478.70	490.70
- 2nd year (Rate = 2nd Year + NT FEA)	689.30	706.50
- 3rd year (Rate = 3rd Year + NT FEA)	866.30	888.00
- 4th year (Rate = 4th Year + NT FEA)	989.70	1014.40
Adult (Rate = Adult + NT FEA)	989.70	1014.40

** inclusive in rate after 12 months continuous service an apprentice receives the (Non Trades Staff) Fire Equipment Allowance.

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

Table 2 - Allowances
from NSW Fire Brigades Maintenance and Miscellaneous Staff Enterprise
Agreement 2008

Item	ALLOWANCES	1/7/2017 2.5% \$	1/7/2018 2.5%
1	Team Leader Allowance (per week)	179.70	184.20
2	Heavy Vehicle Inspectors Allowance (per day)	2.20	2.26

Table 2A: On Call Allowance

3	On Call Allowance - Monday to Friday (per day)	21.30	21.83
4	On Call Allowance - Saturday, Sunday & Public Holidays (per day)	32.42	33.23

Table 2B: On Call Allowance applicable only to FVRs

5	On Call Allowance - Monday to Friday (per day)		40.00
6	On Call Allowance - Saturday, Sunday & Public Holidays (per day)		80.00

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

Clause 14, TOOL ALLOWANCES	1/7/2016 per week \$	1/7/2018
Bodymaker	30.80	32.30
Motor Mechanic	30.80	32.30
Painter (Vehicle)	7.50	7.90
Panel Beater	30.80	32.30
Automotive Electrician	30.80	32.30
Electronic Technician	19.46	20.40
Instrument Maker	19.46	20.40
Radio Mechanic	19.46	20.40
Telephone Mechanic	19.46	20.40
Fitter	30.80	32.30
Electronic Tradesperson	19.46	20.40

Apprentices		
Motor Mechanic	30.80	32.30
Automotive Electrician	30.80	32.30
Fitter	30.80	32.30
Electronic Technician	19.46	20.40

Increases in the Tool Allowance will be based upon increases expressed in the Crown Employees (Skilled Trades) Award. These amounts will be administratively adjusted when the Crown Employees (Skilled Trades) Award increases.

	1/7/2017 2.5% per week \$	1/7/2018
Clause 16, FIRE EQUIPMENT ALLOWANCE		
Fire Equipment Allowance (FEA) - Trades**	80.40	82.40
Fire Equipment Allowance (FEA) - Non Trades	60.10	61.60

** At the completion of 12 months continuous service

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

Item	Clause 19, MEAL ALLOWANCE	1/7/2016 per meal \$	1/7/18
1	After 1½ hour overtime	14.90	15.60
2	Each 4 hours thereafter	12.80	13.70

Item	Clause 20, TRAVELLING TIME AND OTHER FARES	1/7/2016 per day \$	1/7/18
1	Other than Builders' Labourers	24.00	25.10
2	Employer providing transport	9.60	10.00

Item	Clause 29, INSURANCE OF TOOLS	1/7/2016 per day \$	1/7/18
1	Maximum claim for loss of tools	1790.10	1873.40

Increases in meal allowance, travelling time and other fares and insurance of tools will be based upon increases expressed in the Crown Employees (Skilled Trades) Award. These amounts will be administratively adjusted when the Crown Employees (Skilled Trades) Award increases.

This variation shall take effect on and from 31 October 2018.

P. M. KITE, Chief Commissioner.

Printed by the authority of the Industrial Registrar.

HEALTH EMPLOYEES' (STATE) AWARD 2018

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 199234 of 2018)

Before Commissioner Murphy

3 July 2018

AWARD**PART A****Arrangement**

Clause No.	Subject Matter
1.	Definitions
2.	Salaries and Wages
3.	Leading Hands
4.	Exemptions
5.	Conditions of Service
6.	Dispute Resolution
7.	Anti-Discrimination
8.	No Extra Claims
9.	Area, Incidence and Duration

PART B - MONETARY RATES

Table 1 - Salaries

Table 2 - Allowances

PART A**1. Definitions**

Unless the context otherwise indicates or requires the several expressions hereunder defined shall have their respective meanings assigned to them:-

- (i) "ADA" means the adjusted daily average of occupied beds calculated in accordance with the following formula:

ADA = Daily Average + Neo-natal Adjustment + Non-inpatient Adjustment

Where:

Daily = Total Occupied Bed Days for Period Less Unqualified Baby Bed Days
Average Number of Days in the Period

Neo-natal = Total Bed Days of Unqualified Babies for the Period
Adjustment 2 x Number of Days in the Period

Non inpatient = Total NIOOS Equivalents for the Period
Adjustment 10 x Number of Days in the Period

Note: Total NIOOS Equivalents for the Period equals the individual NIOOS plus the equivalent number of Group NIOOS (Non-inpatient Group Sessions x 1.3) plus the equivalent number of Dental NIOOS (Non-inpatient Dental Flow x 3.8)

- (ii) "Aide" means a person appointed as such who is wholly or substantially engaged in all or any of the following duties:
 - (a) media making;
 - (b) preparation of solutions etc. of a routine character;
 - (c) washing, sorting, classifying, decontaminating or packing of glassware, slides, instruments or other equipment;
 - (d) filing or packing of medicinal preparations and issuing of ward pharmacy stocks; or
 - (e) other duties of a similar nature.
- (iii) "Anaesthetic and Operating Theatre Technician" means a person employed as such who is wholly or mainly engaged in assembling, checking, maintaining and monitoring anaesthetic equipment before, during, and after operation.
- (iv) "Animal Technician" means a person appointed as such who is required to assist in medical procedures with animals such as surgical techniques, production of disease, anaesthesia and post-operative care.
- (v) Apprentices -
 - (a) "Adult Apprentice" means any person entering on an apprenticeship or continuing in an apprenticeship (including a probationary or trainee apprenticeship) on or after his/her twenty-first birthday.
 - (b) "Apprentice" means an employee who is party to an apprenticeship contract, and includes a person who is employed as an apprentice but in respect of whom an apprenticeship contract is not yet in force.
 - (c) "Apprenticeship" means an apprenticeship established under Division 2 of Part 2 of the Apprenticeship and Traineeship Act 2001.
 - (d) "Apprenticeship Trade Course" means the trade course provided by the Department of Technical and Further Education or its successors which is appropriate to the trade classification of an apprentice. These courses are presently known as the "Commercial Cookery Trade Course" and the "Parks and Gardens Trade Course".
- (vi) "Boiler Attendant" (with Maintenance of Plant) means a person employed as such who is the holder of a boiler certificate and whose ordinary duties include, in addition to the maintenance of low pressure boilers, responsibility for the maintenance of all steam services and plant within the hospital.
- (vii) Care Service Employees
 - (a) Grade 1 - New Entrant - means an employee with less than 500 hours' relevant work experience who performs basic duties under direct supervision. Such employees perform routine functions requiring understanding of clear rules and procedures. Work is performed using established practices, procedures and instructions, including compliance with documentation requirements as determined by the employer. Problems should be referred to a more senior staff member.

Indicative tasks an employee at this level may perform are as follows:

Typical Duties:

Care Stream	Support Stream	Maintenance Stream
Carry out simple tasks under supervision to assist a higher grade employee attending to the personal needs of patients.	General assistance to higher grade employees in the full range of domestic duties.	General labouring assistance to higher-grade employees in the full range of gardening and maintenance duties.

- (b) Grade 1 - means an employee who works under limited supervision individually or in a team environment. Employees at this level work within established guidelines including compliance with documentation requirements as determined by the employer. In some situations detailed instructions may be necessary. Indicative tasks an employee at this level may perform are as follows.

Typical Duties:

Care Stream	Support Stream	Maintenance Stream
Under limited supervision, provide assistance to patients in carrying out simple personal care tasks which shall include but not be limited to: - Supervise daily hygiene e.g. assisting with showers or baths, shaving, cutting nails; - lay out clothes and assist in dressing; - make beds and tidy rooms; - store clothes and clean wardrobes; - assist with meals.	Performance under limited supervision of the full range of domestic duties including but not limited to: - General cleaning of accommodation food service and general areas; - General waiting, table service and clearing duties; - Assistance in the preparation of food, including the cooking and/or preparation of light refreshments; - All laundry duties.	Performance under limited supervision of labouring duties associated with gardening and general maintenance activities, including but not limited to: - Sweeping; - Hosing; - Garbage collection and disposal; Keeping the outside of buildings clean and tidy; - Mowing lawns and assisting gardening staff in labouring.

Under direct supervision, provide assistance to CSE Gr 2 or other staff performing similar functions, in attending to higher level personal care needs of a patient.

- (c) Grade 2 - means an employee with relevant experience who works individually or in a team environment, and is responsible for the quality of their own work, subject to general supervision, including compliance with documentation requirements as determined by the employer. Indicative tasks an employee at this level may perform are as follows.

Typical Duties:

Care Stream	Support Stream	Maintenance Stream
Provide a wide range of personal care services to patients, under limited supervision and in accordance with the patient's Care Plan, including: - Assist and support patients with medication utilising medication compliance aids; - Simple wound dressing;	Assist a higher grade worker in the planning, cooking and preparation of the full range of meals. Drive a sedan or utility.	Undertake basic repairs to buildings, equipment, appliances, and similar items not calling for trades skills or knowledge. Work with and undertake limited coordination of the work of other maintenance workers.

- Implementation of continence programs as identified in the Care Plan;
- Attend to routine urinalysis, blood pressure, temperature and pulse checks;
- Blood sugar level checks etc. and assist and support diabetic patients in the management of their insulin and diet, recognising the signs of both Hyper and Hypo-Glycemia.
- Recognise, report and respond appropriately to changes in the condition of patients, within the skills and competence of the employee and the policies and procedures of the organisation.
- Assist in the development and implementation of patient care plans
- Assist in the development and implementation of programs of activities for patients.

Perform gardening duties.

Provide advice on planning and plant maintenance.

Attend to indoor plants, conduct recycling and re-potting schedules.

Carry out physical inspections of property and premises and report.

- (viii) "Cardiac Technician" means a person who performs ECGs, Exercise Stress Testing and Holter Loop Recorders.
- (ix) "Cardiac Technologist - Grade 1" means a person who has attained a Bachelor of Science Degree or qualifications or competencies deemed equivalent by the employer and may be required to perform ECGs, Exercise Stress Testing, Holter-Loop event recorders as well as VVI pacemakers, dual chamber pacing/cardiac catheter and Implantable Cardiac defibrillators (ICDs).
- (x) "Cardiac Technologist - Grade 2" means a person who has attained a Post Graduate Degree in Sonography or qualifications or competencies deemed equivalent by the employer and performs Cardiac Sonography or Electrophysiological Studies (EPS).
- (xi) "Central Linen Service" is a laundry which supplies a linen service to two or more separate hospitals.
- (xii) "Centralised Food Production Unit (CFPU)" means a centralised food production unit established by a Health Service or the employer that produces and supplies bulk food produce in advance.

The CFPU produces but is not limited to cook chill food in the form of extended life cook chill and/or short shelf life cook chill product. The CFPU can also produce bulk food as cook freeze product, and as prepared non-cooked items including but not limited to items such as salad vegetables, fruit, desserts, prepared cold meats etc. This food is produced using such technologies as Extended Life Cook Chill (ELCC), Short Term Cook Chill (STCC) and Cook Freeze (CF) and distributed to receiving/finishing and satellite kitchens which may be within or adjacent to the CFPU or off site.

- (xiii) "CFPU Chef" means a person appointed to such a position in a CFPU and who is accountable for the preparation, production and portioning of bulk food products and other non-cooked items in the CFPU. The CFPU Chef is responsible for the supervision of staff.
- (xiv) "CFPU Cook"
 - (a) Level 2 - means a person appointed to such a position in a CFPU and who is responsible for the preparation, production and portioning of bulk food products and other non-cooked items and associated food production tasks. The CFPU Cook is responsible for the supervision of employees working in the above processes.

- (b) Level 1 - means a person appointed to such a position in a CFPU and under the supervision of a CFPU Cook Level 2 who assists in the preparation, production and portioning of bulk food products and other non-cooked items.
- (xv) "Chef" means a person employed as such in a hospital with a daily average of occupied beds of not less than 100 and who may be required by the employer to supervise staff, give any necessary instruction in all branches of cooking and be responsible for requisitioning stores required for the preparation and serving of meals.

The average daily number of meals prepared and served by the kitchen or kitchens for which the chef is responsible shall determine his or her grading as follows:

Grade A - 2,000 or more

Grade B - 1,000 and less than 2,000

Grade C - less than 1000

- (xvi) "Chief Cardiac Technologist" means a person who can perform all the functions of a Cardiac Technologist and who is responsible for the management of the department including the development of operational protocols.

(xvii)

- (A) "Cook (Grade A)" means a person employed as a cook in a hospital having at the preceding 30 June and ADA of 50 or more occupied beds and who is working in a kitchen in which meals are prepared for an average of 100 or more persons and who is principally engaged, other than as an assistant to another cook, either:

- (a) on the cooking of meats, poultry and fish; or
- (b) on the cooking of cakes, pastries and sweets; or
- (c) on a combination of work specified in (a) and (b), of this subclause; or
- (d) on relieving a chef or other cooks engaged on the work specified in (a), (b) or (c) of this subclause; or
- (e) as a cook responsible for supervising the work of other cooks in the kitchen.

In respect of the hospitals specified hereunder, Cook Grade A means a person employed as a cook in the following kitchens:

The Sydney Hospital: Main kitchen and main nurses' home kitchen

Prince of Wales Hospital: Main kitchen

Royal Prince Alfred Hospital: Main kitchen and diet kitchen

General Hospital: Main kitchen

The Royal Alexandra Hospital for Children: Main kitchen

The Royal North Shore Hospital: Main kitchen

who is principally engaged, other than as an assistant to another cook; either

- (a) on the cooking of meats, poultry and fish; or

- (b) on the cooking of cakes, pastries and sweets; or
- (c) on a combination of the work specified in (a) and (b) of this paragraph; or
- (d) on relieving a chef or other cooks engaged on the work specified in subparagraphs (a), (b) or (c) of this paragraph; or
- (e) as a cook responsible for supervising the work of other cooks in a kitchen where meals are prepared for an average of 100 or more persons.

Provided that subparagraphs (a), (b), (c) and (d) of this paragraph immediately above shall have no application in respect of cooks in the diet kitchen of the General Hospital of the Royal Prince Alfred Hospital.

- (B) "Cook (Grade B)" means a person employed as a cook, other than a chef, cook (Grade A), or an assistant cook.
- (xviii) "Employer" means the Secretary of the Ministry of Health exercising employer functions on behalf of the Government of New South Wales (and includes a delegate of the Secretary).
- (xix) "Gardener" means a person employed as such whose duties include any or all of the following, namely, propagation of seeds, planting out, pruning and shaping of trees and shrubs, layout of gardens and general gardening duties.
- (xx) "Head Gardener" means a person employed as such who, in addition to performing gardening duties is required as part of his/her ordinary duty to supervise and control a staff of not less than three others, one of whom is a gardener.
- (xxi) "Health and Security Assistant" means a person who has a Class 1A security licence under the *Security Industry Act 1997* and who has the following responsibilities:
 - (i) Undertakes all security related duties of a security officer as directed by the employer; and
 - (ii) In addition:
 - (a) Undertakes limited duties associated with the care of patients and the provision of general assistance in wards; and/or
 - (b) Cleaning duties; and/or
 - (c) Undertaking routine clerical/administrative work (Level 1); and/or
 - (d) The primary functions usually undertaken by the classification of Hospital Assistant Grade 1, 2 or 3; and/or
 - (e) The primary functions of any other classification of staff agreed to between the employer and the Union

Where a Health and Security Assistant, during a shift, has the responsibility of being able to be involved in an immediate response to manage aggressive individuals and related security incidents, he or she must be able to immediately interrupt or cease their current activity in order to provide that response.

Where a Health and Security Assistant is recruited as part of a Ministry of Health co-ordinated recruitment campaign he or she can be employed for a period of four months without a class 1A security licence, but cannot continue to be employed for longer than four months without a licence. During the time prior to obtaining a 1A security licence they cannot undertake the duties set out in (i) above.

- (xxii) "Health Service" means a Local Health District constituted under section 8 of the *Health Services Act 1997*, a Statutory Health Corporation constituted under section 11 of that Act, an Affiliated Health

Organisation constituted under section 13 of that Act and the Public Health System Support Division of the NSW Health Service.

- (xiii) "Heart/Lung Assistant" means a person employed as such and who assists the Heart/Lung Technician in the assembly, dismantling and cleaning of heart/lung equipment.
- (xxiv) "Heart/Lung Technician" means a person employed as such and whose duties require him/her to be skilled in the assembly, operation, dismantling and cleaning of heart/lung machines and the operation of cardiac monitoring equipment.
- (xxv) "Home Supervisor" means a person employed as such who is required to supervise resident staff quarters.
- (xxvi) "Hospital" means a public hospital as defined in section 15 of the *Health Services Act 1997*.
- (xxvii) "Hospital Assistant" -
- (a) Grade I means an employee appointed as such who is required to perform general cleaning duties and other duties of a house-hold-chore type, excepting those specified in the definition of Hospital Assistant, Grade II. Without limiting the generality of the foregoing, it shall include duties traditionally associated with the former classifications of Ward Assistant (save as to those duties specified in the definition of Hospital Assistant, Grade II), Maid, Seamstress, and/or Female Attendant.
 - (b) Grade II means an employee, male or female, appointed as such who is required to perform, in addition to the duties appropriate to a Hospital Assistant, Grade I, duties such as high cleaning, outside cleaning, stripping and/or sealing of floors, portering of patients and/or heavy equipment, etc., loading and/or unloading of commercial-type washing machines, cleaning of tooth and vomit bowls, sanitising of bed pans and other equipment, the cooking and/or preparing of light refreshments (e.g., eggs, toast, salads), making unoccupied beds. Without limiting the generality of the foregoing it shall include duties traditionally associated with the former classifications of Dressmaker, Kitchenman, Laundry Employee (male), Laundry Employee-Female, Porter (all grades), Porter/Cleaner (all grades), Lift Attendant, Laboratory Attendant-Male, Attendant-Vehicle Parking, General Useful, Incinerator Attendant, Gardener's Labourer, General Reliever (male).
 - (c) Grade III means an employee, male or female, appointed as such who is required to perform any of the duties previously performed by persons appointed under the classifications of Storeman, Handyman, Assistant Cook, Patrol Officer or Operating Theatre Orderly.
- (xxviii) "Laundry Assistant Foreperson" means a person employed as such in a hospital with an ADA of occupied beds of not less than 100 beds and who is regularly required to assist in the supervision of laundry staff.
- (xxix) "Leading Hand" means an employee who is placed in charge of not less than two (2) other employees of substantially similar classification but does not include an employee whose classification denotes supervisory responsibility.
- (xxx) "Linen Supply Officer" means a person appointed as such who is required, in hospitals where linen is supplied from a central linen service, to be in control of the linen store, be responsible for linen stocks in wards and departments and the requisitioning of linen from the central linen service.
- (xxxi) "Maintenance Supervisor (Non-Tradesman)" means a person employed as such: and
- (a) who assists the engineer in the supervision of staff and the general maintenance work of the hospital and, in addition, relieves him during his absence, or
 - (b) who, where there is no engineer, is responsible for the operation of the steam raising plant and general maintenance work.

(xxxii)

"Museum Technician" means a person appointed as such who is responsible for the preservation, maintenance and cataloguing of museum and pathological specimens.

(xxxiii)

"Patient Transport Officer" means an employee who has successfully completed the requirements for appointment as a Patient Transport Officer and who has been appointed as such.

A Patient Transport Officer is required to have completed training in, and to undergo any mandatory periodic refresher training required, in the following:

- Advanced Cardio Pulmonary Resuscitation (CPR),
- Gueddels Airways,
- Basic life support skills,
- Advanced first-aid,
- Patient handling and lifting techniques,
- Driver training,
- Oxygen administration, and
- Transport and handling of specialised equipment (e.g. cardiac defibrillators).

The duties of a Patient Transport Officer include the routine and non-emergency transportation of hospital patients utilising basic life support skills. Transportation can include single driver transports (no escort if appropriate), or transportations with an appropriate escort. The decision on whether or not a nurse accompanies a patient is made by the relevant Nurse Unit Manager.

The employer and Union shall consult, monitor and review the operation of this classification.

In the case of an emergency arising during the course of a non-escorted transportation, the Patient Transport Officer is expected to apply the procedures from the training referred to above, and in the case of an emergency arising during an escorted transportation, to assist or respond to the direction of the clinical escort in the application of these procedures.

A Patient Transport Officer is responsible for maintaining the cleanliness of the vehicle, maintaining appropriate stock levels, for carrying out equipment checks, and other associated duties.

(xxxiv)

"Pharmacy Assistants"

- (a) Pharmacy Assistant Grade 1 - means a person appointed as such who is engaged in drug distribution duties, hospital pharmacy production and dispensing activities under the supervision of a Registered Pharmacist and/or Pharmacy Technician.
- (b) Pharmacy Assistant Grade 2 - means a person appointed as such who is engaged in drug distribution duties, hospital pharmacy production and dispensing activities under the supervision of a Registered Pharmacist and/or Pharmacy Technician, and who holds a qualification in a relevant field recognised by the Pharmaceutical Society of Australia or up to the level of Certificate III in Community Pharmacy issued by a Registered Training Organisation or has qualifications deemed by the employer to be equivalent.

(xxxv)

"Pharmacy Technician Grade 1" means a person appointed to such a position and who has successfully completed a qualification in a relevant field recognised by the Pharmaceutical Society of Australia or up to the level of Certificate III issued by a Registered Training Organisation in Hospital and Community Pharmacy (e.g. Charles Sturt University) or has qualifications deemed by the employer to be equivalent.

(xxxvi)

"Pharmacy Technician - Grade 2" means a person who is appointed to such a position and who has successfully completed a nationally recognised Pharmacy Technician Certificate Course at Certificate Level IV or has qualifications deemed by the employer to be equivalent. Such person is under the supervision of a Pharmacist and/or a more senior Pharmacy Technician.

(xxxvii)

"Pharmacy Technician - Grade 3" means a person who has successfully completed a nationally recognised Pharmacy Technician Certificate Course at Certificate Level IV or has qualifications deemed by the employer to be equivalent, has relevant pharmacy experience and displays competency in performing complex tasks under supervision of a Pharmacist in specialist areas of practice such as, but not limited to, cytotoxic drug reconstitution, sterile production, clinical trials, information systems management, etc. This position may also be supervised by a Grade 4 Pharmacy Technician. This classification may operate in a supervisory capacity such as in a Deputy Senior/Second-in-Charge position. Jobs at this level have greater responsibilities than those at Grade 1 and 2.

(xxxviii)

"Pharmacy Technician - Grade 4" means a person appointed to such a position who has successfully completed a recognised Pharmacy Technician Certificate at Certificate Level IV or has qualifications deemed by the employer to be equivalent, and who has extensive experience working within a pharmacy as a Pharmacy Technician Grade 2 and/or Grade 3 and has accredited qualifications in management studies of a formal nature recognised by the Health Service (these studies may be conducted by the Health Service on a local internal basis). Generally the position would be primarily responsible for the management of all Pharmacy Technicians and Pharmacy Assistants in a large unit. The position would carry responsibility for the effective management and development of pharmacy support services under the direction of the Director or Deputy Director of Pharmacy. Participate on departmental committees and continuous education/ management training programs. Inherent in this position is the ability to display competency in performing complex tasks with limited supervision.

(xxxix)

"Post Mortem Assistant" means a person employed as such who assists in the performance of not less than 200 post mortems per year, and whose duties may require him/her to remove organs under the supervision of a Medical Officer.

(xl) "Senior Anaesthetic and Operating Theatre Technician" is a person holding the Diploma issued by the Society of Anaesthetic and Operating Theatre Technicians who has a minimum of two years post-graduate service as an Anaesthetic and Operating Theatre Technician and is in charge of two or more Anaesthetic and Operating Theatre Technicians.

(xli) "Senior Cardiac Technologist" means a person who can perform all duties of Cardiac Technologist Grade 1 and assists the Chief Cardiac Technologist with management, either through:

undertaking supervisory duties in a Deputy or Second in Charge role overseeing other Cardiac Technicians and/or Cardiac Technologists;

and/or

having responsibility for the day to day running of a discreet function within the department.

- (xlii) "Senior Security Officer" means a person appointed as such who undertakes the duties of a security officer and in addition performs such duties as the operation of specialised security equipment, leading teams and training. Persons in this position are to hold a current security licence at the appropriate level to perform the above duties and be able to use discretionary judgement in relation to the assessment of security risks within a healthcare environment.
- (xliii) "Sterilisation Technician - Grade 1" means a person who is primarily involved in the sterilisation of hospital equipment and utensils and who is employed in a Sterile Supply Department of the Health Service. At this level the technician will be performing routine basic tasks and is under routine supervision.
- (xliv) "Sterilisation Technician - Grade 2" means a person who has completed a Certificate in Sterilisation Technology at TAFE and is performing more complex tasks than a Grade 1 employee under only general supervision.
- (xlv) "Sterilisation Technician - Grade 3" means a person who performs the duties of a Sterilisation Technician - Grade 2 who in addition is in a supervisory position or performing specialised tasks at a high degree of competency.
- (xlvi) "Surgical Dresser" means an employee who is required to undertake advanced duties associated with the care of patients such as special enemata, catheterisation, bowel lavation, and/or other specialised work in wards and theatres.
- (xlvii) "Team Leader, Central Linen Service" A person appointed as such who can undertake a range of duties utilising approved workplace operating procedures within a Central Linen Service. This may include duties involved in the sorting, preparation, laundering and folding of linen items, as well as the inspection, repair and finishing of such linen items. In addition, the position will be responsible for the operational activities of a team of Hospital Assistants Grade 2 and their production outputs. The position holder will be required to exhibit team leadership, and an ability to assist and mentor other employees.
- (xlviii)
- "Technical Assistant Grade II" means a person appointed as such who is wholly or substantially engaged in routine laboratory procedures of a technical or special nature including routine bio-chemical, bacteriological or haematological tests or counts.
- (xlix) "Trainee Patient Transport Officer" means an employee who is undertaking training and workplace mentoring in order to successfully complete the requirements for appointment to a 'Patient Transport Officer' position.
- (l) "Union" means the Health Services Union NSW.
- (li) "Wardsperson" means an employee who is required to undertake limited duties associated with the care of patients such as pre-operative shaves, routine enemata, bathing of patients, general assistance in wards and cleaning duties.

2. Salaries and Wages

Employees shall be paid not less than as set in Table 1 - Salaries, of Part B, Monetary Rates.

3. Leading Hands

An employee appointed as leading hand who in addition to his/her ordinary duties, is in charge of not less than two other employees shall be paid an allowance above his/her ordinary rate as set out in Table 2 - Allowances, of Part B, Monetary Rates.

4. Exemptions

This Award shall not apply to:

- (i) Members, novices or aspirants of religious orders in public hospitals, the names of whom are included or hereafter shall be included in the third schedule to the *Health Services Act 1997*.
- (ii) Employees of Stewart House Preventorium

5. Conditions of Service

The Health Employees Conditions of Employment (State) Award, as amended or replaced from time to time, shall apply to all persons covered by this Award.

In addition, the Health Industry Status of Employment (State) Award, as amended or replaced from time to time, shall also apply to relevant employees.

6. Dispute Resolution

The dispute resolution procedure of the said Health Employees Conditions of Employment (State) Award, as amended or replaced from time to time, shall apply.

7. Anti-Discrimination

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

8. No Extra Claims

Other than as provided for in the *Industrial Relations Act 1996* and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2019 by a party to this Award.

9. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2018 and shall remain in force for a period of one year. The wage rates as outlined in Table 1 - Salaries and Table 2 - Allowances, will apply from the first full pay period on or after (ffppoa) 1 July 2018.
- (ii) This Award rescinds and replaces the Health Employees (State) Award published 9 February 2018 (382 I.G. 168) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained herein employed in the New South Wales Health Service under section 115(1) of the *Health Services Act 1997*, or their successors, assignees or transmittes, excluding the Country of Yancowinna.

PART B

MONETARY RATES

Table 1 - Salaries

Classification	Rate from ffppoa 01/07/2018 2.5% Per Week \$
Medical/Technical Group	
Aides	
1st year	964.93
2nd year	983.39
Thereafter	1,003.05
Technical Assistant Grade 1	
1st Year	983.39
2nd Year	1,003.05
Thereafter	1,025.82
Technical Assistant Grade 2	
1st year	1,003.05
2nd year	1,025.82
Thereafter	1,043.85
Trainee Cytology Scanner	908.55
On completion of 12 months' satisfactory service and the issue of a certificate by the hospital that the Trainee is competent to carry out the full range of duties of a scanner, a Trainee shall be entitled to be classified as Cytology Scanner, 1st year.	
Cytology Scanner	
1st year	1,003.05
2nd year	1,025.82

Thereafter	1,043.85
Pharmacy Assistant - Grade 1	
1st year	1,003.05
2nd year	1,025.82
3rd year	1,043.85
4th year	1,073.06
Pharmacy Assistant - Grade 2	
1st year	1,073.06
2nd year	1,099.01
Pharmacy Technician-Grade 1	
1st year	1,073.06
2nd year	1,099.01
3rd year	1,123.69
4th year	1,150.56
Pharmacy Technician-Grade 2	
1st year	1,175.46
2nd year	1,219.96
3rd year	1,259.52
4th year	1,294.47
Pharmacy Technician-Grade 3	
1st year	1,383.44
2nd year	1,413.50
Pharmacy Technician-Grade 4	
1st year	1,479.89
2nd year	1,573.05
Sterilisation Technician-Grade 1	
1st year	1,003.05
2nd year	1,025.82
3rd year	1,073.06
Sterilisation Technician-Grade 2	
1st year	1,099.01
2nd year	1,123.69
3rd year	1,150.56
Sterilisation Technician-Grade 3	
1st year	1,175.46
2nd year	1,219.96
Post Mortem Assistant 200 Post Mortems p.a.	
1st year	1,220.15
2nd year	1,260.03
3rd year and thereafter	1,295.70
Senior Post-Mortem Assistant - Westmead	1,432.44
Museum Technician	
1st year	992.61
2nd year	1,011.25
3rd year	1,030.42
4th year and Thereafter	1,051.14
Animal Technician	
1st year	992.61
2nd year	1,011.25
3rd year	1,030.42
4th year	1,051.14
Animal Attendant	984.92
Research Mechanic	1,012.81

Operations Assistant	
Chief	1,089.37
Senior	1,053.59
Others - first 3 years	1,005.52
Others - Subsequent years	1,033.41
Provided that an assistant who has served five (5) years in the classification and is certified by the hospital as competent to assist in any type of surgical operation, shall be entitled to be classified as Senior.	
Trainee Operations Assistant	
On completion of three years' training, a Trainee shall be classified as Assistant.	880.68
Anaesthetic and Operating Theatre Technician	
Without Diploma	1,043.85
With Diploma	1,100.24
Senior Anaesthetic Technician	1,135.08
Senior Anaesthetic Technician - Royal Prince Alfred Hospital	1,165.63
Institute of Tropical Medicine-Prince Henry	
Attendant	995.98
Attendant in Charge	1,034.63
Surgical Instrument Repairer	
Surgical Instrumental Repairer	1,012.17
Patient Support Assistant-Central Coast Area Health Service	
1st Year	963.28
Thereafter	970.47
Patient Services Assistant - Western Sydney Area Health Service	
Grade 1	944.02
Grade 2	963.28
Support Services Officer - Northern Sydney and Western Sydney Area Health Service	
Wardsperson	
1st year	963.28
Thereafter	970.47
Chief Wardsman	
1st year	1,014.13
Thereafter	1,022.64
Senior Chief Wardsman	
1st year	1,043.24
Thereafter	1,050.71
Surgical Dresser	
1st year	975.38
2nd year	983.58
Thereafter	995.98
Surgical Dresser - S.T.D. Clinic	
1st year	983.58
Thereafter	1,007.57
Chief Surgical Dresser	
1st year	1,026.53
2nd year	1,035.65
Thereafter	1,047.86
Senior Chief Surgical Dresser	
1st year	1,055.03
2nd year	1,064.45
Thereafter	1,076.76
Surgical Dresser - Royal North Shore Hospital	
1st year	1,001.33
2nd year	1,010.75
Thereafter	1,022.85

Senior Chief Surgical Dresser - Royal North Shore Hospital	
1st year	1,102.69
2nd year	1,112.52
Thereafter	1,125.55
Chief Surgical Dresser - Royal North Shore Hospital	
1st year	1,073.58
2nd year	1,082.18
Thereafter	1,095.21
Heart/Lung Technician	1,128.62
Heart/Lung Assistant	1,064.45
Cardiac Technician	
Year 1	1,175.46
Year 2	1,219.96
Year 3	1,259.52
Year 4	1,294.47
Cardiac Technologists - Grade 1	
Year 1	1,201.91
Year 2	1,246.81
Year 3	1,323.68
Year 4	1,414.29
Year 5	1,511.98
Year 6	1,608.43
Year 7	1,686.53
Year 8	1,740.96
Cardiac Technologists - Grade 2 (Sonographer or EPS)	
Year 1	1,686.53
Year 2	1,740.96
Year 3	1,872.78
Senior Cardiac Technologist	
Year 1	1,872.78
Year 2	1,935.29
Chief Cardiac Technologist	
Year 1	1,989.22
Year 2	2,207.13
Neurophysiological Technician	
1st and 2nd year	1,100.24
3rd year and Thereafter	1,135.08
Senior Neurophysiological Technician	
In Charge of 2 or more employees	1,165.63
St George, New Childrens, RNSH, Royal Newcastle	1,259.52
RPAH, POW, PHH, Westmead	1,383.44
Trainee Neurophysiological Technician	961.54
Provided that promotion to Electro-Cardiograph Recorder/Technician is conditional upon the employee having completed 12 months satisfactory service and the hospital having issued a certificate to the effect that the employee is competent to perform the duties required.	
Provided that promotion to Neurophysiological/Technician is conditional upon the employee satisfying the requirements of the course in Neurophysiology conducted by the New South Wales Institute of Psychiatry or such other qualifications deemed by the Ministry of Health to be appropriate.	
Domestic Group	
Trainee Catering Officer	
1st year	984.40
2nd year	1,005.52
Thereafter	1,030.02
Surgical Bootmaker	
In charge of other Bootmakers/Repairers	1,133.12
Otherwise	1,110.28

Surgical Boot Repairer	1,089.77
Chef	
Grade A	1,077.77
Grade B	1,053.80
Grade C	1,030.42
Cook	
Grade A	1,010.95
Grade B	986.55
Team Leader, Central Linen Service (formerly "Forepersons")	1,042.42
Chef - Centralised Food Production Unit	
Level 1	1,084.54
Level 2	1,122.58
Level 3	1,160.61
Cook - Centralised Food Production Unit	
Level 1	1,042.42
Level 2	1,084.54
Care Service Employee	
New Entrant	692.27
Grade 1	808.32
Grade 2	858.83
Linen Supply Officer	
Under 300 Beds	976.93
300 Beds but less than 500 Beds	1,004.60
500 Beds and over	1,033.60
Linen Assistant Foreperson	959.91
Hospital Assistant	
Grade 1	908.55
Grade 2	929.46
Grade 3	944.02
Sewing Room Supervisor	
In charge of 2-6 Dressmakers/Seamstresses	966.89
In charge of 7-11 Dressmakers/Seamstresses	978.86
In charge of 12 or more Dressmakers/Seamstresses	990.55
Housekeeper/Domestic Supervisor - not I/C Food Services	
Under 100 beds	981.95
100 beds but less than 200 beds	988.91
200 beds but less than 300 beds	997.84
300 beds but less than 400 beds	1007.57
400 beds but less than 500 beds	1,028.18
500 beds and over	1,047.86
Home Supervisor	
100 beds but less than 200 beds	944.12
200 beds but less than 300 beds	972.52
300 beds but less than 400 beds	981.95
400 beds but less than 500 beds	995.17
500 beds and over	1,004.30
Maintenance/General Group	
Maintenance Supervisor (Non Tradesman)	
In charge of staff	1,166.55
Otherwise	1,137.86
Boiler Attendant	
Maintenance of Plant	986.66
Otherwise	975.89
Fireman	929.46

Motor Vehicle, Ambulance and/or Bus Driver	
Up to 2950 Kilograms	982.45
Over 2950 Kg & up to 4650 Kg	989.54
Over 4650 Kg & up to 6250 Kg	996.50
Over 6250 Kg & up to 7700 Kg	1,002.65
Over 7700 Kg & up to 9200 Kg	1,009.11
Over 9200 Kg & up to 10800 Kg	1,013.92
Over 10800 Kg & up to 12350 Kg	1,019.88
Over 12350 Kg & up to 13950 Kg	1,025.09
Over 13950 Kg & up to 15500 Kg	1,030.42
Over 15500 Kg & up to 16950 Kg	1,033.41
Over 16950 Kg & up to 18400 Kg	1,036.26
Over 18400 Kg & up to 19750 Kg	1,037.51
Over 19750 Kg & up to 21100 Kg	1,040.17
Over 21100 Kg & up to 22450 Kg	1,044.68
Trainee Patient Transport Officer (Non Healthshare)	982.45
Patient Transport Officer (Non Healthshare)	1,026.22
Fire Safety Officers	
Level 1 - Over 700 beds	1,685.71
Level 2 - 300-700 beds	1,500.29
Level 3 - Less than 300 beds	1,332.80
Gardening Staff	
Head Gardener Without Certificate	1,019.26
Head Gardener With Certificate	1,084.85
Gardener Without Certificate	961.44
Gardener With Certificate	989.85
Vocational Instructor - Rehabilitation (Tradesman)	
1st year	1,212.77
2nd year	1,228.87
3rd year and Thereafter	1,244.64
Vocational Training Officer (Non-Trade)	
1st year	1,099.62
2nd year	1,115.82
3rd year and Thereafter	1,132.32
Health and Security Assistant	1,033.60
Security Officer	983.39
Senior Security Officer	
Year 1	1,073.06
Year 2	1,099.01
Printing Operators	
1st year	1,072.04
2nd year	1,080.13
3rd year	1,086.40
Child Care Worker	
1st year	915.01
2nd year	931.51
3rd year	966.68
4th year	983.48
5th year	1,003.05
6th year	1,025.82
Thereafter	1,043.85
Diversional Therapist with Diploma	
1st year	
2nd year	1,050.71
3rd year	1,108.63
4th year	1,167.06

5th year	1,222.51
Tyre Fitter	965.45
Ambulance Support Officer	927.00
Apprentices	
Apprentice Cook	
1st six months	E
2nd six months	691.04
3rd six months	789.76
4th six months	839.27
5th six months	890.00
6th six months	937.77
Apprentice Gardener	
1st Year	507.46
2nd Year	603.73
3rd Year	797.14
4th Year	893.91

Table 2 - Allowances

Allowance	Rate from ffppoa 01/07/2018 2.5% \$
Special Allowance Post Mortem Assistants and Senior Post Mortem Assistants (Westmead) (per week)	98.86
Senior Laundry Staff - Technical Certificate (per week)	12.82
Leading Hand in charge of 2 to 5 employees (per week)	33.82
Leading Hand in charge of 6 to 10 employees (per week)	47.97
Leading Hand in charge of 11 to 15 employees (per week)	61.19
Leading Hand in charge of 16 to 19 employees (per week)	74.72
Automatic Rotary Press operation (per hour)	0.68
Housekeeper/Domestic Supervisor Nurse Home (per week)	9.23
Boiler Attendant's Certificate - other employees (per week)	8.51
Boiler Attendant's Certificate and Flash Type Generator (per week)	20.07
Boiler Attendant/Fireman - Specified Hospitals (per week)	51.49
Boiler Attendant/Fireman - Additional Duties (per week)	23.75
Ancillary Fire Safety Duties - 100 beds or more	42.66
Ancillary Fire Safety Duties - Less than 100 beds	19.13
Gardener without Certificate - in charge of 2 or more employees	33.84
Apprentice Cook 1st Year exams completed (per week)	2.52
Apprentice Cook 2nd Year exams completed (per week)	5.46
Apprentice Cook 3rd Year exams completed (per week)	7.36
Apprentice Gardener 1st Year exams completed (per week)	2.52
Apprentice Gardener 2nd Year exams completed (per week)	5.46
Apprentice Gardener 3rd Year exams completed (per week)	7.36

J. V. MURPHY, Commissioner

(722)

SERIAL C8834

HEALTH EMPLOYEES' CONDITIONS OF EMPLOYMENT (STATE) AWARD 2018

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 18/200722)

Before Commissioner Murphy

3 July 2018

AWARD

PART A

1. Arrangement

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Hours
3A.	Multiple Assignments
4.	Roster of Hours
5.	Climatic and Isolation Allowance
6.	Permanent Part-Time and Part-Time Employees
7.	Board and Lodging
8.	Relieving Other Members of Staff
9.	Overtime
10.	On Call
11.	Penalty Rates for Shift Work & Weekend Work
12.	Special Working Conditions
13.	Excess Fares and Travelling Time
14.	Meals
15.	Public Holidays
16.	Annual Leave
17.	Long Service Leave
18.	Sick Leave
19.	Payment and Particulars of Salary
20.	Termination of Employment
21.	Accommodation and Amenities
22.	Inspection of Lockers of Employees
23.	Uniforms and Protective Clothing
24.	Promotions and Appointments
25.	New Classifications
26.	Dispute Resolution
27.	Anti-Discrimination
28.	Family and Community Services Leave and Personal/Carer's Leave
28A.	Family Violence Leave
29.	Union Representative
30.	Notice Board
31.	Blood Count
32.	Infectious Cleaning
33.	Labour Flexibility
34.	Teleworking

35. Workforce Review
36. Child Care
37. Union Subscriptions
38. Telephone Allowance
39. Removal Expenses
40. Exemptions
41. Maternity, Adoption and Parental Leave
- 41A. Lactation Breaks
42. Study Leave
43. Trade Union Leave
44. Salary Sacrifice to Superannuation
45. Salary Packaging
46. Reasonable Hours
47. Induction and Orientation
48. No Extra Claims
49. Area, Incidence and Duration

PART B - MONETARY RATES

Table 1 - Other Rates and Allowances

PART A

2. Definitions

Unless the context otherwise indicates or requires the several expressions hereunder defined shall have their respective meanings assigned to them:

"Day Worker" means a worker who works his/her ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6.00 a.m. and before 10.00 a.m. otherwise than as part of a shift system.

"Employer" means the Secretary of the Ministry of Health exercising employer functions on behalf of the Government of New South Wales (and includes a delegate of the Secretary).

"Health Institution" means an institution (other than a hospital) by or at which health services or health support services are provided as defined in the Dictionary of the *Health Services Act 1997*.

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

"On Call" means a period an employee is required to make himself/herself available outside of a normal rostered shift.

"Public Health Organisation" means an organisation defined in section 7 of the *Health Services Act 1997* as follows:

- (a) a local health district, or
- (b) a statutory health corporation, or
- (c) an affiliated health organisation in respect of its recognised establishments and recognised services, and for the purposes of this Award, also includes the Public Health System Support Division of the NSW Health Service.

"Secretary" means the Secretary, NSW Health.

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

"Union" means the Health Services Union NSW.

3. Hours

- (i) The provisions of this clause shall not apply to persons employed as Health Manager Level 5 and above.
- (ii) The ordinary hours of work for day workers and apprentices exclusive of meal times, shall be an average of 38 hours per week in each roster cycle to be worked Monday to Friday inclusive and to commence on such days at or after 6.00 a.m. and before 10.00 a.m. Provided that apprentices may commence work on such days before 6.00 a.m. as their trade requires.

Provided that the ordinary hours may be altered by mutual agreement between an employer, the Union and the majority of employees in the Department concerned. The Union's approval will not be unreasonably withheld. When such agreement is reached the ordinary hours thus agreed will not attract any penalty or overtime payment under this Award in addition to the ordinary rate of pay for salary or wages. Entitlements to allowances, including allowances set out under Part B, Monetary Rates, will not be affected.

No apprentice or Adult Apprentice shall be required to perform work which would prevent the apprentice from attending classes as required by the term of his or her apprenticeship.

- (iii) The ordinary hours of work for shift workers, exclusive of meal times, shall not exceed an average of 38 hours per week in each roster cycle.
- (iv) Notwithstanding the provisions of subclauses (ii) and (iii) of this clause, the ordinary hours of work for Radiographers and Radiation Therapists, exclusive of meal times, shall be an average of 35 hours per week in each roster cycle.
- (v) Each day worker shall be free from duty for not less than two full days in each week and at least one allocated day off in each four week period and each shift worker shall be free from duty for not less than two full days in each week or four full days in each fortnight and at least one allocated day off in each four week period. Where practicable such days off duty shall be consecutive. Provided that where there is agreement between the employer and an employee this provision may be altered so that the employee has an average of two full days per week and at least one allocated day off in each four week period free from duty in each roster cycle.

NOTATION The employer has agreed to advise hospitals that by administrative action such days off duty shall not be preceded by an afternoon or night shift unless an additional 8 hours are granted as sleeping time. An afternoon shift shall be one which commences at or after 1 pm and before 4 pm.

- (vi) In each roster cycle of 28 days each employee shall work his or her ordinary hours of work on not more than nineteen days in the cycle. This principle is to be followed when formulating alternate roster cycles, examples of which are as follows:
 - (a) In each roster cycle of 21 days each employee shall work his or her ordinary hours of work on not more than 14 days in the cycle; or
 - (b) In each roster cycle of 14 days each employee shall work his or her ordinary hours of work on not more than nine days in the cycle.
- (vii) The employee's allocated day off duty shall be determined by mutual agreement between the employee and the employer having regard to the needs of the employer. Where practicable such allocated day off duty shall be consecutive with the days off duty prescribed by subclause (v) of this clause.
- (viii) Once set the allocated day off duty may not be changed in a current cycle unless there are genuine unforeseen circumstances prevailing or there is mutual agreement. Where such circumstances exist and the allocated day off is changed, another day shall be substituted in the current cycle. Should this not be practicable and agreement is not reached in accordance with subclause (ix) below, the day must be given and taken in the next cycle immediately following.

- (ix) Where there is agreement between an employer and an employee, an employee's allocated day off duty prescribed by sub-clause (v) of this clause may be accumulated and be taken at a time mutually agreed upon between the employer and the employee, provided that the maximum number of allocated days off duty which may accumulate under this subclause shall be three. Any allocated day off duty accumulated but not taken at the date of termination, shall be paid out at ordinary rates applicable at date of termination as part of the usual termination entitlement.
- (x) Where an employee's allocated day off duty falls due during a period of workers' compensation, the employee, on returning to full-time duty, shall be given the next allocated day off in sequence.
- (xi) Where an employee's allocated day off duty falls on a public holiday as prescribed by clause 15, Public Holidays, the next working day or another mutually agreed working day shall be taken in lieu thereof.
- (xii) Except for one meal break each day all time worked between the normal starting and ceasing time each day shall be at ordinary rates of pay. This provision shall not apply to such positions being worked as broken shifts on 5th September 1963.
- (xiii) A period of twenty minutes shall be allowed to employees for morning or afternoon tea and such period shall be included in the ordinary hours of work save and except for employees who are:
 - (a) employed under the NSW Health Service Allied Health Assistants (State) Award 2018; or
 - (b) engaged for less than a whole shift on any one day,

these employees shall be allowed a period of ten minutes only for either a morning or afternoon tea break. This break will be included in the ordinary hours of work.

Approval may be given by the employer in special and exceptional circumstances when it is not possible for an employee to have a 20-minute break to take two ten-minute breaks at a time convenient to the employee's circumstances.
- (xiv) There shall be a minimum break of eight hours between ordinary rostered shifts.
- (xv) Any time occupied by an apprentice or adult apprentice during working hours, in attendance at a TAFE college or carrying out a correspondence course, as required by the terms of an apprenticeship as established under Division 3 of Part 2 of the Apprenticeship and Traineeship Act 2001 (including time actually spent in travelling to and from a technical college) shall: -
 - (a) be counted as and included as part of his/her term apprenticeship; and
 - (b) shall be deemed to be time worked for the purpose of calculating wages to be paid to him/her under this Award.

3A. Multiple Assignments

(This Clause will take effect from 13 August 2018)

- (i) Multiple assignments under this Award exist when:
 - a. An employee has more than one position under this Award within the New South Wales Health Service, and
 - b. The same conditions of employment within the Award apply to the positions.

Each of these positions is referred to in this clause as "assignments".
- (ii) Where an employee has multiple assignments with different ordinary rates of pay, the employee shall be paid in relation to the ordinary hours worked in each separate assignment at the ordinary rate of pay applicable to that assignment.

- (iii) This clause does not apply to employees who have multiple casual assignments only. The Award provisions are to apply separately to each casual assignment.

Multiple Assignments Within a Single Organisation in the Public Health System

- (iv) The following provisions apply to employees with two or more assignments within a single Organisation in the Public Health System:
- (a) The work performed in each of an employee's assignments shall be aggregated for the purposes of determining all of the employee's entitlements under this Award.

Hours, Additional Days Off, and Overtime

- (b) The combined total number of ordinary hours worked under an employee's multiple assignments shall not exceed the hours of work as set out in clause 3, Hours.
- (c) Where the combined total number of ordinary hours worked under an employee's multiple assignments is equivalent to those set out for the ordinary hours of work for day workers (ie full time) in clause 3 they will be considered as a full time employee for the purposes of the Award and:
1. that employee is entitled to allocated days off in accordance with clause 3, Hours, and
 2. Clause 9, Overtime, shall apply for the purposes of overtime.
- (d) Where the combined total number of ordinary hours worked under an employee's multiple assignments is less than those set out in subclause (c) of this subclause they will be treated in accordance with Part 1 of clause 6, Permanent Part-Time and Part-Time.
1. All ordinary hours and additional hours paid at ordinary rates in each assignment shall be aggregated and treated as if they were worked under a single assignment, in accordance with Part 1 of clause 6, Permanent Part-Time and Part-Time, and
 2. Overtime as prescribed in Part 1 of clause 6, Permanent Part-Time and Part-Time.

Any existing multiple assignments as at (the operative date of this clause) that exceed 32 hours per week but are less than 38 hours per week shall be allowed to continue under the existing arrangements. All future multiple assignments will comply with the hours provisions.

- (e) The rostering of additional days off will be co-ordinated between the employee's line managers to ensure that the additional days off are proportionately rostered across the employee's assignments. Where an employee has multiple assignments with different ordinary rates of pay, the additional day off will be paid at the rate of pay relevant to the assignment in which it is rostered.
- (f) Where an employee has multiple assignments with different ordinary rates of pay, the rate of pay used to determine the additional hours or overtime payable shall be the rate applicable to the assignment which generated the additional hours or overtime.
- (g) Where overtime is compensated by way of time off in lieu as set out in subclause (xv) of clause 9, Overtime, that time off in lieu must be taken in the assignment which generated the overtime.
- (h) Employees who are in full time or part time assignments cannot be engaged on a second or further assignment as a casual employee under the Award. Any additional hours worked by such employees are to be remunerated in accordance with subclauses (c) or (d) of this subclause.

Public Holidays - Rostered Day Off

- (i) Each assignment will stand alone when calculating payment for a public holiday that falls on a rostered day off under clause 15, Public Holidays subclause (c). The annual election for the payment arrangements required under clause 15(d) will be the same for each of the employee's multiple assignments.

Temporary Employees

- (j) Where an employee has an assignment which attracts a 10% loading in accordance with clause 3.2 of the Health Industry Status of Employment (State) Award, the 10% loading shall only apply to hours worked in that assignment. While ever this loading is paid, the provisions of subclauses (p), (q) and (r) of this subclause shall not apply to the temporary assignment.

Employees Engaged as Part Time as at 20 September 1994

- (k) Where an employee:
 - 1. has elected to receive the benefits set out in Part 2 of clause 6, Permanent Part-Time and Part-Time Employees, in relation to an assignment, and
 - 2. after the date this clause was operative in this Award the employee commences in a second or further permanent part time assignment (as set out in Part 1 of clause 6 Permanent Part-Time and Part-Time Employees) and their combined total number of ordinary hours worked in all assignments is less than those set out in subclause (c) of this subclause;

Part 2 of clause 6, Permanent Part-Time and Part-Time Employees shall cease to apply and the employee will be a Permanent Part-Time Employee for the purposes of the Award.

- (l) Where an employee:
 - 1. has elected to receive the benefits set out in Part 2 of clause 6, Permanent Part-Time and Part-Time Employees, in relation to an assignment, and
 - 2. his/her combined total number of ordinary hours worked in all assignments is equal to or more than those set out in subclause (c) of this subclause,

Part 2 of clause 6, Permanent Part-Time and Part-Time Employees shall not apply to any of their assignments.

Incremental Progression

- (m) Where an employee has multiple assignments in the same classification and pay rate, the employee will progress from one increment (year step) to the next increment after the employee has completed the full time equivalent of one year in the increment having regard to the work performed in all assignments. Further, an employee must complete a minimum of one calendar year in an increment before progressing to the next increment.
- (n) Where an employee has multiple assignments in the same classification, but different grades and/or pay rates, the employee's service in the higher grade will count for the purposes of incremental progression in the lower grade. However, service in the lower grade shall not count for the purposes of incremental progression in the higher grade.
- (o) Where an employee has multiple assignments in different classifications, the employee's service in each assignment will not count for the purpose of incremental progression in the other assignment.

Leave

- (p) All ordinary hours worked by an employee in multiple assignments shall count towards determining the employee's leave entitlements.
- (q) Employees with multiple assignments shall be entitled to take all forms of leave in any of their assignments. That is, leave accrued by an employee through work performed in one assignment, can be taken by that employee in their other assignment/s.
- (r) Where an employee has multiple assignments with different ordinary rates of pay, the employee shall be paid for leave taken at the rate of pay relevant to the assignment in which the leave was taken or rostered.
- (s) An employee's combined total number of ordinary hours worked in their multiple assignments will be used to calculate additional annual leave in accordance with subclause (i)(b) of clause 16, Annual Leave.
- (t) Service in all assignments will be recognised for the purposes of entitlements under clause 41, Maternity, Adoption and Parental Leave.
- (u) Where an employee's assignment is terminated but the employee remains employed under another full time or part time assignment, all leave credits will be transferred to the remaining assignments. The employee shall not be paid out the monetary value of the annual leave or long service leave accrued in the terminated assignment.

Disclosures, Notifications and Approvals

- (v) Employees must, at the time they apply for any second or further assignment, disclose in writing that they are already employed by NSW Health and provide details of that assignment including:
 - 1. the position/s currently held
 - 2. the facility in which the existing position/s are worked
 - 3. the classification/s under which they are engaged in each position
 - 4. the number of ordinary hours worked in each position
 - 5. any regular additional hours or overtime that is worked in each position
 - 6. whether the position/s is worked according to a set roster and if so, the details of that roster arrangement; and
- (w) Prior to accepting an offer for a second or further assignment, employees must provide to their current manager details of that proposed assignment including:
 - 1. the position they have applied for
 - 2. the facility in which the proposed new assignment is to be worked
 - 3. the classification under which they would be engaged in the new assignment
 - 4. the number of ordinary hours to be worked in the proposed assignment
 - 5. whether the position is to be worked according to a set roster and if so, the details of that roster arrangement.

- (x) A Public Health Organisation may elect on reasonable grounds to withhold the approval of a second or further assignment to employees who are already employed in another assignment.
- (y) Before accepting any change in roster or undertaking additional hours or overtime that will impact on another assignment, employees who hold multiple assignments must notify their current manager of the details of their next shift in either assignment. Managers must not change rosters or require employees to work additional hours or overtime where these will impact on the employee's roster in the other assignment (for example by generating overtime) without first consulting the manager of the other assignment/s. (By way of example, if an employee is requested by Manager 1 in Assignment 1 to undertake additional hours in Assignment 1 that may impact on the roster in Assignment 2, the employee must notify Manager 1 of the impact. Manager 1 must not change rosters/hours that impact on Assignment 2 without first consulting Manager 2.)

Multiple Assignments Across Different Organisation in the Public Health System

- (v) Multiple Assignments, that meet the criteria in subclause (i) of this clause and they are worked in different Organisations in the Public Health System, will be regarded as entirely separate for all purposes under the Award, including the accrual and taking of leave. The only exceptions are:
 - (a) At the time an employee commences an assignment in another Organisation in the Public Health System the employee's accrued leave will be apportioned across their assignments (for example, a 0.6 full time equivalent employee who commences another 0.4 full time equivalent assignment in another Organisation in the Public Health System will have 60% of their leave accruals allocated to the former assignment and 40% to the latter assignment) unless prior to commencing the new assignment the employee elects that this apportioning does not occur. After this apportioning, leave accrues separately in each assignment, based on the hours worked in each assignment. The employer will notify the employee of their right to make this election prior to the apportioning taking place.
 - (b) Employees who have multiple assignments across different Organisations in the Public Health System at the time this clause became operative in this award may elect to apportion their accrued leave across their assignments.
 - (c) Service in all assignments will be aggregated for the purposes of calculating entitlements under clause 17, Long Service Leave.
 - (d) Service in all assignments will be recognised for the purposes of entitlements under clause 41, Maternity, Adoption and Parental Leave.
 - (e) Service in all assignments will be recognised for the purposes of entitlements of Family and Community Services Leave and Personal/Carers Leave as provided in clause 28.
 - (f) Service in all assignments will be recognised for the purposes of entitlements of Family Violence Leave as provided in clause 28A.
 - (g) Where an employee terminates an assignment, any leave credits that are held against that assignment will be transferred to the remaining assignment/s.
 - (h) If prior to the introduction of this clause and/or the StaffLink payroll system an employee received additional days off and/or overtime in accordance with subclause (ii) of clause 9, Overtime, that employee shall continue to receive those benefits until one of the assignments is terminated.
 - (i) Where an employee has three or more assignments, one or more of which are in different Organisations in the Public Health System, subclause (iv) of this clause shall apply to those assignments which are within a single Public Health Organisation.

Changes to the composition of Organisations in the Public Health System

- (vi) The employer and the Association agree to review this clause in the event that the boundaries of any Organisation in the Public Health System change.
- (vii) Where any change to the boundaries of any Organisation in the Public Health System causes an employee's multiple assignments to which subclause (iv) of this clause previously applied to then be subject to subclause (v) of this clause, subclause (iv) of this clause shall continue to apply (to the exclusion of subclause (v) of this clause) to those assignments until one of them is terminated.

4. Roster of Hours

- (i) The provisions of this clause shall not apply to persons employed under the Health Managers (State) Award.
- (ii) The ordinary hours of work for each employee shall be displayed on a roster in a place conveniently accessible to employees. Unless not reasonably practicable, the roster shall be displayed two weeks prior to the commencing date of the first working period in any roster.

Provided that this provision shall not make it obligatory for the employer to display any roster of ordinary hours of work of members of the relieving staff.

Provided further, that a roster may be altered at any time to enable the service of the hospital or health institution to be carried on where another employee is absent from duty on account of illness or in an emergency, but where any such alteration involves an employee working on a day which would have been his or her day off such time worked shall be paid for at overtime rates. Furthermore, where a change in roster occurs with less than 24 hours' notice to the employee affected, all time worked outside that shown on the employee's roster (prior to the alteration) shall be paid for at overtime rates.

- (iii) Rosters providing for shift work shall not be introduced into any hospital or health institution or section thereof until such time as the proposals are discussed with the Union by the employer.
- (iv) Extension of rosters beyond 28 calendar days may be introduced subject to such proposals being agreed between the Union and the employer. Neither party shall unreasonably withhold its approval.
- (v) Where an employee is entitled to an allocated day off duty in accordance with clause 3, Hours, that allocated day off duty is to be shown on the roster of hours for each employee.

5. Climatic and Isolation Allowance

- (i) Persons employed in hospitals or health institutions in places situated upon or to the west of a line drawn as herein specified shall be paid an allowance as agreed between the employer and the Union in addition to the salary to which they are otherwise entitled.

The line shall be drawn as follows:- viz; commencing at Tocumwal and thence to the following towns in the order stated - Lockhart, Narrandera, Leeton, Peak Hill, Gilgandra, Dunedoo, Coolah, Boggabri, Inverell and Bonshaw.

- (ii) Persons employed in hospitals or health institutions in places situated upon or to the west of a line drawn as herein specified shall be paid an allowance as agreed between the employer and the Union in addition to the salary to which they are otherwise entitled.

The line shall be drawn as follows:- viz; commencing at a point on the right bank of the Murray River opposite Swan Hill (Vic.) and thence to the following towns, in the order stated - Hay, Hillston, Nyngan, Walgett, Collarenebri and Mungindi.

- (iii) The allowances paid shall be as set out in Items 1 and 2 of Table 1 - Other Rates and Allowances, of Part B, Monetary Rates.

- (iv) The allowances prescribed by this clause are not cumulative.
- (v) Except for the computation of overtime the allowances prescribed by this clause shall be regarded as part of the salary for the purposes of this Award.
- (vi) A part-time employee shall be entitled to the allowance prescribed by this clause in the same proportion as the average hours worked each week bear to 38 ordinary hours.

6. Permanent Part-Time and Part-Time Employees

Part 1 - Permanent Part-Time Employees

- (i) A permanent part-time employee is one who is appointed by the employer to work a specified number of hours each roster cycle which are less than those prescribed for a full-time employee.
- (ii) A permanent part-time employee shall be paid an hourly rate calculated on the basis of one thirty eighth of the normal weekly rate available for full-time employees of the same classification (Radiographers and Radiation Therapists will be calculated on the basis of one thirty fifth).
- (iii) Persons employed on a permanent part-time basis may be employed for not less than two or more than 32 hours in any full week of seven days, such week to be coincidental with the pay period. Permanent part-time employees are not entitled to an allocated day off. The specified number of hours may be balanced over a roster cycle, provided that the average weekly hours worked shall be deemed to be the specified number of hours for the purposes of accrual of leave provided for by this Award. Provided further that there shall be no interruption to the continuity of employment merely by reason of an employee working on a "week-on", "week-off" basis in accordance with this subclause.
- (iv) Employees engaged under this clause shall be entitled to all other benefits of the Award not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.
- (v) All time worked by permanent part-time employees in excess of the total rostered daily ordinary hours of work prescribed for the majority of full-time employees employed on that shift in the ward or section concerned shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time.
- (vi) Time worked up to the total rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the ward or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.

Part 2 - Part-Time Employees

- (i) Persons employed on a part-time basis, other than on a permanent part-time basis as outlined in Part 1 of this clause, may be employed for not less than eight or more than 30 hours in any full week of seven days, such week to be coincidental with the pay period, and shall be paid for the actual number of hours worked each week an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed plus 15 per cent thereof (in the case of Radiographers and Radiation Therapists the calculation would be one thirty-fifth of the appropriate rate plus 15 per centum thereof).
- (ii) In an emergency part-time employees may be allowed to work more than 30 hours in one week and in such case will be paid for the hours actually worked at a rate calculated in accordance with sub-clause (i) of this part.
- (iii) With respect to employees employed as part-time workers the provisions of subclauses (vi) to (xi) of clause 3, Hours, shall not apply.
- (iv) All time worked by part-time employees in excess of the total rostered daily ordinary hours of work prescribed for the majority of full-time employees employed on that shift in the ward or section

concerned shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time.

- (v) Time worked up to the total rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the ward or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.
- (vi) With respect to employees employed as part-time workers the provisions of clause 9, Overtime, except where provided in subclauses (iv) and (v) of this part, shall not apply.
- (vii) Temporary employees called to work on an ad hoc basis in base grade positions shall at the completion of 12 months' continuous service, be given priority one for appointment to permanent part-time or permanent full-time positions with the Public Health Organisation. For the purpose of this subclause continuous service shall be where an employee has worked a minimum of one shift per week.

7. Board and Lodging

- (i) Deductions from the salary rates prescribed in the Awards to which these conditions apply shall be made for board and lodgings.
- (ii) Deductions from the rates prescribed in the Awards to which these conditions apply are authorised as follows where board and/or lodgings are supplied:
 - (a) For board - as set out in Item 3 of Table 1 - Other Rates and Allowances, of Part B, Monetary Rates, for breakfast and for each other meal; provided that the maximum sum that may be deducted in any one week in the case of an employee entitled to full board shall be as set out in the said Item 3.
 - (b) For lodging - as set out in Item 4 of the said Table 1 where the employee is provided with a separate bedroom and as set in the said Item 4 where the employee is required to share a bedroom.
- (iii) No deduction shall be made from the wages of an employee for board or lodging when the employee is absent on annual, sick or long service leave.

8. Relieving Other Members of Staff

- (i) Subject to the provisions of subclause (ii) of this clause, an employee who is called upon to relieve an employee in a higher classification continuously for five working days or more, and who satisfactorily performs the whole of the duties and assumes the whole of the responsibilities of the higher classification as required by the employer, shall be entitled to receive, for the period of relief, the minimum pay of such higher classification.
- (ii) Where the position being relieved is covered by the Health Managers (State) Award payment should be made on the following basis:

If an employee is directed to relieve for a period of five consecutive working days or more, on any one occasion, an employee who is in a higher manager level, the employer must pay the relieving employee, for the period of relief, not less than the minimum of the salary band for the senior employee's level, provided that:

- (a) If, in the employer's opinion, the relieving employee merits a higher salary, the employer may pay the relieving employee more than the minimum of the salary band for the senior employee's level; or
- (b) If the relieving employee's normal salary is equal to or more than the minimum of the salary band for the senior employee's level, the employer must pay the relieving employee a rate which is not less than the midpoint between the relieving employee's normal salary and the senior employee's normal salary.

- (c) Where the relieving person is in the same salary band, he/she shall be paid not less than the midpoint between the salary of the relieving officer and the salary of the person relieved.
- (d) Where the relieving manager performs less than the full range of duties of the senior manager, the relieving person shall receive an increase in salary, that increase to be negotiated between the employee and employer.

9. Overtime

- (i) The provisions of this clause shall not apply to persons employed as Health Manager Level 5 and above.
- (ii) Employees are expected to work reasonable overtime.
- (iii) All time worked by employees outside the ordinary hours in accordance with clause 3, Hours, and clause 4, Roster of Hours, shall be paid at the rate of time and one half up to 2 hours each day and thereafter at the rate of double time; provided, however, that all overtime worked on Sunday shall be paid for at the rate of double time and all overtime worked on public holidays shall be paid for at the rate of double time and one half.
- (iv) Subject to subclauses (v) - (ix) below, employees who are recalled for duty, whether notified before or after leaving the employer's premises, shall be paid for all time worked at the appropriate overtime rate, with a minimum of four hours at such rates.
- (v) Employees may be required to perform other work that arises during the recall period. Employees shall not be required to work the full four hour minimum payment period if they complete the work they were recalled to perform and any additional work they are required to undertake, within a shorter period.
- (vi) The employer must have processes in place for the formal release of employees from recall duty.
- (vii) Employees who are not formally released and who are recalled again during the four hour minimum payment period are not entitled to any additional payment until the expiration of the four hour period.
- (viii) Employees who are advised they will not be required to perform any additional work and are formally released and who are subsequently recalled again during the four hour minimum payment period, shall be entitled to another four hour minimum payment.
- (ix) Employees required to work overtime after leaving the employer's premises to provide a technology support resolution or clinical appraisal remotely without onsite presence, shall be paid for such work at the appropriate overtime rate, with a minimum payment of one hour at such rates.
- (x) An employee recalled to work overtime as prescribed by subclause (iv), of this clause shall be paid all fares and expenses reasonably incurred in travelling to and from her/his place of work.

Provided further that where an employee elects to use her/his own mode of transport, he/she shall be paid an allowance equivalent to the Transport Allowance as provided by Determination made under the *Health Services Act 1997*, as varied from time to time.

- (xi) When overtime work is necessary it shall wherever reasonably practical be so arranged that employees have at least eight consecutive hours off duty between the work on successive days or shifts.
- (xii) An employee who works so much overtime:
 - (a) between the termination of his/her ordinary work on any day or shift and the commencement of his/her ordinary work on the next day or shift that he/she has not had at least eight consecutive hours off duty between these times; or
 - (b) on a Saturday, a Sunday and a holiday, not being ordinary working days, or on a rostered day off without having had eight consecutive hours off duty in the twenty-four hours preceding his/her ordinary commencing time on his/her next day or shift.

Shall, subject to this subclause, be released after completion of such overtime until he/she has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If on the instruction of his/her employer such an employee resumes or continues to work without having had such eight consecutive hours off duty he/she shall be paid double time until he/she is released from duty for such period and he/she then shall be entitled to be absent until he/she has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

- (xiii) For the purposes of assessing overtime each day shall stand alone, provided however that where any one period of overtime is continuous and extends beyond midnight, all overtime hours in this period shall be regarded as if they had occurred within the one day.
- (xiv) When an employee works overtime as an extension of shift and ceases work at a time when reasonable means of transport home are not available, he/she shall be paid at ordinary time for the time reasonably spent travelling from the hospital or health institution to the employee's home with a maximum payment of one hour.

This subclause shall not apply in the case of recall or where the employee has his/her own vehicle available for conveyance home.

- (xv) Employees, other than those employees not entitled to overtime as outlined in subclause (i) of this clause, who work approved overtime outside normal rostered ordinary hours may be compensated by way of time off in lieu of overtime subject to the following provisos:
 - (a) Time off in lieu must be taken, within three months of it being accrued, at ordinary rates.
 - (b) Where it is not possible for an employee to take the time off in lieu within the three-month period, it is to be paid out at the appropriate overtime rate based on the rates of pay applying at the time payment is made.
 - (c) The accrual and taking of time in lieu of overtime will be conditional on mutual agreement of the employee and the respective manager.
 - (d) Records of all time off in lieu owing to and taken by employees must be maintained by the employer.
 - (e) The parties recognise that the option of time off in lieu of overtime will not be possible in all settings and circumstances. Where it is not possible, overtime payment provisions will apply.
 - (f) The parties agree to work together to establish strategies, policies and procedures to maximise the use of time in lieu and opportunity for time in lieu to be taken within the specified three-month period.

10. On Call

- (i) The payment of an allowance under the provisions of this clause shall not apply to persons employed as Health Manager Level 5 and above.
- (ii) The employer shall advise all employees and the Union of any proposal to introduce an on call roster, including the proposed details of the roster.
- (iii) An employee required by his or her employer to be on call, otherwise than as provided in subclause (iv) of this clause, shall be paid the allowance set out in Item 5 of Table 1 - Other Rates and Allowances, of Part B, Monetary Rates, for each period of 24 hours or part thereof, provided that only one allowance shall be payable in any period of 24 hours.
- (iv) An employee required to be on call on rostered days off shall be paid the allowance set out in Item 6 of the said Table 1 for each period of 24 hours or part thereof, provided that only one allowance shall be payable in any period of 24 hours.

- (v) On-call rostering arrangements shall be determined in consultation with affected employees and having regard to the availability and training of employees placed on the on-call roster. Such arrangements should also have regard to particular local geographical concerns and travelling distances involved.
- (vi) Wherever possible the employer shall supply a mobile telephone and or pager to an employee rostered on call.
- (vii) Where provided with a mobile telephone or pager a rostered employee must remain near the mobile telephone, which must remain switched on unless a pager has been provided. Alternatively, an employee not provided with a mobile telephone or pager must remain available via their home telephone. A rostered employee shall be available to answer calls personally and must not utilise an answering machine.
- (viii) An employee rostered on call must contact the hospital or health institution immediately it becomes known that the employee shall be unavailable for rostered duty.
- (ix) The employee must be able to respond appropriately within a reasonable time frame as determined by the employer.
- (x) Where appropriate an employee rostered on call may be provided with a motor vehicle.
- (xi) The employer shall ensure that all employees who participate in the after hours service are provided with any training necessary to respond effectively to calls received.

11. Penalty Rates for Shift Work and Weekend Work

- (i) The provisions of this clause shall not apply to persons employed under the Health Managers (State) Award.
- (ii) Shift workers working afternoon or night shift shall be paid the following percentages in addition to the ordinary rate for such shift, provided however, the laundry staff working afternoon or night shift, shall be paid 20 per cent in addition to the rates prescribed for employees of the corresponding classifications working day shift; provided that part-time and permanent part-time employees who work less than 38 hours per week shall only be entitled to the additional rates where their shifts commence prior to 6.00 a.m. or finish subsequent to 6.00 p.m.
 - Afternoon shift commencing at 10.00 a.m. and before 1.00 p.m. - 10 per cent
 - Afternoon shift commencing at 1.00 p.m. and before 4.00 p.m. - 12.5 per cent
 - Night shift commencing at 4.00 p.m. and before 4.00 a.m. - 15 per cent
 - Night shift commencing at 4.00 a.m. and before 6.00 a.m. - 10 per cent
- (iii) For the purposes of this clause, day, afternoon and night shifts shall be defined as follows:
 - "Day shift" means a shift which commences at or after 6.00 a.m. and before 10.00 a.m.
 - "Afternoon shift" means a shift which commences at or after 10.00 a.m. and before 4.00 p.m.
 - "Night shift" means a shift which commences at or after 4.00 p.m. and before 6.00 a.m. on the day following.
- (iv) Employees whose ordinary working hours include work on a Saturday and/or Sunday, shall be paid for ordinary working hours worked between midnight on Friday and midnight on Saturday at the rate of time and one-half and for ordinary hours worked between midnight on Saturday and midnight on Sunday at the rate of time and three-quarters. These extra rates shall be in substitution for and not cumulative upon the shift premiums prescribed in the preceding subclause (ii), of this clause.

The foregoing paragraph shall apply to part-time workers but such workers shall not be entitled to be paid, in addition, the allowance of 15 per cent prescribed in subclause (ii) of Part 2 of clause 6, Permanent Part-time and Part-time Employees, in respect of their employment between midnight on Friday and midnight on Sunday.

- (v) Employees working a broken shift shall be paid an additional amount as set out in item 7 of Table 1 - Other Rates and Allowances, of Part B, Monetary Rates, for each broken shift and the period of time between the commencement and termination of such shift shall not exceed 12 hours.

12. Special Working Conditions

- (i) The provisions of this clause shall not apply to persons employed under the Health Managers (State) Award.
- (ii) An employee other than a post-mortem assistant:-
 - (a) Who is required to assist in post mortems shall be paid, in addition to his/her ordinary salary, an allowance as set out in Item 8 of Table 1 - Other Rates and Allowances, of Part B, Monetary Rates, for each post-mortem.
 - (b) When employees, including post-mortem assistants, are required to attend police post- mortems outside of ordinary working hours they shall be entitled to payment of the allowances as set out in Item 9 of the said Table 1, or the normal overtime provisions of this Award, whichever is the greater.
 - (c) When employees, excluding post-mortem assistants, are required to assist at police post-mortems during ordinary working hours, they shall be entitled to payment of an allowance as set out in Item 10 of Table 1.
 - (d) Employees shall be paid an allowance as set out in Item 11 of Table 1 in respect of each police post-mortem examination performed on a partly decomposed or vermin- infested body.
- (iii) Employees shall be paid an allowance as set out in Item 12 of Table 1 for each shift or part thereof during which they are engaged in handling linen of a nauseous nature other than linen sealed in bags.
- (iv) Employees engaged on refuse disposal and/or sorting for incinerators or furnaces shall be paid an additional amount as set out in Item 13 of Table 1.
- (v)
 - (a) Employees shall receive an additional duties allowance per week as set out in Item 14 of Table 1 for appropriate duties involved in the maintenance and supervision of swimming pools, pest control duties on a continuing basis, driving tractors (other than drivers) maintenance of bowling greens and sporting ovals.
 - (b) Employees regularly required to perform work on sewerage works and grease traps or other duties considered offensive by the Ministry of Health, shall be paid an allowance at the rate as set out in Item 15 of Table 1 per week. The allowance is not automatically adjusted in the future.
 - (c) Employees required to assist in cleaning sewerage chokages and who are required to assist in opening up any soil pipe, waste pipe, drain pipe, or pump containing sewerage or who are required to work in a septic tank in operation, shall be paid an allowance as set out in Item 16 of Table 1.
- (vi) An employee required to wear a lead apron shall be paid an allowance as set out in Item 17 of Table 1 for each hour or part thereof that he/she is required to wear the said apron. This subclause shall not apply to employees engaged under the Health Employees' Medical Radiation Scientists (State) Award or the Health Employees' Technical (State) Award.

- (vii) An employee who is required to handle and be responsible for monies and issuing receipts for same, shall be paid a weekly allowance in the nature of salary as set out in Item 18 of Table 1. This subclause shall not apply to employees whose ordinary weekly rate of pay is in excess of that prescribed from time to time for an Administration Officer Level 1, Year 5, under the Health Employees' Administrative Staff (State) Award. This subclause shall also not apply to employees employed under the NSW Health Service Allied Health Assistants (State) Award.
- (viii) Employees engaged under the Health Employees' (State) Award and the Health Employees' Engineers' (State) Award shall be paid the amounts prescribed from time to time under clause 10, Special Rates, of the Public Health Service Employees' Skilled Trades (State) Award published 6 April 2018 (382 I.G. 936), as varied, when working in situations where the disability encountered is not normally encountered by employees of that classification as follows:
- (a) Cold Places - Employees working in places where the temperature is reduced by artificial means below 0 degrees Celsius shall be paid as set out in Item 19 of Table 1 per hour extra. Where the work continues for more than two hours, employees shall be entitled to a rest period of 20 minutes every two hours without loss of pay.
 - (b) Confined Spaces - Employees working in places the dimensions or nature of which necessitate working in a stooped or cramped position or without sufficient ventilation, shall be paid as set out in Item 20 of Table 1 per hour extra.
 - (c) Dirty Work - Work which a supervisor and employee agree is of a dirty or offensive nature by comparison with the work normally encountered in the classification concerned and for which no other special rates are prescribed, shall be paid for by an additional amount at the rate as set out in Item 21 of Table 1 per hour above the rate prescribed by this Award.
 - (d) Height Money - Employees working at a height of 7.5 metres from the ground, deck, floor or water shall be paid as set out in Item 22 of Table 1 per hour extra. Height shall be calculated from where it is necessary for the employee to place his/her hands or tools in order to carry out the work to such ground, floor, deck or water. For the purpose of this subclause, deck or floor means a substantial structure which, even though temporary, is sufficient to protect an employee from falling any further distance. Water level means, in tidal waters, mean water level. This subclause shall not apply to employees working on a suitable scaffold erected in accordance with the *Work Health and Safety Act 2011*.
 - (e) Hot Places - Employees working in the shade in places where the temperature is raised by artificial means to between 46 degrees Celsius and 54 degrees Celsius shall be paid as set out in Item 23 of Table 1 per hour extra; in places where the temperature exceeds 54 degrees Celsius such employees shall be paid as set out in the said Item 23 per hour extra. Where work continues for more than two hours in temperatures exceeding 54 degrees Celsius, employees shall also be entitled to 20 minutes' rest after every two hours' work, without deduction of pay. The temperature shall be decided by the supervisor of the work after consultation with the employees who claim the extra rate.
 - (f)
 - (1) Insulation Material - An employee who is called upon to handle charcoal, pumice, granulated cork, silicate of cotton, insulwool, slagwool, fibre glass or mineral wool or other recognised insulating material of a like nature or an employee in the vicinity of such work shall be paid as set out in Item 24 of Table 1 whilst so engaged.
 - (2) Asbestos - An employee required to work with any materials containing asbestos or to work in close proximity to employees using such materials shall be provided with, and shall use, all necessary safeguards as required by the appropriate occupational health authority and, where such safeguards include the mandatory wearing of protective equipment, such employees shall be paid as set out in Item 25 of Table 1 per hour whilst so engaged.

- (g) Smoke-boxes, etc. - Employees working on repairs to smoke-boxes, furnaces or flues of boilers shall be paid as set out in Item 26 of Table 1 per hour extra; provided that an employee engaged on repairs to oil fired boilers, including the casings, uptakes and funnels, or flues and smoke stacks, shall, while working inside such boiler, be paid as set out in the said Item 26 per hour extra.
- (h) Wet Places -
- (1) An employee working in a place where water other than rain is falling so that his/her clothing shall be appreciably wet and/or water, oil or mud underfoot is sufficient to saturate his/her boots shall be paid as set out in Item 27 of Table 1 per hour extra; provided that this extra rate shall not be payable in respect to an employee who is provided with suitable and effective protective clothing and/or footwear. An employee who becomes entitled to this extra rate shall be paid such rate for such part of the day or shift as he/she is required to work in wet clothing or boots.
- (2) Where an employee is required to work in the rain he/she shall be paid as set out in Item 27 per hour extra for time so worked.
- (i) An employee called upon to work knee-deep in mud or water, shall be paid at the rate set out in Item 28 of Table 1 per day in addition to ordinary rates of pay prescribed for each day or portion thereof so worked; provided that this subclause shall not apply to an employee who is provided with suitable protective clothing and/or footwear.
- (j) Acid Furnaces, Stills, etc. - An employee engaged on the construction or alteration or repairs to boilers, flues, furnaces, retorts, kilns, ovens, ladles and similar refractory work shall be paid as set out in Item 29 of Table 1 per hour. This additional rate shall be regarded as part of the wage rate for all purposes.
- (k) Depth Money - An employee engaged in tunnels, cylinders, caissons, coffer dams and sewer work and in underground shafts exceeding 3 metres in depth shall be paid as set out in Item 30 of Table 1 per hour.
- (l) Swinging Scaffolds -
- (1) An employee, working in a bosun's chair or on a swinging scaffold shall be paid as set out in Item 31 of Table 1 for the first four hours whilst so engaged thence as set out in the said Item 31 per hour thereafter.
- (2) An employee shall not raise or lower a bosun's chair or swinging scaffold alone and an employer shall not require an employee to raise or lower a bosun's chair or swinging scaffold alone.
- (m) Spray Application - An employee engaged on all spray applications carried out in other than a properly constructed booth which accords with the Australian and New Zealand Standard 4114.1, shall be paid as set out in Item 32 of Table 1 per hour extra.
- (n) Roof Work - Employees engaged in the fixing or repairing of a roof or any other work in excess of 12 metres from the nearest floor level shall be paid as set out in Item 33 of Table 1 per hour extra with a minimum payment as set out in the said Item 32 per day.
- (o) Explosive Powered Tools - Employees required to use explosive powered tools shall be paid as set out in Item 34 of Table 1 per day.
- (p) Morgues - An employee other than a post-mortem assistant required to work in a morgue shall be paid an extra rate as set out in Item 35 of Table 1 per hour whilst so employed.

- (q) Toxic and Noxious Substances -
- (1) An employee engaged in either the preparation and/or the application of toxic or epoxy based materials or materials of a like nature shall be paid as set out in Item 36 of Table 1 per hour extra.
 - (2) In addition, employees applying such material in buildings which are normally air-conditioned shall be paid as set out in Item 37 of Table 1 per hour extra for any time worked when the air conditioning plant is not operating.
 - (3) Where there is an absence of adequate natural ventilation, the employer shall provide ventilation by artificial means and/or supply an approved type of respirator and in addition protective clothing shall be supplied where recommended by the Ministry of Health.
 - (4) Employees working in close proximity to employees so engaged shall be paid as set out in Item 38 of Table 1 per hour extra.
 - (5) For the purpose of this clause, all materials which are toxic or which include, or require the addition of a catalyst hardener and reactive additives or two pack catalyst system shall be deemed to be materials of a like nature.

- (r) Employees working in areas accommodating psychiatric patients shall be paid as set out in Item 39 of Table 1 per hour whilst so engaged.

The above allowance shall not apply to persons employed under the terms of the Health Employees' (State) Award unless such employees are engaged in work in such areas according to the direction of Tradesmen or Engineers or assisting such persons in the ordinary performance of their work.

- (s) Geriatric Allowance - Employees working or required to work in the following hospitals: Allandale and Garrawarra, shall be paid an allowance as set out in Item 40 of Table 1 per hour, and those working or required to work at Lidcombe Hospital shall be paid as set out in Item 40 per hour in addition to all other rates payable under this Award.

Provided that the allowance prescribed by this paragraph shall not be taken into consideration in the calculation of overtime or other penalty rates.

The above allowance shall not apply to persons employed under the terms of the Health Employees' (State) Award unless such employees are engaged in work in such areas according to the direction of Tradesmen or Engineers or assisting such persons in the ordinary performance of their work.

Provided further that the above disability allowance shall apply to positions under the Health Employees' Engineers (State) Award where the allowance applied to such positions prior to 1 July 1989.

- (t) Mental Institution Allowance - An allowance as set out in Item 41 of Table 1 per hour in addition to all other rates payable under this Award shall be paid to those persons employed in psychiatric hospitals (formerly 5th Schedule hospitals) where the above allowance applied to the position prior to 1 July 1989.
- (u) Animal House - An employee other than an animal technician or an animal attendant required to work in an animal house shall be paid as set out in Item 42 of Table 1 per hour whilst so engaged.
- (v) Rates not subject to Penalty Provisions - The special rates herein prescribed shall be paid irrespective of the times at which the work is performed, and shall not be subject to any premium or penalty conditions.

- (w) Extra Rate Not Cumulative - When more than one of the above rates provide payment for disabilities of substantially the same nature then only the highest of such rates shall be payable.
- (ix) Apprentices shall be paid each week a tool allowance as set out in item 43 of Table 1.
 - (a) Provided that where the employer supplies the apprentice with all necessary tools to use in his or her trade (such tools to remain the property of the employer) the provisions of this subclause shall not apply.
 - (b) Provided that where tool allowance is paid to apprentices, the employer may from time to time inspect tools provided by any apprentice, and if not satisfied that reasonable tools are being provided and kept in serviceable condition, having regard to the quantum of tool allowance paid, may furnish or render serviceable such tools and deduct the cost thereof from tool allowance pay thereafter becoming due.
- (x) Apprentices and Adult Apprentices attending registered training organisations for training shall be entitled to fares to and from home to the registered training organisation.
- (xi) Proportion of apprentices to cooks or gardeners, as the case may be shall not exceed one apprentice to three tradespersons or fraction thereof. Such proportion is to be calculated on the average number of tradespersons employed for the preceding six calendar months.
- (xii) A sterilising certificate allowance as set out in Item 48 of Table 1 of this Award applies to employees undertaking linen sterilising duties at HealthShare NSW Linen Services as follows:
 - (a) The sterilising certificate allowance will be paid to employees who:
 - (1) hold a recognised and accredited certificate; and
 - (2) perform sterilising duties at least one day per week.
 - (b) The allowance will be paid across all Linen Services.
 - (c) For employees who have undertaken duties on occasion or on a relief basis, the allowance is payable based on an estimate put to the Linen Service Manager by the employee which is then confirmed and approved for payment.
 - (d) For employees who work less than one week in sterilising duties, a daily pro rata allowance at 20% of the weekly allowance is payable.
 - (e) Untrained/uncertified employees who are undertaking the duties need to be certified in accordance with a HealthShare NSW state-wide program not extending beyond 12 months. After 12 months those without the certificate cannot receive the allowance in accordance with sterilising requirements under Australian standards.
 - (f) The allowance will be adjusted in the future in line with general salary movements for linen service employees.

13. Excess Fares and Travelling

For the purpose of this clause accustomed place of work shall mean the site or campus where an employee is regularly required to commence duty by the employer.

- (i) An employee shall be required to proceed to the accustomed place of work and return home once on each ordinary working day or shift in the employee's own time and at the employee's own expense.

(ii)

- (a) Where an employee is directed to report for duty to a place of work other than the employee's accustomed place of work the employee shall travel to and from the alternative place of work in the employer's time for those periods in excess of time normally taken to travel to and from the accustomed place of work.
- (b) If the excess of travelling time on a particular day or shift is greater than the prescribed ordinary hours of duty for the particular category of staff for that day or shift, then the excess of hours shall be paid at the ordinary rate of pay to the extent of the excess of travelling time.
- (c) Fares incurred by such employee in excess of the fares normally incurred in travelling to the employee's accustomed place of work and returning home from the accustomed place of work, shall be reimbursed.
- (d) Where the employee is required to report to an alternative place of work and has the prior approval of the employer to travel by his/her own mode of conveyance, the employee shall be paid a kilometre allowance for kilometres travelled in excess of the kilometres the employee normally travels between the accustomed place of work and home. The kilometre allowance will be as prescribed from time to time by the Crown Employees (Public Service Conditions of Employment) Award.

(iii)

- (a) Where an employer has determined that an employee or employees should report to a new accustomed place of work on a permanent basis, the decision must be discussed with the affected employee(s) and the local branch of the union prior to notice of changed accustomed place of work being given.
- (b) The employer shall give the employee reasonable notice of the requirement to report to a new accustomed place of work. For the purpose of this subclause "reasonable notice" shall be one calendar month prior to the date the employee is first required to report to the new accustomed place of work.
- (c) Where the accustomed place of work is changed on a permanent basis by the employer, the employee shall report to the new accustomed place of work on the date specified by the employer.
- (d) If there is disagreement about such decision after such discussion or if a significant number of employees are involved, the matter should be referred to the Secretary, who will discuss the matter with the Union and will determine the date upon which notice will be given the employee(s).

(iv)

- (a) The provisions of this clause shall not apply to an employee appointed to regularly perform relief duties or to employees specifically employed to perform duties at more than one place of work except as provided in paragraph (b) hereunder of this subclause.
- (b) If a reliever incurs fares in excess of \$5.11* per day in travelling to and from the relief site, the excess shall be reimbursed.

Where a reliever, with the prior approval of the employer, travels by his/her own mode of conveyance and incurs travelling costs in excess of \$5.11 per day to and from the relief site, such excess shall be reimbursed. The rate applicable shall be the kilometre allowance prescribed from time to time by the Crown Employees (Public Service Conditions of Employment) Award, less \$5.11.

- (v) No payment shall be made under this clause unless the employer is satisfied that the employee has incurred additional expenditure in having to report to an alternate place of work, at the direction of the employer.
- (vi) Travel, to an alternative place of work, either by public transport or own mode of conveyance, shall in all instances be by the most direct route.

14. Meals

- (i) Time not exceeding one hour and not less than thirty minutes shall be allowed for each meal, provided that where an employee is called upon to work for any portion of the meal break, such time shall count as ordinary working time.
- (ii) An employee required to work overtime following on the completion of his or her normal shift for more than two hours shall be allowed 20 minutes for the partaking of a meal and a further 20 minutes after each subsequent four hours overtime; all such time shall be counted as time worked.
- (iii) An employee recalled to work overtime after leaving the employer's premises and who is required to work for more than four hours shall be allowed 20 minutes for the partaking of a meal and a further 20 minutes after each subsequent four hours overtime; all such time shall be counted as time worked.
- (iv) The meals referred to in subclauses (ii) and (iii) of this clause shall be allowed to the employee free of charge. Where the employer is unable to provide such meals an allowance as set out in Item 44 of Table 1 of Part B shall be paid to the employee concerned. This allowance shall be varied as the rates are varied from time to time in the Crown Employees (Public Service Conditions of Employment) Award.
- (v) Where an employee is required to work an overtime shift on his or her rostered day off, or on a shift changed in accordance with clause 4, Roster of Hours, the appropriate meal breaks for that shift, as prescribed in subclause (i) of this clause and subclauses (xii) and (xiii) of clause 3, Hours, shall apply.
- (vi) Where practicable, employees shall not be required to work more than four (4) hours without a meal break. By agreement between an employer and the majority of employees in the department, an employee or employees may be required to work in excess of four (4) hours but not more than five (5) hours at ordinary rates of pay without a meal break.

15. Public Holidays

- (i)
 - (a) Public holidays shall be allowed to employees on full pay. Except as otherwise provided in this subclause, where an employee is required to and does work on any of the holidays set out in this subclause, whether for a full shift or not, the employee shall be paid at time and a half extra for the ordinary rostered hours of duty on that day. Such payment is to be in lieu of weekend or shift allowances which would otherwise be payable had the day not been a public holiday.

Provided that, if the employee so elects, he/she may be paid at half time extra for the ordinary rostered hours and have one day added to his/her period of annual leave for each public holiday worked in lieu of the provisions of the preceding paragraph.

Provided further that where an employee is rostered for a shift which crosses midnight on a public holiday and the total rostered hours on the public holiday are less than the equivalent of full shift, the shift will be deemed to have been worked on the day on which the majority of time was actually worked.

- (b) For the purpose of this clause the following shall be deemed public holidays, viz.: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day, Boxing Day, Anzac Day, Queen's Birthday, Labour Day and any other standard public holiday declared under Section 4 of Part 2 of the *Public Holidays Act 2010*.

- (c) Shift workers rostered off duty on a public holiday shall:
- (1) be paid one day's pay in addition to the weekly rate; or if the employee so elects,
 - (2) have one day added to his/her period of annual leave.
- Provided that:
- (3) the provisions of subclauses 15(i)(c)(1) and (2) shall not apply to employees employed under the Health Managers (State) Award; and
 - (4) the provisions of subclauses 15(i)(c)(1) and (2) shall apply to day workers who were employed as at 1 July 2008.
- (d) The election referred to in paragraphs (a) and (c) of this subclause is to be made in writing by the employee at the commencement of each year of employment.
- (e) Provided that an employee who has accrued additional annual leave referred to in paragraphs (a) and (c) of this subclause can elect at any time to be paid an amount equivalent to the value of the accrued additional annual leave in lieu of taking additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave was actually taken.
- (ii) In addition to those public holidays specified in paragraph (b) of subclause (i) of this clause, employees are entitled to an extra public holiday each year. Such public holiday is to be determined by the employer to be taken in the Christmas-New Year period or other suitable period as agreed between the employer and the Union and shall be regarded for all purposes of this clause as any other public holiday
- (iii)
- (a) The provisions of subclauses (i) and (ii) of this clause shall apply to permanent part-time employees, engaged as set out in Part 1 of clause 6, Permanent Part-time and Part-time Employees, and those part-time employees engaged as set out in Part 2 of the said clause 6, who work 30 hours per week over five days per week provided that if such an employee is required to and does work on a public holiday as defined in subclauses (i) and (ii) of this clause, the employee shall be paid at the rate of double time and one-half, but such worker shall not be entitled to be paid in addition the allowance of 15 per cent prescribed in Part 2 of clause 6 in respect of such work.
 - (b) Subclauses (i) and (ii) of this clause shall not apply to other part-time employees engaged under Part 2 of clause 6, but each such employee who is required to and does work on a public holiday as defined in the said subclauses (i) and (ii) shall be paid at the rate of double time and one-half, but such worker shall not be entitled to be paid, in addition, the allowance of 15 per cent prescribed in Part 2 of clause 6, in respect of such work.

16. Annual Leave

- (i) Entitlement to Annual Leave
- (a) All employees: See *Annual Holidays Act 1944*.
 - (b) This paragraph and its subparagraphs shall apply to full-time employees and permanent part-time employees except for those employees employed under the Health Managers (State) Award.
 - (1) Employees who are rostered to work and do work on 35 or more ordinary hours shifts occurring on Sundays and/or public holidays during a qualifying period of employment for annual leave purposes, shall be entitled to receive one week additional annual leave.

- (2) Employees who are rostered to work and do work less than 35 ordinary hours shifts occurring on Sundays and/or public holidays during a qualifying period of employment for annual leave purposes, shall be entitled to receive a proportion of one week additional annual leave calculated on the basis of 38 hours of additional annual leave for 35 such shifts worked.
 - (3) Employees who work less than 38 hours per week and who are rostered to work and do work less than 35 ordinary hours shifts occurring on Sundays and/or public holidays during a qualifying period of employment for annual leave purposes, shall be entitled to receive a proportion of one week additional leave calculated on the basis of the number of ordinary weekly hours of additional annual leave for 35 such shifts worked.
 - (4) The calculations referred to in subparagraph (3) above shall be made to the nearest one-fifth of the ordinary hours worked, half or more than half of one-fifth being regarded as one-fifth and less than half being disregarded.
 - (5) Provided that an employee, entitled to additional annual leave pursuant to subparagraphs (1), (2) and (3) above, may elect to be paid an amount equivalent to the value of his or her additional leave entitlement, in lieu of taking the additional leave. Such election is to be made in writing by the employee at the commencement of each year of employment.
 - (6) An employee, with an accrued entitlement to additional annual leave pursuant to subparagraphs (1), (2) and (3) above, can elect at any time to be paid an amount equivalent to the value of the accrued additional leave in lieu of taking additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave was actually taken.
- (ii) On termination of employment, employees shall be entitled to payment for any untaken annual leave entitlements pursuant to subclause (i) of this clause and subclause (i) of clause 15, Public Holidays, together with payment for any untaken leave in respect of an uncompleted year of employment, calculated in accordance with paragraphs (a) and (b) of subclause (i) of this clause.
 - (iii) The employer shall give to each employee three months' notice where practicable and not less than one month's notice of the date upon which the employee shall enter upon annual leave.
 - (iv) Entitlement to Annual Leave Loading or Shift Allowances and Weekend Penalties
 - (a) Employees who become entitled to take and do take annual leave pursuant to paragraph (a) of subclause (i) of this clause (that is, the annual leave entitlement of four weeks per annum pursuant to the *Annual Holidays Act 1944*) shall be paid ordinary salary plus either:
 - (1) an annual leave loading in respect of that entitlement equivalent to 17½ % of four weeks ordinary salary, not exceeding an amount equivalent to 17½ % of four weeks ordinary salary for maximum Clerk Grade 12 Public Servant as varied from time to time.or;
 - (2) in the case of a shiftworker who would have earned ordinary time shift allowances and weekend penalties in excess of the amount of annual leave loading indicated in subparagraph (1) above of this paragraph had he/she not taken the annual leave; those shift allowances and weekend penalties relating to ordinary time the employee would have earned had he/she not taken the annual leave (provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during a period of annual leave).
 - (b) In respect of an employee who becomes entitled to take annual leave pursuant to paragraph (a) of subclause (i) of this clause (that is, the annual leave entitlement of four weeks per annum pursuant to the *Annual Holidays Act 1944*), and takes that annual leave in broken periods; both

the annual leave loading and the maximum amount referred to in subparagraph (1) of paragraph (a) of this subclause are to be calculated pro rata for the broken period being taken in the same proportion as the period being taken bears to four weeks. The resultant amount of annual leave loading calculated for the broken period of annual leave, not exceeding that maximum amount calculated for the same broken period, is to be paid to the employee in addition to ordinary salary for the period.

- (c) In respect of a shiftworker, who becomes entitled to take annual leave pursuant to paragraph (a) of subclause (i) of this clause (that is, the annual leave entitlement of four weeks per annum pursuant to the *Annual Holidays Act 1944*), and who takes that annual leave in broken periods, the entitlement to annual leave loading and maximum amount are to be calculated in the same way as indicated in paragraph (b) of this subclause for the period of annual leave being taken and compared with the ordinary time shift allowances and weekend penalties the employee would have earned had he/she not taken the annual leave (provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during the period of annual leave), and the greater of either the calculated annual leave loading (not exceeding the calculated maximum amount) or ordinary time shift allowances and weekend penalties is to be paid to the employee in addition to ordinary salary for the period.
- (d) The entitlement to annual leave loading or shift allowances and weekend penalties referred to in paragraphs (a), (b), and (c) of this subclause are to be calculated and paid at the same time as the annual leave is paid.
- (e) Annual leave loading is to be calculated at the rate of ordinary salary payable when the annual leave is taken (except as provided for in paragraph (f) below), and excludes allowances, penalty or disability rates, commission, bonuses, incentive payments or overtime rates etc. Where the ordinary rate payable changes effective from a date falling within a period of annual leave, the changed rate is to be taken into account, and if necessary, adjustments calculated and corrections to pay made.
- (f) No annual leave loading is payable to an employee who takes annual leave wholly or partly in advance of becoming entitled to such annual leave, except if his/her employment continues until the day he/she would have become entitled to take such annual leave, in which case the loading then becomes payable on that day (calculated on rates applicable on that day) in respect of the period/s of annual leave already taken that the loading would have applied to had the annual leave not been taken wholly or partly in advance. Shiftworkers already paid ordinary time shift allowances and weekend penalties in respect of annual leave taken wholly or partly in advance are not eligible to be paid loading under this paragraph.
- (g) No annual leave loading or shift allowances and weekend penalties are payable to an employee who is paid the monetary value of annual leave to his/her credit on resignation (not including retirement), except as provided for in paragraph (i) below.
- (h) Upon the retirement of an employee or upon the termination by the employer of an employee for any reason other than misconduct, the employee shall be paid annual leave loading on that annual leave which he/she had become entitled to take that the loading would have applied to had the annual leave been taken.
- (i) Where an employee transfers from one hospital or health institution to another and commences work at the latter hospital or health institution on the next working day following his/her resignation from the former hospital or health institution and the employee is transferring their accrued annual leave entitlements, the employee shall be eligible for annual leave loading for that year on that annual leave that the loading applies to as if s/he had not resigned from the former hospital or health institution.
- (j) In respect of that additional annual leave accrued by virtue of being rostered to work and working ordinary hours shifts on Sundays and/or Public Holidays pursuant to paragraph (b) of subclause (i) of this clause; no annual leave loading is payable. Shiftworkers are to be paid, in addition to ordinary salary for such annual leave period/s, the ordinary time shift allowances and weekend

penalties the employee would have earned had he/she not taken the annual leave (provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during a period of annual leave).

- (k) In respect of that annual leave elected to be accrued pursuant to the provisions of clause 15, Public Holidays, no annual leave loading or shift allowances and weekend penalties are payable.
- (v) Students and trainees who are employed for the purpose of completing a training course leading to a qualification which would allow the employee to be employed in a trained capacity, but who are then not employed by the employer at the completion of the training period in the trained capacity, and medical officers who are not given the opportunity to renew their contract of employment at the end of the training period or at the end of their appointment, are deemed to have had their services terminated by the employer for a reason other than misconduct (unless transferring pursuant to paragraph (i) of subclause (iv) of this clause) for the purposes of annual leave loading. In such circumstances the trainee, student or medical officer is entitled to the payment of the annual leave loading in the same way as for other employees and in accordance with subclauses (i)(a), (ii), (iii) and (iv) of this clause, excepting that annual leave loading is not payable to trainees who are paid by way of allowance and not by salary or wages.

17. Long Service Leave

- (i)
 - (a) Each employee shall be entitled to two months long service leave on full pay after ten years of service; thereafter additional long service shall accrue on the basis of five months long service leave on full pay for each ten years' service.

Employees with at least seven years' service and less than 10 years' service are entitled, proportionate to his or her length of service, to proceed on a proportionate period of long service leave on the basis of two months' long service leave for ten years' service on full pay.
 - (b) Where the services of an employee with at least five years' service and less than seven years' service are terminated by the employer for any reason other than the employee's serious and wilful misconduct, or by the employee on account of illness, incapacity or domestic or other pressing necessity, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service.

Where the services of an employee with at least seven years and less than 10 years' service are terminated by the employer or by the employee, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service. Where the services of an employee with at least 10 years' service are terminated by the employer or by the employee, he/she shall be entitled to be paid on the basis of two months' long service leave for ten years' service and thereafter on the basis of five months long service leave for each ten years' service.
- (ii) For the purposes of subclause (i) of this clause:
 - (a) Service shall mean continuous service with the employer. For the purpose of this paragraph, continuous service will be determined in accordance with the provisions of Section 7.5.1 of the NSW Health Policy Directive PD2017_028 Leave Matters for the NSW Health Service, as amended from time to time.
 - (b) Broken periods of service with the employer in one or more hospitals shall count as service.
 - (c) Service shall not include -
 - (1) any period of leave without pay, except in the case of employees who have completed at least ten years service (any period of absence without pay being excluded there from), in

which case service shall include any period of leave without pay, not exceeding six months, taken after the 1 January 1973;

- (2) any period of part-time service, except as provided for in subclause (x) of this clause.
- (iii) An employee with an entitlement to long service leave may elect to access such entitlement:
- (a) on full pay;
 - (b) on half pay; or
 - (c) on double pay.
- (iv) When an employee takes long service leave, the leave entitlement will be deducted on the following basis:
- (a) a period of leave on full pay - the number of days so taken;
 - (b) a period of leave on half pay - half the number of days so taken; or
 - (c) a period of leave on double pay - twice the number of days so taken.
- (v) When taking long service leave and an employee would otherwise have had a rostered shift fall on a public holiday during that period, the amount of long service leave to be deducted is to be reduced by one day for the public holiday.
- (vi) Long Service Leave shall be taken at a time mutually arranged between the employer and the employee.
- (vii)
- (a) On the termination of employment of an employee, otherwise than by his/her death, an employer shall pay to the employee the monetary value of all long service leave accrued and not taken at the date of such termination and such monetary value shall be determined according to the salary payable to the employee at the date of such termination: unless the employee transfers his or her leave entitlement in accordance with Section 17 of the NSW Health Policy Directive PD2017_028 Leave Matters for the NSW Health Service, as amended from time to time.
 - (b) Where an employee who has acquired a right to long service leave, or after having had five years and less than ten years' service dies, the widow or the widower of such employee, or if there is no such widow or widower, the children of such employee, or if there is no such widow, widower, or children, such person who, in the opinion of the employer, was at the time of the death of such employee, a dependent relative of such employee, shall be entitled to receive the monetary value of the leave not taken or which would have accrued to such employee, had his/her services terminated as referred to in paragraph (b) of subclause (i) of this clause and such monetary value shall be determined according to the salary payable to the employee at the time of his/her death.

Where there is a guardian of any children entitled under this paragraph the payment, to which such children are entitled, may be made to such guardian for their maintenance, education and advancement.

Where there is no person entitled under this paragraph to receive the monetary value of any leave payable under the foregoing provisions payment in respect thereof shall be made to the legal personal representative of such employee.
- (viii) The provisions of subclauses (i) to (v) of this clause shall not apply to part-time employees who receive an adjusted hourly rate (as defined per clause 6, Part 2, of this Award). Such employees shall be entitled to long service leave in accordance with the provisions of the *Long Service Leave Act 1955*, and/or Determination made under the *Health Services Act 1997*.

- (ix) A full-time employee shall be entitled to have previous part-time service which is the equivalent of at least two full days' duty per week taken into account for long service purposes in conjunction with full-time service on the basis of the proportion that the actual number of hours worked each week bears to forty hours, provided the part-time service merges without break with the subsequent full-time service.

A permanent part-time employee shall be entitled to have previous part-time service which is the equivalent of at least two full days' duty per week taken into account for long service leave purposes in conjunction with full-time or permanent part-time service on the basis of the proportion that the actual number of hours worked each week bears to 35 hours for Radiographers and Radiation Therapists and 38 hours for other employees, provided that the part-time service merges without break with the subsequent full-time or permanent part-time service.

- (x) Except as provided for in subclause (xi) of this clause, rights to long service leave under this clause shall be in replacement of rights to long service leave, if any, which at the date of commencement of this Award may have accrued or may be accruing to an employee and shall apply only to persons in the employ of the employer on or after the date of commencement of this Award. Where an employee has been granted long service leave or has been paid its monetary value prior to the date of commencement of this Award, the employer shall be entitled to debit such leave against any leave to which the employee may be entitled pursuant to this clause.

- (xi) The following provisions shall apply only to employees employed in a hospital at the 1 January 1973:

- (a) An employee who -

- (1) has had service in a hospital, to which clause 5, Climatic and Isolation Allowance, applies, prior to the 1 January 1973;
- (2) Is employed in a hospital, to which the said clause 5 applies, at 1 January 1973 shall be granted long service leave in accordance with the long service leave provisions in force prior to the 1st January, 1973, in lieu of the provisions provided by this Award where such benefits are more favourable to the employee.

- (b) An employee employed -

- (1) as a part-time employee at the 1st January 1973 may be allowed to continue to be granted long service leave in accordance with the long service provisions in force prior to the 1st January 1973 in lieu of the provisions of the *Long Service Leave Act 1955*, as provided for in subclause (viii) of this clause;
- (2) on a full-time basis at 1 January 1973, but who had prior part-time service may be allowed to continue to be granted long service leave in accordance with the long service leave provisions in force prior to the 1 January 1973, in lieu of the provisions provided by this Award where such benefits are more favourable to the employee.

- (c) Provided that full and part-time employees who were employed in a hospital as at 1 January 1973, and who had or were having service accrued at either time and one half or double time shall retain the option of having long service leave entitlements accrue under the old Award provisions. This proviso shall apply regardless of any breaks in the continuity of service.

18. Sick Leave

- (i) Full-time employees - A full-time employee shall be entitled to sick leave on full pay by allowing 76 rostered ordinary hours of work for each year of continuous service; provided however, that for Radiographers and Radiation Therapists such leave shall be allowed on the basis of 70 rostered ordinary hours for each year of continuous service less any sick leave on full pay already taken subject to the following conditions:

- (a) All periods of sickness shall be certified to by the Medical Superintendent or a person approved by the employer or by a legally qualified Medical Practitioner approved by the employer;

provided however, that the employer may dispense with the requirements of a medical certificate where the absence does not exceed two consecutive days or where in the employers' opinion the circumstances are such as not to warrant such requirements.

- (b) The employer shall not change the rostered hours of work of an employee fixed by the roster or rosters applicable to the seven days immediately following the commencement of sick leave merely by reason of the fact that the employee is on sick leave.
- (c) An employee shall not be entitled to sick leave until after three months' continuous service.
- (d) Service for the purpose of this clause, shall mean service with the employer and shall be deemed to have commenced on the date of engagement by the employer in respect of any period of employment with the employer current at the date of the commencement of this Award in respect of employees then so employed and in respect of others it shall be deemed to commence on the first day of engagement by the employer after the commencement of this Award.
- (e) Employees who are employed at the date of the commencement of this Award shall retain to their credit, until exhausted, any accumulation of sick leave to their credit immediately prior to such date; provided that such credit is not less than the entitlement otherwise prescribed by this clause.
- (f) "Continuous Service" for the purpose of this clause, shall be calculated in the same manner as provided under paragraph (a) of subclause (ii) clause 17, Long Service Leave, excepting that all periods of service with the employer in any hospital (providing such service is not less than three months actual service) shall be counted.
- (g) Each employee shall take all reasonably practicable steps to inform the employer of his or her inability to attend for duty and as far as possible state the estimated duration of the absence.

Where practicable such notice shall be given within 24 hours of the commencement of such absence.

- (ii) A permanent part-time or part-time employee shall be entitled to sick leave in the same proportion of 76 hours as the average weekly hours worked over the preceding 12 months or from the time of the commencement of employment, whichever is the lesser, bears to 38 ordinary hours of one week. Such entitlement shall be subject to all the above conditions applying to full-time employees.
- (iii) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to accident pay, or workers' compensation; provided, however, that where an employee is not in receipt of accident pay, an employer shall pay to an employee, who has sick leave entitlements under this clause, the difference between the amount received as workers' compensation, and full pay. The employees' sick leave entitlement under this clause shall for each week during which such difference is paid, be reduced by the proportion of hours which the difference bears to full pay. On the expiration of available sick leave, weekly compensation payments only shall be payable.
- (iv) Subject to the provision of a satisfactory medical certificate and sick leave being due, annual leave or long service leave shall be re-credited where an illness of at least one week's duration occurs during the period of annual or long service leave provided that the period of leave does not occur prior to retirement, resignation or termination of services.

19. Payment and Particulars of Salary

- (i) Wages shall be paid weekly or fortnightly only, except for persons employed under the Health Managers (State) Award, in which case salary may be paid monthly. Any changes to payment procedures are to be the subject of consultation with the Union.
- (ii) Employees shall have their salary paid into one account with a bank or other financial institution in New South Wales as nominated by the employee except where agreement as to another method of payment has been reached between the Union and the employer due to the isolation of the work location. Salaries shall be deposited in sufficient time to ensure that wages are available for withdrawal by employees no

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

- (iii) Notwithstanding the provisions of subclause (ii), of this clause, an employee who has been given one week's notice of termination of employment, in accordance with clause 20, Termination of Employment, of this Award, shall be paid all moneys due to him/her prior to ceasing duty on the last day of employment.

Where an employee is dismissed or his/her services are terminated without due notice, in accordance with the said clause 20, any moneys due to him/her shall be paid as soon as possible after such dismissal or termination but in any case not more than three days thereafter.

- (iv) On each pay day an employee, in respect of the payment then due, shall be furnished with a statement, in writing, containing the following particulars, namely, name, the amount of ordinary salary, the total number of hours of overtime worked, if any, the amount of any overtime payment, the amount of any other moneys paid, and the purpose for which they are paid and the amount of the deductions made from total earnings and the nature thereof.
- (v) Where retrospective adjustments of wages are paid to employees, such payments where practical shall be paid as a separate payment to ordinary wages. Such payment shall be accompanied by a statement containing particulars as set out in subclause (iv) of this clause.
- (vi) Employees proceeding on Long Service Leave and Annual Leave shall on request be paid in advance prior to commencing such leave. However, where an employee wishes to receive their pay on their usual pay day, this shall be done.
- (vii) Underpayment and overpayment of salaries - the following process will apply once the issue of underpayment or overpayment is substantiated.

(a) Underpayment

- (1) If the amount underpaid is equal to or greater than one day's gross base pay the underpayment will be rectified within three working days;
- (2) If the amount underpaid is less than one day's gross base pay it will be rectified by no later than the next normal pay. However, if the employee can demonstrate that rectification in this manner would result in undue hardship, every effort will be made by the employer to rectify the underpayment within three working days.

(b) Overpayment

- (1) In all cases where overpayments have occurred, the employer shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The employer will also advise the employee of the pay period from which the recovery of the overpayment is to commence.
- (2) One off overpayments will be recovered in the next normal pay, except that where the employee can demonstrate that undue hardship would result, the recovery rate shall be at 10% of an employee's gross fortnightly base pay.
- (3) Unless the employee agrees otherwise, the maximum rate at which cumulative overpayments can be recovered is an amount, calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly base pay.

- (4) The recovery rate of 10% of an employee's gross fortnightly base pay referred to in subclause (b)(3) above may be reduced by agreement, where the employee can demonstrate that undue hardship would result.
- (5) Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause (b)(3) above, the employer shall have the right to deduct any balance of such overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

20. Termination of Employment

- (i) Employees who are employed under the Health Managers (State) Award shall be required to give one month's written notice of termination of employment. Where termination of such employees is to be notified by the employer, otherwise than for misconduct, the employee shall be given one month's notice, in writing, or one month's pay in lieu thereof.
- (ii) For other employees, one week's notice of termination of employment shall be given by the employer or the employee, respectively, but when the conduct of an employee justifies instant dismissal, such notice of termination of employment shall not apply; provided that should an employee fail to give the prescribed notice, such employee shall be liable to the forfeiture of one week's wages. Where the services of an employee are terminated without due notice he/she shall be paid one week's salary in lieu thereof.

21. Accommodation and Amenities

- (i) Suitable dining room accommodation and lavatory conveniences shall be provided for all resident and non-resident employees.
- (ii) In all hospitals erected after 1 January 1960, dressing room, lockers, hot and cold showers and conveniences also shall be provided for non-resident employees and, where practicable, such facilities shall be provided in hospitals erected prior to that date.
- (iii) The following outlines the minimum standards which should be achieved in all hospitals:

Sanitary Conveniences-

- (a) Reasonable toilet facilities for each sex.
- (b) Separate and distinct conveniences for each sex, together with screened approaches to ensure privacy. These facilities should be located conveniently to work places, they should be adequately lighted and ventilated and have floors, walls and ceilings finished with a smooth faced surface resistant to moisture.

Washing and Bathing Facilities-

- (a) Reasonable washing provision by way of basins of suitable impervious material with hot and cold water taps supplied.
- (b) Reasonable number of showers with hot and cold water.

Washing and bathing facilities must be adequately lighted and ventilated and floors, walls and ceilings finished with a smooth- faced surface resistant to moisture.

These facilities should be incorporated in or communicated direct with the change room and should not be contained within any closet block.

Change rooms and Lockers-

- (a) Properly constructed and ventilated change rooms equipped with a locker for each employee.
- (b) Sufficient seating should be provided.

Dining Room-

- (a) Well constructed, ventilated and adequately lighted dining room(s).
- (b) Chairs or other seating with back rests.
- (c) Sufficient tables and chairs must be provided for all persons who will use the dining room at any one time.
- (d) Facilities for boiling water, warming and refrigerating food and for washing and storing of dining utensils should be provided.

Rest Room - A well constructed and adequately lighted and ventilated rest room or screened off portion of the change room for women. Such rest room or rest area to be equipped with day bed or couch with mattress, blankets, pillow and hot water bottle.

- (iv) Where major additions to presently occupied buildings or new buildings are erected within a presently constituted hospital, the amenities to be provided in such additions or new buildings shall be the subject of negotiations between the parties.

22. Inspection of Lockers of Employees

Lockers may only be opened for inspection in the presence of the employee but in cases where the employee neglects or refuses to be present or in any circumstances where notice to the employee is impracticable such inspection may be carried out in the absence of the employee by an officer appointed by the employer and if practicable a Union Sub-Branch Officer, otherwise by any two officers so appointed by the employer.

23. Uniforms and Protective Clothing

- (i)
 - (a) Subject to paragraph (c) of this subclause, sufficient serviceable uniforms or overalls shall be supplied, free of cost, to each employee required to wear them; provided that any employee to whom a new uniform or part of a uniform has been supplied by the employer, who, without good reason, fails to return the corresponding article last supplied, shall not be entitled to have such article replaced without payment therefor at a reasonable price in the absence of a satisfactory reason for the loss of such article or failure to produce such uniform or part thereof.
 - (b) An employee on leaving the service of the employer shall return any uniform or part thereof supplied by the employer which is still in use by that employee immediately prior to leaving.
 - (c) In lieu of supplying a uniform to an employee, the employer may pay to such employee the sum set out in Item 45 of Table 1 - Other Rates and Allowances, of Part B, Monetary Rates: provided, however, that if a uniform includes a cardigan or special type shoe, an additional amount set out in the said Item 45 shall be paid to such employee.
 - (d) If the uniform of an employee is not laundered at the expense of the employer, an allowance set out in Item 46 of Table 1 shall be paid to such employee.
 - (e) The allowances referred to in (c) and (d) above are payable to part-time employees on the basis of one fifth of the full weekly allowance for each shift worked in the week.

- (ii) Each employee whose duties require him/her to work out of doors shall be supplied with overboots. Sufficient raincoats shall also be made available for use by these employees.
- (iii) Each employee whose duties require him/her to work in a hazardous situation with or near machinery shall be supplied with appropriate protective clothing and equipment.

24. Promotions and Appointments

- (i) Promotion and/or appointment shall be by merit, with the use of eligibility lists in appropriate cases.
- (ii) In the case of an employee or employees disputing a promotion and/or appointment the Union may refer the matter to a disputes committee established under clause 26, Dispute Resolution.
- (iii) Eligibility lists are intended to be used in the following manner:
 - (a) The employer may create eligibility lists for all base grade vacant positions.
 - (b) Lists to operate for six months.
 - (c) There should be three lists
 - (1) List of persons willing to perform temporary relief work at short notice;
 - (2) List for part-time positions;
 - (3) List for full-time positions;
 - (d) Eligibility lists should be created in accordance with normal selection criteria taking account of the following where appropriate:-
 - (1) Priority of employment guidelines;
 - (2) Merit;
 - (3) Placement or transfer of excess staff within the Public Health Organisation.
- (v)
 - (a) Requests for transfer from permanent part-time and part-time to full-time or full-time to permanent part-time within the same classification within a Public Health Organisation should be done on the basis of merit.
 - (b) Requests for transfers within a Public Health Organisation should be done on the basis of merit.

25. New Classifications

The employer may create any new classification not covered by the Awards to which these conditions apply at any time and may fix the remuneration thereof but in such circumstances the employer shall advise the Union of such decision within 28 days and give an opportunity to the representatives of the Union to confer with the representatives of the employer as to the rate of wages so fixed for the duties to be performed and the hours the employee is required to work.

26. Dispute Resolution

- (i) Where a dispute arises in a particular section which cannot be resolved between the employees or their representative and the supervising staff, it shall be referred to the Designated Manager of the hospital, health institution or service unit or his/her nominee who will arrange for the matter to be discussed with the employee concerned and if requested a local representative or representatives of the Union.

- (ii) If the matter is not resolved within a reasonable time it must be referred by the Designated Manager to the Chief Executive Officer (however called) of the Public Health Organisation (or his or her nominee) and may be referred by the employee to the Union's Head Office. Discussions at this level must take place within a reasonable time with a view to resolving the issue in dispute. Failing settlement of the issue at this level, the matter shall be dealt with in accordance with sub-clause (iii) of this clause.
- (iii) With a view to amicable and speedy settlement of all disputes that firstly cannot be settled by a local management and the Union or its representatives, disputes may be submitted to a committee consisting of not more than six members with equal representation of the Secretary and the Union. Such committee shall have the power to investigate all matters in dispute and to report to the Public Health Organisation and the Union respectively, with such recommendations as it may think right and in the event of no mutual decision being arrived at by such a committee and if a dispute still exists the matter in dispute may be referred to the Industrial Relations Commission in accordance with the provisions of the *Industrial Relations Act 1996* by one of the disputing parties.
- (iv) Whilst these procedures are continuing, no stoppage of work or any form of ban or limitation of work shall be applied.
- (v) Unless agreed otherwise by the parties the status quo must continue whilst these procedures are being followed. For this purpose "status quo" means the work procedures and practices in place:
 - (a) immediately before the issue arose: or
 - (b) immediately before any change to those procedures or practices, which caused the issue to arise, was made.

The employer must ensure that all practices applied during the operation of these procedures are in accordance with safe working practices.

27. Anti-Discrimination

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

28. Family and Community Services Leave and Personal/Carers' Leave

- (i) Family and Community Services (FACS) Leave and Personal/Carer's Leave are separate, stand alone entitlements.
- (ii) The provisions outlined in Parts A and B of this clause are available to all employees covered by this Award, other than casual employees as defined in subclause (iii) below.
- (iii) Casual employees as defined in the Health Industry Status of Employment (State) Award are entitled to the provisions outlined in Part C of this clause.

A. FACS Leave

(i) FACS Leave - General

- (a) For the purpose of this clause relating to FACS leave:

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

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

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

- (b) The employer may grant FACS leave to an employee:

- (1) to provide care and/or support for sick members of the employee's relatives or household; or
- (2) for reasons related to the family responsibilities of the employee (e.g. to arrange and or attend a funeral of a relative; to accompany a relative to a medical appointment where there is an element of emergency; parent/teacher meetings; education week activities; to meet elder-care requirements of a relative); or
- (3) for reasons related to the performance of community service by the employee (e.g. in matters relating to citizenship; to office holders in local government, other than as a mayor, for attendance at meetings, conferences or other associated duties; representing Australia or the State in major amateur sport other than in Olympic/Commonwealth Games); or
- (4) in a case of pressing necessity (e.g. where an employee is unable to attend work because of adverse weather conditions which either prevent attendance or threaten life or property; the illness of a relative; where a child carer is unable to look after their charge).

- (ii) FACS leave replaces compassionate leave.

- (iii) An employee is not to be granted FACS leave for attendance at court to answer a criminal charge, unless the employer approves the grant of leave in the particular case.

Applications for FACS leave to attend court, for reasons other than criminal charges, will be assessed on an individual basis.

- (iv) FACS leave - entitlement

- (a) The maximum amount of FACS leave on full pay that may be granted to an employee is:

- (1) 3 working days during the first year of service, commencing on and from 1 January 1995, and thereafter 6 working days in any period of 2 years; or
- (2) 1 working day, on a cumulative basis effective from 1 January 1995, for each year of service after 2 years' continuous service, minus any period of FACS leave already taken by the employee since 1 January 1995,

whichever method provides the greater entitlement.

- (b) For the purposes of calculating entitlements under (vi)(a)(1) and (2) above, a working day for employees working 38 hours per week shall be deemed to consist of 8 hours, and a working day for employees working 35 hours per week shall be deemed to consist of 7 hours. The rate at which FACS leave is paid out and utilised shall be on actual hours absent from a rostered shift.

Example A: An employee working 38 hours per week will have an entitlement, in their first year of employment, to 24 hours of FACS leave. If the employee takes FACS leave for a full 10 hour shift, the employee would be debited 10 hours of FACS leave.

Example B: An employee working 35 hours per week will have an entitlement, in their first year of employment, to 21 hours of FACS leave. If the employee takes FACS leave for a full 7 hour shift, the employee would be debited 7 hours of FACS leave.

Example C: An employee, employed prior to 1 January 1995, applies for FACS leave on 20 February 1997. The employee is entitled to 6 days in any period of two years. Therefore, to calculate the employee's available FACS leave as at 20 February 1997, add all FACS leave taken from 21 February 1995 to 20 February 1997 and deduct that amount from the 6 days entitlement.

- (c) FACS leave is available to part-time employees on a pro rata basis, based on the average number of hours worked per week. A working day shall consist of one-fifth of the employee's average weekly hours during the preceding 12 months or during the employee's period of employment, whichever is the lesser period.

Example: An employee working an average of 30 hours per week will have an entitlement, in his/her first year of employment, of 18 hours of FACS leave. If the employee takes FACS leave for a full rostered shift e.g. of 4 hours, the employee would be debited 4 hours of FACS leave. Likewise, if the employee was rostered for 8 hours and was absent for the full 8 hours on FACS leave, he/she would be debited 8 hours of FACS leave.

- (v) Additional FACS leave for bereavement purposes

Where FACS leave has been exhausted, additional FACS leave of up to 2 days for bereavement may be granted on a discrete, "per occasion" basis to an employee on the

death of a relative or member of a household as defined in subclause (i) (a) of Part A of this clause.

(vi) Use of other leave entitlements

The employer may grant an employee other leave entitlements for reasons related to family responsibilities or community service, by the employee.

An employee may elect, with the consent of the employer, to take annual leave; long service leave; or leave without pay.

B. Personal/Carer's Leave

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

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

- (a) a spouse of the employee; or
- (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (e) a relative of the employee who is a member of the same household, where for the purpose of this clause relating to Personal/Carer's Leave:

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

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

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

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

- (a) The entitlement to use sick leave in accordance with this subclause is subject to:
 - (1) the employee being responsible for the care and support of the person concerned; and
 - (2) the person concerned being as defined in subclause (i) of Part B of this clause.
- (b) Other than a casual or any other employee who receives a loading in lieu of sick leave, an employee with responsibilities in relation to a person who needs their care and support shall be entitled to use the untaken sick leave, from that year's annual sick leave entitlement, to provide care and support for such persons when they are ill.
- (c) Sick leave accumulates from year to year. In addition to the current year's grant of sick leave available under (b) above, sick leave untaken from the previous 3 years may also be accessed by an employee with responsibilities in relation to a person who needs their care and support.

- (d) The employer may, in special circumstances, make a grant of additional sick leave. This grant can only be taken from sick leave untaken prior to the period referred to in subclause (c) above.
- (e) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, that the illness of the person concerned is such as to require care by another person.
- (f) The employee has the right to choose the method by which the ground for leave is established, that is, by production of either a medical certificate or statutory declaration.
- (g) The employee is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration.
- (h) The employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
- (i) In normal circumstances, the employee must not take leave under this part where another person has taken leave to care for the same person.

(iii) Use of other leave entitlements

An employee may elect, with the consent of the employer, to take:

- (a) annual leave, including annual leave not exceeding 10 days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties. An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least 5 consecutive annual leave days are taken. An employee may elect with the employer's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
- (b) long service leave; or
- (c) leave without pay for the purpose of providing care and support to the person concerned as defined in subclause (i) of Part B of this clause.

(iv) Time off in lieu of payment of overtime

- (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment of overtime at a time or times agreed with the employer within 12 months of the said election
- (b) Overtime taken as time off during ordinary time shall be taken at the ordinary time rate, that is, one hour off for each hour of overtime worked.
- (c) If, having elected to take time as leave in accordance with (iv)(a) above and the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve 12 month period from the date the overtime was worked, or earlier by agreement, or on termination.
- (d) Where no election is made in accordance with paragraph (iv)(a) above, the employee shall be paid overtime rates in accordance with the provisions of clause 9, Overtime.

- (v) Use of make-up time
 - (a) An employee may elect, with the consent of the employer, to work "make-up time". "Make-up time" is worked when the employee takes time off during ordinary hours for family or community service responsibilities, and works those hours at another time, during the spread of ordinary hours provided for in clause 3 of this Award, at the ordinary rate of pay.
 - (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off during ordinary hours and works those hours at another time) at the applicable shift work rate which would have been applicable to the hours taken off.

C. Entitlements for Casual Employees

- (i) Bereavement entitlements for casual employees
 - (a) Casual employees are entitled to not be available to attend work or to leave work upon the death in Australia of a relative or member of a household as prescribed in subclause (i)(a) of Part A of this clause.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this part. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
- (ii) Personal carer's entitlement for casual employees
 - (a) Subject to the evidentiary and notice requirements in subclauses (ii)(e) - (h) of Part B of this clause casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause (i) of Part B of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this part. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

28A. Family Violence Leave

- (i) For the purpose of this clause, family violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*. The violence may have been reported to the police and/or may be the subject of an Apprehended Violence Order.
- (ii) An employee experiencing family and domestic violence can utilise Award leave entitlements provided for in Sick Leave and Family and Community Services Leave provisions of the Award.
- (iii) Where leave entitlements to Sick Leave and Family and Community Services Leave are exhausted, the employer will grant up to five days per year of paid special leave to attend legal proceedings, counselling, appointments with a medical or legal practitioner and relocation and safety activities

directly associated with alleviating the effects of family and domestic violence. This leave entitlement does not accumulate from year to year.

- (iv) Upon exhaustion of the paid leave entitlement, an employee may request further periods of unpaid leave, for the same activities for which paid leave would be available.
- (v) To access paid and unpaid leave, the employee must provide the employer with evidence, to the employer's satisfaction, substantiating the purpose of the leave and that the leave is related to alleviating the effects of family violence. The employer may accept a variety of agreed documentation in support of an application for leave. Supporting documentation may be presented in the form of an agreed document issued by the Police Force, a Court, a doctor, a Family Violence Support Service or a lawyer.
- (vi) Matters related to family violence can be sensitive. Information collected by the employer will be kept confidential. No information relating to the details of the family violence will be kept on an employee's personnel file without their express permission. However, records about the use of family violence leave will need to be kept.
- (vii) The employer, where appropriate, may facilitate flexible working arrangements subject to operational requirements. This may include changes to working times and locations, telephone numbers and email addresses.
- (viii) The employer will co-operate with all legal orders protecting an employee experiencing domestic violence.

29. Union Representative

An employee appointed Union representative shall upon notification thereof in writing to the employer, be recognised as the accredited representative of the Union and shall be allowed the necessary time during working hours, to interview the employer on matters affecting employees.

30. Notice Board

The hospital or health institution shall permit a lockable notice board of reasonable dimensions to be erected in a prominent position upon which the Union representative shall be permitted to post Union notices.

31. Blood Count

Those employees who are regularly required to assist and/or work with the radiologist and/or radiographer in close proximity to diagnostic and/or therapeutic x-ray machines or any other form of radioactive irradiators may on request to the employer have a blood count carried out.

Employees required to work in areas where they are subject to a higher than normal risk of infection shall be given appropriate check-ups upon making application therefore to the employer.

32. Infectious Cleaning

An allowance as set in Item 47 of Table 1 - Other Rates and Allowances, of Part B, Monetary Rates, per shift or part thereof, is to be paid to employees who elect to and, in fact, perform cleaning duties in infectious areas where barrier nursing is being carried out. The allowance will also be payable to employees, who, in any shift, assist in the lifting and/or transporting of infectious patients.

Employees are to be given the option of working in the infectious area. In the event of employees declining to work in the infectious area, hospitals are to seek guidance from the employer.

Hospitals are to give written instructions on hygiene techniques and infection to employees who may be liable to work in infectious areas. Such instructions should be given to existing employees as soon as possible and to new employees at the point of engagement. In addition, supporting oral instructions should be given to relevant employees whenever a patient is admitted to hospital with a suspected or confirmed infectious condition and to those employees who work regularly in designated infectious areas.

The instructions given to employees should be in such a manner as to remove any fears that the employees may have, and to give them an understanding of the methods of the spread of disease.

The instructions should include the following subject matters:

- (a) Mode of transmission -
 - 1. Droplet Infection
 - 2. Faecal-oral route
 - 3. Blood
 - 4. Fomites
 - 5. Discharges - Secretions
 - 6. Urine
- (b) Disease not transmissible from person to person
- (c) Degree of communicability
- (d) Period of communicability
- (e) Personal hygiene
- (f) Protective clothing
- (g) Barrier nursing
- (h) Immunity
 - naturally acquired;
 - immunisation;
- (i) Cleaning methods which minimise spread of infection.

As it is essential that the instructions be beneficial to the employees, simple language should be used which can be easily understood by them.

33. Labour Flexibility

- (i) An employer may direct an employee to carry out such duties as are reasonable, and within the limits of the employee's skill, competence and training consistent with employee's classification, grouping and/or career stream provided that such duties are not designed to promote deskilling.
- (ii) An employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained or has otherwise acquired the necessary skills in the use of such tools and equipment.
- (iii) Any direction issued by an employer pursuant to subclause (i) and (ii) shall be consistent with the employer's responsibilities to provide a safe and healthy work environment.
- (iv) Existing provisions with respect to the payment of higher duties allowances shall apply in such circumstances.

34. Teleworking

- (i) "Teleworking" is the performance of job related work at a site away from the normal work location.
- (ii) Subject to agreement between the employer and the Union, teleworking may be introduced.

35. Workforce Review

Any proposal to reorganise a Department or service that will significantly affect employees covered by the Union will be the subject of genuine consultation with the Union.

36. Child Care

The parties agree to work together to examine methods of addressing the child care needs of employees.

37. Union Subscriptions

The employer agrees, subject to prior written authorisation by Union members, to deduct Union subscriptions from the pay of the authorising members and remit to the Union.

38. Telephone Allowance

- (i) An employee required to answer emergency telephone calls on his/her private telephone outside of ordinary working hours, but not recalled to duty, shall be reimbursed rental charges on such telephone on production of receipted accounts.
- (ii) Provided that, where an employee is required to answer out of hours telephone calls on his/her private telephone on a relief basis he/she shall be paid one-twelfth of his/her yearly telephone rental for each month or part thereof he/she is so employed.

39. Removal Expenses

This clause only applies to persons employed under the Health Managers (State) Award. Any person employed under the Health Managers (State) Award shall be entitled to a refund of the actual cost incurred by him/her in the transportation of himself/herself and his/her family and of the expenses reasonably incurred by him/her in conveying his/her furniture and effects from his/her last place of residence to the city or town in which is situated the Public Health Organisation to which he/she is appointed on the following conditions:

- (i) He/she shall, immediately prior to taking up the new appointment, have had 12 months' continuous service in another Public Health Organisation situated other than in the town or city in which is situated the Public Health Organisation to which he/she has been appointed.
- (ii) He/she shall not have received from any Public Health Organisation a refund under this clause within a period of two years prior to his/her taking up his/her appointment.
- (iii) He/she shall give an undertaking that he/she will refund to the Public Health Organisation any payments made to him/her by it under this clause should he/she leave its employment within 12 months of his/her becoming employed by it.

40. Exemptions

This Award shall not apply to:

- (a) Members, novices or aspirants of religious orders in public hospitals, the names of whom are included or hereafter shall be included in Schedule 3 of the *Health Services Act 1997*.
- (b) Employees of Stewart House Preventorium.

41. Maternity, Adoption and Parental Leave

A. Maternity Leave

(i) Eligibility for Paid Maternity Leave

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

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

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after her services have been otherwise dispensed with: or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

(ii) Portability of Service for Paid Maternity Leave

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

When determining an employee's eligibility for paid maternity leave, continuous service with an organisation that is part of the government sector as defined in the *Government Sector Employment Act 2013* will be recognised, provided that:

- (a) service was on a full-time or permanent part-time basis:
- (b) cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;
- (c) the employee immediately commences duty with the new employer. There may be a break in service of up to two months before commencing duty with the new employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.

(iii) Entitlement to Paid Maternity Leave

An eligible employee is entitled to fourteen weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen weeks prior to the expected date of birth.

It is not compulsory for an employee to take this period off work. However, if an employee decides to work during the nine weeks prior to the date of birth it is subject to the employee being able to satisfactorily perform the full range of normal duties.

Paid maternity leave may be paid:

- on a normal fortnightly basis; or
- in advance in a lump sum; or

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

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

(iv) Unpaid Maternity Leave

(a) Full-time and permanent part-time employees who are entitled to paid maternity leave are entitled to a further period of unpaid maternity leave of not more than 12 months after the actual date of birth.

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

(v) Applications

An employee who intends to proceed on maternity leave should formally notify her employer of such intention as early as possible, so that arrangements associated with her absence can be made.

Written notice of not less than eight weeks prior to the commencement of the leave should accordingly be given. This notice must include a medical certificate stating the expected date of birth and should also indicate the period of leave desired.

(vi) Variation After Commencement of Leave

After commencing maternity leave, an employee may vary the period of her maternity leave once only without the consent of her employer by giving the employer notice in writing of the extended period at least fourteen days' before the start of the extended period. An employer may accept less notice if convenient.

An employee may extend the period of maternity leave at any time with the agreement of the employer.

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

(vii) Staffing Provisions

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

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

When the employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual leave, sick leave and long service leave and any period of maternity leave on half pay is taken into account to the extent of one half thereof when determining the accrual of annual leave, sick leave and long service leave.

Except in the case of employees who have completed ten years' service the period of maternity leave without pay does not count as service for long service leave purposes. Where the employee has completed ten years' service the period of maternity leave without pay shall count as service provided such leave does not exceed six months.

Maternity leave without pay does not count as service for incremental purposes. Periods of maternity leave at full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.

Where public holidays occur during the period of paid maternity leave, payment is at the rate of maternity leave received i.e., public holidays occurring in a period of full pay maternity leave are paid at full rate and those occurring during a period of half pay leave are paid at half rate.

(ix) Illness Associated with Pregnancy

If, because of an illness associated with her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.

Where an employee is entitled to paid maternity leave, but because of illness, is on sick, annual, long service leave, or sick leave without pay prior to the birth, such leave ceases nine weeks prior to the expected date of birth. The employee then commences maternity leave with the normal provisions applying.

(x) Transfer to a More Suitable Position

Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. This obligation arises from Section 70 of the *Industrial Relations Act 1996*. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(xi) Miscarriages

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

(xii) Stillbirth

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

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

An employee who gives birth prematurely and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

(xiv) Right to Return to Previous Position

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

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

(xv) Further Pregnancy While on Maternity Leave

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

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

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

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

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

B. Adoption Leave

(i) Eligibility

All full-time and permanent part-time employees who are adopting a child and are to be the primary care giver of the child are eligible for unpaid adoption leave.

To be eligible for paid adoption leave a full-time or permanent part-time employee must also have completed at least 40 weeks continuous service prior to the date of taking custody of the child.

An employee who has once met the conditions of paid adoption leave, will not be required to again work the 40 weeks continuous service in order to qualify for further periods of paid adoption leave, unless

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with; or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Worker's Compensation Act 1987*.

(ii) Portability of Service for Paid Adoption Leave

As per maternity leave conditions.

(iii) Entitlement

(a) Paid Adoption Leave

Eligible employees are entitled to paid adoption leave of fourteen weeks at the ordinary rate of pay from and including the date of taking custody of the child.

Paid adoption leave may be paid:-

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(b) Unpaid Adoption Leave

Eligible employees are entitled to unpaid adoption leave as follows:

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

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

(iv) Applications

Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave. This will allow arrangements associated with the adoption leave to be made.

(v) Variation after Commencement of Leave

After commencing adoption leave, an employee may vary the period of leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

(vi) Staffing Provisions

As per maternity leave conditions.

(vii) Effect of Adoption Leave on Accrual of Leave, Increments, etc.

As per maternity leave conditions.

(viii) Right to Return to Previous Position

As per maternity leave conditions.

C. Parental Leave

(i) Eligibility

To be eligible for parental leave a full-time or permanent part-time employee must have completed at least 40 weeks continuous service prior to the expected date of birth or to the date of taking custody of the child.

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

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

(b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

(ii) Portability of Service for Paid Parental Leave

As per maternity leave conditions.

(iii) Entitlements

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

(a) an unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave), and

(b) a further unbroken period in order to be the primary caregiver of the child (extended parental leave).

(c) The entitlement of one week's paid leave may be taken at anytime within the 52 week period and shall be paid:

at the employees ordinary rate of pay for a period not exceeding one week on full pay, or

two weeks at half pay or the period of parental leave taken, whichever is the lesser period.

(d) Extended parental leave cannot be taken at the same time as the employee's spouse or partner is on maternity or adoption leave except as provided for in subclause (i)(a) of Part D Right to Request of this clause.

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

(iv) Applications

An employee who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.

(a) In the case of extended parental leave, the employee should give written notice of the intention to take the leave.

(b) The employee must, at least four weeks before proceeding on leave, give written notice of the dates on which they propose to start and end the period of leave, although it is recognised in situations of taking custody of a child, little or no notice may be provided to the employee. In such an instance, the employee should notify the employer as early as practicable.

(c) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.

(d) In the case of extended parental leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:

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

- (ii) that they are seeking the period of extended parental leave to become the primary care giver of the child.
- (v) Variation after Commencement of Leave -

After commencing parental leave, an employee may vary the period of her/his parental leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.
- (vi) Effect of Parental Leave on Accrual of Leave, Increments etc.

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

As per maternity leave conditions.

D. Right to Request

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

to assist the employee in reconciling work and parental responsibilities.
- (ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (iii) The employee's request and the employer's decision made under subclauses (i)(b) and (c) must be recorded in writing.
- (iv) Where an employee wishes to make a request under subclause (i)(c):
 - (a) the employee is to make an application for leave without pay to reduce their full-time weekly hours of work
 - (b) such application must be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks notice must be given;
 - (c) salary and other conditions of employment are to be adjusted on a basis proportionate to the employee's full-time hours of work i.e. for long service leave the period of service is to be converted to the full-time equivalent and credited accordingly.
 - (d) employees who return from leave under this arrangement remain full-time employees. Therefore the payment of any part-time allowance to such employees does not arise.

E. Communication During Leave

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

NOTE:

- (a) The entitlement to maternity, adoption and parental leave for part-time employees who receive an adjusted hourly rate (as defined in clause 6, Part 2, in this Award), along with casual employees, are in accordance with the provisions of Part 4, Parental Leave of the *Industrial Relations Act 1996* and/or Determination made under the *Health Services Act 1997*.
- (b) Where a casual employee is entitled to parental leave under the *Industrial Relations Act 1996*, the following provisions shall also apply in addition to those set out in the Act.

An employer must not fail to re-engage a casual employee because:

the employee or employee's spouse is pregnant; or

the employee is or has been immediately absent on parental leave.

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

- (c) Part-time employees who receive an adjusted hourly rate are also entitled to the provisions of Part D Right to Request and Part E Communication During Leave of this clause.
- (d) Liability for Superannuation Contributions

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

41A. Lactation Breaks

- (i) This clause applies to employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this Award.
- (ii) A full-time employee or a part-time employee working more than four hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day or per shift.

- (iii) A part-time employee working four hours or less on any day or shift is entitled to only one paid lactation break of up to 30 minutes each per day or per shift worked.
- (iv) A flexible approach to lactation breaks can be taken by mutual agreement between an employee and their manager provided the total lactation break time entitlement is not exceeded. When giving consideration to any such requests for flexibility, a manager needs to balance the operational requirements of the organisation with the lactating needs of the employee.
- (v) The employer shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk. Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and the employee will take place to attempt to identify reasonable alternative arrangements for the employee's lactation needs.
- (vi) Employees experiencing difficulties in effecting the transition from home based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.
- (vii) Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave or other leave in accordance with the Award.

42. Study Time

- (i) Eligibility - Study time may be granted by the employer to full-time employees undertaking part-time courses of study, in disciplines appropriate to health services, for which approval to enrol has been given by the employer.

Employees proposing to embark upon a course of study for which the employer's support is sought should consider the extent to which their own time will need to be applied to study, and whether they are prepared and able to firmly commit that time for the duration of the course. They should also consider whether the content of the course is appropriate to his/her employment situation, either present or contemplated, and whether attainment of the qualification will be of benefit to them in their work.

Having decided to undertake the course they should discuss the proposal with the employer and secure approval before making any final arrangements for enrolment or registering for the course.

The employer is required to examine the appropriateness of the course considered by any full-time employee, and be satisfied that it will better qualify the employee for service within the New South Wales public health system, before giving the approval and committing the employer to support in the form of study time. The employer should, too, ensure that such study time will not interfere with the maintenance of the Public Health Organisation's essential service, nor require the employment of additional staff.

The application form for study time can be obtained from the employee's Public Health Organisation.

Study time and/or paid time off for course work will only be granted in respect of one course at any one time. An employee who is undertaking two or more courses concurrently will not in any circumstances be granted paid study time for more than one.

- (ii) Financial Assistance - It is to be noted that employees who undertake courses associated with part-time and external studies are not entitled to any financial assistance regarding reimbursement of fees, travelling, etc. (see Section 6 of the NSW Policy Directive PD2017_028 Leave Matters for the NSW Health Service, as amended from time to time).
- (iii) Extent of Entitlement - For face-to-face studies in courses conducted by universities, or technical and further education colleges, employees are eligible for a maximum of four hours' paid study leave per

week to attend lectures held in working hours, and for necessary travelling time involved. Any absence from duty in excess of this limit is to be made up.

Where lectures are held outside working hours or during a combination of working and non-working hours an employee may be granted paid study time on the basis of one half-hour for each hour of compulsory attendance at after-hours lectures. Travel time necessary to attend lectures may also be granted, but the aggregate of paid time off under this provision is not to exceed four hours per week. Any absence from duty in excess of this limit is to be made up.

For employees undertaking an approved course by correspondence, or as "external students", study time may be granted on the basis of one quarter hour for each hour of lecture time in the face-to-face course, to a maximum of four hours per week.

However, where external students are required to compulsorily attend a residential school or practical session, they will be granted leave on the basis of five days per subject per year, or 2 ½ days per subject per semester; this leave will be in substitution for, and not additional to, study time which might otherwise have been granted on a weekly basis. Any extra time involved is to be debited against the employee's accrued annual leave or taken as leave without pay.

It should be noted that study time may be granted, and taken, only once in respect of any course subject. Any student, therefore, who fails to pass in a subject at the first attempt, and is required to repeat that subject, shall not be eligible for paid study time in respect of that repeat.

This applies even though the repeat involved attendance at lectures in working hours (in which case all time off for repeat studies must be made up) or compulsory attendance at a residential school (in which case the time off must all be made up, taken as leave without pay or annual leave).

However, a student who is taking a combination of new and repeated subjects in any semester or course year is eligible for study time in respect of the new subject/s. Study time shall not be granted or taken during course vacations.

A student in a course which involves compulsory attendance at a field day or days may be granted study time to attend; leave for this purpose is limited to seven hours on any one day, and where a field day occurs on a non-working day no time-off in lieu is to be allowed. Where the aggregate time off for course purposes exceeds four hours in any one week, the excess is required to be made up; however, reference should be made to subclause (iv) of this clause for certain conditions relating to the making-up of time off for study purposes.

The employer must satisfy themselves that applicants for study time are required to attend lectures, field days or residential schools at the times stated in their applications.

Entitlements for employees undertaking higher degree studies differ from those dealt with above; these are as set out in subclause (vii) of this clause.

- (iv) Making Up of Time - Employees who are absent from duty for more than the maximum four hours in any week are required to make up the excess time off.

However, the maximum excess time off taken in any one week which is required to be made up is five hours; where the excess time off necessarily taken by an employee for course purposes exceeds nine hours per week the hours over nine hours are abandoned.

Let us consider, as an illustration of the principles involved, the case of employees who attend four hours of face-to-face lectures, and also are required to attend a field day in that same week:

← 4 hours lectures	← 8 hours field day	→
← 4 hours paid leave	← 7 hours (max) paid leave 1 unpaid	→

4 hours	5 hours	2 hours	1 hour
---------	---------	---------	--------

← max for week ← 5 hours (max) made up ← abandoned →

It will be seen that the employees have been granted time off, as paid study time to attend lectures. They then are required to attend a field day of eight hours' duration, and they are paid for seven hours, which is the maximum allowed for attendance at a field day. They have, therefore, done course work for 12 hours in that week and have been paid the maximum allowable aggregate of 11 hours. They are then required to make up the maximum of five hours' excess (in any one week), and the remainder (two hours) is abandoned; they are not required to make it up either in this week nor at any future time. As a general rule, time must be made up as soon as possible after the leave has been taken; it cannot be made up in advance, except in the week in which the excess time off is to be taken, but make-up may be deferred, if convenient to the employer, until a later day (e.g. during vacations). Time off is not permitted to be made up during meal breaks.

Adequate supervision of the make-up of time must be exercised, either through the personal attendance of a senior officer or by a check on output.

Despite the provisions of this section, all paid time off for course work in repeated subjects must be made up, however it may be; the five hours' limitation does not apply to repeated subjects. This time off should be made up as soon as possible, or at the employer's convenience.

- (v) Accumulation of Study Time - Study time may be accumulated to a maximum of five days per year (or two and a half days per semester) subject to the approval and convenience of the employer and a request by the employee.

It will be remembered that employees engaged in courses requiring compulsory attendance at a residential school are not eligible for weekly study time, but are allowed a maximum of five days per subject per year (or two and a half days per subject per semester) to attend those schools.

Employees, other than those covered in the second paragraph of this Section, who are entitled to less than two hours' study leave per week may elect to accumulate that time and taken it in half-day or one-day periods if they feel that this will be more beneficial to their studies.

Where students believe that their course requirements and/or personal circumstances are such that they would benefit more by accruing study time rather than taking it weekly, they may be granted a consolidated period not exceeding five days per year (or two and a half days per semester) in substitution for weekly study time, and may take this leave either prior to or during examinations.

Students who receive some paid study time weekly for lecture attendance and/or travelling time during working hours, and also have some additional entitlement (e.g. from attendance at out-of-hours lectures) may convert the additional entitlement to a five-days-per-annum grant if they so desire.

Approval to accrue five (or two and a half) days' study time as provided above should be sought at the beginning of each course year. However, a student who elects to accrue at the beginning, or vice versa, may opt to reverse that decision, as from 1 July, for the remainder of the year.

The employer, in giving approval for the accrual of study time, should ensure that the Public Health Organisation will not be inconvenienced, nor the maintenance of its essential operations jeopardised, by such arrangement, and that there will be no need to employ relief staff.

However, where approval is initially given, the employer is required to honour its undertaking for the agreed period even though circumstances may alter and the employee's absence then becomes inconvenient. If the employer declines an employee's request for approval of accumulation of study time it is obliged to grant such time on a weekly basis.

Employees undertaking a course who join the staff after the commencement of the course year (e.g. by transfer from another Public Health Organisation) may apply on 1 July of that year to accumulate their study time.

- (vi) External Studies - Employees may enrol, subject to approval by the employer, as external students in courses of study leading to a first or further qualification other than a higher degree. These courses may be taken through a university.

Such a course does not usually require the student to attend lectures during the course year or semester, but usually does require compulsory attendance at a residential school at least once during each year or semester.

Study time is to be granted on the basis of five days per subject per year, or two and a half days per subject per semester, and it is to be made available to the employee to attend the school or schools held. This leave is in substitution for, and not additional to, leave which might otherwise be granted on a weekly basis.

Students attending residential schools do not receive any allowance for travelling accommodation or incidental costs.

- (vii) Part-Time Higher Degree Studies - The provisions for study time for employees undertaking higher degree studies are altogether different from the provisions already described except for courses which involve face-to-face instruction.

The following grants of study time represent the maximum grant available for higher degree studies, and the periods of leave may be taken as required by the employee subject to the convenience of the employer:

- (a) Employees studying entirely by thesis may be granted a period of ten days' study time.
 - (b) For study entirely by research and thesis there is an entitlement of twenty days' leave; in these cases a further ten days' leave may be granted where the employer is satisfied that the nature and progress of the research warrants further study time.
 - (c) For study which involves course work followed by the preparation of a thesis necessitating further research, employees may be granted weekly study time for the course work, where appropriate, and may also be granted a further ten days' leave for the preparation of the thesis.
 - (d) Periods of ten days' and 20 days' study time must be taken as units - not as scattered or random days towards the total entitlement, and apply to the thesis, not per year.
- (viii) Examination Leave - Employees attending terminal examinations in approved tertiary courses may be granted pre-examination and examination leave on the following basis:-

Half-day examination leave for an examination in the morning - no pre-examination leave in this case except where the employee works an evening shift on the evening prior, when the equivalent of one-half days' leave may be granted.

In the case of half day examination leave in the afternoon the employee may be granted half day pre-examination leave in the same morning. Where examinations are held in the evening, employees may be granted half day pre-examination leave on the afternoon of the same day.

A terminal examination is one which occurs at the end of the subject and must be passed for the subject to be completed and the student to progress further; or one set during the course which forms an integral part of the major examination or final assessment in that subject and which the student must take in order to pass that subject in an academic year.

Where an examination is conducted within the normal class timetable during term and study time is granted to the employee for either private study or actual lecture attendance, no examination leave or pre-examination leave is to be granted.

Pre-examination leave is not to be granted where study time has been refused, except in respect of repeat studies in a course normally attracting that concession.

Employees undertaking courses either by correspondence or by face-to-face studies may be granted leave for examinations, including deferred examinations as well as repeat studies in respect of the above courses.

43. Trade Union Leave

- (i) Eligibility - Applies to members of the Union accredited by the Union as a delegate.
- (ii) Paid Special Leave - Paid special leave is available for attendance at:
 - (a) annual or bi-annual conferences of the delegate's union; and
 - (b) meetings of the union's executive/Committee of Management; or
 - (c) annual conference of Unions NSW; or
 - (d) bi-annual conference of the Australian Council of Trade Unions.
- (iii) Limits - There is no limit on the special leave that could be applied for or granted. It is expected, however, that the leave would be kept to a minimum and that, on average, not more than 5 days special leave per year would need to be taken.
- (iv) Responsibilities of the Union Delegate - Responsibilities of the union delegate are:
 - (a) to establish accreditation as a delegate with the union;
 - (b) to provide sufficient notice of absence to the employer; and
 - (c) to lodge a formal application for special leave.
- (v) Responsibilities of the Union - Responsibilities of the union are:
 - (a) to provide documentary evidence to the employer about an accredited delegate in sufficient time to enable the employer to make arrangements for performance of duties;
 - (b) to meet all travelling, accommodation and any other costs incurred by the accredited delegate; and
 - (c) to provide the employer with confirmation of attendance of the accredited delegate.
- (vi) Responsibilities of the Employer - Responsibilities of the employer are:
 - (a) to release the accredited delegate for the duration of the conference or meeting;
 - (b) to grant special leave (with pay); and
 - (c) to ensure that the duties of the absent delegate are performed in his/her absence, if appropriate.
- (vii) Period of Notice - Generally, dates of conferences or meetings are known well in advance and it is expected that employers would be notified as soon as accreditation has been given to a delegate or at least two weeks before the date of attendance.

Where extraordinary meetings are called at short notice, a shorter period of notice would be acceptable, provided such notice is given to the employer as soon as advice of the meeting is received by the accredited delegate.
- (viii) Travel Time - Where a delegate has to travel to Sydney, inter or intra state, to attend a conference or meeting, special leave will also apply to reasonable travelling time to and from the venue of the conference or meeting.

No compensation, such as time off in lieu, is to be provided if travel can be and is undertaken on an accredited delegate's non-working day or before or after his/her normal hours of work.

- (ix) Payment of Allowances - No allowances will be claimable in cases of special leave granted for attendance at union conferences or executive meetings covered by this clause - see also subclause (v) of this clause.

44. Salary Sacrifice to Superannuation

- (i) Notwithstanding the salaries as varied from time to time, prescribed in the Awards identified in clause 49, Area, Incidence and Duration, of this Award, an employee may elect, subject to the agreement of the employee's employer, to sacrifice a part or all of the salary payable under the relevant Award to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. The amount sacrificed together with any salary packaging arrangements under clause 44, Salary Packaging, of this Award may be made up to one hundred (100) per cent of the salary payable under the relevant salaries clause, or up to one hundred (100) per cent of the currently applicable superannuable salary, whichever is the lesser.

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

- (ii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees and private health fund membership fees.
- (iii) Where the employee has elected to sacrifice a part or all of the available payable salary to additional employer superannuation contributions:
- (a) The employee shall be provided with a copy of the signed agreement. The salary sacrifice agreement shall be terminated at any time at the employee's election and shall cease upon termination of the employee's services with the employer.
- (b) Subject to Australian taxation law, the amount of salary sacrificed will reduce the salary subject to appropriate PAYE taxation deductions by the amount sacrificed; and
- (c) Any allowance, penalty rate, overtime, payment for unused leave entitlements, weekly workers' compensation, or other payment, other than any payment for leave taken in service, to which an employee is entitled under the relevant Award or any applicable Award, Act, or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the salaries clause of the relevant Award in the absence of any salary sacrifice to superannuation made under this Award.
- (iv) The employee may elect to have the specified amount of payable salary which is sacrificed to additional employer superannuation contributions:
- (a) paid into the superannuation scheme established under the *First State Superannuation Act 1992* as optional employer contributions; or
- (b) subject to the employer's agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.
- (v) Where an employee elects to salary sacrifice in terms of subclause (iv) above, the employer will pay the sacrificed amount into the relevant superannuation fund.
- (vi) Where the employee is a member of a superannuation scheme established under:
- (a) the *Police Regulation (Superannuation) Act 1906*;

- (b) the *Superannuation Act 1916*;
- (c) the *State Authorities Superannuation Act 1987*;
- (d) the *State Authorities Non-contributory Superannuation Act 1987*; or
- (e) the *First State Superannuation Act 1992*.

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

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

45. Salary Packaging

- (i) By agreement with their employer, employees may elect to package part or all of their salary in accordance with this clause, to obtain a range of benefits as set out in PD2016_009 NSW Health Salary Packaging Policy and Procedure Manual, as amended from time to time. Such election must be made prior to the commencement of the period of service to which the earnings relate. Where an employee also elects to salary sacrifice to superannuation under this Award, the combined amount of salary packaging/sacrificing may be up to 100 per cent of salary.

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

- (ii) Where an employee elects to package an amount of salary:
 - (a) Subject to Australian taxation law, the packaged amount of salary will reduce the salary subject to PAYE taxation deductions by that packaged amount.
 - (b) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this Award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the relevant salaries Award in the absence of any salary packaging or salary sacrificing made under this Award.
 - (c) 'Salary' for the purpose of this clause, for superannuation purposes, and for the calculation of Award entitlements, shall mean the Award salary as specified in the appropriate salaries Award, and which shall include 'approved employment benefits' which refer to fringe benefit savings, administration costs, and the value of packaged benefits.
- (iii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees, and private health fund membership fees.
- (iv) The salary packaging scheme utilises a fringe benefit taxation exemption status conferred on public hospitals and area health services, which provides for a fringe benefit tax exemption cap of \$17,000 per annum. The maximum amount of fringe benefits-free tax savings that can be achieved under the scheme is where the value of benefits when grossed-up, equal the fringe benefits exemption cap of \$17,000.

Where the grossed-up value exceeds the cap, the employer is liable to pay fringe benefits tax on the amount in excess of \$17,000, but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits, are deducted from pre-tax dollars.

- (v) The parties agree that the application of the fringe benefits tax exemption status conferred on public hospitals and area health services is subject to prevailing Australian taxation laws.
- (vi) If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the PD2016_009 NSW Health Salary Packaging Policy and Procedure Manual, as amended or replaced from time to time.
- (vii) Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.
- (viii) Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.
- (ix) The employer and the employee shall comply with the procedures set out in PD2016_009NSW Health Salary Packaging Policy and Procedure Manual as amended or replaced from time to time.

46. Reasonable Hours

- (i) Subject to subclause (ii) the employer may require an employee to work reasonable overtime at overtime rates.
- (ii) 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.
- (iii) For the purposes of subclause (ii) what is reasonable 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.

47. Induction and Orientation

The employer agrees that Orientation/Induction shall be provided to all employees covered by this Award. The employer further agrees that the Union shall have up to one half-hour made available for a presentation on the role of the Union in such a program provided to employees. If such programs are provided to employees by electronic or remote means, the Union's presentation and associated literature will also be included.

48. No Extra Claims

Other than as provided for in the *Industrial Relations Act* 1996 and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2019 by a party to this Award.

49. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2018 and shall remain in force for a period of one year. The wage rates as outlined in Table 1 - Other Rates and Allowances, will apply from the first full pay period on or after (ffppoa) 1 July 2018.
- (ii) This Award rescinds and replaces the Health Employees' Conditions of Employment (State) Award published 9 February 2018 (382 IG 186) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained in the following so listed Awards, employed in the NSW Health Service under section 115(1) of the *Health Services Act 1997*, or their successors, assignees or transmittes, excluding the Country of Yancowinna.

Health Employees' (State) Award

Health Employees' General Administrative Staff (State) Award

Health Employees' Administrative Staff (State) Award

Health Employees' Technical (State) Award

Health Employees' Engineers (State) Award

Health Employees' Pharmacists (State) Award

Health Employees' Medical Radiation Scientists (State) Award

Health Employees' Computer Staff (State) Award

Health Managers (State) Award

Health Employees' Interpreters (State) Award

Public Hospital Residential Services Assistant (State) Award

NSW Health Service Allied Health Assistants (State) Award 2018

NSW Health Service Health Professionals (State) Award in relation to diversional therapists and orthotists/prosthetists only.

- (iv) This Award (and its predecessor) is varied, with effect from 19 April 2018 in respect of cl. 3 (xiii); cl. 12 (vii); and cl. 49 (iii) consequent upon the making of the NSW Health Service Allied Health Assistants (State) Award 2018.

PART B - MONETARY RATES**Table 1 - Other Rates and Allowances**

Item No.	Clause No.	Description	Rate from ffppoa 01/07/2018 \$
1	5 (iii)	Climate and Isolation	4.60
2	5 (iii)	Climate and Isolation	9.18
3	7 (ii)(a)	Board & Lodging	
		- Breakfast	4.20
		- Other Meals	8.00
		- Maximum one week	128.80
4	7 (ii)(b)	Board and Lodging	
		- Separate Room	59.80
		- Shared Room	37.40
5	10 (iii)	On-Call Allowance (per 24 hours)	25.11
6	10 (iv)	On-Call Allowance - rostered days off (per 24 hours)	49.51
7	11 (v)	Broken Shift (per shift)	12.40
8	12 (ii)(a)	Post-mortem (each)	12.00
		Post-mortem Assistants	
9	12 (ii)(b)	- Assist at each internal exam	107.00
		- Assist at each external exam	66.40
10	12 (ii)(c)	Excluding Post-mortem Assistants	
		- Assist at each internal exam	39.60
		- Assist at each external exam	24.70
11	12 (ii)(d)	Post-mortem partly decomposed, vermin infested (each)	6.40
		Handling linen-nauseous nature (per shift)	4.60
12	12 (iii)	Handling linen-nauseous nature (per shift)	4.60
13	12 (iv)	Sorting of incinerators, etc. (per hour)	0.41
14	12 (v)(a)	Maintenance and Supervision (per week)	12.40
15	12 (v)(b)	Offensive Work (per week)	3.40
16	12 (v)(c)	Sewerage chokages, etc. (per day)	see note**
17	12 (vi)	Wearing of lead apron (per hour)	2.03
18	12 (vii)	Handling of money (per week)	20.10
19	12 (viii)(a)	Cold Places (per hour)	see note**
20	12 (viii)(b)	Confined spaces (per hour)	see note**
21	12 (viii)(c)	Dirty Work (per hour)	see note**
22	12 (viii)(d)	Height money (per hour)	see note**
23	12 (viii)(e)	Hot Places 46 degrees - 54 degrees (per hour)	see note**
		Over 54 degrees (per hour)	see note**
24	12(viii)(f)(1)	Insulation Material (per hour)	see note**
25	12 (viii)(f)(2)	Asbestos (per hour)	see note**
26	12 (viii)(g)	Smoke Boxes (per hour)	see note**
		Oil Fired Smoke Boxes (per hour)	see note**
27	12 (viii)(h) (1) & (2)	Wet Places - other than rain (per hour)	see note**
		Rain (per hour)	see note**
28	12 (viii)(l)	Mud Allowance (per day)	see note**
29	12 (viii)(j)	Acid Furnaces, etc. (per hour)	see note**
30	12 (viii)(k)	Depth money (per hour)	see note**
31	12 (viii)(l)	Bosun's Chair or swinging scaffold	
		- first four hours	see note**
		- thereafter	see note**
32	12 (viii)(m)	Spray application (per hour)	see note**
33	12 (viii)(n)	Roof Work (per hour)	see note**
		- minimum per day	see note**

34	12 (viii)(o)	Explosive-powered tools (per day)	see note**
35	12 (viii)(p)	Morgues-other than P.M. Assist (per hour)	see note**
36	12 (viii)(q)(I)	Toxic, Obnoxious Substances-Epoxy	see note**
		- epoxy materials (per hour)	see note**
37	12 (viii)(q)(2)	Toxic, obnoxious substances-Air Conditioner.	see note**
		- not operating (per hour)	see note**
38	12(viii)(q)(4)	Close proximity to above (per hour)	see note**
39	12 (viii)(r)	Areas with Psychiatric patients (per hour)	see note**
40	12 (viii)(s)	Geriatric Allowance	see note**
		- Allandale & Garrawarra (per hour)	see note**
		- Lidcombe (per hour)	see note**
41	12 (viii)(t)	Mental Institutions Allowance (per hour)	see note**
42	12 (viii)(u)	Animal House (per hour)	see note**
43	12 (ix)	Tool Allowance (per week)	9.10
44	14 (iv)	Meals (each)	30.05
45	23 (i)(c)	Uniform (per week)	4.48
		Uniform - with cardigan & Shoes (addit. per week)	1.70
46	23 (i)(d)	Uniform - laundering (per week)	5.06
47	32	Infectious cleaning (per shift)	5.84
48	12 (xii)	Sterilising Certificate (per week)	9.20
		(per day)	1.80

** Allowances payable are determined as per movements occurring from time to time within the Public Health Service Skilled Trades (State) Award.

J. V. MURPHY, Commissioner.

Printed by the authority of the Industrial Registrar.

HOSPITAL SCIENTISTS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 2017/200543)

Chief Commissioner Kite
Commissioner Murphy
Commissioner Seymour

26 October 2017

AWARD**PART A****Arrangement**

Clause No.	Subject Matter
1.	Definitions
2.	Salaries
3.	Grading Employees
4.	Hours
5.	Shift Work and Weekend Work
6.	Rostering Hours
7.	On-Call
8.	Permanent Part-Time and Part-Time Employees
9.	Overtime
10.	Meals
11.	Higher Duties
12.	Public Holidays
13.	Annual Leave
14.	Long Service Leave
15.	Sick Leave
16.	Payment and Particulars of Salary
17.	Termination of Employment
18.	Accommodation and Amenities
19.	Inspection of Lockers of Employees
20.	Uniform and Laundry Allowance
21.	Climatic and Isolation Allowance
22.	Notice Boards
23.	Union Representative
24.	Exemptions
25.	Blood Counts
26.	Settlement of Disputes
27.	Anti-Discrimination
28.	Travelling Allowance
29.	General Conditions
30.	Promotions and Appointments
31.	Board and Lodgings
32.	Maternity, Adoption & Parental Leave
32A.	Lactation Breaks
33.	Family and Community Services Leave and Personal/Carer's Leave
33A.	Family Violence Leave
34.	Mobility, Excess Fares and Travelling

35. Labour Flexibility
36. Salary Packaging
37. Reasonable Hours
38. Salary Sacrifice to Superannuation
39. No Extra Claims
40. Area, Incidence and Duration

PART B

Table 1 - Allowances

PART A

1. Definitions

Unless the context otherwise indicates or requires the several expressions hereunder defined shall have their respective meaning assigned to them:

"ADA" means the daily average of occupied beds adjusted by counting each 700 registered outpatients as one occupied bed. The average shall be taken for the twelve months for the year ending 30 June in each and every year and such average shall relate to the salary for the succeeding year.

"Day Worker" means a worker who works ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6:00 a.m. and before 10 a.m. otherwise than as part of a shift system.

"Director/Deputy Director" means an employee appointed as Head of a Department or as second in-charge of a Department, provided that such a position is approved as such by the employer.

"Employee" means a Hospital Scientist, Senior Hospital Scientist, Principal Hospital Scientist, or Trainee Hospital Scientist as defined.

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

"Health Service" means a Local Health District constituted under section 8 of the *Health Services Act 1997*, a Statutory Health Corporation constituted under section 11 of that Act, and an Affiliated Health Organisation constituted under section 13 of that Act.

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

"Hospital Scientist" means an employee who has acquired the Diploma in Medical Technology of the Australian Institute of Medical Technologists (before 1974) or who has obtained a degree in science from an approved university or college of advanced education requiring a minimum of three years full-time study or such qualifications as the employer deems equivalent.

"Principal Hospital Scientist" means a Hospital Scientist who has been appointed as such and holds a post graduate degree in science at least equivalent to the degree of Master of Science of an approved university, or such other qualifications deemed by the employer to be equivalent and who has had not less than ten years post graduate experience in an appropriate scientific field.

"Senior Hospital Scientist" means an employee who is engaged in scientific work of a professional nature in a public hospital laboratory who holds a degree in science from an approved University or a college of advanced education or such other qualifications deemed by the employer to be appropriate who -

- (a) has been appointed to a position in charge of a section of a laboratory; or
- (b) has been approved by the employer for appointment on the recommendation of the Credentials Committee.

"Secretary" means the Secretary of the Ministry of Health.

"Senior or Chief Hospital Scientist" means an employee who is engaged in scientific work of a professional nature in a public hospital laboratory who holds a degree in science from an approved University or a college of advanced education or such other qualifications deemed by the employer to be appropriate who:

- (a) has been appointed to a position in charge of a laboratory; or
- (b) has been approved by the employer for appointment on the recommendation of the Credentials Committee.

"Service" means service before and/or after the commencement of this Award in any one or more hospitals as defined under s.15 of the *Health Services Act 1997*, or any other hospital deemed acceptable by the employer.

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

"Trainee Hospital Scientist" means an employee appointed as such who is undertaking a part-time degree course in science at an approved University and is engaged in work related to the profession for which he or she is qualifying.

"Union" means the Health Services Union NSW.

2. Salaries

Salaries for Hospital Scientists, as defined herein, shall be as set out in the Health Professional and Medical Salaries (State) Award.

3. Grading of Employees

- (i) Grades: Every employee other than Trainee Hospital Scientist shall be classified in one of the grades of Hospital Scientist, Chief/Senior Hospital Scientist, or Principal Hospital Scientist as provided hereunder.
- (ii) Years of Scale-
 - (a) Within each grade employees shall, at all times be classified not lower than the year of scale corresponding to the minimum described hereunder for their respective qualifications and/or duties advanced by:
 - (1) At least one year of scale for each completed year of service in that grade and hospital; and
 - (2) At least one further year of scale for each completed year of service in the same branch of science in that grade in any other hospital or hospitals.
 - (b) In determining an employee's classification due allowance also shall be made for any post graduate experience.
- (iii) Hospital Scientists who hold or are qualified to hold a degree, diploma or other qualification, as shown hereunder shall not be classified below the respective year of scale in this grade, as follows, with advancement as provided for in subclause (ii) of this clause.

Bachelor's Degree (3 year course) - 1st year;

Bachelor's Degree with Honours (3 year course); Bachelor's degree (4 year course) - 2nd year;

Bachelor's Degree with Honours (4 year course); diploma or Bachelor's degree with at least two years experience concurrent with or after the last two years of the course - 3rd year;

Master's Degree - 4th year;

Fellow of the Institute of Physics, and/or Fellow of the Australian Institute of Physics, Degree of Doctor of Philosophy - 6th year.

provided such degree with honours or such Master's Degree has been obtained in a subject relevant to the branch of science in which the employee is engaged.

- (iv) Credentials Committee. A committee consisting of two representatives of the employer and two representatives of the Union shall be constituted to consider and recommend to the employer upon application by the Union or the relevant Health Service.
- (a) The appointment of a new employee as a Senior Hospital Scientist (other than a Senior Hospital Scientist in charge of a laboratory or a section of a laboratory), or a Principal Hospital Scientist.
- (b) The promotion of an employee from Hospital Scientist to Senior Hospital Scientist.
- (c) The promotion of an employee from Senior Hospital Scientist to Principal Hospital Scientist.

4. Hours

- (i) The ordinary hours of work for day workers, exclusive of meal times, shall be 152 hours per 28 calendar days to be worked from Monday to Friday inclusive and to commence on such days at or after 6 a.m. and before 10 a.m..
- (ii) The ordinary hours of work for shift workers exclusive of meal times, shall not exceed an average of 38 hours per week in each roster cycle.
- (iii) Each day worker shall be free from duty for not less than two full days in each week and each shift worker shall be free from duty for not less than two full days in each week or four full days in each fortnight. Where practicable such days off duty shall be consecutive.
- (iv)
- (a) The hours of work prescribed in subclauses (i) and (ii) of this clause shall, where possible, be arranged in such a manner that in each roster cycle of 28 days each employee shall not work his or her ordinary hours of work on more than nineteen days in the cycle. The hours worked on each of those days shall be arranged to include a proportion of one hour (in the case of employees working shifts of eight hours duration the proportion of 0.4 of an hour) which shall accumulate towards the employee's allocated day off duty on pay, as the twentieth working day of the cycle.
- (b) Notwithstanding the provisions of paragraph (a) of this subclause, employees who were, as at the 30th June, 1984, working shifts of less than eight hours duration may:
- (1) continue to work their existing hours each 28 days but spread over 19 days, or
- (2) with the agreement of the hospital, continue to work shifts of the same duration over 20 days in each cycle of 28 days.
- (v) The employee's allocated day off duty prescribed in subclause (iv) of this clause shall be determined by mutual agreement between the employee and the employer having regards to the needs of the employer. Where practicable such allocated day off duty shall be consecutive with the days off duty prescribed by subclause (iii) of this clause.
- (vi) Once set the allocated day off duty may not be changed in a current cycle unless there are genuine unforeseen circumstances prevailing. Where such circumstances exist and the allocated day is changed, another day shall be substituted in the current cycle. Should this not be practicable, the day must be given and taken in the next cycle immediately following.

- (vii) Where the employer and the Union agree that exceptional circumstances exist in a particular Health Service, an employee's allocated days off duty prescribed by subclause (iv) of this clause may, with the agreement of the employee concerned, accumulate and be taken at a time mutually agreed between the employee and the employer. Provided that the maximum number of days off duty which may accumulate under this subclause shall be three.
- (viii) There shall be no accrual of 0.4 of an hour for each day of ordinary annual leave taken in accordance with subclause (i) of clause 13, Annual Leave, of this Award. However where an employee has accumulated sufficient time to take his/her allocated day off duty prior to entering on annual leave, and that day would have been taken if the employee had not gone on annual leave, it shall be allowed to the employee on the first working day immediately following the period of leave.

Where an employee has not accumulated sufficient time for an allocated day off duty prior to entering on annual leave, time in credit shall count towards taking the next allocated day off duty falling in sequence after the employee's return to duty.
- (ix) An employee entitled to allocated days off duty in accordance with subclause (iv) of this clause shall continue to accumulate credit towards his/her allocated day off duty whilst on sick leave. Where an employee's allocated day off duty falls during a period of sick leave the employee's available sick leave shall not be debited for that day.
- (x) Where an employee's allocated day off duty falls due during a period of worker's compensation, the employee, on returning to duty, shall be given the next allocated day off duty in sequence irrespective of whether sufficient credits have been accumulated or not.
- (xi) Where an employee's allocated day off duty falls on a public holiday as prescribed by clause 12 - Public Holidays of this Award, the next working day shall be taken in lieu thereof.
- (xii) Except for one meal break each day all time worked between the normal starting and ceasing time each day shall be at the ordinary rates of pay.
- (xii) There shall be one tea break of twenty minutes duration. This is additional to the meal break provided for in subclause (xii) of this clause.
- (xiv) There shall be a minimum break of eight (8) hours between ordinary rostered shifts.

5. Shift Work and Weekend Work

- (i) Subject to the provisions of this clause, employees may be employed on shift work.
- (ii) The ordinary hours of shift workers shall be worked on not more than five days per week and shall not exceed 152 hours per 28 calendar days.
- (iii) As far as practicable, no employee shall be obliged to work shift work against his/her wishes.
- (iv) Senior Hospital Scientists and Principal Hospital Scientists shall not be required to work shift work against their wishes.
- (v) Before shift work is introduced into any section or department of a Health Service, the proposals relating thereto shall be conveyed to the Union and an opportunity given to discuss such proposals with representatives of the Health Service concerned and the employer.
- (vi) Any disputes arising out of the introduction of new shift systems shall be referred to a committee consisting not more than six members with equal representatives of the employer and the Union.

In the event of no unanimous decision being arrived at, the matter in dispute may be notified to the Industrial Registrar for the consideration of the Public Health Employees (State) Industrial Committee or the Industrial Relations Commission of New South Wales.

- (vii) Work performed by shift workers working during ordinary hours shall be paid at the following rates:
- (a) on Mondays to Fridays between 8:30 a.m. and 9:00 p.m. at ordinary time rate of pay.
 - (b) On Mondays to Fridays before 8:30 a.m. and after 9:00 p.m. at the rate of time and a half.
 - (c) On Saturdays at the rate of time and a half.
 - (d) On Sundays at the rate of time and three quarters.

Provided that a part-time employee shall not be entitled to be paid in addition the loading prescribed in subclause (ii) of Part 2 of clause 8, Part-Time Employees, of this Award.

Provided further that positions which prior to 31 August 1988 were covered under the terms of the Hospital Employees Conditions of Employment (State) Award shall continue to be paid in accordance with provisions of Penalty Rates for Shift Work, Weekend Work and Special Working Conditions, of that Award. Further provided that the provisions of subclauses (iii) and (iv) shall not apply to these positions.

6. Roster of Hours

- (i) The ordinary hours of work for each employee shall be displayed on a roster in a place conveniently accessible to employees. Where reasonably practicable such roster shall be displayed two weeks, but in any case at least one week, prior to the commencing date of the first working period in any roster.

Provided that this provision shall not make it obligatory for the employer to display any roster of ordinary hours of work of members of the relieving staff.

Provided further that a roster may be altered at any time to enable the services of the Health Service to be carried on where another employee is absent from duty on account of illness or in emergency but where any such alteration involves an employee working on a day which would have been his/her day off such time worked shall, subject to subclause (vi) of clause 4, Hours, be paid for at overtime rates. Furthermore, where a change in roster hours occurs with less than 24 hours notice to the employee affected, all time worked outside that shown on the employee's roster (prior to the alteration) shall be paid for at overtime rates.

- (ii) Where an employee is entitled to an allocated day off duty in accordance with clause 4, Hours, of this Award, that allocated day off duty is to be shown on the roster of hours for that employee.

7. On-Call

An employee required by the employer to be on call in any one 24 hour period shall be paid an allowance as set out in Item 1 of table 1, Allowances, for that period or any part thereof, provided that only one allowance shall be paid in any period of 24 hours.

Provided that an on-call roster shall not be introduced by a Health Service without the approval of the employer. Principal Hospital Scientists are excluded from the provisions of this clause.

Provided that this clause shall not apply to positions covered by the Public Hospital Medical Technologists (State) Award, prior to 31 August 1988.

8. Permanent Part-Time and Part-Time Employees

Part 1 - Permanent Part-Time Employees

- (i) A permanent part-time employee is one who is appointed by the employer to work a specified number of hours each roster cycle which are less than those prescribed for a full-time employee.

- (ii) A permanent part-time employee shall be paid an hourly rate calculated on the basis of one thirty eighth of the normal weekly rate available for full-time employees of the same classification.
- (iii) Persons employed on a permanent part-time basis may be employed for not less than two (2) or more than thirty two (32) hours in any full week of seven days, such week to be coincidental with the pay period. Permanent part-time employees are not entitled to an allocated day off. The specified number of hours may be balanced over a roster cycle, provided that the average weekly hours worked shall be deemed to be the specified number of hours for the purposes of accrual of leave provided for by this Award. Provided further that there shall be no interruption to the continuity of employment merely by reason of an employee working on a "week-on", "week-off" basis in accordance with this subclause.
- (iv) Employees engaged under this clause shall be entitled to all other benefits of the Award not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.
- (v) All time worked by permanent part-time employees in excess of the total rostered daily ordinary hours of work prescribed for the majority of full-time employees employed on that shift in the ward or section concerned shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time.
- (vi) Time worked up to the total rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the ward or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.

Part 2 - Part-Time Employees

- (i) Employees engaged as part-time employees on or before 1 November 2001 are entitled to exercise the option of receiving the benefits of employment specified in Part 1 of this clause.
- (ii) Persons employed on a part-time basis, other than on a permanent part-time basis as outlined in Part 1 of this clause, may be employed for not less than eight or more than thirty hours in any full week of seven days, such week to be coincidental with the pay period of each hospital respectively, and shall be paid for the actual number of hours worked each week an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed plus 15 per cent thereof.
- (iii) In an emergency part-time employees may be allowed to work more than thirty hours in one week and in such case will be paid for the hours actually worked at a rate calculated in accordance with subclause (ii) of Part 2 of this clause.
- (iv) With respect to employees employed as part-time workers the provisions of clause 4, Hours, subclauses (iv) to (xi) of this Award shall not apply.
- (v) All time worked by part-time employees in excess of the total rostered daily ordinary hours of work prescribed for the majority of full-time employees employed on that shift in the ward or section concerned shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time.
- (vi) Time worked up to the total rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the ward or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.
- (vii) With respect to employees employed as part-time workers the provisions of clause 9, Overtime, of this Award, except where provided in subclauses (v) and (vi) of Part 2 of this clause, shall not apply.

9. Overtime

- (i) All time worked by day workers and shift workers in excess of or outside the ordinary hours prescribed by clause 4, Hours, and clause 5, Shift Work and Weekend Work of this Award, respectively, shall be paid for at the rate of time and one half for the first two hours and double time thereafter, provided that

all time worked on Sundays shall be paid for at double time; provided further that all overtime worked on public holidays shall be paid for at the rate of double time and one half.

- (ii) Subject to subclauses (iii) - (vii) below, employees who are recalled for duty, whether notified before or after leaving the employer's premises, shall be paid for all time worked at the appropriate overtime rate, with a minimum of four hours at such rates.
- (iii) Employees may be required to perform other work that arises during the recall period. Employees shall not be required to work the full four hour minimum payment period if they complete the work they were recalled to perform and any additional work they are required to undertake, within a shorter period.
- (iv) The employer must have processes in place for the formal release of employees from recall duty.
- (v) Employees who are not formally released and who are recalled again during the four hour minimum payment period are not entitled to any additional payment until the expiration of the four hour period.
- (vi) Employees who are advised they will not be required to perform any additional work and are formally released and who are subsequently recalled again during the four hour minimum payment period, shall be entitled to another four hour minimum payment.
- (vii) Employees required to work overtime after leaving the employer's premises to provide a technology support resolution or clinical appraisal remotely without onsite presence, shall be paid for such work at the appropriate overtime rate, with a minimum payment of one hour at such rates.
- (viii) An employee recalled to work overtime as prescribed by this subclause shall be paid all fares and expenses reasonably incurred in travelling to and from his/her place or work.

Provided further that where an employee elects to use his/her own mode of transport he/she shall be paid an allowance equivalent to the "Transport Allowance" as provided by determination made under the *Health Services Act 1997*, as varied from time to time.

- (ix) When overtime is necessary it shall wherever reasonably practical, be so arranged that employees have at least eight consecutive hours off duty between the work on successive days or shifts.

For the purposes of assessing overtime each day shall stand alone, provided however, that where any one period of overtime is continuous and extends beyond midnight, all overtime hours in this period shall be regarded as if they had occurred within the one day.

- (x) An employee who works such overtime:
 - (a) between the termination of his/her ordinary work on any day or shift and the commencement of his/her ordinary work on the next day or shift that he/she has not had at least eight consecutive hours off duty between these times; or
 - (b) on a Saturday, a Sunday and a holiday, not being ordinary working day, or on a rostered day off without having had eight consecutive hours off duty in the twenty-four hours preceding his/her ordinary commencing time on his/her next day or shift;

shall, subject to this subclause, be released after completion of such overtime until he/she has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If on the instruction of his/her employer such an employee resumes or continues to work without having had such eight consecutive hours off duty, he/she shall be paid at double rates until he/she is released from duty for such period and he/she then shall be entitled to be absent until he/she has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

- (xi) When an employee works overtime as an extension of shift and ceases work at a time when reasonable means of transport are not available, he/she shall be paid at ordinary rates for the time reasonably spent

travelling from the employer's premises to the employee's home with a maximum payment of one (1) hour.

This subclause shall not apply in the case of call-back nor where the employee has his/her own vehicle available for conveyance home.

- (xii) The provisions of this clause shall not apply to Principal Hospital Scientists.

10. Meals

- (i) An employee who works authorised overtime shall be paid in addition for such overtime -
- (a) as set out in Item 2 of Table 1, Allowances, for breakfast when commencing such overtime work at or before 6:00 a.m.;
 - (b) as set out in Item 2 of Table 1, for luncheons when such overtime extends beyond 2:00 p.m. on Saturdays, Sundays or holidays;
 - (c) as set out in Item 2 of the said Table 1, for an evening meal when such overtime is worked for at least one hour immediately following his/her normal ceasing time, exclusive of any meal break, and extends beyond or is worked wholly or after 7:00 p.m.;
- or shall be provided with adequate meals in lieu of payment.
- (ii) The value of payments for meals shall be varied as the equivalent rates are from time to time varied in the Crown Employees (Public Service Condition of Employment) Award.
- (iii) Time not exceeding one hour and not less than thirty minutes shall be allowed for each meal, provided that where an employee is called upon to work for any portion of the meal break, such time shall count as ordinary working time.
- (iv) An employee required to work overtime following on the completion of his or her normal shift for more than two hours shall be allowed twenty minutes for the partaking of a meal and a further twenty minutes after each subsequent four hours' overtime; all such time shall be counted as time worked.
- (v) An employee recalled to work overtime after leaving the employer's premises and who is required to work for more than four hours shall be allowed twenty minutes for partaking of a meal and a further twenty minutes after each subsequent four hours overtime; all such time shall be counted as time worked.
- (vi) Where practicable, employees shall not be required to work more than four (4) hours without a meal break.

11. Higher Duties

An employee who is called upon to relieve an employee in a higher classification continuously for five working days or more, and who satisfactorily performs the whole of the duties and assumes the whole of the responsibilities of the higher classification, shall be entitled to receive, for the period of relief, the minimum pay of such higher classification

12. Public Holidays

- (i) Public Holidays shall be allowed to employees on full pay.
- (ii) Where an employee is required to and does work on any of the holidays set out in subclause (iii) of this clause, whether for a full shift or not, the employee shall be paid one and one half day's pay in addition to the weekly rate prescribed by clause 2, Salaries of this Award, such payment in the case of shift workers to be in lieu of any additional rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday:

Provided that if the employer and the employee so agree, an employee may be paid one half day's pay in addition to the weekly rate and have one day added to his/her period of annual leave for each public holiday worked in lieu of the provisions of the preceding paragraph.

- (iii) For the purpose of this clause, the following shall be deemed public holidays, viz: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day, Boxing Day, Anzac Day, Queen's Birthday, local Labour Day, and other days proclaimed and observed as a public holiday within the area in which the hospital or health institution is situated.
- (iv) Where a public holiday occurs on a shift worker's rostered day off, he/she shall be paid one day's pay in addition to the weekly rate, or if the employer and the employee so agree, have one day added to his period of annual leave.
- (v) An employee who has accrued additional annual leave under subclause (ii) or (iv) of this clause can elect at any time to be paid an amount equivalent to the value of the accrued additional annual leave in lieu of taking additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave was actually taken.
- (vi) Subclauses (i) and (ii) of this clause shall not apply to part-time employee of this Award but each such employee who is required to work on a public holiday as defined in subclause (iii) of this clause shall be paid at the rate of double time and one-half but such employee shall not be entitled to be paid in addition the loading of 15 per cent prescribed in subclause (i) of clause 8, Part-Time Employees, of this Award.
- (vii) Provided that this clause shall not apply to positions covered by the Hospital Employees Conditions of Employment (State) Award, prior to 31 August 1988, the provisions of "Public Holidays" of that Award shall apply.
- (vii) In addition to those public holidays specified in subclause (iii), employees are entitled to an extra public holiday each year. Such public holiday will occur on a day in the Christmas-New Year period as determined by the employer following consultation with the Union, or other suitable day as agreed between the employer and the Union. Such public holiday shall be regarded for all purposes of this clause as any other public holiday.

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

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

13. Annual Leave

- (i) All employees: See *Annual Holidays Act 1944*.
- (ii) Annual leave on full pay shall be granted on completion of each twelve months service as follows:
 - (a) Principal Hospital Scientists - 5 weeks.
 - (b) All other employees - 4 weeks.
- (iii)
 - (a) This subclause does not apply to part-time employees.

(b) Employees who are rostered to work their ordinary hours on Sundays and/or public holidays during the qualifying period of employment for annual leave purposes shall be entitled to receive additional annual leave as follows:

- (1) If 35 ordinary shifts on such days have been worked - one week.
- (2) If less than 35 ordinary shifts on such days have been worked and the employees work 38 hours per week - proportionately calculated on the basis of 38 hours leave for 35 such shifts worked.
- (3) If less than 35 ordinary shifts on such days have been worked and the employees work less than 38 hours per week - proportionately calculated on the basis of leave equivalent to the number of hours ordinarily worked per week for 35 such shifts worked.

The calculations referred to above shall be made to the nearest one fifth of the ordinary hours worked, half or more than half of one fifth being regarded as one fifth and less than half being disregarded.

Provided that an employee, entitled to additional annual leave by virtue of this subclause, may elect to be paid an amount equivalent to the value of his or her additional leave entitlement, in lieu of taking the additional leave. Such election is to be made in writing by the employee at the commencement of each year of employment.

An employee with accrued annual leave pursuant to this subclause can elect at any time to be paid an amount equivalent to the value of the accrued additional leave in lieu of taking additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave was actually taken.

- (c) Provided further that on termination of employment, employees shall be entitled to payment for any untaken leave due under this subclause together with payment for any untaken leave in respect of an uncompleted year of employment, calculated in accordance with this subclause.
- (iv) The annual leave shall be given by the employer and shall be taken by the employee before the expiration of a period of six months after the date upon which the right to such holidays accrues; provided that the giving and taking of the whole or any separate period of such annual holiday may, with the consent of the employee, be postponed for a period not exceeding 18 months.
 - (v) The employer shall give to each employee three months notice where practicable and not less than one month's notice of the date upon which the employee shall enter upon annual leave.
 - (vi) An employee who is normally employed to work shifts shall be paid whilst on annual leave his/her ordinary pay plus shift allowances and weekend penalties relating to ordinary time the employee would have worked if he/she had not been on annual leave, provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during a period of annual leave or for days which have been added to annual leave in accordance with the provisions of Clause 12, Public Holidays, of this Award.
 - (vii) Credit of time towards an allocated day off duty shall not accrue when an employee is absent on ordinary annual leave in accordance with subclause (i) of this clause. Employees entitled to allocated days off duty in accordance with clause 4, Hours, of this Award shall accrue credit towards an allocated day off duty in respect of each day those employees are absent on additional annual leave in accordance with subclause (ii) of clause 12, Public Holidays, of this Award.
 - (viii) Employees shall be entitled to an annual leave loading of 17.5 per centum, or shift penalties as set out in subclause (vi) of this clause, whichever is the greater.

NOTATION: The conditions under when the annual leave loading shall be paid to employees are the same as generally applied through circulars issued by the Ministry of Health.

14. Long Service Leave

- (i)
- (a) Each employee shall be entitled to two months long service leave on full pay after ten years of service; thereafter additional long service shall accrue on the basis of five months long service leave on full pay for each ten years service.
- Employees with at least seven years service and less than 10 years service are entitled, proportionate to his or her length of service, to proceed on a proportionate period of long service leave on the basis of two months' long service leave for ten years' service on full pay.
- (b) Where the services of an employee with at least five years service and less than seven years service are terminated by the employer for any reason other than the employee's serious and wilful misconduct, or by the employee, on account of illness, incapacity or domestic or other pressing necessity, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service.
- Where the services of an employee with at least seven years are terminated by the employer or by the employee, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service. Where the services of an employee with at least 10 years service are terminated by the employer or by the employee, he/she shall be entitled to be paid on the basis of two months' long service leave for ten years' service and thereafter on the basis of five months long service leave for each ten years service.
- (ii) For the purposes of subclause (i) of this clause:
- (a) Service shall mean continuous service with the employer. For the purpose of this paragraph, continuous service will be determined in accordance with the provisions of Section 17 of the NSW Health Policy Directive PD2014_029 Leave Matters for the NSW Health Service, as amended from time to time.
- (b) Broken periods of service with the employer in one or more hospitals shall count as service.
- (c) Service shall not include -
- (1) any period of leave without pay except in the case of employees who have completed at least ten years service (any period of absence without pay being excluded there from) in which case service shall include any period of leave without pay not exceeding six months taken after 1 January, 1973;
- (2) any period of part-time service, except permanent part-time service, as provided for in subclause (ix).
- (iii) An employee with an entitlement to long service leave may elect to access such entitlement:
- (a) on full pay;
- (b) on half pay; or
- (c) on double pay.
- (iv) When an employee takes long service leave, the leave entitlement will be deducted on the following basis:
- (a) a period of leave on full pay - the number of days so taken;
- (b) a period of leave on half pay - half the number of days so taken; or

- (c) a period of leave on double pay - twice the number of days so taken.
- (v) When taking long service leave and an employee would otherwise have had a rostered shift fall on a public holiday during that period, the amount of long service leave to be deducted is to be reduced by one day for the public holiday.
- (vi) Long Service Leave shall be taken at a time mutually arranged between the employer and the employee.
- (vii)
 - (a) On the termination of employment of an employee, otherwise than by his/her death, an employer shall pay to the employee the monetary value of all long service leave accrued and not taken at the date of such termination and such monetary value shall be determined according to the salary payable to the employee at the date of such termination, unless the employee elects to transfer his or her leave entitlement in accordance with Section 17 of the NSW Health Policy Directive 2014_029 Leave Matters for the NSW Health Service, as amended from time to time.
 - (b) Where an employee who has acquired a right to long service leave, or after having had five years service and less than ten years service dies, the widow or the widower of such employee, or if there is no such widow or widower, the children of such employee, or if there is no such widow, widower, or children, such person who, in the opinion of the employer, was at the time of the death of such employee, a dependent relative of such employee, shall be entitled to receive the monetary value of the leave not taken or which would have accrued to such employee, had his/her services terminated as referred to in paragraph (b) of subclause (i) of this clause and such monetary value shall be determined according to the salary payable to the employee at the time of his/her death.

Where there is a guardian of any children entitled under this paragraph the payment, to which such children are entitled, may be made to such guardian for their maintenance, education and advancement.

Where there is no person entitled under this paragraph to receive the monetary value of any leave payable under the foregoing provisions payment in respect thereof shall be made to the legal personal representative of such employee.
- (viii) The provisions of subclauses (i) to (v) of this clause shall not apply to part-time employees who receive an adjusted hourly rate (as defined in Part II, of clause 8, of this Award). Such employees shall be entitled to long service leave in accordance with the provisions of the *Long Service Leave Act 1955*, and/or Determination under the *Health Services Act 1997*.
- (ix) A full-time employee shall be entitled to have previous part-time service which is the equivalent of at least two full days' duty per week taken into account for long service purposes in conjunction with full-time service on the basis of the proportion that the actual number of hours worked each week bears to forty hours up until 30 June 1984 and bears to 38 on and from 1 July 1984, provided the part-time service merges without break with the subsequent full-time service.
- (x) Except as provided for in subclause (xi) of this clause, rights to long service leave under this clause shall be in replacement of rights to long service leave, if any, which at the date of commencement of this Award may have accrued or may be accruing to an employee and shall apply only to persons in the employ of the employer on or after the date of commencement of this Award. Where an employee has been granted long service leave or has been paid its monetary value prior to the date of commencement of this Award, the employer shall be entitled to debit such leave against any leave to which the employee may be entitled pursuant to this clause.

- (xi) The following provisions shall apply only to employees employed in a hospital at 1 January 1973:
- (a) An employee who -
 - (1) has had service in a hospital, to which clause 21, Climatic and Isolation Allowance, applies, prior to 1 January 1973;
 - (2) Is employed in a hospital, to which clause 21, Climatic and Isolation Allowance, applies, at 1 January 1973 shall be granted long service leave in accordance with the long service leave provisions in force prior to 1st January 1973, in lieu of the provisions provided by this Award where such benefits are more favourable to the employee.
 - (b) An employee employed -
 - (1) as a part-time employee at 1st January 1973 may be allowed to continue to be granted long service leave in accordance with the long service provisions in force prior to 1st January 1973 in lieu of the provisions of the *Long Service Leave Act 1955*, as provided for in sub-clause (viii) of this clause;
 - (2) on a full-time basis at 1 January 1973, but who had prior part-time service may be allowed to continue to be granted long service leave in accordance with the long service leave provisions in force prior to 1 January 1973, in lieu of the provisions provided by this Award where such benefits are more favourable to the employee.
- (xii) Where an employee has accrued a right to an allocated day off duty on pay prior to entering a period of long service leave such day shall be taken on the next working day immediately following the period of long service leave.

An employee returning to duty from long service leave shall be given the next allocated day off duty in sequence irrespective of whether sufficient credits have been accumulated or not.

15. Sick Leave

- (i) Full-time employees - a full-time employee shall be entitled to sick leave on full pay by allowing 76 rostered ordinary hours of work for each year of continuous service, less any sick leave on full pay already taken subject to the following conditions.
- (a) All periods of sickness shall be certified to by the Medical Superintendent of the hospital or by a legally qualified Medical Practitioner approved by the employer, provided such approval shall not be unreasonably withheld; provided however, that the employer may dispense with the requirement of the medical certificate where the absence does not exceed two (2) consecutive days or where in the employer's opinion the circumstances are such as to not warrant such requirements.
 - (b) The employer shall not change the rostered hours of work of an employee fixed by the roster or rosters applicable to the seven days immediately following the commencement of sick leave merely by reason of the fact that the employee is on sick leave.
 - (c) An employee shall not be entitled to sick leave until after three months continuous service.
 - (d) Service for the purpose of this clause, shall mean service with the employer and shall be deemed to have commenced on the date of engagement by the employer in respect of any period of employment with the employer current at the date of the commencement of this Award in respect of employees then so employed and in respect of others it shall be deemed to commence on the first day of engagement by the employer after the commencement of this Award.
 - (e) Employees who are employed at the date of the commencement of this Award shall retain to their credit, until exhausted, any accumulation of sick leave to their credit immediately prior to such a date; provided that such credit is not less than the entitlement otherwise prescribed by this clause.

- (f) "Continuous Service" for the purpose of this clause, shall be calculated in the same manner as provided under sub-clause (ii) (a) of clause 14, Long Service Leave, of this Award, excepting that all periods of service with the employer in any hospital (providing such service is not less than three months actual service) shall be counted.
- (g) Each employee shall take all reasonably practicable steps to inform the employer of his or her inability to attend for duty and as far as possible state the estimated duration for the absence.

Where practicable such notice shall be given within twenty-four hours of the commencement of such absence.

- (ii) Part-time employees - A part-time employee shall be entitled to sick leave in the same proportion of 76 hours as the average weekly hours worked over the preceding twelve months or from the time of the commencement of the employment, whichever is the lesser, bears to 38 ordinary hours of one week. Such entitlements shall be subject to all the above conditions applying to full-time employees.
- (iii) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to accident pay, or worker's compensation; provided, however, that where an employee is not in receipt of accident pay, an employer shall pay to an employee, who has sick leave entitlements under this clause, the difference between the amount received, as worker's compensation and full pay. The employee's sick leave entitlement under this clause shall for each week during which such difference is paid, be reduced by the proportion of hours which the difference bears to full pay. On the expiration of available sick leave, weekly compensation payments only shall be payable.
- (iv) For the purpose of determining a full-time employee's sick leave credit as at the 1st July 1984, sick leave entitlement shall be proportioned on the basis of 76/80.

16. Payment and Particulars of Salary

- (i) Salaries shall be paid weekly or fortnightly.
- (ii) Employees shall have their salary paid into one account with a bank or other financial institution in New South Wales as nominated by the employee except where agreement as to another method of payment has been reached between the Union and the employer due to the isolation of the work location. Salaries shall be deposited by the employer in sufficient time to ensure that salaries are available for withdrawal by employees no later than pay day provided that this requirement shall not apply where employees nominate accounts with non-bank financial institutions which lack the technological or other facilities to process salary deposits within 24 hours of the employer making deposits with such financial institutions but in such cases the employer shall take all reasonable steps to ensure that the salaries of such employees are available for withdrawal by no later than pay day.

Subject to adequate notice in writing on each occasion, employees who are rostered off on pay day shall be entitled to have their salary deposited before proceeding on their days off.

- (iii) Notwithstanding the provisions of subclauses (i) and (ii) of this clause, any employee who was given or who has been given notice of termination of employment in accordance with clause 17, Termination of Employment, of this Award, shall be paid all monies due to him/her prior to ceasing duty on the last day of employment. Where an employee is dismissed or his or her services are terminated without notice in accordance with clause 17, Termination of Employment, of this Award, any moneys due to him or her shall be paid as soon as possible after such dismissal or termination, but in any case, not more than three days thereafter.
- (iv) On each pay day an employee, in respect of the payment then due, shall be furnished with a statement in writing containing the following particulars, namely: name, the amount of ordinary salary, the total hours of overtime worked, if any, other monies paid, and the purpose for which they are paid and the amount of deductions made from the total earnings and the nature thereof.

- (v) Where the retrospective adjustments of wages are paid to employees, such payments where practical shall be paid as a separate payment to ordinary wages. Such payment shall be accompanied by a statement containing particulars as set out in subclause (iv) of this clause.
- (vii) Underpayment and overpayment of salaries - the following process will apply once the issue of underpayment or overpayment is substantiated.
 - (a) Underpayment
 - (1) If the amount underpaid is equal to or greater than one day's gross base pay the underpayment will be rectified within three working days;
 - (2) If the amount underpaid is less than one day's gross base pay it will be rectified by no later than the next normal pay. However, if the employee can demonstrate that rectification in this manner would result in undue hardship, every effort will be made by the employer to rectify the underpayment within three working days.
 - (b) Overpayment
 - (1) In all cases where overpayments have occurred, the employer shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The employer will also advise the employee of the pay period from which the recovery of the overpayment is to commence.
 - (2) One off overpayments will be recovered in the next normal pay, except that where the employee can demonstrate that undue hardship would result, the recover rate shall be at 10% of an employee's gross fortnightly base pay.
 - (3) Unless the employee agrees otherwise, the maximum rate at which cumulative overpayments can be recovered is an amount, calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly base pay.
 - (4) The recovery rate of 10% of an employee's gross fortnightly base pay referred to in subclause (b)(3) above may be reduced by agreement, where the employee can demonstrate that undue hardship would result.
 - (5) Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause (b)(3) above, the employer shall have the right to deduct any balance of such overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

17. Termination of Employment

- (i) During the first three months of employment, employment shall be from week to week. After three months continuous service, employment may be terminated only by twenty eight days notice given either by the employer or the employee at any time during the week or by payment or forfeiture of twenty eight days salary, as the case may be. Nothing in this clause, however, shall prevent the summary dismissal of an employee for misconduct or neglect of duty.
- (ii) Employees with a credit of time accrued towards an allocated day off duty shall be paid for such accrual upon termination.
- (iii) Provided that this clause shall not apply to positions covered by the Hospital Employees Conditions of Employment (State) Award, prior to 31 August 1988, the provisions of "Termination of Employment", subclause (ii), of that Award, shall apply.

18. Accommodation and Amenities

- (i) Suitable dining room accommodation and lavatory conveniences shall be provided for all resident and non-resident employees.
- (ii) In all hospitals erected after 1st January 1960, dressing room, lockers, hot and cold showers and conveniences also shall be provided for non-resident employees and where practicable, such facilities shall be provided in hospitals erected prior to that date.
- (iii) The following outlines the minimum standards which the employer seeks to achieve in all hospitals:

Sanitary conveniences -

- (a) Seats - in the proportion of 1 seat to every 15 employees or fraction of 15 employees of each sex.
- (b) Separate and distinct conveniences for each sex, together with screened approaches to ensure privacy. These facilities must be located conveniently to work places, they must be adequately lighted and ventilated and floors, walls and ceilings finished with a smooth faced surface resistant to moisture.

Washing and Bathing Facilities

- (a) Washing provision by way of basins of suitable impervious material with taps set at 600mm centres with hot and cold water supplied, in proportion of one hot tap and one cold tap for each fifteen employees or part of 15 employees of each sex. Space in front of the wash points shall not be less than 900mm.
- (b) Showers spaced at not less than 900mm and with hot and cold water connected for persons ceasing work at any one time in a minimum ratio of one shower for every twenty persons or part of twenty persons of each sex ceasing work at any one time.

Washing and bathing facilities must be adequately lighted and ventilated; floors, walls and ceilings finished with a smooth-faced surface resistant to moisture.

These facilities should be incorporated in, or communicated direct with the change room and should not be contained within any closet block.

Change Rooms and Lockers

- (a) Properly constructed and ventilated change rooms equipped with a vented steel locker, at least 300mm wide by 450mm deep and 1800mm high for each employee.
- (b) Floor area not less than 0.56 sq. m. per employee to be accommodated.
- (c) Space between lockers - set up facing one another and not less than 1.5 metres. Traffic ways not less than one metre wide.
- (d) Sufficient seating not less than 260mm wide by 380mm high should be provided.
- (e) Lockers should be set up with at least 150mm clearance between the floor of the locker and the floor of the room. Lockers shall be of the lock-up type with keys provided.

Dining Room

- (a) Well constructed, ventilated and adequately lighted dining room(s). Generally floor area should not be less than 1.0 sq. m. per employee using the meal room at any one time.
- (b) Tables not more than 1.8 m. long, spaced 1.2 m. apart, allowing 0.6 m. of table space per person.

- (c) Chairs or other seating with back rests. Sufficient tables and chairs must be provided for all persons who will use the dining room at any one time.
- (d) Facilities for boiling water, warming and refrigerating food and for washing and storing of dining utensils shall be provided.

Rest Room

A well-constructed and adequately lighted and ventilated room or screened off portion of the change room for women. Such rest room or rest area to be equipped with day bed or couch with mattress, blankets, pillow and hot water bottle.

- (iv) The above standards shall be the minimum to be included in working drawings approved after 1st December 1976, for new hospitals.
- (v) Where major additions to presently occupied buildings or new buildings are erected within a presently constituted hospital the amenities to be provided in such additions or new buildings shall be the subject of negotiations between the parties.

19. Inspection of Lockers of Employees

Lockers may be opened for inspection in the presence of the employee but in cases where the employee neglects or refuses to be present or in any circumstances where notice to the employee is impracticable such inspection may be carried out in the absence of the employee by an employee appointed by the employer, and if practicable, a Union Branch Employee, otherwise by any two employees so appointed by the employer.

20. Uniform and Laundry Allowance

- (i) Subject to clause (iii) of this clause, sufficient suitable and serviceable uniforms shall be supplied free of cost to each employee required to wear a uniform provided that an employee to whom a new uniform or part of a uniform has been supplied by the employer who, without good reason, fails to return the corresponding article last supplied to him or her, shall not be entitled to have such article replaced without payment thereof at a reasonable price.
- (ii) An employee, on leaving the service of the employer shall return any uniform or part thereof supplied by the employer which is still in use immediately prior to leaving.
- (iii) In lieu of supplying a uniform to an employee, the employer shall pay to such employee an amount per week as set in Item 3 of Table 1, Allowances.
- (iv) If at any hospital the uniform of the employee is not laundered at the expense of the employer, an allowance per week as set in Item 3 of the said Table 1, shall be paid to such employee.
- (v) Each employee whose duties require him/her to work in a hazardous situation shall be supplied with the appropriate protective clothing and equipment.
- (vi) The allowances referred to in subclauses (iii) and (iv) are payable to part-time employees on the basis of one fifth of the full weekly allowance for each shift worked in the week.

21. Climatic and Isolation Allowance

- (i) Employees employed in hospitals in any place situated upon or to the west of a line drawn as specified in this subclause but not including places as specified in subclause (ii) of this clause shall be paid a weekly allowance as set in Item 4 of Table 1, Allowances, in addition to the salary to which they otherwise are entitled. The line shall be drawn as follows: commencing Tocumwal and thence to the following towns in the order stated, namely, Lockhart, Narrandera, Leeton, Peak Hill, Gilgandra, Dunedoo, Coolah, Boggabri, Inverell, and Bonshaw.

- (ii) Employees employed in hospitals in any place situated upon or to the west of a line drawn as specified in this subclause shall be paid a weekly allowance as set in Item 4 of Table 1, Allowances, in addition to the salary to which they otherwise are entitled. The line shall be drawn as follows: commencing at a point on the right bank of the Murray River at Swan Hill (Victoria) and thence to the following towns in the order stated, namely, Hay, Hillston, Nyngan, Walgett, Collarenebri and Mungindi.
- (iii) Except for the computation of overtime the allowances prescribed in this clause shall be regarded as part of the salary for the purpose of this Award.
- (iv) The allowances prescribed by this clause are not cumulative.
- (v) A part-time employee shall be entitled to the allowances prescribed in this clause in the same proportion as average hours worked each week bears to 38 ordinary hours.

22. Notice Boards

The hospital shall permit notice boards of reasonable dimensions to be erected in a prominent position upon which the representative of the Union shall be permitted to post Union Notices.

23. Union Representatives

An employee appointed as Union representative shall upon notification thereof in writing by the Union to the employer, be recognised as an accredited representative of the Union and shall be allowed the necessary time during working hours to interview the employer on matters affecting employees and shall be allowed suitable facilities to collect the Union's dues.

24. Exemptions

This Award shall not apply to members, novices or aspirants of religious orders in public hospitals, the names of whom are included or hereafter shall be in the third schedule to the *Health Services Act 1997*.

25. Blood Counts

Every employee who works in close proximity to diagnostic and/or therapeutic X-Ray equipment or any other form of radio-active equipment or substance shall have a blood count carried out free of charge, by the employer at least once in every period of three months including any such period of work.

26. Settlement of Disputes

- (i) Where a dispute arises in a particular section which cannot be resolved between the employees or their representative and the supervising staff, it shall be referred to the Chief Executive Officer of the Health Service or establishment or his/her nominee, who will arrange to have the matter discussed with the employees concerned and a local representative or representatives of the Union.
- (ii) Failing settlement of the issue at this level, the matter shall be referred to the Secretary and the Head office of the Union. The dispute will be dealt with pursuant to subclause (v) of this clause.
- (iii) Whilst these procedures are continuing, no stoppage of work or any form of ban or limitation of work shall be applied.
- (iv) The Union reserves the right to vary this procedure where it is considered a safety factor is involved.
- (v) With view to an amicable and speedy settlement, all disputes that firstly cannot be settled in accordance with subclauses (i) and (ii) of this clause may be submitted to the committee consisting of not more than six (6) members, with equal representatives of the Union and the Secretary. Such committee shall have the power to investigate all matters in dispute and to report to the Chief Executive Officer of the Health Service and the Union respectively with such recommendation as it may think right and, in the event of no mutual decision being arrived at by such committee, the matter in dispute may be referred to the Public Health Employees (State) Industrial Committee.

- (vi) This clause shall not interfere with the rights of either to institute proceedings for the determination of any matter in accordance with the *Industrial Relations Act 1996*.

27. Anti-Discrimination

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

28. Travelling Allowance

- (i) An employee seconded to another hospital may be granted a daily travel allowance at the rate of the difference between the cost of travel by public transport to his/her normal place of employment and travel by public transport to the seconding hospital. Provided that where an employee drives his/her own vehicle, he/she shall, in lieu, be eligible for an allowance based on the casual rate prescribed by the Crown Employees (Public Service Conditions of Employment) Award, from time to time, for the difference between the distance to his/her normal place of employment and distance to the seconding hospital.
- (ii) An employee who with the approval of the employer, uses on official business a motor vehicle primarily for other than official business, shall be paid the above mentioned allowance from time to time effective. However, where it is estimated that an employee will, with the approval of the employer, be required to use his/her private vehicle on official business on at least fifty days during any period of twelve months and during that period, aggregate at least 850 kilometres of official running, he shall be paid the official

business rate prescribed by the Crown Employees (Public Service Conditions of Employment) Award, at the rate in force from time to time throughout the year.

- (iii) For the purpose of subclause (ii) travel on official business -
 - (a) occurs when an employee is required by the employer as part of his/her duty to use his/her motor vehicle to attend away from his/her normal place of employment or seconding hospital to another clinic, annexe or hospital. Where an employee travels on official business direct from his/her place of residence to a clinic, annexe or hospital, other than normal place of employment he/she shall be paid the difference between the distance to his/her normal place of employment or seconding hospital and that other clinic, annexe or hospital.
 - (b) shall include other arrangements as agreed to between the employer and the Union from time to time.
 - (c) does not include "call backs".
- (iv) Nothing in this clause shall make the employer liable for the cost of the employee's daily travel to his/her usual and normal place of employment.

29. General Conditions

An employee required to answer emergency phone calls outside of ordinary working hours, but not recalled to duty, shall be reimbursed rental charges on such telephone on production of receipted accounts.

Provided that, where an employee is required to answer out of hours telephone calls on a relief basis he/she shall be paid one-twelfth of his/her yearly telephone rental for each month or part thereof he/she is so employed.

30. Promotions and Appointments

- (i) Promotion and/or appointment shall be by merit.
- (ii) In the case of an employee or employees disputing a promotion and/or appointment the Union may apply to the Public Health Employees (State) Industrial Committee or its chairman or the Industrial Relations Commission of New South Wales for determination of the dispute.

31. Board and Lodging

- (i) Where an employee lives at a hospital, deductions from his/her salary for accommodation and/or board may be made by the employer at the rates prescribed from time to time by the Public Health System Nurses' and Midwives' (State) Award.
- (ii) Where individual meals only are provided, the employee may be charged the charges applicable under the Public Health System Nurses' and Midwives' (State) Award.
- (iii) No deductions shall be made from the salary of an employee for board or lodging when the employee is absent on annual, sick or long service leave.

32. Maternity, Adoption and Parental Leave

A. Maternity Leave

- (i) Eligibility for Paid Maternity Leave

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

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

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after her services have been otherwise dispensed with: or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

(ii) Portability of Service for Paid Maternity Leave

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

When determining an employee's eligibility for paid maternity leave, continuous service with an organisation that is part of the government sector as defined in the *Government Sector Employment Act 2013* will be recognised, provided that:

- (a) service was on a full-time or permanent part-time basis;
- (b) cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;
- (c) the employee immediately commences duty with the new employer. There may be a break in service of up to two months before commencing duty with the new employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.

(iii) Entitlement to Paid Maternity Leave

An eligible employee is entitled to fourteen weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen weeks prior to the expected date of birth.

It is not compulsory for an employee to take this period off work. However, if an employee decides to work during the nine weeks prior to the date of birth it is subject to the employee being able to satisfactorily perform the full range of normal duties.

Paid maternity leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(iv) Unpaid Maternity Leave

- (a) Full time and permanent part time employees who are entitled to paid maternity leave are entitled to a further period of unpaid maternity leave of not more than 12 months after the actual date of birth.
- (b) Full time and permanent part time employees who are not eligible for paid maternity leave are entitled to unpaid maternity leave of not more than 12 months.

(v) Applications

An employee who intends to proceed on maternity leave should formally notify her employer of such intention as early as possible, so that arrangements associated with her absence can be made.

Written notice of not less than eight weeks prior to the commencement of the leave should accordingly be given. This notice must include a medical certificate stating the expected date of birth and should also indicate the period of leave desired.

(vi) Variation after Commencement of Leave

After commencing maternity leave, an employee may vary the period of her maternity leave once only without the consent of her employer by giving the employer notice in writing of the extended period at least fourteen days' before the start of the extended period. An employer may accept less notice if convenient.

An employee may extend the period of maternity leave at any time with the agreement of the employer.

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

(vii) Staffing Provisions

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

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

When the employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual leave, sick leave and long service leave and any period of maternity leave on half pay is taken into account to the extent of one half thereof when determining the accrual of annual leave, sick leave and long service leave.

Except in the case of employees who have completed ten years' service the period of maternity leave without pay does not count as service for long service leave purposes. Where the employee has completed ten years' service the period of maternity leave without pay shall count as service provided such leave does not exceed six months.

Maternity leave without pay does not count as service for incremental purposes. Periods of maternity leave at full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.

Where public holidays occur during the period of paid maternity leave, payment is at the rate of maternity leave received i.e., public holidays occurring in a period of full pay maternity leave are paid at full rate and those occurring during a period of half pay leave are paid at half rate.

(ix) Illness Associated with Pregnancy

If, because of an illness associated with her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.

Where an employee is entitled to paid maternity leave, but because of illness, is on sick, annual, long service leave, or sick leave without pay prior to the birth, such leave ceases nine weeks prior to the expected date of birth. The employee then commences maternity leave with the normal provisions applying.

(x) Transfer to a More Suitable Position

Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. This obligation arises from Section 70 of the *Industrial Relations Act 1996*. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(xi) Miscarriages

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

(xii) Stillbirth

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

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

An employee who gives birth prematurely and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

(xiv) Right to Return to Previous Position

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

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

(xv) Further Pregnancy While on Maternity Leave

Where an employee becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If an employee enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases.

An employee who commences a subsequent period of maternity leave while on unpaid maternity leave under subclause (iv)(a) of Part A of this clause or subclause (i)(b) of Part D of this clause is

entitled to be paid at their normal rate (i.e. the rate at which they were paid before proceeding on maternity leave).

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

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

B. Adoption Leave

(i) Eligibility

All full time and permanent part time employees who are adopting a child and are to be the primary care giver of the child are eligible for unpaid adoption leave.

To be eligible for paid adoption leave a full time or permanent part-time employee must also have completed at least 40 weeks continuous service prior to the date of taking custody of the child.

An employee who has once met the conditions of paid adoption leave, will not be required to again work the 40 weeks continuous service in order to qualify for further periods of paid adoption leave, unless:

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with; or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Worker's Compensation Act 1987*.

(ii) Portability of Service for Paid Adoption Leave

As per maternity leave conditions.

(iii) Entitlement

(a) Paid Adoption Leave

Eligible employees are entitled to paid adoption leave of fourteen weeks at the ordinary rate of pay from and including the date of taking custody of the child.

Paid adoption leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(b) Unpaid Adoption Leave

Eligible employees are entitled to unpaid adoption leave as follows:

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

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

(iv) Applications

Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave. This will allow arrangements associated with the adoption leave to be made.

(v) Variation after Commencement of Leave

After commencing adoption leave, an employee may vary the period of leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

(vi) Staffing Provisions

As per maternity leave conditions.

(vii) Effect of Adoption Leave on Accrual of Leave, Increments, etc.

As per maternity leave conditions.

(viii) Right to Return to Previous Position

As per maternity leave conditions.

C. Parental Leave

(i) Eligibility

To be eligible for parental leave a full time or permanent part-time employee must have completed at least 40 weeks continuous service prior to the expected date of birth or to the date of taking custody of the child.

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

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

(b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

(ii) Portability of Service for Paid Parental Leave

As per maternity leave conditions.

(iii) Entitlements

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

- (a) an unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave), and
- (b) a further unbroken period in order to be the primary caregiver of the child (extended parental leave).
- (c) The entitlement of one week's paid leave may be taken at anytime within the 52 week period and shall be paid:

at the employees ordinary rate of pay for a period not exceeding one week on full pay, or two weeks at half pay or the period of parental leave taken, whichever is the lesser period.
- (d) Extended parental leave cannot be taken at the same time as the employee's spouse or partner is on maternity or adoption leave except as provided for in subclause (i)(a) of Part D Right to Request of this clause.

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

(iv) Applications

An employee who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.

- (a) In the case of extended parental leave, the employee should give written notice of the intention to take the leave.
- (b) The employee must, at least four weeks before proceeding on leave, give written notice of the dates on which they propose to start and end the period of leave, although it is recognised in situations of taking custody of a child, little or no notice may be provided to the employee. In such an instance, the employee should notify the employer as early as practicable.
- (c) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.
- (d) In the case of extended parental leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:
 - (1) if applicable, the period of any maternity leave sought or taken by his spouse, and
 - (2) that they are seeking the period of extended parental leave to become the primary care giver of the child.

(v) Variation after Commencement of Leave -

After commencing parental leave, an employee may vary the period of her/his parental leave, once without the consent of the employer and otherwise with the consent of the employer. A

minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

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

As per maternity leave conditions.

- (vii) Right to Return to Previous Position

As per maternity leave conditions.

D. Right to Request

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

- (a) to extend the period of simultaneous maternity, adoption or parental leave use up to a maximum of eight weeks;
- (b) to extend the period of unpaid maternity, adoption or extended parental leave for a further continuous period of leave not exceeding 12 months;
- (c) to return from a period of maternity, adoption or parental leave on a part time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

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

- (iii) The employee's request and the employer's decision made under subclauses (i)(b) and (c) must be recorded in writing.

- (iv) Where an employee wishes to make a request under subclause (i)(c):

- (a) the employee is to make an application for leave without pay to reduce their full time weekly hours of work
- (b) such application must be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks notice must be given.
- (c) salary and other conditions of employment are to be adjusted on a basis proportionate to the employee's full time hours of work i.e. for long service leave the period of service is to be converted to the full time equivalent and credited accordingly.
- (d) employees who return from leave under this arrangement remain full time employees. Therefore the payment of any part time allowance to such employees does not arise.

E. Communication During Leave

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

- (a) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing the leave; and
 - (b) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing the leave.
- (ii) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of the leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part time basis.
 - (iii) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with subclause (i).

NOTE:

- (a) The entitlement to maternity, adoption and parental leave for part-time employees who receive an adjusted hourly rate (as defined in clause 8, Part 2, in this Award), along with casual employees, are in accordance with the provisions of Part 4, Parental Leave of the *Industrial Relations Act 1996* and/or Determination under the *Health Services Act 1997*.
- (b) Where a casual employee is entitled to parental leave under the *Industrial Relations Act 1996*, the following provisions shall also apply in addition to those set out in the Act.

An employer must not fail to re-engage a casual employee because:

the employee or employee's spouse is pregnant; or

the employee is or has been immediately absent on parental leave.

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

- (c) Part time employees who receive an adjusted hourly rate are also entitled to the provisions of Part D Right to Request and Part E Communication During Leave of this clause.
- (d) Liability for Superannuation Contributions

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

32A. Lactation Breaks

- (i) This clause applies to employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this Award.
- (ii) A full time employee or a part time employee working more than four hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day or per shift.
- (iii) A part time employee working four hours or less on any day or shift is entitled to only one paid lactation break of up to 30 minutes each per day or per shift worked.
- (iv) A flexible approach to lactation breaks can be taken by mutual agreement between an employee and their manager provided the total lactation break time entitlement is not exceeded. When giving consideration to any such requests for flexibility, a manager needs to balance the operational requirements of the organisation with the lactating needs of the employee.

- (v) The employer shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk. Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and the employee will take place to attempt to identify reasonable alternative arrangements for the employee's lactation needs.
- (vi) Employees experiencing difficulties in effecting the transition from home based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.
- (vii) Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave or other leave in accordance with the Award.

33. Family and Community Services Leave and Personal/Carers' Leave

- (i) Family and Community Services (FACS) Leave and Personal/Carer's Leave are separate, stand alone entitlements.
- (ii) The provisions outlined in Parts A and B of this clause are available to all employees covered by this Award, other than casual employees as defined in subclause (iii) below.
- (iii) Casual employees as defined in the Health Industry Status of Employment (State) Award are entitled to the provisions outlined in Part C of this clause.

A. FACS Leave

- (i) FACS Leave - General

- (a) For the purpose of this clause relating to FACS leave:

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

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

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

- (b) The employer may grant FACS leave to an employee:

- (1) to provide care and/or support for sick members of the employee's relatives or household;
or
- (2) for reasons related to the family responsibilities of the employee (e.g. to arrange and or attend a funeral of a relative; to accompany a relative to a medical appointment where there is an element of emergency; parent/teacher meetings; education week activities; to meet elder-care requirements of a relative); or
- (3) for reasons related to the performance of community service by the employee (e.g. in matters relating to citizenship; to office holders in local government, other than as a mayor, for attendance at meetings, conferences or other associated duties; representing Australia or the State in major amateur sport other than in Olympic/Commonwealth Games); or
- (4) in a case of pressing necessity (e.g. where an employee is unable to attend work because of adverse weather conditions which either prevent attendance or threaten life or property; the illness of a relative; where a child carer is unable to look after their charge).

- (ii) FACS leave replaces compassionate leave.
- (iii) An employee is not to be granted FACS leave for attendance at court to answer a criminal charge, unless the employer approves the grant of leave in the particular case.

Applications for FACS leave to attend court, for reasons other than criminal charges, will be assessed on an individual basis.

(iv) FACS Leave - entitlement

- (a) The maximum amount of FACS leave on full pay that may be granted to an employee is:

- (1) 3 working days during the first year of service, commencing on and from 1 January 1995, and thereafter 6 working days in any period of 2 years; or
- (2) 1 working day, on a cumulative basis effective from 1 January 1995, for each year of service after 2 years' continuous service, minus any period of FACS leave already taken by the employee since 1 January 1995,

whichever method provides the greater entitlement.

- (b) For the purposes of calculating entitlements under (vi)(a)(1) and (2) above, a working day for employees working 38 hours per week shall be deemed to consist of 8 hours, and a working day for employees working 35 hours per week shall be deemed to consist of 7 hours. The rate at which FACS leave is paid out and utilised shall be on actual hours absent from a rostered shift.

Example A: An employee working 38 hours per week will have an entitlement, in their first year of employment, to 24 hours of FACS leave. If the employee takes FACS leave for a full 10 hour shift, the employee would be debited 10 hours of FACS leave.

Example B: An employee working 35 hours per week will have an entitlement, in their first year of employment, to 21 hours of FACS leave. If the employee takes FACS leave for a full 7 hour shift, the employee would be debited 7 hours of FACS leave.

Example C: An employee, employed prior to 1 January 1995, applies for FACS leave on 20 February 1997. The employee is entitled to 6 days in any period of two years. Therefore, to calculate the employee's available FACS leave as at 20 February 1997, add all FACS leave taken from 21 February 1995 to 20 February 1997 and deduct that amount from the 6 days entitlement.

- (c) FACS leave is available to part-time employees on a pro rata basis, based on the average number of hours worked per week. A working day shall consist of one-fifth of the employee's average weekly hours during the preceding 12 months or during the employee's period of employment, whichever is the lesser period.

Example: An employee working an average of 30 hours per week will have an entitlement, in his/her first year of employment, of 18 hours of FACS leave. If the employee takes FACS leave for a full rostered shift e.g. of 4 hours, the employee would be debited 4 hours of FACS leave. Likewise, if the employee was rostered for 8 hours and was absent for the full 8 hours on FACS leave, he/she would be debited 8 hours of FACS leave.

(v) Additional FACS leave for bereavement purposes

Where FACS leave has been exhausted, additional FACS leave of up to 2 days for bereavement may be granted on a discrete, "per occasion" basis to an employee on the death of a relative or member of a household as defined in subclause (i) (a) of Part A of this clause.

(vi) Use of other leave entitlements

The employer may grant an employee other leave entitlements for reasons related to family responsibilities or community service, by the employee.

An employee may elect, with the consent of the employer, to take annual leave; long service leave; or leave without pay.

B. Personal/Carer's Leave

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

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

- (a) a spouse of the employee; or
- (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (e) a relative of the employee who is a member of the same household, where for the purpose of this clause relating to Personal/Carer's Leave:

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

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

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

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

- (a) The entitlement to use sick leave in accordance with this subclause is subject to:
 - (1) the employee being responsible for the care and support of the person concerned; and
 - (2) the person concerned being as defined in subclause (i) of Part B of this clause.
- (b) Other than a casual or any other employee who receives a loading in lieu of sick leave, an employee with responsibilities in relation to a person who needs their care and support shall be entitled to use the untaken sick leave, from that year's annual sick leave entitlement, to provide care and support for such persons when they are ill.
- (c) Sick leave accumulates from year to year. In addition to the current year's grant of sick leave available under (b) above, sick leave untaken from the previous 3 years may also be accessed by an employee with responsibilities in relation to a person who needs their care and support.
- (d) The employer may, in special circumstances, make a grant of additional sick leave. This grant can only be taken from sick leave untaken prior to the period referred to in subclause (c) above.

- (e) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, that the illness of the person concerned is such as to require care by another person.
 - (f) The employee has the right to choose the method by which the ground for leave is established, that is, by production of either a medical certificate or statutory declaration.
 - (g) The employee is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration.
 - (h) The employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
 - (i) In normal circumstances, the employee must not take leave under this part where another person has taken leave to care for the same person.
- (iii) Use of other leave entitlements
- An employee may elect, with the consent of the employer, to take:
- (a) annual leave, including annual leave not exceeding 10 days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties. An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least 5 consecutive annual leave days are taken. An employee may elect with the employer's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
 - (b) long service leave; or
 - (c) leave without pay for the purpose of providing care and support to the person concerned as defined in subclause (i) of Part B of this clause.
- (iv) Time off in lieu of payment of overtime
- (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment of overtime at a time or times agreed with the employer within 12 months of the said election
 - (b) Overtime taken as time off during ordinary time shall be taken at the ordinary time rate, that is, one hour off for each hour of overtime worked.
 - (c) If, having elected to take time as leave in accordance with (iv)(a) above and the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve 12 month period from the date the overtime was worked, or earlier by agreement, or on termination.
 - (d) Where no election is made in accordance with paragraph (iv)(a) above, the employee shall be paid overtime rates in accordance with the provisions of clause 9, Overtime.
- (v) Use of make-up time
- (a) An employee may elect, with the consent of the employer, to work "make-up time". "Make-up time" is worked when the employee takes time off during ordinary hours for family or community service responsibilities, and works those hours at another time, during the spread of ordinary hours provided for in clause 4 of this Award, at the ordinary rate of pay.

- (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off during ordinary hours and works those hours at another time) at the applicable shift work rate which would have been applicable to the hours taken off.

C. Entitlements for Casual Employees

- (i) Bereavement entitlements for casual employees
 - (a) Casual employees are entitled to not be available to attend work or to leave work upon the death in Australia of a relative or member of a household as prescribed in subclause (i)(a) of Part A of this clause.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this part. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
- (ii) Personal carers entitlement for casual employees
 - (a) Subject to the evidentiary and notice requirements in subclauses (ii)(e) - (h) of Part B of this clause casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause (i) of Part B of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this part. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

33A. Family Violence Leave

- (i) For the purpose of this clause, family violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*. The violence may have been reported to the police and/or may be the subject of an Apprehended Violence Order.
- (ii) An employee experiencing family and domestic violence can utilise Award leave entitlements provided for in Sick Leave and Family and Community Services Leave provisions of the Award.
- (iii) Where leave entitlements to Sick Leave and Family and Community Services Leave are exhausted, the employer will grant up to five days per year of paid special leave to attend legal proceedings, counselling, appointments with a medical or legal practitioner and relocation and safety activities directly associated with alleviating the effects of family and domestic violence. This leave entitlement does not accumulate from year to year.
- (iv) Upon exhaustion of the paid leave entitlement, an employee may request further periods of unpaid leave, for the same activities for which paid leave would be available.
- (v) To access paid and unpaid leave, the employee must provide the employer with evidence, to the employer's satisfaction, substantiating the purpose of the leave and that the leave is related to alleviating the effects of family violence. The employer may accept a variety of agreed documentation in support of

an application for leave. Supporting documentation may be presented in the form of an agreed document issued by the Police Force, a Court, a doctor, a Family Violence Support Service or a lawyer.

- (vi) Matters related to family violence can be sensitive. Information collected by the employer will be kept confidential. No information relating to the details of the family violence will be kept on an employee's personnel file without their express permission. However, records about the use of family violence leave will need to be kept.
- (vii) The employer, where appropriate, may facilitate flexible working arrangements subject to operational requirements. This may include changes to working times and locations, telephone numbers and email addresses.
- (viii) The employer will co-operate with all legal orders protecting an employee experiencing domestic violence.

34. Mobility, Excess Fares and Travelling

For the purpose of this clause accustomed place of work shall mean the location where an employee is regularly required to commence duty by the employer.

- (i) An employee shall be required to proceed to the accustomed place of work and return home once on each ordinary working day or shift in the employee's own time and at the employee's own expense.
- (ii)
 - (a) Where an employee is directed to report for duty to a place of work other than the employee's accustomed place of work the employee shall travel to and from the alternative place of work in the employer's time for those periods in excess of time normally taken to travel to and from the accustomed place of work.
 - (b) If the excess of travelling time on a particular day or shift is greater than the prescribed ordinary hours of duty for the particular category of staff for that day or shift, then the excess of hours shall be paid at the ordinary rate of pay to the extent of travelling time.
 - (c) Fares incurred by such employee in excess of the fares normally incurred in travelling to the employee's accustomed place of work and returning home from the accustomed place of work shall be reimbursed.
 - (d) Where the employee is required to report to an alternative place of work and has the prior approval of the employer to travel by his/her own mode of conveyance, the employee shall be paid a kilometre allowance for kilometres travelled in excess of the kilometres the employee normally travels between the accustomed place of work and home. The kilometre allowance will be prescribed from time to time by the Crown Employees (Public Service Conditions of Employment) Award.
- (iii)
 - (a) Where an employer has determined that an employee or employees should report to a new accustomed place of work on a permanent basis, the decision must be discussed with the affected employee(s) and the local branch of the Union prior to notice of changed accustomed place of work being given.
 - (b) The employer shall give the employee reasonable notice of the requirement to report to a new accustomed place of work. For the purpose of this subclause "reasonable notice" shall be one calendar month prior to the date the employee is first required to report to the new accustomed place of work.

- (c) Where the accustomed place of work is changed on a permanent basis by the employer, the employee shall report to the new accustomed place of work on the date specified by the employer.
- (d) If there is disagreement about such a decision after such discussion or if a significant number of employees are involved, the matter should be referred to the Secretary, who will discuss the matter with the Union and will determine the date upon which notice will be given to employee(s).

(iv)

- (a) The provision of this clause shall not apply to an employee appointed to regularly perform relief duties or to employees specifically employed to perform duties at more than one place of work except as provided in (b) hereunder.
- (b) If a reliever incurs fares in excess of \$5 per day in travelling to and from the relief site, the excess shall be reimbursed.

Where a reliever, with the prior approval of the employer, travels by his/her own mode of conveyance and incurs travelling costs in excess of \$5 per day to and from the relief site, such excess shall be reimbursed. The rate applicable shall be the kilometre allowance prescribed from time to time in the Crown Employees (Public Service Conditions of Employment) Award less \$5.

This \$5 shall be reviewed annually by the employer.

- (v) No payment shall be made under this clause unless the employer is satisfied that the employee has incurred additional expenditure in having to report to an alternative place of work, at the direction of the employer.
- (vi) Travel to an alternative place of work, either by public transport or own mode of conveyance, shall in all instances be by the most direct route.

35. Labour Flexibility

- (i) The employer may direct an employee to carry out such duties as are reasonable, and within the limits of the employee's skill, competence and training consistent with employee's classification, grouping and/or career stream provided that such duties are not designed to promote deskilling.
- (ii) The employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained or has otherwise acquired the necessary skills in the use of such tools and equipment.
- (iii) Any direction issued by the employer pursuant to subclause (i) and (ii) shall be consistent with the employer's responsibilities to provide a safe and healthy work environment.
- (iv) Existing provisions with respect to the payment of higher duties allowances shall apply in such circumstances.

36. Salary Packaging

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

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

- (ii) Where an employee elects to package an amount of salary:
 - (a) Subject to Australian taxation law, the packaged amount of salary will reduce the salary subject to PAYE taxation deductions by that packaged amount.
 - (b) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this Award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under this Award in the absence of any salary packaging or salary sacrificing made under this Award.
 - (c) 'Salary' for the purpose of this clause, for superannuation purposes, and for the calculation of Award entitlements, shall mean the Award salary as specified in clause 2 Salaries, and which shall include 'approved employment benefits' which refer to fringe benefit savings, administration costs, and the value of packaged benefits.
- (iii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees, and private health fund membership fees.
- (iv) The salary packaging scheme utilises a fringe benefit taxation exemption status conferred on public hospitals and Local Health Districts, which provides for a fringe benefit tax exemption cap of \$17,000 per annum. The maximum amount of fringe benefits-free tax savings that can be achieved under the scheme is where the value of benefits when grossed-up, equal the fringe benefits exemption cap of \$17,000. Where the grossed-up value exceeds the cap, the employer is liable to pay fringe benefits tax on the amount in excess of \$17,000, but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits, are deducted from pre-tax dollars.
- (v) The parties agree that the application of the fringe benefits tax exemption status conferred on public hospitals and area health services is subject to prevailing Australian taxation laws.
- (vi) If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the Salary Packaging Policy and Procedure Manual.
- (vii) Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.
- (viii) Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.
- (ix) The employer and the employee shall comply with the procedures set out in the NSW Health Services Salary Packaging Policy and Procedure Manual as amended from time to time.

37. Reasonable Hours

- (i) Subject to subclause (ii) the employer may require an employee to work reasonable overtime at overtime rates unless or as otherwise provided for under the Award.
- (ii) The employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.

- (iii) For the purposes of subclause (ii) 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.

38. Salary Sacrifice to Superannuation

- (i) Notwithstanding the salaries prescribed in clause 2, Salaries as varied from time to time, an employee may elect, subject to the agreement of the employee's employer, to sacrifice a part or all of the salary payable under the salaries clause to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. The amount sacrificed together with any salary packaging arrangements under clause 36, Salary Packaging, of this Award may be made up to one hundred (100) per cent of the salary payable under the salaries clause, or up to one hundred (100) per cent of the currently applicable superannuable salary, whichever is the lesser.

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

- (ii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees and private health fund membership fees.
- (iii) Where the employee has elected to sacrifice a part or all of the available payable salary to additional employer superannuation contributions:
- (a) The employee shall be provided with a copy of the signed agreement. The salary sacrifice agreement shall be terminated at any time at the employee's election and shall cease upon termination of the employee's services with the employer;
 - (b) Subject to Australian taxation law, the amount of salary sacrificed will reduce the salary subject to appropriate PAYE taxation deductions by the amount sacrificed; and
 - (c) Any allowance, penalty rate, overtime, payment for unused leave entitlements, weekly workers' compensation, or other payment, other than any payment for leave taken in service, to which an employee is entitled under the relevant Award or any applicable Award, Act, or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the salaries clause in the absence of any salary sacrifice to superannuation made under this Award.
- (iv) The employee may elect to have the specified amount of payable salary which is sacrificed to additional employer superannuation contributions:
- (a) paid into the superannuation scheme established under the *First State Superannuation Act 1992* as optional employer contributions; or
 - (b) subject to the employer's agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.

- (v) Where an employee elects to salary sacrifice in terms of subclause (iv) above, the employer will pay the sacrificed amount into the relevant superannuation fund.
- (vi) Where the employee is a member of a superannuation scheme established under:
 - (a) the *Police Regulation (Superannuation) Act 1906*;
 - (b) the *Superannuation Act 1916*;
 - (c) the *State Authorities Superannuation Act 1987*;
 - (d) the *State Authorities Non-contributory Superannuation Act 1987*; or
 - (e) the *First State Superannuation Act 1992*.

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

- (vii) Where, prior to electing to sacrifice a part or all of their salary to superannuation, an employee had entered into an agreement with their employer to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in subclause (v) above, the employer will continue to base contributions to that fund on the salary payable under clause 2, Salaries of this Award to the same extent as applied before the employee sacrificed that amount of salary to superannuation. This clause applies even though the superannuation contributions made by the employer may be in excess of the superannuation guarantee requirements after the salary sacrifice is implemented.

39. No Extra Claims

Other than as provided for in the *Industrial Relations Act 1996* and the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014*, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2018 by a party to this Award.

40. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2017 and shall remain in force for a period of one year.
- (ii) This Award rescinds and replaces the *Hospital Scientists (State) Award* published 29 July 2016 (380 I.G. 398) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained herein employed in the NSW Health Service under section 115(1) of the *Health Services Act 1997*, or their successors, assignees or transmittes.

PART B**Table 1 - Allowances**

Item No.	Clause No.	Description	Rate from first full pay period on or after 01/07/2017 \$
1	7	On call - per 24 hours or any part thereof	11.90
2	10	Meal Allowance for overtime	
		(a) Breakfast at or before 6.00 a.m.	29.40
		(b) Evening at least 1 hour after normal ceasing time and extends beyond or is worked wholly after 7.00 p.m.	29.40
		(c) Lunch beyond 2.00 p.m. Saturdays, Sundays or Holidays	29.40
3	20(iii)(iv)	Uniform and Laundry Allowance	
		- Uniform	2.50
		- Laundry	2.60
4	21(i)(ii)	Allowance (per week) for persons employed in hospitals upon or west of the line commencing at Tocumwal, etc. (see clause 21(i))	3.60
		Allowance (per week) for persons employed in hospitals upon or west of the line commencing at Murray River etc. (see clause 21(ii))	7.10

P. M. KITE, Commissioner.
J. V. MURPHY, Commissioner.
J. SEYMOUR, Commissioner

Printed by the authority of the Industrial Registrar.

(009)

SERIAL C8844**OPERATIONAL AMBULANCE MANAGERS (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 2017/200305)

Before Commissioner Murphy

26 October 2017

AWARD**1. Title**

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

2. Arrangement

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

SECTION 1. GENERAL

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

SECTION 2. EMPLOYMENT CONDITIONS

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

SECTION 3. SALARIES AND MONETARY ENTITLEMENTS

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

SECTION 4. LEAVE ENTITLEMENTS

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

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

SECTION 5. MISCELLANEOUS

- 29. Uniforms
- 30. Union Subscriptions
- 31. Accommodation

SECTION 6. AWARD PARAMETERS

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

SECTION 7. MONETARY RATES

Table 1 - Salaries

Table 2 - Allowances

SECTION 1. GENERAL

3. Object

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

4. Definitions

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

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

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

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

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

"Union" means the Health Services Union NSW.

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

5. Classification Descriptions

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

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

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

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

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

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

Understanding and commitment to the Service's priorities

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

Ability to ensure budget targets are met

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

Effective communication and interpersonal skills

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

Able to meet pre-determined targets and deadlines

Ability to be flexible and adapt work practices to suit circumstances

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

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

Responsibility for ensuring optimal budget outcomes for their customers and communities

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

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

High level of leadership, communication and interpersonal skills

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

Proven negotiation and delegation skills

Ability to motivate and co-ordinate staff

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

Capacity to design strategic and business objectives

Ability to develop performance measures

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

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

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

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

Responsibility for contributing to the development and implementation of business plans

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

Excellent leadership, communication and interpersonal skills

Highly developed and effective management skills

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

Highly developed and effective negotiation and delegation skills

Proven capacity to manage multi-disciplinary groups

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

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

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

Accountability for allocating resources and ensuring budgets are effectively met

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

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

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

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

Excellent strategic planning and policy development skills

Proven management expertise at a senior level

Competent to make complex judgements and take initiatives through delegated responsibilities

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

(a) Authority & Accountability

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

Recommend service priorities

Exercise judgement within delegations

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

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

6. Work Arrangements

- (a) Work will be performed by the most efficient means.
- (b) The parties agree that there will be no forced transfers as a result of the implementation of subclause (a) of this clause.

- (c) Any proposal that will significantly affect employees covered by the Union will be the subject of genuine consultation between the parties.
- (d) Any dispute arising from the operation of this clause will be dealt with in accordance with clause 32, Issues Resolution, of this Award.

SECTION 2. EMPLOYMENT CONDITIONS

7. Employees' Duties

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

8. Vacancies & Promotion

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

9. Appointment of Officers

- (a) An employee employed under this Award shall be engaged as a full-time employee, a permanent part-time employee or a temporary employee.
- (b) Every employee will be provided with a Position Description commensurate with his or her position which he or she will be required to sign. The position description will outline the duties to be performed in addition to the key competencies and accountabilities required for the position.
- (c) All employees will be required to enter into a Performance Agreement.
- (d) Every employee who is appointed to a Superintendent/Operational Manager position advertised/created after the date of the making of this Award will be required to continue to meet the minimum requirements for that position.
- (e) Permanent Part-Time Employee
 - (i) A permanent part-time employee is one who is permanently appointed by the Service to work a specified number of days each week which are less than those prescribed for a full-time employee, except in emergent or urgent circumstances.
 - (ii) Permanent part-time employees shall be paid an hourly rate calculated on the basis of 1/38 of the weekly rate (annual rate/52.17857) prescribed in Table 1, Classification Structure, of Section 7 of this Award.

- (iii) Permanent part-time employees shall not be entitled to additional rostered leave days off duty as prescribed in subclause (a) of clause 10, Roster Leave, of this Award.
 - (iv) Permanent part-time employees shall be entitled to all other benefits not otherwise expressly provided for herein in the same proportion as the average days per week bear to full-time employment.
 - (v) Permanent part-time employees shall be entitled to payment of the allowances prescribed by clause 16, Climate and Isolation Allowance, of this Award in the same proportion as the average hours worked per week bear to full-time hours.
 - (vi) The parties recognise that permanent part-time employment will provide flexible working arrangements for employees to cater for personal requirements such as family responsibilities.
- (f) Temporary Employee
- (i) A temporary employee is engaged for a continuous fixed period of time to carry out a specific task. Such task may include the provision of relief for permanent employees, conduct of specific projects or the provision of services which are not recurrent in nature.
 - (ii) A temporary employee may be full-time or part-time.
 - (iii) Time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the station, unit or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.
 - (iv) Temporary employees will be required to undertake and successfully complete all the requirements applicable to permanent full-time employees.

10. Roster Leave

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

11. Reasonable Hours

- (a) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
- (b) For the purposes of subclause (b) what is reasonable or otherwise will be subject to subclause (b) an employer may require an employee to work reasonable overtime at overtime rates.
- (c) Determined having regard to:
 - (i) Any risk to employee health and safety.
 - (ii) The employee's personal circumstances including any family and carer responsibilities.
 - (iii) The needs of the workplace or enterprise.

- (iv) The notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
- (v) Any other relevant matter.

12. Public Holidays

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

13. Termination of Employment

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

SECTION 3. SALARIES AND MONETARY ENTITLEMENTS

14. Salaries

- (a) Employees who are appointed to an Operational Management position shall be allocated to one of the classification levels as set out in Table 1, Classification Structure, of this Award, and shall not be paid less than the minimum level for that position.

- (b) An employee who successfully applies for a position covered by this Award where the salary band encompasses his or her current salary will be appointed at no less than his or her current salary.
- (c) An employee who successfully applies for a position which carries a higher minimum salary level than his or her current salary will be appointed at no less than the minimum of the applicable salary band.
- (d) Once the appointed employee's salary has been determined in accordance with subclause (a), (b) or (c) of this clause, the employee's salary will move in accordance with the percentage increases applicable under this Award.
- (e) Further increases over and above the percentage increases applicable under subclause (d) of this clause will occur based on the employee's work performance that will be measured against their Performance Agreement.
- (f) Any dispute arising from the operation of this clause shall be dealt with in accordance with clause 32, Issues Resolution, of this Award.

15. Payment and Particulars of Salaries

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

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

16. Climatic and Isolation Allowance

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

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

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

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

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

17. Travel Allowances

Employees shall be granted travelling allowances on such terms and conditions prescribed by the NSW Policy Directive PD2016_010, Official Travel, as amended or replaced from time to time.

18. Relieving Other Members of Staff

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

19. Salary Sacrifice to Superannuation

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

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

- (b) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgment debtor/garnishee orders, union fees and private health fund membership fees.
- (c) Where the employee has elected to sacrifice a part or all of the available payable salary to additional employer superannuation contributions:
 - (i) The employee shall be provided with a copy of the signed agreement. The salary sacrifice agreement shall be terminated at any time at the employee's election and shall cease upon termination of the employee's services with the employer.
 - (ii) Subject to Australian taxation law, the amount of salary sacrificed will reduce the salary subject to appropriate PAYE taxation deductions by the amount sacrificed; and
 - (iii) Any allowance, penalty rate, overtime, payment for unused leave entitlements, weekly workers' compensation, or other payment, other than any payment for leave taken in service, to which an employee is entitled under the relevant Award or any applicable Award, Act, or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the salaries clause in the absence of any salary sacrifice to superannuation made under this Award.
- (d) The employee may elect to have the specified amount of payable salary which is sacrificed to additional employer superannuation contributions:
 - (i) paid into the superannuation scheme established under the *First State Superannuation Act 1992* as optional employer contributions; or

- (ii) subject to the employer's agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.
- (e) Where an employee elects to salary sacrifice in terms of subclause (iv) above, the employer will pay the sacrificed amount into the relevant superannuation fund.
- (f) Where the employee is a member of a superannuation scheme established under:
 - (i) the *Police Regulation (Superannuation) Act 1906*;
 - (ii) the *Superannuation Act 1916*;
 - (iii) the *State Authorities Superannuation Act 1987*;
 - (iv) the *State Authorities Non-contributory Superannuation Act 1987*; or
 - (v) the *First State Superannuation Act 1992*.

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

- (g) Where, prior to electing to sacrifice a part or all of their salary to superannuation, an employee had entered into an agreement with their employer to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in subclause (vi) above, the employer will continue to base contributions to that fund on the salary payable under clause 14 Salaries of the Award to the same extent as applied before the employee sacrificed that amount of salary to superannuation. This clause applies even though the superannuation contributions made by the employer may be in excess of the superannuation guarantee requirements after the salary sacrifice is implemented.

20. Salary Packaging

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

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

- (b) Where an employee elects to package an amount of salary:
 - (i) Subject to Australian taxation law, the packaged amount of salary will reduce the salary subject to PAYE taxation deductions by that packaged amount.
 - (ii) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this Award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under this Award in the absence of any salary packaging or salary sacrificing made under this Award.
 - (iii) 'Salary' for the purpose of this clause, for superannuation purposes, and for the calculation of Award entitlements, shall mean the Award salary as specified in clause 14 Salaries, and which shall include 'approved employment benefits' which refer to fringe benefit savings, administration costs, and the value of packaged benefits.

- (c) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees, and private health fund membership fees.
- (d) The salary packaging scheme utilises a fringe benefit taxation exemption status conferred on public hospitals and area health services, which provides for a fringe benefit tax exemption cap of \$17,000 per annum. The maximum amount of fringe benefits-free tax savings that can be achieved under the scheme is where the value of benefits when grossed-up, equal the fringe benefits exemption cap of \$17,000. Where the grossed-up value exceeds the cap, the employer is liable to pay fringe benefits tax on the amount in excess of \$17,000, but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits, are deducted from pre-tax dollars.
- (e) The parties agree that the application of the fringe benefits tax exemption status conferred on public hospitals and area health services is subject to prevailing Australian taxation laws.
- (f) If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the Salary Packaging Policy and Procedure Manual.
- (g) Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.
- (h) Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.
- (i) The employer and the employee shall comply with the procedures set out in the NSW Health Services Salary Packaging Policy and Procedure Manual as amended from time to time.

SECTION 4. LEAVE ENTITLEMENTS

21. Annual Leave

- (a) Annual Leave shall be granted on completion of each 12 months service as follows:
 - (i) An employee employed on a Monday to Friday basis - four weeks leave on full pay.
 - (ii) An employee employed on duties which require him or her to work irregular hours on a seven day per week basis, including work on Saturdays, Sundays and public holidays - five weeks leave with seven week's pay.
- (b) In the event that an employee's employment has changed from a seven day per week basis to a Monday to Friday basis or vice versa, then annual leave shall be calculated on a pro rata basis.
- (c) It is admitted by the parties that the additional two weeks pay payable to an employee employed on duties in accordance with paragraph (ii) of subclause (a) of this clause has been provided in lieu of and in consideration of public holidays being worked by employees or which have occurred on an employee's rostered day off.
- (d) To the leave prescribed by paragraph (i) of subclause (a) of this clause, there shall be added one working day for each public holiday or special public holiday proclaimed for the State of New South Wales which occurs during a period of annual leave.

- (e)
- (i) Annual Leave shall be given and shall be taken within a period of six months after the date when the right to annual leave accrued, provided that the giving and taking of such leave may be postponed by mutual agreement between the parties for a further period not exceeding six months.
 - (ii) Annual leave shall be granted on a rotating roster basis provided that such rotation complies with paragraph (i) of this subclause.
 - (ii) An employee shall be eligible for annual leave when twelve months have elapsed since the date on which the last annual leave would have begun if taken immediately it had become due, or if the employee has not previously had Annual Leave since the commencement of the employment.
 - (iii) Nothing in this subclause shall prevent the Service, by agreement with the employee, from allowing annual leave to an employee before a right to it has accrued but where leave is taken in such a case, a further period of annual leave shall not commence to accrue until the expiration of the twelve months in respect of which annual leave was taken before it accrued. Provided that any leave taken by an employee under this paragraph shall not exceed the amount of proportionate annual leave standing to the credit of the employee at the time of entering upon such leave.
 - (iv) At least six months notice shall be given to employees of the date on which they shall take their annual leave. Where an employee has been notified that he or she is to take annual leave at a specified time and that time is then altered by the Service the employee shall be reimbursed any actual losses which result to him or her to the extent to which deposits paid for travel and/or accommodation are not refunded.
 - (v) Employees may exchange annual leave by mutual arrangement with the approval of the Service provided that such exchange complies with paragraph (i) of this subclause.
- (f) Each employee before going on annual leave shall be paid for the period of the leave at the ordinary rate of wage to which he or she is entitled under this Award and such payment shall be made before the employee commences annual leave.
- (g) Notwithstanding the provisions of subclause (f) of this clause, the Service agrees, subject to at least 28 days prior written authorisation by the employee, to pay employees Annual Leave entitlements on a fortnightly basis which coincides with the normal fortnightly pay period.
- (h) Where the employment of an employee is terminated the employee shall be entitled to receive a proportionate payment in respect of service of less than one year, at the weekly wage to which such employee is entitled under this Award.
- (i) Credit of time towards an additional rostered leave day off duty shall not accrue when an employee is absent during his or her four weeks annual leave as provided for under the *Annual Holidays Act 1944*. However, officers entitled to additional rostered leave days off duty in accordance with clause 10, Roster Leave, of this Award, shall accrue credit towards an additional rostered leave day off to employees in excess of the above mentioned four weeks.

22. Annual Leave Loading

- (a) Employees who, under the *Annual Holidays Act 1944*, become entitled to annual leave under clause 21, Annual Leave, of this Award, shall be paid in respect of such leave an annual leave loading of 17.5 per cent of the appropriate ordinary weekly rate of pay prescribed in Table 1, Classification Structure of this Award, for the classification in which the employee was employed immediately before commencing his/her annual leave. The 17.5 per cent annual leave loading will apply to the following periods of annual leave, i.e.; in the case of an employee employed on a Monday to Friday basis - four weeks, and for seven day per week basis employees - five weeks, provided further that in no instance is the

calculated amount to exceed one thousand four hundred and twenty-one dollars and zero cents (\$1421.00) with effect from the first pay period to commence on or after 1 July 2007.

- (b) Such loading is payable in addition to the pay for the period of leave given and taken and due to the employee under this Award.
- (c) No loading is payable where the annual leave is taken wholly or partly in advance provided, however, that if the employment of such an employee continues until the day upon which he or she would have become entitled under this to such annual leave, the loading then becomes payable in respect of the period of such leave and is to be calculated in accordance with the rate of wages applicable on such day.
- (d) Where the employment of an employee is terminated by the Service for a cause other than misconduct and at the time of termination the employee has not been given and has not taken the whole of the annual leave to which he or she became entitled after 10 May 1974, he or she shall be paid the loading provided for in subclause (a) of this clause for the period not taken.
- (e) Except as provided by subclause (d) of this clause, no loading is payable on the termination of an employee's employment.
- (f) The annual leave loading shall be paid before the employee commences annual leave.
- (g) Notwithstanding the provisions of subclause (f) of this clause, the Service agrees, subject to at least 28 days prior written authorisation by the employee, to pay employees Annual Leave loading on a fortnightly basis which coincides with the normal fortnightly pay period.

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

Employees shall be granted family and community services leave and personal/carer's leave in accordance with the provisions of Policy Directive 2014_029 Leave Matters for the NSW Health Service, as amended or replaced from time to time.

23A. Family Violence Leave

- (i) For the purpose of this clause, family violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*. The violence may have been reported to the police and/or may be the subject of an Apprehended Violence Order.
- (ii) An employee experiencing family and domestic violence can utilise Award leave entitlements provided for in Sick Leave and Family and Community Services Leave provisions of the Award.
- (iii) Where leave entitlements to Sick Leave and Family and Community Services Leave are exhausted, the employer will grant up to five days per year of paid special leave to attend legal proceedings, counselling, appointments with a medical or legal practitioner and relocation and safety activities directly associated with alleviating the effects of family and domestic violence. This leave entitlement does not accumulate from year to year.
- (iv) Upon exhaustion of the paid leave entitlement, an employee may request further periods of unpaid leave, for the same activities for which paid leave would be available.
- (v) To access paid and unpaid leave, the employee must provide the employer with evidence, to the employer's satisfaction, substantiating the purpose of the leave and that the leave is related to alleviating the effects of family violence. The employer may accept a variety of agreed documentation in support of an application for leave. Supporting documentation may be presented in the form of an agreed document issued by the Police Force, a Court, a doctor, a Family Violence Support Service or a lawyer.
- (vi) Matters related to family violence can be sensitive. Information collected by the employer will be kept confidential. No information relating to the details of the family violence will be kept on an employee's personnel file without their express permission. However, records about the use of family violence leave will need to be kept.

- (vii) The employer, where appropriate, may facilitate flexible working arrangements subject to operational requirements. This may include changes to working times and locations, telephone numbers and email addresses.
- (viii) The employer will co-operate with all legal orders protecting an employee experiencing domestic violence.

24. Maternity, Adoption and Parental Leave

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

A. Maternity Leave

(a) Eligibility for Paid Maternity Leave

(i) Full-time employees

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

(ii) Permanent part-time employees

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

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

- (1) there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
- (2) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers Compensation Act 1987*.

(b) Entitlements to Paid Maternity Leave

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

(ii) Paid maternity leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

- (iii) Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.
- (c) Entitlements to Unpaid Maternity Leave
- (i) An employee entitled to paid maternity leave is entitled to a further period of unpaid maternity leave of not more than twelve (12) months from the actual date of birth. The leave therefore does not extend beyond the child's first birthday.
 - (ii) Full-time or permanent part-time female employees who are not eligible for paid maternity leave are entitled to unpaid maternity leave of not more than 12 months.
- (d) Applications for Maternity Leave
- (i) An employee who intends to proceed on maternity leave should formally notify their Divisional Manager (in writing) of such intention as early as possible however, not less than eight (8) weeks prior to the commencement of leave. This notice must include a statement of:
 - (1) The intention to proceed on maternity leave;
 - (2) The expected date of birth certified by a medical practitioner;
 - (3) The period of leave to be taken;
 - (4) The date on which maternity leave is to commence;
 - (5) A Statutory Declaration stating any period of parental leave sought or taken by the employee's spouse. This declaration must also state that the applicant is the child's primary caregiver for the period of leave sought.
 - (6) The entitlement to maternity leave is reduced by any period of parental leave taken by the employee's spouse. Apart from parental leave of one (1) week at the time of birth, maternity leave is not to be taken concurrently with parental leave except as otherwise provided at subclause (a)(i) of Part D of this clause.
- (e) Applications for Further Maternity Leave
- (i) Where an employee becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If an employee enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases.
 - (ii) An employee who commences a subsequent period of maternity leave while on unpaid maternity leave under subclause (c)(i) of Part A of this clause or subclause (a)(ii) of Part D of this clause is entitled to be paid at their normal rate (i.e. the rate at which they were paid before proceeding on maternity leave).
 - (iii) An employee who commences a subsequent period of maternity leave during the first 12 months of a return to duty on a part-time basis as provided under subclause (a)(iii) of Part D of this clause is entitled to be paid at their substantive full-time rate for the subsequent period of maternity leave.
 - (iv) An employee who commences a subsequent period of maternity leave more than 12 months after returning to duty on a part-time basis under subclause (a)(iii) of Part D of this clause, will be entitled to paid maternity leave for the subsequent period of maternity leave at their part-time rate.

(f) Variations of Maternity Leave

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

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

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

(g) Staffing Provisions

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

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

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

(i) Illness Associated with Pregnancy

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

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

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

(k) Stillbirth

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

(l) Miscarriage

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

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

- (i) Whilst an employee may commence maternity leave up to fourteen (14) weeks, prior to the expected date of birth, this is not compulsory. However, if an employee decides to continue working prior to taking maternity leave, she must be able to satisfactorily perform her normal duties.
- (ii) Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obligated, as far as practicable, to provide alternative employment in some other position that she is able to satisfactorily perform, until maternity leave commences. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(n) Right to Return to Previous Position

- (i) An employee who returns to work after maternity leave has a right to return to her former position.
- (ii) Where this position no longer exists, the employee is entitled to be placed in a position nearest in status and salary to that of her former position and to which the employee is capable and/or qualified.

(o) Portability of Service for Paid Maternity Leave

When determining an employee's eligibility for paid maternity leave, continuous service with an organisation that is part of the government sector as defined in the *Government Sector Employment Act 2013* will be recognised, provided that:

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

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

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

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

B. Adoption Leave

(a) Eligibility for Adoption Leave

- (i) All full-time and permanent part-time employees who are adopting a child and are to be the primary care giver of the child are entitled to unpaid adoption leave.
- (ii) Employees who are adopting a child and are to be the primary care giver of the child are entitled to paid adoption leave as follows:

Full-time employees

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

Permanent part-time employees

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

- (iii) An employee who has once met conditions for paid adoption leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of paid adoption leave, unless:
 - (1) there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
 - (2) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers Compensation Act 1987*.

(b) Entitlements

(i) Paid Adoption Leave

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

Paid adoption leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(ii) Unpaid Adoption Leave

Eligible employees are entitled to unpaid adoption leave as follows:

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

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

(c) Applications for Adoption Leave

(i) Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave, normally 8 weeks prior. This will allow arrangements associated with the adoption leave to be made.

(ii) A statement must also be provided from the adoption agency or appropriate body/government authority confirming that the applicant/ employee is to have custody and the expected date of placement of the child.

(d) Applications for Further Adoption Leave

Same provisions as maternity leave.

(e) Variations of Adoption Leave

Same provisions as maternity leave.

(f) Staffing Provisions

Same provisions as maternity leave.

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

Same provisions as maternity leave.

(h) Right to Return to Previous Position

Same provisions as maternity leave.

(i) Portability of Service for Paid Adoption Leave

Same provisions as maternity leave.

C. Parental Leave

(a) Eligibility for Parental Leave

(i) Full-time employees

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

(ii) Permanent part-time employees

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

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

- (1) there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
- (2) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers Compensation Act 1987*.

(b) Entitlements

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

- (i) an unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave).
- (ii) the entitlement of one week's paid leave may be taken at any time within the 52 week period and shall be paid:

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

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

(c) Applications for Parental Leave

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

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

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

(d) Variations of Parental Leave

Same provisions as maternity leave.

(e) Staffing Provisions

Same provisions as maternity leave.

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

Same provisions as maternity leave.

(g) Right to Return to Previous Position

Same provisions as maternity leave.

(h) Portability of Service for Paid Parental Leave

Same provisions as maternity leave.

D. Right to Request

- (a) An employee entitled to maternity, adoption or parental leave may request the employer to allow the employee:
 - (i) to extend the period of simultaneous parental leave use up to a maximum of eight weeks;
 - (ii) to extend the period of unpaid maternity, adoption or extended parental leave for a further continuous period of leave not exceeding 12 months;
 - (iii) to return from a period of maternity, adoption or parental leave on a part-time basis until the child reaches school age;to assist the employee in reconciling work and parental responsibilities.

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

E. Communication During Leave

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

24A. Lactation Breaks

- (i) This clause applies to employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this Award.
- (ii) A full-time employee or a part-time employee working more than four hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day or per shift.
- (iii) A part-time employee working four hours or less on any day or shift is entitled to only one paid lactation break of up to 30 minutes each per day or per shift worked.
- (iv) A flexible approach to lactation breaks can be taken by mutual agreement between an employee and their manager provided the total lactation break time entitlement is not exceeded. When giving consideration to any such requests for flexibility, a manager needs to balance the operational requirements of the organisation with the lactating needs of the employee.

- (v) The employer shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk. Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and the employee will take place to attempt to identify reasonable alternative arrangements for the employee's lactation needs.
- (vi) Employees experiencing difficulties in effecting the transition from home based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.
- (vii) Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave or other leave in accordance with the Award.

25. Study Leave

Employees shall be granted Study Leave on such terms and conditions as prescribed by Section 6 of Policy Directive PD2014_029 Leave Matters for the NSW Health Service, as amended or replaced from time to time.

26. Trade Union Leave

Employees shall be granted Trade Union Leave on such terms and conditions prescribed by the Department's Policy Directive 2014_029, Leave Matters for the NSW Health Service, as amended or replaced from time to time.

27. Long Service Leave

- (a) Employees shall be granted long service leave on such terms and conditions as may be applicable from time to time to officers employed under the provisions of the *Government Sector Employment Act 2013*, and the regulations made there under. This includes the taking of long service leave on half pay.
- (b) Where an employee has accrued a right to an additional rostered leave day off duty on pay prior to entering a period of long service leave such day shall be taken on the next working day immediately following the period of long service leave.
- (c) An employee returning to duty from long service leave shall be given the next additional rostered leave day off duty in sequence irrespective of whether sufficient credits have been accumulated or not.

28. Sick Leave

- (a) If the Service is satisfied that an employee is unable to perform his or her duties on account of illness, not attributable to the employee's misconduct, it shall grant to such employee leave of absence on full pay for a period or periods as follows:
 - (i) All employees shall be entitled to sick leave for a period or periods not exceeding in the aggregate of 114 hours in any period of twelve months.
 - (ii) In the event of an employee not taking the full period of 114 hours in any period of twelve (12) months, the untaken period of such leave shall accumulate. A maximum of 76 hours of the untaken hours in each period of twelve (12) months shall accumulate in respect of available sick leave which accumulated prior to 20 June 1980.
 - (iii) Periods of less than thirty eight (38) hours shall not be re-credited to employees who are sick whilst on Annual or Long Service Leave.

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

SECTION 5. MISCELLANEOUS

29. Uniforms

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

30. Union Subscriptions

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

31. Accommodation

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

SECTION 6. AWARD PARAMETERS

32. Issues Resolution

- (a) The parties must:
- (i) Use their best endeavours to cooperate in order to avoid grievances and disputes arising between the parties or between the Service and individual employee(s);
 - (ii) Abide by the procedures set out in this clause to resolve any issue which might arise; and
 - (iii) Place emphasis on negotiating a settlement of any issue at the earliest possible stage in the process.
- (b) In this clause "issue" means any question, issue, grievance, dispute or difficulty which might arise between the parties about:
- (i) The interpretation, application or operation of this Award; or
 - (ii) Any allegation of discrimination in employment within the meaning of the *Anti-Discrimination Act 1977* (NSW) which is not covered by established policies and procedures applicable to the Service, regardless of whether the issue relates to an individual employee or to a group of employees.
- (c) Any issue, and in the case of a grievance or dispute any remedy sought, must be discussed in the first instance by the employee(s) (or the Union on behalf of the employee(s) if the employee(s) so request) and the immediate supervisor of that employee(s).
- (d) If the issue is not resolved within a reasonable time it must be referred by the employee(s) immediate supervisor to his or her Supervisor (or his or her nominee) and may be referred by the employee(s) to the Union Organiser for the Service. Discussions at this level must take place and be concluded within two working days of referral or such extended period as may be agreed.
- (e) If the issue remains unresolved, it may be referred by any of the parties to more senior officials of the Union who must then confer with the General Manager Operations (and/or his or her nominee(s)) of the Service. The conclusions reached by those representatives must be reported to the parties within two working days of referral or such extended periods as may be agreed.
- (f) If these procedures are exhausted without the issue being resolved, or if any of the time limits set out in those procedures are not met, parties may seek to have the matter mediated by an agreed third party, or the matter may be referred, in accordance with the provisions of the *Industrial Relations Act 1996* (NSW), to the Industrial Relations Commission for its assistance in resolving the issue.

- (g) Unless agreed otherwise by the parties the status quo before the emergence of the issue must continue whilst these procedures are being followed. For this purpose "status quo" means the work procedures and practices in place:
- (i) immediately before the issue arose; or
 - (ii) Immediately before any change to those procedures or practices, which caused the issue to arise, was made.
- The Service must ensure that all practices applied during the operation of these procedures are in accordance with safe working practices.
- (h) Throughout all the stages of these procedures adequate records must be kept by the parties of all discussions.
- (i) These procedures are to be facilitated by the earliest possible advice by one party to the other of any issue or problem which may give rise to a grievance or dispute.
- (j) All matters in dispute arising out of the application of this Award may be referred to a Disputes Committee consisting of not more than six (6) members with equal representation of the Corporation and the Union. Such Committee shall have the power to investigate all matters in dispute and report to the Corporation and the Union, respectively, with such recommendation as it may think right and in the event of no mutual decision being arrived at by the Committee, the matter in dispute may be referred to the Industrial Relations Commission of N.S.W.

33. Anti-Discrimination

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

NOTES -

- (i) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

- (ii) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

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

34. Benefits Not to be Withdrawn

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

35. No Extra Claims

Other than as provided for in the *Industrial Relations Act 1996* and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2018 by a party to this Award.

36. Area, Incidence and Duration

- (a) This Award rescinds and replaces the Operational Ambulance Managers (State) Award made on 29 July 2016 (380 I.G. 490) and all variations thereof.
- (b) This Award shall apply to persons employed in classifications contained herein employed by the Ambulance Service of New South Wales.
- (c) This Award takes effect from 1 July 2017 and shall remain in force for a period of one year.

SECTION 7. MONETARY RATES

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

Table 1 - Salaries

Classification	Rates from first full pay period on or after 01/07/2017 2.5% \$ per annum
Operational Manager	
Level 1	
Min	106,500
Max	111,573
Level 2	
Min	109,032
Max	129,324
Level 3	
Min	126,784
Max	144,536
Level 4	
Min	141,997
Max	169,896
Level 5	
Min	167,356
Max	187,646

Operations Centre Manager		
Level 1		
Min		103,768
Max		108,708
Level 2		
Min		106,235
Max		126,002
Level 3		
Min		123,531
Max		140,825
Level 4		
Min		138,351
Max		165,533
Level 5		
Min		163,060
Max		182,827

Table 2 - Allowances

Item No	Clause	Brief Description	Rate from first full pay period on or after 01/07/2017 \$
1	16	Climatic and Isolation Allowance (a)*	4.50
2	16	Climatic and Isolation Allowance (b)*	9.10
3	29	Laundry Allowance (per week)*	13.10

* Rate moves independently to Award wage increase.

J. V. MURPHY, Commissioner.

Printed by the authority of the Industrial Registrar.

(008)

SERIAL C8835**OPERATIONAL AMBULANCE OFFICERS (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 2018/201241)

Before Commissioner Murphy

9 July 2018

AWARD**1. Title**

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

2. Arrangement

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

SECTION 1. GENERAL

- | | |
|----|------------------------|
| 3. | Object |
| 4. | Definitions |
| 5. | Classifications |
| 6. | Introduction of Change |

SECTION 2. EMPLOYMENT CONDITIONS

- | | |
|-----|---------------------------|
| 7. | Employees Duties |
| 8. | Vacancies and Promotion |
| 9. | Appointment of Officers |
| 10. | Termination of Employment |

SECTION 3. WAGES AND MONETARY ENTITLEMENTS

- | | |
|------|--------------------------------------------|
| 11. | Wages |
| 12. | Allowances and Classification Arrangements |
| 13. | Climatic and Isolation Allowance |
| 14. | Travelling Time and Expenses |
| 15. | Travelling on Cases |
| 16. | Relieving Other Members of Staff |
| 17A. | Special Events Coverage |
| 17B. | Non-Operational Activity |
| 18. | Salary Sacrifice to Superannuation |
| 19. | Salary Packaging |

SECTION 4. HOURS OF WORK

- | | |
|------|------------------------------------------------------|
| 20. | Hours of Duty |
| 20A. | Evaluation and Transition To New Roster Arrangements |

- 20B. Evaluation and Transition To Crib Break Arrangements
- 21. Allocated Day Off
- 22. Roster of Hours
- 23. Employees On Call
- 24. Overtime
- 25. Reasonable Hours
- 26. Time Off in Lieu of Overtime
- 27. Penalty Rates for Shift Work and Weekend Work
- 28. Public Holidays

SECTION 5. LEAVE ENTITLEMENTS

- 29. Annual Leave
- 30. Annual Leave Loading
- 31. Family and Community Leave and Personal Carers Leave
- 31A. Family Violence Leave
- 32. Maternity, Adoption and Parental Leave
- 32A. Lactation Breaks
- 33. Study Leave
- 34. Trade Union Leave
- 35. Long Service Leave
- 36. Sick Leave

SECTION 6. MISCELLANEOUS

- 37. Uniforms
- 38. Accommodation
- 39. Lockers and Showers
- 40. Union Subscriptions
- 41. Union Notice Boards

SECTION 7. AWARD PARAMETERS

- 42. Issues Resolution
- 43. Anti-Discrimination
- 44. Benefits not to be Withdrawn
- 45. Exemptions
- 46. No Extra Claims
- 47. Area Incidence and Duration

SECTION 8. MONETARY RATES

- Table 1A - Wages
- Table 1B - Operations Centre Staff - Wages Table 2A - Allowances
- Table 2B - Additional Allowances
- Table 2C - Living Away from Home Allowance

SECTION 1. GENERAL

3. Object

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

4. Definitions

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

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

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

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

"Service" means continuous service with one or more District Committees prior to 13 April 1973, and continuous service of the New South Wales Ambulance Board on and from 13 April 1973, and continuous service of the Health Commission on and from 1 January 1977 and continuous service of the Health Administration Corporation on and from 17 August 1982, and continuous service with the NSW Department of Health on and from 17 March 2006, and continuous service with the Ministry of Health on and from 5 October 2011.

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

"Shift Worker" means an employee who is not a day worker as defined. "The Ministry" means the Ministry of Health.

"Union" means the Health Services Union NSW and/or Australian Paramedics Association (NSW).

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

5. Classifications

(a) Division 1

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

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

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

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

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

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

(b) Division 2

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

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

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

3. Other Such Specialist Categories as May be Developed Between the Parties.

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

- (v) Critical Care Paramedic (Aeromedical) means an employee who has completed the necessary and relevant training and work experience as a Paramedic Specialist as determined by the Service to be a Critical Care Paramedic (Aeromedical) and who is appointed to an approved Critical Care Paramedic (Aeromedical) position or is working as an independent Critical Care Paramedic (Aeromedical) on a Critical Care Paramedic (Aeromedical) roster.

Critical Care Paramedics (Aeromedical) are not entitled to the Specialist Allowance which is set out in Item 1 of Table 2A - Allowances of Section 8, Monetary Rates of this Award.

- (vi) Critical Care Paramedic (Aeromedical) Team Leader means an employee who has completed the requirements for a Critical Care Paramedic (Aeromedical) and who has successfully completed the

requirements for and is appointed to a Critical Care Paramedic (Aeromedical) Team Leader position identified as such by the Service.

Critical Care Paramedic (Aeromedical) Team Leaders are not entitled to the Specialist Allowance which is set out in Item 1 of Table 2A - Allowances of Section 8, Monetary Rates of this Award.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (xix) Ambulance Operations Centre Officer - Paramedic and Paramedic Specialist

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

- (xx) Ambulance Operations Centre Officer - Non Paramedic

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

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

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

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

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

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

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

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

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

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

6. Introduction of Change

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

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

SECTION 2. EMPLOYMENT CONDITIONS

7. Employees' Duties

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

8. Vacancies and Promotion

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

Trial Remote Incentive Initiative

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

9. Appointment of Officers

- (a) All employees appointed, excepting Trainee Patient Transport Officers, shall be appointed on probation for a period of twelve months from the date of their appointment or re-appointment to the Service. For Trainee Patient Transport Officers, the period of probation will be six months from the date of appointment or re-appointment to the Service.

- (b) An employee engaged under this Award shall be engaged as a permanent full-time, permanent part-time, temporary full-time, temporary part-time, or casual.
- (c) Every employee will be provided with a position description as developed between the parties commensurate with their position, which he or she will be required to sign.
- (d) Permanent Full-Time Employee
 - (i) A permanent full-time employee is a permanent employee who is required to work an average of 38 hours per week in accordance with clause 20, Hours of Duty.
- (e) Permanent Part-Time Employee
 - (i) A permanent part-time employee is permanently appointed by the Service to work a specified number of hours per week, which are less than the full-time hours prescribed in clause 20, Hours of Duty.
 - (ii) A permanent full-time employee may also work as a permanent part-time employee for an approved specified period of time e.g. 12 months. The parties recognise that permanent part-time employment will provide flexible working arrangements for employees to cater for personal requirements such as family responsibilities. At the conclusion of the approved specified period of time, the employee will revert to their permanent full-time status.
 - (iii) Permanent part-time employees shall work in accordance with rosters exhibited in each station at least 7 days in advance of the commencing date of the roster and shall show the hours of duty for the agreed roster period or 28 days, whichever is the greater.
 - (iv) Permanent part-time employees shall be paid an hourly rate calculated on the basis of one thirty-eighth of the rate prescribed in Table 1A or 1B - Wages of Section 8 - Monetary Rates, with a minimum payment of two hours for each start.
 - (v) Permanent part-time employees shall be entitled to payment of the allowances prescribed by clause 13, Climatic and Isolation Allowance, in the same proportion as the actual hours worked per week bear to full-time hours.
 - (vi) Employees engaged under this clause shall not be entitled to allocated days off as prescribed in clause 21, Allocated Day Off.
 - (vii) Employees engaged under this clause shall be entitled to all other benefits not otherwise expressly provided for herein at the same proportion as their actual hours of work bear to full-time hours.
 - (viii) All time worked by permanent part-time employees in excess of the rostered daily ordinary hours of work prescribed for the majority of full-time employees on that shift in the unit or section concerned shall be paid for at the rate of time and one-half for the first two hours and double time thereafter.
 - (ix) Time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the unit or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.
 - (x) Permanent part-time employees will be required to undertake and successfully complete all the requirements applicable to permanent full-time employees as defined in clause 5, Classifications.

(f) Temporary Employee

- (i) A temporary employee is engaged for a continuous fixed period of time. The duties may include the provision of relief for permanent employees, conduct of specific projects or the provision of services which are not recurrent in nature.
- (ii) A temporary employee may be full-time or part-time.
- (iii) A temporary employee shall be paid for the number of hours worked each week on an hourly rate calculated at the same hourly rate as prescribed for a full-time employee in the same classification plus 10 per cent loading. The loading shall not apply if:
 - 1. The period of employment extends beyond 13 weeks
 - 2. The employer and the employee agree, during the 13 weeks, that the employee will be employed on a permanent basis.
- (iv) A temporary employee shall be entitled to a minimum payment of 2 hours for each start.

Time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the station, unit or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.

- (v) Temporary employees will be required to undertake and successfully complete all the requirements applicable to permanent full-time employees as defined in clause 5, Classifications.

(g) Casual Employee

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

(h) Secure Employment

Objective of this Clause

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

Casual Conversion

- (i) A casual employee engaged by the Service on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter

have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) The Service shall give such a casual employee notice in writing of the provisions of this subclause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the Service fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (h)(i), upon receiving notice under paragraph (h)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the Service that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the Service shall consent to or refuse the election, but shall not unreasonably so refuse. Where the Service refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the Service, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the Service.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (h)(iii), the Service and employee shall, in accordance with this paragraph, and subject to paragraph (h)(iii), discuss and agree upon:
 - a. whether the employee will convert to full-time or part-time employment; and
 - b. if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this Award or pursuant to a part-time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

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

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

10. Termination of Employment

- (a) Employment shall be terminated by two weeks' notice in writing by either party or by the giving or forfeiting, as the case may be, of two weeks wages in lieu of notice.

- (b)
- (i) Employees with a credit of hours accrued towards an allocated day(s) off duty as prescribed by of clause 21, Allocated Days Off, shall be paid for such accrual upon termination.
 - (ii) Employees with a credit of hours accrued as a result of working a roster in accordance with subclause (a) of clause 20, Hours of Duty, shall be paid for such accrual upon termination.
 - (iii) Employees with a debit of hours accrued as a result of working a roster in accordance with subclause (a) of clause 20, Hours of Duty, shall reimburse the Service for such accrual upon termination.
 - (iv) Employees with a credit of hours accrued as a result of opting for time off in lieu of overtime in accordance with subclause (a) of clause 26, Time Off in Lieu of Overtime, shall be paid for such accrual upon termination at the appropriate overtime rate based on the rate of pay applying at the time of termination.
- (c) The Service shall, upon request by the employee, give the employee a signed statement outlining the period of employment.

SECTION 3. WAGES AND MONETARY ENTITLEMENTS

11. Wages

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

12. Allowance and Classification Arrangements

- (a) An employee who is paid an allowance or at a classification, for which there is a certification or qualification requirement, will cease to have an entitlement to such payment if the employee:
 - (i) Fails to successfully complete further instruction/in service courses and/or certification examinations as required by the Service every three years or;
 - (ii) Elects not to undertake further instruction/in service courses and/or certification examinations as required by the Service every three years.
 - (iii) Applies for and obtains a transfer to a position which is not a nominated position requiring such skills.

- (b) Payment of shift penalties and other work related allowances or payments to employees subject to misconduct/disciplinary inquiries will be made on the terms and conditions prescribed by the NSW Health Policy Directive PD2014_042, Managing Misconduct, as amended or replaced from time to time.

13. Climatic and Isolation Allowance

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

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

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

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

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

14. Travelling Time and Expenses

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

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

- (b) If an employee is rostered to a shift requiring him or her to work at more than one station in a working week, the employee's fares in excess of the fares to the employee's appointed station shall be paid in full.
- (c) Where an employee, with the prior approval of the Service, travels by the employee's own motor vehicle, the employee shall be paid the casual rate as prescribed by the Crown Employees (Public Service Conditions of Employment) Award, as amended from time to time, for all kilometres travelled in excess of the kilometres that the employee would normally travel between the employee's usual place of residence and the ambulance station to which he or she is appointed and return to such residence.
- (d) Travel, either by public transport or own mode of conveyance, shall in all instances be by the most direct route.

15. Travelling on Cases

- (a) Where an employee is required to transport a case which involves eight hours or more travelling, the employee shall be paid all travelling expenses including meals and accommodation and, if not staying overnight at the point of turn around, shall be permitted a meal either before commencing or during the return journey.

- (b) An employee directed to have a meal away from his or her station will be paid a crib/ meal away from station allowance in accordance with existing provisions and practice. In determining existing practice, regard will be had to the following:
 - (i) That allowances do not apply to crib breaks taken by Trainee Patient Transport Officers and Patient Transport Officers.
 - (ii) The agreement between the parties in 1988 under the Commission's then Structural Efficiency Principle.
 - (iii) That this provision does not apply to employees in Operations Centres.
- (c) Where an entitlement exists in (b), the quantum of the allowance is prescribed in Table 2A Allowances in Section 8 Monetary Rates.
 - (i) Where an employee is entitled to one crib break per shift or an unpaid meal break (under the transitional arrangements in clause 20), the payment for any crib/meal directed to be taken away from station will be the rate prescribed at Item 9 of Table 2A - Allowances.
 - (ii) Where an employee is entitled to two crib breaks per shift, the payment for any crib directed to be taken away from station will be the lower rate as prescribed at Item 10 of Table 2A - Allowances. The number of crib breaks per shift is prescribed in clause 20 Hours of Duty.
- (d) This provisions of this clause will be reviewed by the Commission in conjunction with the review of rosters and crib breaks to be undertaken in accordance with clause 20A, Evaluation and Transition to New Roster Arrangements and clause 20B, Evaluation and Transition to Crib Break Arrangements - Sydney and Central Coast.
- (e) Where an employee is required to transport a case which involves two or more hours travelling the employee shall be entitled to a paid break of ten minutes duration each two hours.
- (f) The ten-minute break prescribed by subclause (e) of this clause is not cumulative.
- (g) No single officer transports will be allocated where it is reasonably expected that the travelling time of the round trip will be in excess of eight hours.

16. Relieving Other Members of Staff

- (a) An employee called upon to relieve another employee paid on a higher scale shall be entitled to receive the minimum rate of the higher scale of pay. This provision shall not apply when an employee on a higher scale is absent from duty by reason of his or her allocated day off duty as a consequence of working a 38-hour week in accordance with paragraph (i) of subclause (a) of clause 21, Allocated Days Off. No reduction shall be made in the scale of pay of an employee called upon to relieve another paid on a lower scale. Where an employee is called upon to relieve a Superintendent/Operations Manager, he/she shall be paid the minimum rate of the position so relieved.
- (b) When an employee is required to relieve another employee posted at another station, and by so doing is required to live away from home, he or she shall be called a relieving employee.
- (c) A relieving employee will be entitled to a living away from home allowance as set out in Table 2C in this Award. The living away from home allowance is determined as the sum of the meal expenses on one day journeys and the incidental allowance for the location the relieving employee is posted, as prescribed by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as amended from time to time.

A relieving employee who is entitled to receive the living away from home allowance is not entitled to receive payment under subclause 15(a) of this Award. When travelling on cases in accord with clause 15, relieving employees shall be entitled to allowances under subclause 15(b) or 15(c) where applicable.

A relieving employee who is provided with board and lodgings at no charge will not be entitled to receive the living away from home allowance.

- (d) If accommodation at no charge is not available to the relieving employee, accommodation costs will be met by the Service directly with the provider. In the unusual circumstance that the employee pays the cost of the accommodation they will be entitled to the reimbursement of accommodation expenses as per the NSW Health Policy Directive PD2016_010, Official Travel, as amended or replaced from time to time.
- (e) If the relieving employee is required to be on call, he or she shall be paid, in addition to the aforementioned amount, the amount specified in clause 23, Employees On Call.
- (f) The Service shall decide whether an employee travels to or from their relief duties in rostered hours. If the travel is to be accomplished outside rostered hours, the employee shall be reimbursed at ordinary rates for the time spent travelling in excess of the normal time taken to travel between his or her home and the station to which he or she is appointed.

17A. Special Events Coverage

- (a) Employees will not be compelled to provide special events coverage.
- (b) Whilst there is no exhaustive list of all the requirements for which the Service may wish to utilise "special events coverage", the parties agree that such requirement would typically be for special events and sporting fixtures such as public holiday celebrations, athletic events, Mardi Gras, local shows, VIP visits, sporting events, disaster exercises, public relations activities and local expositions. This clause will not be used for training, including SCAT and rescue training.
- (c) An employee who is scheduled to provide special events coverage will be compensated by payment at his or her ordinary hourly rate for the hours worked plus the appropriate penalty rates prescribed in clause 27, Penalty Rates for Shift Work and Weekend Work, in lieu of payment at overtime rates.
- (d) Special events coverage shifts shall be between four and 12 hours in duration with a minimum payment of two hours in the event of cancellation on the day.

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

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

17B. Non-Operational Activity

- (a) Employees will not be compelled to provide non-operational activity coverage.
- (b) Whilst there is no exhaustive list of all activities that may be regarded as "non-operational activities", the parties agree that examples of such activities would be: attendance at Divisional Clinical Quality Committees; Occupational Health and Safety Committees; attendance for members of Service approved committees/workgroups and representing the Service at authorised community or local Government meetings where attendance of duty personnel is not possible.
- (c) Non-operational activity does not include attendance at training schools, compliance with Certificate to Practice (CTP) activities/requirements nor union activities.
- (d) Employees who participate in non-operational activities will be compensated by payment at their ordinary hourly rate for the hours worked. In addition, employees will be paid two hours for travel time

(covering travel to and from the activity). In the case of rural employees, specific approval for the quantum of travel time will be agreed prior to approval being finalised. Accumulation of hours worked in these activities is not allowed. Payment for the approved activities will be made in the next available pay period.

- (e) Time worked as non-operational activity(s) shall stand alone and shall not be regarded as time worked for the calculation of hours of duty, annual leave, long service leave or any other provision contained within this Award.

18. Salary Sacrifice to Superannuation

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

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

- (b) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees and private health fund membership fees.
- (c) Where the employee has elected to sacrifice a part or all of the available payable salary to additional employer superannuation contributions:
 - (i) The employee shall be provided with a copy of the signed agreement. The salary sacrifice agreement shall be terminated at any time at the employee's election and shall cease upon termination of the employee's services with the employer.
 - (ii) Subject to Australian taxation law, the amount of salary sacrificed will reduce the salary subject to appropriate PAYE taxation deductions by the amount sacrificed; and
 - (iii) Any allowance, penalty rate, overtime, payment for unused leave entitlements, weekly workers' compensation, or other payment, other than any payment for leave taken in service, to which an employee is entitled under the relevant Award or any applicable Award, Act, or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the salaries clause in the absence of any salary sacrifice to superannuation made under this Award.
- (d) The employee may elect to have the specified amount of payable salary which is sacrificed to additional employer superannuation contributions:
 - (i) paid into the superannuation scheme established under the *First State Superannuation Act 1992* as optional employer contributions; or
 - (ii) subject to the employer's agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.
- (e) Where an employee elects to salary sacrifice in terms of subclause (d) above, the employer will pay the sacrificed amount into the relevant superannuation fund.
- (f) Where the employee is a member of a superannuation scheme established under:
 - (i) the *Police Regulation (Superannuation) Act 1906*;

- (ii) the *Superannuation Act 1916*;
- (iii) the *State Authorities Superannuation Act 1987*;
- (iv) the *State Authorities Non-contributory Superannuation Act 1987*; or
- (v) the *First State Superannuation Act 1992*.

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

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

19. Salary Packaging

- (a) By agreement with their employer, employees may elect to package part or all of their salary in accordance with this clause, to obtain a range of benefits as set out in the NSW Health Services Salary Packaging Policy and Procedure Manual PD2016_009, as amended from time to time. Such election must be made prior to the commencement of the period of service to which the earnings relate. Where an employee also elects to salary sacrifice to superannuation under this Award, the combined amount of salary packaging/sacrificing may be up to 100 per cent of salary.

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

- (b) Where an employee elects to package an amount of salary:
 - (i) Subject to Australian taxation law, the packaged amount of salary will reduce the salary subject to PAYE taxation deductions by that packaged amount.
 - (ii) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this Award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under this Award in the absence of any salary packaging or salary sacrificing made under this Award.
 - (iii) 'Salary' for the purpose of this clause, for superannuation purposes, and for the calculation of Award entitlements, shall mean the Award salary as specified in clause 11, Wages, and which shall include 'approved employment benefits' which refer to fringe benefit savings, administration costs, and the value of packaged benefits.
- (c) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees, and private health fund membership fees.
- (d) The salary packaging scheme utilises a fringe benefit taxation exemption status conferred on public hospitals and local health districts, which provides for a fringe benefit tax exemption cap of \$17,000 per annum. The maximum amount of fringe benefits-free tax savings that can be achieved under the scheme is where the value of benefits when grossed-up, equal the fringe benefits exemption cap of \$17,000.

Where the grossed-up value exceeds the cap, the employer is liable to pay fringe benefits tax on the amount in excess of \$17,000, but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits, are deducted from pre-tax dollars.

- (e) The parties agree that the application of the fringe benefits tax exemption status conferred on public hospitals and local health districts is subject to prevailing Australian taxation laws.
- (f) If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the NSW Health Services Salary Packaging Policy and Procedure Manual PD2016_009.
- (g) Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.
- (h) Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.

The employer and the employee shall comply with the procedures set out in the NSW Health Services Salary Packaging Policy and Procedure Manual PD2016_009 as amended from time to time.

SECTION 4. HOURS OF WORK

20. Hours of Duty

- (a) This clause is to be read in conjunction with clause 20A, Evaluation and Transition to New Roster Arrangements and clause 20B Evaluation and Transition to Crib Break Arrangements.
- (b) The ordinary hours of duty shall be:
 - (i) An average of 38 per week, to be worked in shifts of eight hours duration on no more than 19 days per 28 day period. Shift workers shall be free from duty for not less than two full days in each working week or four full days in each two working weeks, unless otherwise agreed between the parties.
 - (ii) Where work is performed in Control Centres, or on a modified hours roster in Ambulance Stations by Operational Staff, the maximum length of a shift shall not exceed 12 hours and 15 minutes. For all other staff, the maximum length of a shift shall not exceed 12 hours. The average of 38 hours per week to be calculated over the modified hour roster cycle.
- (c) Officers working a modified roster of 12 hour or 12 hours and 15 minute shifts will be entitled to two paid 30 minute crib breaks to be taken between the fourth and seventh hour and the eighth and eleventh hour unless otherwise agreed between the parties. Officers working shifts of less than 12 hours duration shall have one paid 30 minute crib break to be taken between the fourth and seventh hour unless otherwise agreed between the parties.
- (d) Officers who, due to operational requirements, are unable to take their paid crib break within the prescribed times, or whose crib break is not completed, shall receive an additional payment of one hour at ordinary time rates.
- (e) Subclauses (c) and (d) do not apply to officers in the Operations Centres. Such officers will continue to work shifts and meal/crib breaks in accordance with their modified roster provisions.

20A. Evaluation and Transition to New Roster Arrangements

Sydney and Central Coast

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

Other than Sydney and Central Coast

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

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

- (a) The existing one hour unpaid meal break provisions will continue to apply until new rosters are implemented. Also, any modified meal break provisions agreed between the parties will continue to apply until new rosters are implemented. If these modified arrangements currently provide for meal penalties, such penalties will be in accordance with (e) below.
- (b) The extension of shift overtime payment for a missed or partially missed unpaid meal break will continue to be available until the paid crib break provision is introduced. This payment will not be subject to the phasing described in (e). This payment will cease when rosters incorporate paid crib breaks.
- (c) The penalty for a missed or incomplete meal break will be phased out as described below to ultimately be in accordance with the penalty for a missed or incomplete crib break as prescribed in clause 20.
- (d) The penalty for a missed or incomplete meal break is based upon the penalty prescribed in the previous Award at clause 10(b) and (c) i.e.:

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

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

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

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

21. Allocated Days Off

- (a)
 - (i) Employees who work on a roster other than a modified hours roster shall have their hours arranged to include a proportion of one hour (such proportion will be on the basis of 0.4 of one hour for each eight-hour shift worked) which shall accumulate towards the employees allocated day off duty on pay.
 - (ii) Unless otherwise agreed between the parties, each day worker, subject to paragraph (i) of this subclause, shall be free from duty for not less than two full days in each working week and at least one allocated day off in each 28-day period.
 - (iii) Unless otherwise agreed between the parties, each shift worker, subject to paragraph (i) of this subclause, shall be free from duty for not less than two full days in each week or four full days in each two working weeks and at least one allocated day off in each 28- day period, unless otherwise agreed between the Service and the employee.
 - (iv) The employee's allocated day off duty prescribed in paragraph (i) of this subclause shall be determined by mutual agreement between the Service and the employee, having regard to the needs of the Service. Where practicable, such allocated day off duty shall be consecutive with the employee's other days off duty.
 - (v) Once set, the allocated day off duty may not be changed in a current roster cycle unless there are genuine unforeseen circumstances prevailing or by mutual agreement between the Service and the employee. Where these circumstances exist and the allocated day off is changed, another day shall be substituted in the current cycle. Should this not be practicable, the day must be given and taken in the next cycle immediately following.
 - (vi) There shall be no accrual of credit towards an allocated day off for the first four weeks of ordinary annual leave taken in accordance with clause 29, Annual Leave. However, where an employee has accumulated sufficient time to take his or her allocated day off duty prior to entering on annual leave, and that day would have been taken if the employee had not gone on annual leave, it shall be allowed to the employee on the first working day immediately following the period of leave.
 - (vii) Where an employee has not accumulated sufficient time for an allocated day off prior to entering on annual leave, time in credit shall count towards taking the next allocated day off duty falling in sequence after the employee's return to duty.
 - (viii) An employee entitled to allocated days off duty in accordance with subclause (a) of this clause shall continue to accumulate credit towards his or her allocated day off duty whilst on sick leave.

Where an employee's allocated day off duty falls during a period of sick leave, the employee's available sick leave shall not be debited for that day.

- (ix) Where an employee's allocated day off duty falls due during a period of workers' compensation, the employee, on returning to duty, shall be given the next allocated day off duty in sequence, irrespective of whether sufficient credit has been accumulated or not.
- (x) Where a day worker's allocated day off falls on a public holiday as prescribed by clause 28, Public Holidays, the employee shall be given the option of taking the next working day off as rostered or substituting another day in lieu thereof by mutual agreement with the Service.
- (xi) Where a shift worker's allocated day off falls on a special or additional public holiday, he or she shall be paid an additional day or half day's pay, as the case may be, at ordinary rates.

22. Roster of Hours

- (a) The ordinary hours of duty prescribed by clause 20, Hours of Duty, shall be worked according to rosters which shall be exhibited at least 7 calendar days before the commencement date of the roster and shall show the hours of duty for the agreed roster period or 28 days whichever is the greater. Casual employees are not subject to this clause.
- (b) In exceptional circumstances, arising from additional work demands or unplanned absences of other employees, the roster may be changed with 7 days' notice. In so doing, due regard will be had to the family and carers commitments of employees affected.
- (c) Work will be performed by the most efficient means. To achieve this, the Service will deploy skills based on operational needs and case priority. This will include the deployment of officers to meet operational needs. Efficient deployment may require an officer to report for duty at another work location within the shift or roster. Deployment to another station within the roster will only occur within reasonable travelling distance (having regard to the circumstances of each case).
- (d) The parties agree that there will be no forced transfers as a result of the implementation of subclause (c) of this clause.
- (e)
 - (i) There shall be a minimum break of ten hours between shifts, except in case of an emergency or agreement between the Service and the employee.
 - (ii) However, an employee who works so much overtime after the completion of their shift on any day that results in less than eight consecutive hours off duty before the commencement of their next shift will be released after the completion of such overtime until they have had eight consecutive hours off duty, with no loss of pay for ordinary working time occurring due to such absences.
- (f) Subject to compliance with subclause (a) and (b) of this clause, the roster of an employee may only be altered by mutual agreement between the parties.
- (g) Employees may arrange for shift changes with the following provisos:
 - (i) Where the Service's prior consent is given to swap a shift, the employee working the shift shall record the working of that shift on his or her time sheet with payment made accordingly.
 - (ii) Shift swaps should only occur on the basis that each employee maintains an average of 38 hours per week.
 - (iii) Where a shift is to be paid back it shall be done in the current agreed roster period or, where this is not practical, within the following agreed roster period, or in a future roster period approved by the Service.

- (h)
 - (i) A day off duty for employees working a roster other than a modified hours roster shall be 24 hours plus a minimum 6 hours between the shifts.
 - (ii) A day off duty for employees working a modified hours roster shall be 24 hours.
 - (iii) Where an employee's normal rostered day off is cancelled by the Service, he or she shall be paid at overtime rates unless otherwise agreed between the parties.
 - (i) Where an employee is rostered to an allocated day off, that day off is to be shown on the roster.
- (j) The rosters of shift workers shall provide for an equitable distribution of Saturday and Sunday work between employees working the same roster.
- (k) The parties agree that changes to rosters that will significantly affect employees and/or that where a new branch station is opened there will be genuine consultation between the parties.

23. Employees On Call

- (a)
 - (i) Time on call means time during which an employee who is rostered off duty is required to hold himself or herself in readiness to answer a call. In any one day where an employee answers telephone calls when not on call, he or she is to be paid for one hour at ordinary rates of pay.
 - (ii) The provisions for employees recalled to work are contained in this clause. A recall under this clause shall not be treated as overtime for any other purpose and shall not be treated as time worked for the purposes of clause 22, Roster of Hours.
 - (iii) Whilst no provision is made as to freedom from on call, it is the intention of the parties that employees should be free from call, as far as practicable, on at least 14 days in each roster cycle of 28 days. However if required by the employer, and with the agreement of the employee, an employee can be on call in excess of 14 days in each roster cycle of 28 days. In such circumstance, the employee shall receive the daily on call allowance for each such additional episode.
 - (iv) The parties will review any situation where an employee is required to be consistently on call in excess of 14 days in each 28-day cycle.
 - (v) A period of on call is to be regarded as commencing at the completion of duty on one rostered shift to the commencement of duty on the next rostered shift.
 - (vi) Employees shall not be required to be on call during any part of a rostered day off duty, i.e. from the end of the shift before the rostered period off duty and the commencement of the shift after the rostered period off duty.
- (b)
 - (i) Time on call shall not be counted as time worked unless an employee is called to duty, in which case the employee shall be paid for a minimum of four hours at overtime rates for each time he or she is recalled; provided that where a second or subsequent call is received by an employee whilst he or she is still performing duties associated with the first call, he or she shall attend the second or subsequent call without additional payment, unless the total time exceeds four hours, in which case payment shall be made for the actual time worked at overtime rates.
 - (ii) Where an employee is on-call and is recalled to duty and such recall merges with the employees normal commencing time, such work shall attract overtime for the actual time worked and not a call out.

- (iii) A call out shall be deemed to commence at the time the employee is tasked by the Operations Centre and shall be deemed to be complete when all duties associated with the case/s are complete.
- (c) Where an employee who is on call is called out for duty which in total involves 4 hours or more actual work within 8 hours of the scheduled commencement of their next rostered shift, he or she shall be entitled to exercise the Rest Options provision of the Service's Fatigue Management Standard Operating Policy.
- (d) An employee who is not on call shall only be recalled to duty with the employee's agreement.
Such a recall is subject to the same provisions as recalls performed when an employee is on call.
- (e) The provision of paragraph (i) of subclause (b) of this clause shall not apply to employees attached to One-Officer Branch Stations or to employees supplied with quarters as set out in subclause (b) of clause 38 Accommodation, who are recalled to duty but not required to leave the station, in which case, the employee shall be paid for the actual period or periods of duty in any one day a minimum of two hours at overtime rates.
- (f)
 - (i) The weekly on-call allowance as set out in Item 4 of Table 2A - Allowances, of Part B, Monetary rates, shall apply in the following circumstances:
 - (1) Employees required by the Service to be on call on a roster other than a modified hours roster;
 - (2) Employees employed on or before 31 July 1988 who are required by the Service to be on call; or
 - (3) Employees who are required by the Service to be on call as part of a modified hours roster where the weekly on call allowance applies by agreement between the parties.
 - (ii) The daily on-call allowance as set out in Item 3 of the said Table 2A, Allowances of Section 8 - Monetary Rates shall apply in all other circumstances where an employee is required by the Service to be on call.
 - (iii) The provisions of paragraphs (i) and (ii) of this subclause shall not apply to resident employees in One-Officer Branch Stations, as defined in subclause (a) of clause 38, Accommodation.
 - (iv) Payment of the on-call allowance shall not apply during periods of Annual Leave or Long Service Leave.
- (g) If an employee who is rostered on call is required to respond to a call, he or she shall be reimbursed actual fares or expenses incurred in travelling to and from work, unless a service vehicle is provided for this purpose.
- (h) If an employee rostered on call is required to use his or her own motor vehicle, then he or she shall be paid the specified journey rate as prescribed by clause 5.1.3 of the NSW Health Policy Directive PD2016_010, Official Travel as amended from time to time, for all kilometres travelled.

24. Overtime

- (a) Subject to clause 23, Employees On Call, all time worked in excess of the rostered hours on any one day shall be paid for at the rate of time and one-half for the first two hours and thereafter at the rate of double time, provided that overtime worked on a Public Holiday shall be paid for at the rate of double time and one-half.

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

25. Reasonable Hours

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

26. Time Off in Lieu of Overtime

- (a) The parties agree that an employee who is required to work overtime outside normal rostered hours may be compensated by way of time off in lieu of payment for the overtime.
- (b) This clause is subject to the following:
 - (i) Time off in lieu of overtime shall be in amounts equal to the period of overtime worked;
 - (ii) Time off in lieu of overtime must be taken within three months of the overtime being worked;
 - (iii) Where it is not possible for an employee to take time off in lieu of overtime within the three-month period, it is to be paid out at the appropriate overtime rate based on the rate of pay applying at the time payment is made;
 - (iv) The option of taking time off in lieu of overtime is subject to the active agreement of the Service management, so that it is conceivable that employees in one unit or location within the Service may be permitted to take time off in lieu of overtime but employees working in other locations and settings within the Service may not.

- (v) Employees cannot be compelled to take time off in lieu of overtime;
- (vi) Records of time off in lieu of overtime owing to employees and taken by employees must be maintained by the Service;
- (vii) Time off in lieu of overtime shall be taken at a time which is mutually agreed to by the Service and the employee;
- (viii) No more than 38hrs of time off in lieu of overtime can be accumulated by an employee.
- (ix) In making overtime available to employees the Service will not discriminate between those employees who elect to take time off in lieu of overtime in preference to those employees who elect to be paid for overtime in accordance with clause 23, Employees On Call, and/or clause 24, Overtime.

27. Penalty Rates for Shift Work and Weekend Work

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

28. Public Holidays

- (a) For the purpose of this clause, the following shall be public holidays, viz: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Local Labour Day, Christmas Day and Boxing Day and any other standard public holiday declared under section 4 of part 2 of the *Public Holidays Act 2010*.
- (b)
 - (i) An employee to whom subparagraph (1) and (2) of subclause (a) of clause 29, Annual Leave, applies and who is required to and does work on a public holiday or a special public holiday shall be paid for the time actually worked on such holiday at the rate of double time and a half.
 - (ii) An employee to whom subparagraph (3) and (4) of subclause (a) of the said clause 29 applies and who is required to and does work on a public holiday shall be paid in addition to the appropriate

ordinary weekly rate of pay prescribed Table 1A and 1B Section 8 - Monetary Rates, at the rate of one half time extra for the rostered time actually worked on such public holiday.

- (iii) For the purpose of paragraphs (i) and (ii) of this subclause, the hourly rate of pay shall be one thirty-eighth of the appropriate ordinary weekly rate of pay prescribed in the said Wages Tables in Section 8 - Monetary Rates.
- (c) Special holidays proclaimed for any city or town are to be granted or equivalent payment made in lieu thereof to employees, either day workers or shift workers, employed in stations located in such city or town. Equivalent payment means double time and one-half.

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

- (d) In addition to those public holidays specified in subclause (a) of this clause, employees shall be entitled to an extra public holiday each year. Such public holiday will occur on a date determined by the Service to be taken in the Christmas New Year period, or other suitable period as agreed between the Service and the Union and shall be regarded for all purposes of this clause as any other public holiday.

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

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

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

SECTION 5. LEAVE ENTITLEMENTS

29. Annual Leave

- (a) Annual Leave shall be granted on completion of each 12 months service as follows:
 - (i) Day Worker (as defined in clause 4, Definitions) - four weeks leave on full pay.
 - (ii) Shift Worker (as defined in clause 4, Definitions) but who is not required to work public holidays - five weeks leave on full pay.
 - (iii) Shift Worker (as defined in clause 4, Definitions) who has not been required to successfully complete the requirements for appointment to a Paramedic position - five weeks leave with seven weeks pay.
 - (iv) Shift Worker (as defined in clause 4, Definitions) who has or is required to successfully complete the requirements for appointment to a Paramedic position - six weeks leave with eight weeks pay. (The leave entitlement in this sub-paragraph commenced accrual on 4 February 2002)
- (b) In the event that an employee's employment has changed from a seven day per week basis to a Monday to Friday basis or vice versa, than annual leave shall be calculated on a pro rata basis.
- (c) It is admitted by the parties that two weeks pay has been provided to those employees to whom paragraph (iii) and (iv) of subclause (a) of this clause applies in lieu of and in consideration of public holidays being worked by such employees or which have occurred on a rostered day off.

- (d) To the leave prescribed by paragraph (1) of subclause (a) of this clause, there shall be added one working day for each public holiday or special public holiday or one half working day for each half public holiday or special half public holiday which occurs during a period of annual leave.
- (e)
- (i) Once an employee becomes entitled to annual leave (i.e. after the initial 12 month period of employment has occurred) annual leave will be taken biannually in two separate periods of three weeks duration. Provided that the giving and taking of such leave may be postponed by mutual agreement between the parties for a further period not exceeding six months. Providing further that, with the agreement of the Service, an employee may take their annual leave in one period of 6 weeks duration.
- (ii) Annual leave shall be granted on a rotating roster basis, provided that such rotation complies with paragraph (i) of this subclause.
- (iii) Nothing in this subclause shall prevent the Service, by agreement with the employee, from allowing annual leave to an employee before the right thereto has accrued, but where leave is taken in such a case a further period of annual leave shall not commence to accrue until the expiration of the twelve months in respect of which annual leave was taken before it accrued. Provided that any leave taken by an employee under this paragraph shall not exceed the amount of proportionate annual leave standing to the credit of the employee at the time of entering upon such leave.
- (iv) At least six months' notice shall be given to employees of the date on which they shall take their annual leave. Where an employee has been notified that he or she is to take his or her normal leave at a specified time and that time is thereafter altered by the Service, the employee shall be reimbursed any actual losses which result to him or her to the extent to which deposits paid for travel and/or accommodation are not refunded.
- (v) Employees may exchange/split annual leave by mutual arrangements with the approval of the Service, provided that such exchange complies with paragraph (i) of this subclause.
- (f) Each employee before going on annual leave shall be paid for the period of the leave at the ordinary rate of wage to which he or she is entitled under this Award and such payment shall be made before the employee commences annual leave.
- (g) Notwithstanding the provisions of subclause (f) of this clause, the Service agrees, subject to at least 28 days prior written authorisation by the employee, to pay the employee's annual leave entitlements on a fortnightly basis which coincides with the normal fortnightly pay period.
- (h) Where the employment of an employee is terminated the employee shall be entitled to receive a proportionate payment in respect of service of less than one year, at the weekly wage to which such employee is entitled under this Award.
- (i) Credit of time towards an allocated day off duty as prescribed in clause 21, Allocated Days Off, shall not accrue when an employee is absent during their four weeks annual leave as provided for under the terms of the *Annual Holidays Act 1944*. However, employees entitled to allocated days off duty in accordance with the said clause 21 shall accrue credit towards an allocated day off duty in respect to any additional periods of annual leave which is granted to employees in excess of the abovementioned four weeks.

30. Annual Leave Loading

- (a) Employees who, under the *Annual Holidays Act 1944*, become entitled to annual leave under this clause shall be paid in respect of such leave an annual leave loading of 17.5 per cent of the appropriate ordinary weekly rate of pay prescribed by clause 11, Wages, for the classification in which the employee was employed immediately before commencing his or her annual leave. The 17.5 per cent annual leave

loading will apply only to the payments associated with actual periods of annual leave as per clause 29 (a)(1)-(4) and provided further that in no instance is the calculated amount to exceed \$1,112.30.

- (b) Such loading is payable in addition to the pay for the period of leave given and taken and due to the employee under this Award.
- (c) No loading is payable where the annual leave is taken wholly or partly in advance; provided, however, that if the employment of such an employee continues until the day upon which he would have become entitled under this clause to such annual leave, the loading then becomes payable in respect of the period of such leave and is to be calculated in accordance with the rate of wages applicable on such day.
- (d) Where the employment of an employee is terminated by the Service for a cause other than misconduct and at the time of termination the employee has not been given and has not taken the whole of the annual leave to which he or is entitled, he or she shall be paid the loading provided for in subclause (a) of this clause for the period not taken.
- (e) Except as provided by subclause (d) of this clause, no loading is payable on the termination of an employee's employment.
- (f) Where a shiftworker is given and takes annual leave, he or she shall be paid the loading set out in subclause (a) of this clause; provided that if the amount to which the employee would have been entitled by way of shift work allowances and weekend penalty rates for the ordinary time (not including time on a public or special public holiday) which the employee would have worked during the period of leave exceeds the loading calculated in accordance with subclause (a), then that amount shall be paid to the employee in lieu of the loading.
- (g) The annual leave loading or the shift penalties, whichever is appropriate, shall be paid before the employee commences annual leave.
- (h) Notwithstanding the provisions of subclause (g) of this clause, the Service agrees, subject to at least 28 days prior written authorisation by the employee, to pay the employee's annual leave Loading or shift penalties on a fortnightly basis which coincides with the normal fortnightly pay period.

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

Employees shall be granted family and community services leave and personal/carer's leave in accordance with the provisions of the NSW Health Policy Directive 2017_028, Leave Matters for the NSW Health Service, as amended or replaced from time to time.

31A. Family Violence Leave

- (i) For the purpose of this clause, family violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*. The violence may have been reported to the police and/or may be the subject of an Apprehended Violence Order.
- (ii) An employee experiencing family and domestic violence can utilise Award leave entitlements provided for in Sick Leave and Family and Community Services Leave provisions of the Award.
- (iii) Where leave entitlements to Sick Leave and Family and Community Services Leave are exhausted, the employer will grant up to five days per year of paid special leave to attend legal proceedings, counselling, appointments with a medical or legal practitioner and relocation and safety activities directly associated with alleviating the effects of family and domestic violence. This leave entitlement does not accumulate from year to year.
- (iv) Upon exhaustion of the paid leave entitlement, an employee may request further periods of unpaid leave, for the same activities for which paid leave would be available.

- (v) To access paid and unpaid leave, the employee must provide the employer with evidence, to the employer's satisfaction, substantiating the purpose of the leave and that the leave is related to alleviating the effects of family violence. The employer may accept a variety of agreed documentation in support of an application for leave. Supporting documentation may be presented in the form of an agreed document issued by the Police Force, a Court, a doctor, a Family Violence Support Service or a lawyer.
- (vi) Matters related to family violence can be sensitive. Information collected by the employer will be kept confidential. No information relating to the details of the family violence will be kept on an employee's personnel file without their express permission. However, records about the use of family violence leave will need to be kept.
- (vii) The employer, where appropriate, may facilitate flexible working arrangements subject to operational requirements. This may include changes to working times and locations, telephone numbers and email addresses.
- (viii) The employer will co-operate with all legal orders protecting an employee experiencing domestic violence.

32. Maternity, Adoption and Parental Leave

This clause is to be read in conjunction with the provisions in the Service's Instructional Circular 05/16, as varied or replaced from time to time.

A. Maternity Leave

(a) Eligibility for Paid Maternity Leave

(i) Full-time employees

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

(ii) Permanent part-time employees

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

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

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

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

(b) Entitlements to Paid Maternity Leave

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

- (ii) Paid maternity leave may be paid: on a normal fortnightly basis; or in advance in a lump sum; or

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

Annual and/or long service leave credits can be combined with periods of maternity leave on half pay to enable an employee to remain on full pay for that period.
- (ii) Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.
- (c) Entitlements to Unpaid Maternity Leave
 - (i) An employee entitled to paid maternity leave is entitled to a further period of unpaid maternity leave of not more than twelve (12) months from the actual date of birth. The leave therefore does not extend beyond the child's first birthday.
 - (ii) Full-time or permanent part-time female employees who are not eligible for paid maternity leave are entitled to unpaid maternity leave of not more than 12 months.
- (d) Applications for Maternity Leave
 - (i) An employee who intends to proceed on maternity leave should formally notify their Operations Manager/Operations Centre Manager (in writing) of such intention as early as possible however, not less than eight (8) weeks prior to the commencement of leave. This notice must include a statement of:
 - (1) The intention to proceed on maternity leave;
 - (2) The expected date of birth certified by a medical practitioner;
 - (3) The period of leave to be taken;
 - (4) The date on which maternity leave is to commence;
 - (5) A Statutory Declaration stating any period of parental leave sought or taken by the employee's spouse. This declaration must also state that the applicant is the child's primary caregiver for the period of leave sought.
 - (6) The entitlement to maternity leave is reduced by any period of parental leave taken by the employee's spouse. Apart from parental leave of one (1) week at the time of birth, maternity leave is not to be taken concurrently with parental leave except as otherwise provided at subclause (a)(i) of Part D of this clause.
- (e) Applications for Further Maternity Leave
 - (i) Where an employee becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If an employee enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases.
 - (ii) An employee who commences a subsequent period of maternity leave while on unpaid maternity leave under subclause (c)(i) of Part A of this clause or subclause (a)(ii) of Part D of this clause is entitled to be paid at their normal rate (i.e. the rate at which they were paid before proceeding on maternity leave).
 - (iii) An employee who commences a subsequent period of maternity leave during the first 12 months of a return to duty on a part-time basis as provided under subclause (a)(iii) of Part

D of this clause is entitled to be paid at their substantive full-time rate for the subsequent period of maternity leave.

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

(f) Variations of Maternity Leave

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

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

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

(g) Staffing Provisions

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

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

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

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

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

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

(k) Stillbirth

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

(l) Miscarriage

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

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

- (i) Whilst an employee may commence maternity leave up to fourteen (14) weeks, prior to the expected date of birth, this is not compulsory. However, if an employee decides to continue working prior to taking maternity leave, she must be able to satisfactorily perform her normal duties.
- (ii) Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obligated, as far as practicable, to provide alternative employment in some other position that she is able to satisfactorily to perform, until maternity leave commences. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.
- (iii) Pregnant Ambulance Officers and Patient Transport Officers may take up their entitlement to alternative duties at any time during their pregnancy if their medical condition determines they are unable to carry out normal duties.

(n) Medical Certificate Requirement

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

(o) Right to Return to Previous Position

- (i) An employee who returns to work after maternity leave has a right to return to her former position.
- (ii) Where this position no longer exists, the employee is entitled to be placed in a position nearest in status and salary to that of her former position and to which the employee is capable and/or qualified.

(p) Portability of Service for Paid Maternity Leave

When determining an employee's eligibility for paid maternity leave, continuous service with an organisation that is part of the government sector as defined in the *Government Sector Employment Act 2013* will be recognised, provided that:

- (i) service was on a full-time or permanent part-time (as specified) basis;
- (ii) cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;
- (iii) the employee commences duty with the new employer on the next working day after ceasing employment with the former employer. (There may be a break in service of up to 2 months before commencing duty with the new employer, provided that the new position was secured before ceasing duty with the former employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.)

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

B. Adoption Leave

(a) Eligibility for Adoption Leave

- (i) All full-time and permanent part-time employees who are adopting a child and are to be the primary care giver of the child are entitled to unpaid adoption leave.
- (ii) Employees who are adopting a child and are to be the primary care giver of the child are entitled to paid adoption leave as follows:

Full-time employees

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

Permanent part-time employees

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

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

- (b) Entitlements
- (i) Paid Adoption Leave
- Eligible employees are entitled to fourteen (14) weeks at the ordinary rate of pay. This leave may commence from the date of taking custody of the child.
- Paid adoption leave may be paid:
- on a normal fortnightly basis; or in advance in a lump sum; or
- at the rate of half pay over a period of twenty-eight (28) weeks on a regular fortnightly basis.
- Annual and/or long service leave credits can be combined with periods of adoption leave at half pay to enable an employee to remain on full pay for that period.
- (ii) Unpaid Adoption Leave
- Eligible employees are entitled to unpaid adoption leave as follows:
- where the child is under the age of 12 months - a period of not more than 12 months from the date of taking custody;
- where the child is over the age of 12 months and under 18 years old - a period of up to 12 months, such period to be agreed upon by both the employee and the employer.
- (c) Applications for Adoption Leave
- (i) Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave, normally 8 weeks prior. This will allow arrangements associated with the adoption leave to be made.
- (ii) A statement must also be provided from the adoption agency or appropriate body/government authority confirming that the applicant/ employee is to have custody and the expected date of placement of the child.
- (d) Applications for Further Adoption Leave Same provisions as maternity leave.
- (e) Variations of Adoption Leave
- Same provisions as maternity leave.
- (f) Staffing Provisions
- Same provisions as maternity leave.
- (g) Effect of Adoption Leave on Accrual of Leave, Increments, etc.
- Same provisions as maternity leave.
- (h) Right to Return to Previous Position
- Same provisions as maternity leave.

- (i) Portability of Service for Paid Adoption Leave

Same provisions as maternity leave.

C. Parental Leave

- (a) Eligibility for Parental Leave

- (i) Full-time employees

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

- (ii) Permanent part-time employees

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

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

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

- (b) Entitlements

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

- (i) An unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave).
 - (ii) The entitlement of one week's paid leave may be taken at any time within the 52 week period and shall be paid:

at the employees ordinary rate of pay for a period not exceeding one week on full pay, or two weeks at half pay or the period of parental leave taken, whichever is the lesser period.
 - (iii) A further unbroken period of unpaid parental leave not exceeding 52 weeks when added to short parental leave in order to be the primary caregiver of the child (extended parental leave).
 - (iv) Extended parental leave cannot be taken at the same time as the employee's spouse or partner is on maternity or adoption leave, except as otherwise provided at subclause (a)(i) of Part D of this clause.

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

(c) Applications for Parental Leave

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

if applicable, the period of any maternity leave sought or taken by his spouse, and that they are seeking the period of extended parental leave to become the primary caregiver of the child.

(d) Variations of Parental Leave

Same provisions as maternity leave.

(e) Staffing Provisions

Same provisions as maternity leave.

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

Same provisions as maternity leave.

(g) Right to Return to Previous Position

Same provisions as maternity leave.

(h) Portability of Service for Paid Parental Leave

Same provisions as maternity leave.

D. Right to Request

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

to assist the employee in reconciling work and parental responsibilities.

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

E. Communication During Leave

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

32A. Lactation Breaks

- (i) This clause applies to employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this Award.
- (ii) A full-time employee or a part-time employee working more than four hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day or per shift.
- (iii) A part-time employee working four hours or less on any day or shift is entitled to only one paid lactation break of up to 30 minutes each per day or per shift worked.
- (iv) A flexible approach to lactation breaks can be taken by mutual agreement between an employee and their manager provided the total lactation break time entitlement is not exceeded. When giving consideration to any such requests for flexibility, a manager needs to balance the operational requirements of the organisation with the lactating needs of the employee.

- (v) The employer shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk. Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and the employee will take place to attempt to identify reasonable alternative arrangements for the employee's lactation needs.
- (vi) Employees experiencing difficulties in effecting the transition from home based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.
- (vii) Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave or other leave in accordance with the award.

33. Study Leave

Employees shall be granted study leave on such terms and conditions prescribed by the Service's Instructional Circular 96/4, as updated or replaced from time to time.

34. Trade Union Leave

Employees shall be granted trade union leave on such terms and conditions prescribed by the NSW Health Policy Directive 2017_028, Leave Matters for the NSW Health Service, as amended or replaced from time to time.

35. Long Service Leave

- (a) Employees shall be granted long service leave on such terms and conditions as may be applicable from time to time to employees employed under the provisions of the *Government Sector Employment Act* 2013, and the regulations made thereunder. This includes the taking of long service leave on half pay.
- (b) Where an employee has accrued a right to an allocated day off duty on pay prior to entering a period of long service leave, such day shall be taken on the next working day immediately following the period of long service leave.
- (c) An employee returning to duty from long service leave shall be given the next allocated day off duty in sequence, irrespective of whether sufficient credits have been accumulated or not.

36. Sick Leave

- (a) If the Service is satisfied that an employee is unable to perform his or her duties on account of illness, not attributable to the employee's misconduct, it shall grant to such employee leave of absence on full pay for a period or periods as follows:
 - (i) All employees shall be entitled to sick leave for a period or periods not exceeding in the aggregate 114 hours in any period of 12 months.
 - (ii) Sick leave hours will be deducted at a rate equal to the length of the shift for which the employee was rostered i.e. sick leave hours will be deducted for the equivalent number of ordinary hours that would otherwise have been worked.
 - (iii) In the event of an employee not taking the full period of 114 hours in any period of 12 months, the untaken period of such leave shall accumulate.

A maximum of 76 hours of the untaken hours in each period of 12 months shall accumulate in respect of available sick leave which accumulated prior to 20 June 1980.

- (iv) Periods of less than 38 hours shall not be re-credited to employees who are sick whilst on annual leave or long service leave.
- (b) The Service shall not, with the sole object of avoiding obligations under this clause, terminate the services of an employee who is unable to perform his or her duties on account of illness and who is entitled to sick leave under this clause.
- (c) The employee shall notify the Service, where practicable, of his or her inability to attend for duty at least four hours but in any case no less than one hour before the commencement time of duty and inform the Service, as far as possible, the estimated duration of same.
- (d) All periods of sickness shall be certified by a legally qualified medical practitioner, provided however, that the Service may dispense with the requirements of a medical certificate where

the absence does not exceed two consecutive days or where, in the Services opinion, circumstances are such as not to warrant such requirements.
- (e) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to accident pay or workers' compensation; provided, however, that where an employee is not in receipt of accident pay, the Service shall pay to an employee, who has sick leave entitlements under this clause, the difference between the amount received, as workers' compensation and full pay. The employee's sick leave entitlement under this clause shall, for each week during which such difference is paid, be reduced by the proportion of hours which the difference bears to full-time hours. On the expiration of available sick leave, weekly compensation payments only shall be payable.
- (f) Any accumulation of sick leave standing to the credit of an employee as at 6 February 1998 shall be added to the leave which is accumulated pursuant to paragraph (ii) of subclause (a) of this clause.

SECTION 6. MISCELLANEOUS

37. Uniforms

- (a)
 - (i) The Service shall provide each new employee with sufficient, suitable and serviceable uniforms.
 - (ii) The Service will provide uniforms in accordance with its Uniform Policy. Any change to the policy will be the subject of consultation.
 - (iii) Uniforms provided shall be replaced by the Service upon condemnation in equivalent numbers.
 - (iv) The Service shall provide any other special clothing which the Service requires an employee to wear.
 - (v) Articles of uniform and special clothing issued under paragraphs (i) and (iv) of this subclause remain the property of the Service and shall be returned by the employee upon request by the Service.
- (b) Any request for uniform replacement by the Service or an employee will not be unreasonably refused.
- (c) Employees required to wear a uniform shall be paid a laundry allowance as prescribed in Item 12 of Table 2A of Section 8 Monetary Rates.

38. Accommodation

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

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

Days of relief from duty for an employee who works on a roster other than a modified hours roster may be accumulated by mutual arrangement between the employee and the Service up to a maximum of eight days. Nothing in this subclause shall be deemed to prohibit an employee in a one-officer branch station from temporarily leaving the station at times when he or she is rostered on duty or on-call after having made arrangements satisfactory to the Service for the proper carrying on by him or her of the service during the temporary absence.

- (b) Two-Officer Branch Stations - If an employee is supplied with quarters attached to an ambulance station, the maximum weekly rent shall not exceed the weekly on-call allowance specified in Item 4 of Table 2A - Allowances of Part B, Monetary Rates.
- (c) Rental for all other employees will be subject to such terms and conditions prescribed by the Ministry's Policy Directive 2010_038 Accommodation - Health Owned - Consideration of Rental/Market Rental Assistance Grant, as updated or replaced from time to time.
- (d) Where an employee is provided with accommodation and is transferred or resigns, he or she shall be given not less than four weeks' notice to vacate such accommodation, such notice to take effect from the date of notification of transfer or resignation.

39. Lockers and Showers

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

40. Union Subscriptions

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

41. Union Notice Boards

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

SECTION 7. AWARD PARAMETERS

42. Issues Resolution

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

- (b) In this clause, "issue" means any question, issue, grievance, dispute or difficulty which might arise between the parties about:
- (i) The interpretation, application or operation of this Award; or
 - (ii) Any allegation of discrimination in employment within the meaning of the *Anti-Discrimination Act 1977* which is not covered by established policies and procedures applicable to the Service, regardless of whether the issue relates to an individual employee or to a group of employees.
- (c) Any issue, and in the case of a grievance or dispute, any remedy sought, must be discussed in the first instance by the employee(s) (or the Union on behalf of the employee(s) if the employee(s) so request) and the immediate supervisor of that employee(s).
- (d) If the issue is not resolved within a reasonable time, it must be referred by the employee(s) immediate supervisor to his or her supervisor (or his or her nominee) and may be referred by the employee(s) to the Union Organiser for the Service. Discussions at this level must take place and be concluded within two working days of referral or such extended period as may be agreed.
- (e) If the issue remains unresolved, it may be referred by any of the parties to more senior officials of the Union who must then confer with the Chief Executive (and/or his/her nominee(s)) of the Service. The conclusions reached by those representatives must be reported to the parties within two working days of referral or such extended periods as may be agreed.
- (f) If these procedures are exhausted without the issue being resolved, or if any of the time limits set out in those procedures are not met, parties may seek to have the matter mediated by an agreed third party, or the matter may be referred, in accordance with the provisions of the *Industrial Relations Act 1996*, to the Industrial Relations Commission of New South Wales for its assistance in resolving the issue.
- (g) Unless agreed otherwise by the parties, the status quo must continue whilst these procedures are being followed. For this purpose "status quo" means the work procedures and practices in place:
- (i) Immediately before the issue arose; or
 - (ii) Immediately before any change to those procedures or practices, which caused the issue to arise, was made.
- The Service must ensure that all practices applied during the operation of these procedures are in accordance with safe working practices.
- (h) Throughout all the stages of these procedures, adequate records must be kept by the parties of all discussions.
- (i) These procedures are to be facilitated by the earliest possible advice by one party to the other of any issue or problem which may give rise to a grievance or dispute.
- (j) All matters in dispute arising out of the application of this Award may be referred to a disputes committee consisting of not more than six members with equal representatives of the Service and the Union. Such committee shall have the power to investigate all matters in dispute and report to the Service and the Union, respectively, with such recommendation as it may think right and, in the event of no mutual decision being arrived at by the Committee, the matter in dispute may be referred to the Industrial Relations Commission of New South Wales.

43. Anti-Discrimination

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

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

NOTES -

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

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

44. Benefits Not to be Withdrawn

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

45. Exemptions

- (a) On and from 25 November 1977, in respect of conditions of employment relating to meals, meal breaks, on-call, Sunday penalty rates, annual leave, annual leave loading, sick leave, Relieving other members of staff, hours, working week and the issue of shoes or boots, gauntlets or gloves for employees attached to the former Hunter Region Ambulance District (as delimited by the New South Wales Ambulance Transport Service Board at a meeting held on 8 February 1963), reference is to be made to Determinations of the Health Commission dated 25 November 1977 and 14 December 1979.

For the purposes of this, the Hunter Ambulance District shall mean the Hunter Ambulance District as delimited by the New South Wales Ambulance Transport Service Board at a meeting held on 8 February 1963, viz:

Commencing on the coast between Munmorah Lake and Tuggerah or Budgewoi or Middle Lake, thence in a westerly direction to the northern shore of Tuggerah or Budgewoi or Middle Lake, thence by the northern shore of that Lake (including Budgewoi, Halekulani and Buff Point) to Wallarah Creek, thence in a straight line to the junction of the MacDonald River and Yengo (or Boree) Creek, thence by the MacDonald River in a northerly direction to where it joins the Wareng (or Howes Valley) Creek, thence by the Big Broken Back Range to Payne's Crossing, thence in a straight line to "Mistletoe", thence by the road to Belford Railway Station, thence by the Main Northern Railway line to Black Creek and by

the road from Stanhope to Cranky Corner and then by the road to "The Pass", thence by a straight line to Mount Royal, thence in a straight line to Eccleston, thence by the road to Salisbury Gap, then on to (but excluding) Salisbury, thence by the Wallarobba Range to the Railway Gates on the North Coast Railway Line, thence by the road to Wallarobba, thence by the most direct road to where it meets the Dungog-Clarencetown Road south of Brookfield, thence by that road to the bridge over the Williams River at Clarencetown (including Clarencetown), thence by that road to a point one mile south of Limeburners Creek, thence by a straight line to Dark Point on the coast, thence by the coast to the point of commencement.

- (b) This exemption shall only apply to those employees employed as such immediately prior to 14 October 1992.

46. No Extra Claims

Other than as provided for in the *Industrial Relations Act* 1996 and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2019 by a party to this Award.

47. Area, Incidence and Duration

- (a) This Award rescinds and replaces the Operational Ambulance Officers (State) Award published 9 February 2018 (382 I.G. 415) all variations thereof.
- (b) It shall apply to all employees as defined in this Award, employed by the Ambulance Service of New South Wales, excluding the County of Yancowinna, and shall regulate the terms and conditions of employment of such employees.
- (c) This Award takes effect from 1 July 2018 and shall remain in force for a period of one year. The wage rates as outlined in Table 1A - Wages; Table 1B - Operations Centre Staff - Wages, Table 2A - Allowances, Table 2B - Additional Allowances and Table 2C - Living Away From Home Allowance will apply from the first full pay period on or after (ffppoa) 1 July 2018.

SECTION 8. MONETARY RATES

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

Table 1A - Wages

Classification	Rates from ffppoa 01/07/2018 2.5% \$ per week
Patient Transport Officer	
Year 1	993.26
Year 2	1,037.47
Trainee Paramedic	
	1,187.97
Paramedic Intern	
Year 1	1,221.68
Year 2	1,245.07
Paramedic	
Year 1	1,325.02
Year 2	1,420.75
Paramedic Specialist	

Year 1	1,527.14
Year 2	1,569.16
Year 3	1,616.31
Critical Care Paramedic (Aeromedical)	
Year 1	1,708.88
Year 2	1,753.15
Critical Care Paramedic (Aeromedical) Team Leader	
Team Leader	1,840.79
Station Manager	1,697.19
District Manager	1,761.96
Clinical Training Officer	1,826.55
Clinical / Paramedic Educator	1,826.55
Year 1	2,223.11
Year 2	2,373.90

Table 1B - Operations Centre Staff - Wages

Classification	Rate from ffppoa 01/07/2018 2.5% \$ per week
Ambulance Operations Centre - Non Paramedic	
Trainee	1,229.89
Year 1	1,264.75
Year 2	1,289.03
Ambulance Operations Centre Paramedic	
Year 1	1,371.34
Year 2	1,470.87
Ambulance Operations Centre Paramedic Specialist	
Year 1	1,505.73
Year 2	1,556.98
Year 3	1,605.44
Duty Operations Centre Officer	1,814.25
Senior Operations Centre Officer	1,865.59
Aeromedical Operations Centre Officer	1,855.24

Table 2A - Allowances

Item No	Clause	Brief Description	Rates from ffppoa 01/07/2018 2.5% \$
1	5	Specialist Allowance	47.60
2	5	Rescue (Standby) Allowance	16.40
3	23	On Call Allowance (per 24 hours)	23.00
4	23	On Call Allowance (per week)	92.40
5	5	Ambulance Studies Certificate Allowance (current recipients only)	27.90
6	13	Climatic and Isolation Allowance (a)*	\$4.60
7	13	Climatic and Isolation Allowance (b)*	\$9.30
8	15	Travelling Meal Allowance*	30.05
9	15c(i)	Meal Away from Station Allowance*	30.05
10	15c(ii)	Crib Away From Station Allowance*	15.05
11	24	Overtime Meal Allowance*	30.05
13	37	Laundry Allowance (per week)*	13.30

* This is not subject to Award wages increases.

Table 2B - Additional Allowances**Uniformed Operations Centres Staff**

Item No.	Clause	Brief Description	Rates from ffppoa 01/07/2017 2.5% \$
1	5	Operations Centre (standby) Allowance	24.60
2	5	Operations Centre Allowance (This Allowance is only applicable to Paramedics, Paramedic Specialists, Team Leaders, Station Managers and District Managers. Such an allowance is cumulative on other allowances paid to the employee at the time).	97.48
3	5	Duty Operations Centre Officer-Air Ambulance (Transitional Allowance applicable only to officers employed as Air Ambulance Co-ordination Officers as at 6 February 1998).	15.38

Table 2C - Living Away From Home Allowance

Clause	Brief Description	Rates from ffppoa 01/07/2018 \$
16	Living Away From Home Allowance*	
	Tier 1	128.70
	Tier 2	118.95

*This is not subject to Award wages increases.

J. V. MURPHY, Commissioner.

Printed by the authority of the Industrial Registrar.

(318)

SERIAL C8843

PUBLIC HOSPITAL CAREER MEDICAL OFFICERS (STATE) AWARD 2017

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 2017/200337)

Before Chief Commissioner Kite
Commissioner Murphy
Commissioner Seymour

26 October 2017

AWARD

1. Arrangement

PART A

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Salaries
4.	Senior Career Medical Officer
5.	Salary increases and work value
6.	In-Charge Allowance
7.	Hours of Work
8.	Penalty Rates
9.	Time Worked
10.	Overtime
11.	On-Call and Call-Back
12.	Annual Leave
13.	Public Holidays
14.	Sick Leave
15.	Family and Community Services Leave and Personal/Carer's Leave
15A.	Family Violence Leave
16.	Uniform and Laundry Allowance
17.	Continuing Medical Education
18.	Settlement of Disputes
19.	Travelling Allowances
20.	Long Service Leave
21.	Maternity, Adoption and Parental Leave
21A.	Lactation Breaks
22.	Trade Union Leave
23.	Labour Flexibility
24.	Anti-Discrimination
25.	Salary Sacrifice to Superannuation
26.	Salary Packaging
27.	Reasonable Hours
28.	Higher Duties Allowance
29.	Underpayment and Overpayment of Salaries
30.	No Extra Claims
31.	Area, Incidence and Duration

PART B

Table 1 - Allowances

PART A**2. Definitions**

"Association" means the Australian Salaried Medical Officers' Federation (New South Wales) or the Health Services Union NSW.

"Career Medical Officer" means a medical practitioner who is registered with the Medical Board of Australia and is not employed under the classifications set out in the Public Hospital (Medical Officers) Award.

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

"Employer" means the Secretary exercising employer functions on behalf of the Government of NSW (and includes a delegate of the Secretary).

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

"Ministry" means the NSW Ministry of Health.

"Public Health Organisation" means an organisation defined in section 7 of the *Health Services Act 1997* as follows:

- (a) a Local Health District; or
- (b) a statutory health organisation; or
- (c) an affiliated health organisation in respect of its recognised establishments and recognised services.

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

"Secretary" means the Secretary of the Ministry of Health.

3. Salaries

Part A -

Salaries for Career Medical Officers shall be as set out in the Health Professional and Medical Salaries (State) Award.

Career Medical Officers with less than five years postgraduate experience shall be appointed to Grade 1.

Career Medical Officers with five years postgraduate experience or more shall be appointed to Grade 2.

Progression within Grades 1 and 2 shall occur on the anniversary of appointment. Provided that nothing in this clause precludes the employer, at the employer's sole discretion, from:

- (i) initially appointing a Career Medical Officer to a higher step within the relevant grade; or
- (ii) accelerating a Career Medical Officer through the steps within the relevant grade irrespective of length of service.

Provided that an employee employed on the Transitional Grade as at the commencement date of this Award shall remain on that scale. Progression within the Transitional Grade shall be in accordance with the provisions of this Award.

Individual Career Medical Officers employed as at 26 May 2005 in receipt of a salary higher than that of Senior Registrar as set out in the Health Professional and Medical Salaries (State) Award may reach written agreement with the employer that overtime payment will be calculated on the salary ascribed to Senior Registrar, as varied from time to time. Any such agreement will require further written agreement on an annual basis.

Part B -

- (a) For the purpose of calculation of payments to employees pursuant to the provisions of this Award, one hour's pay shall be calculated in accordance with the following formula:

$$\frac{\text{Annual Salary}}{52.17857} \times \frac{1}{38}$$

and one day's pay shall be calculated by multiplying "one hour's pay" (as calculated in accordance with the above formula) by 7.6.

- (b) Employees shall be eligible to progress to the next higher step in the scale on the anniversary of the date on which they were appointed.

Part C - Permanent Part-Time Career Medical Officers

- (i) A permanent part-time employee is one who is permanently appointed to work a specified number of hours which are less than those prescribed for a full-time employee.
- (ii) Employees engaged under Part C of this clause shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed by Part A, with a minimum payment of two hours for each start and one thirty-eighth of the appropriate allowances prescribed by clause 16, Uniform and Laundry Allowances, if applicable but shall not be entitled to an additional day off or part thereof as prescribed by clause 7, Hours of Work.
- (iii) Employees engaged under Part C of this clause shall be entitled to all other benefits of this Award not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.
- (iv) Employees engaged under Part C of this clause are entitled to contribute to the appropriate superannuation scheme subject to the requirements of relevant legislation.
- (v) A permanent part-time employee will progress to the next incremental step every 12 months from the date of commencement of employment, provided the work performed by the employee outside the scope of the part-time agreement is commensurate with the experience of a full-time employee and is acceptable to the employer. This subclause does not preclude accelerated progression.

4. Senior Career Medical Officer

- (i) A grading committee consisting of two nominees of the Ministry and two representatives of the Association(s) shall be constituted to consider and make recommendations to the employer in relation to appointment to the Senior Career Medical Officer grade. The committee shall meet to consider an application for progression to this grade by a Career Medical Officer within 28 days of an application being submitted to the employer.
- (ii) The grading committee shall not recommend appointment to the Senior Career Medical Officer grade unless the individual:
- (a) has at least seven years postgraduate clinical experience; and
- (b) has a demonstrated capacity to perform clinical duties and responsibilities at a senior level with minimal clinical supervision in one or more areas of medical speciality; and

- (c) is required by the employer to perform clinical duties and responsibilities at a senior level with minimal clinical supervision in one or more areas of medical speciality as required by the employer.
- (iii) If a grading committee does not recommend progression by a Career Medical Officer to Senior Career Medical Officer then the committee must provide written reasons to why progression was not recommended, which should provide guidance in respect of any future applications. Such written reasons must be provided to the Career Medical Officer within 21 days of the date of the meeting held to consider the application for regrading.
- (iv) A Career Medical Officer shall not make more than one application for progression to Senior Career Medical Officer in any 12 month period.
- (v) Subject to subclause (vi) of this clause, a Senior Career Medical Officer will progress to the second step of the Senior Career Medical Officer grade on the anniversary of his or her commencement on that grade.
- (vi) A Career Medical Officer appointed to the Transitional Grade shall be entitled to apply to be appointed to the Senior Career Medical Officer grade in accordance with the provisions of this clause. Provided that a Career Medical Officer who has been employed on the top step of the Transitional Grade for at least 12 months and who is appointed as a Senior Career Medical Officer shall be entitled to progress to the second step of the Senior Career Medical Officer grade after six months.

5. Work Value

The employer and the Associations agree that the salary rates provided under this Award recognise and cover all work value change and productivity gains for the period up to 1 July 2007 and extinguish all work value, special case or other claims prior to that date for Career Medical Officers.

6. in-Charge Allowance

An allowance as set out in Item 1 of Table 1 - Allowances shall be paid to employees for each twelve hours of duty or part thereof of continuous in-charge duty for responsibility for after hours medical services. This allowance shall be varied in accordance with increases in salary rates under this Award.

7. Hours of Work

- (i) The ordinary hours of work shall not exceed an average of 38 hours per week. This shall be achieved by rostering employees for duty over either forty hours in any period of seven consecutive days or eighty hours in any period of fourteen consecutive days and, in addition, then granting employees roster leave additional to that prescribed in subclause (ii) of this clause to the extent of one additional day per calendar month. Such additional roster leave may accumulate to a maximum of three days and shall be granted in multiples of one day. Upon termination of employment an employee shall be paid the monetary value of any untaken additional roster leave, calculated at the employee's ordinary time rate of pay as prescribed by Clause 3, Salaries.
- (ii) Employees shall be free from ordinary hours of duty for not less than two days in each week or where this is not practicable, four days in each fortnight. Where practicable, days off shall be consecutive and where possible additional rostered days off shall be combined with other rostered time off.
- (iii) No shift shall be less than eight hours in length on a weekday or less than four hours in length on a Saturday, Sunday or public holiday.
- (iv) No broken or split shifts shall be worked.
- (v) All time worked in excess of ten hours in any one shift shall be paid as overtime.

- (vi) Where in any pay period, an employee is not employed for the whole of the pay period, the ordinary hours of work for the purpose of calculating salary for that pay period (i.e., 38 or 76 hours) will be adjusted by the following factor, rounded to the nearest whole number -

Number of calendar days employed

Number of calendar days in pay period

- (vii) Employees shall be given at least two weeks' notice of rosters to be worked in relation to ordinary hours of work and also where practicable, in relation to additional (overtime) rostered hours of work, provided that the employer may change the rosters without notice to meet any emergent situation. This subclause shall not apply in respect of the granting by the employer of additional roster leave pursuant to this clause.
- (viii) In the interests of patient care and the health and welfare of medical staff, employees shall have a break from duty for the purpose of taking a meal. There shall be a uniform meal break of 30 minutes except where locally agreed arrangements for a longer period are made (which shall not exceed one hour).
- (ix) If employees are required to work during their meal breaks they shall be paid for the time worked. Unless the employee is permitted to finish duty early on the same shift then overtime becomes payable once the total ordinary work time of the shift has elapsed.
- (x) Medical administrators are to establish simple and effective procedures in consultation with employees to record when staff are required to work through their meal breaks and to ensure that payment is made.

8. Penalty Rates

Any ordinary hours worked between the following hours shall be paid at ordinary time plus the appropriate penalty rate:

- (i) Hours worked between 6.00 pm and midnight, Monday to Friday - 12.5%.
- (ii) Midnight and 8.00 am, midnight Sunday to midnight Friday - 25%.
- (iii) Midnight Friday and midnight Saturday - 50%.
- (iv) Midnight Saturday and midnight Sunday - 75%.

9. Time Worked

Time worked means the time during which an employee is required by the employer to be in attendance at a hospital for the purpose of carrying out such functions as the employer may call on him/her to perform, and it shall include times when the employee, in waiting to carry out some active functions, is studying or resting or sleeping or engaged in any other activity.

Provided that time worked does not include uninterrupted breaks allowed and actually taken for meals.

Provided further that where an employee attends of his/her own volition outside of hours rostered on duty, or where an employee remains in attendance when formally released from the obligation to perform professional duties, the employer shall not be liable to make any payment for such attendance.

10. Overtime

- (i) All time worked by employees in excess of the ordinary hours specified in clause 7, Hours of Work, shall be paid at the rate of time and one half for the first two hours, and double time for the remaining hours worked, provided that all overtime performed on a Sunday shall be at double time.
- (ii) All time worked by employees employed pursuant to Part C, Permanent Part-Time Career Medical Officers, of clause 3, Salaries, in excess of the rostered daily ordinary hours of work prescribed for the

majority of full-time employees employed on that shift shall be paid at the appropriate overtime rate prescribed herein. Time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on the shift concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.

- (iii) An employee who works authorised overtime and was not notified on or prior to his/her previous shift of the requirement to work such overtime shall be paid in addition to payment for such overtime the meal allowance as determined by the Industrial Relations Secretary from time to time:
 - (a) for breakfast when commencing such overtime work at or before 6.00 am;
 - (b) for an evening meal when such overtime is worked for at least one hour immediately following his/her normal ceasing time, exclusive of any meal break and extends beyond or is worked wholly after 7.00 pm;
 - (c) for luncheon when such overtime extends beyond 2.00 pm on Saturdays, Sundays or holidays;or shall be provided with adequate meals in lieu of such payments.
- (iv) Provided however that an employee employed in a community health facility shall be granted time in lieu of overtime payments. Such time in lieu shall be taken within three months of accrual and at ordinary time. If such accrued time in lieu is unable to be taken within the three month period, it is to be paid out at the end of the three month period in accordance with subclause (i) above at the current rates of pay then applying.

11. On-Call and Call-Back

- (i) An "on-call period" is a period during which an employee is required by the employer to be on-call. No employee shall be required to remain on call while on leave.
- (ii) For the purposes of calculation of payment of on-call allowances and for call-back duty, an on-call period shall not exceed 24 hours.
- (iii) An employee shall be paid for each on-call period which coincides with a day rostered on duty an allowance as set out in Item 2 of Table 1 - Allowances and for each on-call period coinciding with a rostered day off an allowance as set in the said Item 2 with a maximum payment as set out in the said Item 2 per week. These allowances shall be varied in accordance with increases in salary rates under this Award.
- (iv) Subject to subclause (v) below, an employee who is called back for duty shall be paid for all time worked at the appropriate overtime rate, with a minimum of four hours at such rates. If an employee is called back on more than one occasion during the call back period for which he or she is paid, the employee will not be entitled to further payment until the expiration of the four hour payment period.
- (v) Employees required to work overtime after leaving the employer's premises to provide a technology support resolution or clinical appraisal remotely without onsite presence, shall be paid for such work at the appropriate overtime rate, with a minimum of one hour at such rates.
- (vi) The amounts specified in subclause (iii) shall be taken to include expenses incurred in taking telephone calls at one's own residence and other expenses incurred being available for emergency duty.

12. Annual Leave

- (i) All employees shall be allowed four calendar weeks leave of absence on full pay in respect of each twelve months service as defined in this Award plus one day on full pay in respect of each public holiday occurring within the period of such leave.

- (ii) Employees who are required to work on Sundays and/or public holidays during a qualifying period of employment for annual leave purposes shall be entitled to receive additional annual leave in respect of each complete period of eight hours so worked as follows:
- (a) if 35 or more such periods on such days have been worked - one week;
 - (b) if less than 35 such periods on such days have been worked - leave proportionately calculated on the basis of 38 hours leave for 35 such periods worked;
 - (c) work performed by reason of call-backs pursuant to clause 10, Overtime, shall be disregarded when assessing an employee's entitlement under this subclause.
 - (d) The calculations referred to in paragraphs (a) and (b) of this subclause shall be made to the nearest one-fifth of the ordinary hours worked, half or more than half of one-fifth being regarded as one-fifth and less than half being disregarded.
 - (e) An employee, with accrued additional annual leave pursuant to this subclause (ii), can elect at any time to be paid an amount equivalent to the value of accrued additional leave in lieu of taking additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave was actually taken.
- (iii) Annual leave shall be given and shall be taken within a period of six months after the date when the right to annual leave accrued; provided that the giving and taking of the whole or any separate period of such annual leave may, by mutual agreement between the employer and the employee, be postponed for a further period not exceeding six months.
- (iv) If the employee and the employer so agree, the annual leave or any such separate periods may be taken wholly or partly in advance before the employee has become entitled to that leave, but where leave is taken in such circumstances a further period of annual leave shall not commence to accrue until the expiration of the twelve months in respect of which the annual leave or part thereof has been so taken.
- (v) Except as provided by this clause, payment shall not be made to an employee in lieu of any annual leave or part thereof nor shall any such payment be accepted by the employee.
- (vi) The employee shall be given at least two months notice of the date from which his/her annual leave is to be taken.
- (vii) Each employee shall be paid before entering upon annual leave his/her ordinary rate of salary for the period of leave.
- (viii) Where the employment of an employee is terminated, the employee shall be entitled to receive proportionate payment for each completed month of service, together with such additional annual leave entitlements due under subclause (ii). All payments are to be made at the rate of salary to which such employee is entitled under this Award.
- (ix) Where the annual leave under this clause or any part thereof has been taken in advance by an employee pursuant to sub clause (iv), of this clause; and
- (a) the employment of the employee is terminated before he/she has completed the year of employment in respect of which such annual leave or part thereof was taken; and
 - (b) the sum paid to the employee as ordinary pay for the annual leave or part so taken in advance exceeds the sum which the employer is required to pay to the employee under subclause (viii) of this clause,
- the employer shall not be liable to make any payment to the employee under the said sub clause (viii); and shall be entitled to deduct the amount of such excess from any remuneration payable to the employee upon the termination of the employment.

- (x) Any annual leave which had accrued to an employee employed immediately prior to the operative date of this Award under the provisions then in force and who continues in employment under this Award shall remain to his/her credit and such leave may be allowed as provided in this clause in addition to any other leave which has accrued to an employee under the provisions of this clause.

(NOTATION: The conditions under which the annual leave loading shall be paid to employees are the same as generally applied through policy directives issued by the Ministry).

13. Public Holidays

- (i) Public Holidays shall be allowed to employees on full pay.
- (ii) Where an employee is required to and does work on any of the public holidays, as set out in this clause, the employee shall have one day added to the period of his/her annual leave for each public holiday so worked unless time off in respect of time worked on any such public holiday has already been granted to the employee. The provisions of this subclause shall also apply to employees where a public holiday falls on a rostered day off.
- (iii) Provided that an employee who has accrued additional annual leave referred to in paragraph (ii) of this subclause can elect at any time to be paid an amount equivalent to the value of accrued additional leave in lieu of taking additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave was actually taken.
- (iv) For the purpose of this clause, the following shall be deemed to be public holidays: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, or in lieu of any such day any holiday proclaimed in lieu thereof, together with any other day duly proclaimed as a special day and observed as a public holiday within the area in which the hospital in which the employee is employed is situated.
- (v) All hours worked on public holidays shall be paid at the rate of time and one half.

14. Sick Leave

- (i) An employee shall be allowed sick leave on full pay calculated by allowing 76 rostered ordinary hours of work for each year of continuous service less any sick leave on full pay already taken subject to the following conditions:
- (a) The employer may require the sickness to be certified to by the medical superintendent or by a legally qualified medical practitioner, approved by the employer, or may require other satisfactory evidence thereof. This requirement shall be dispensed with where the absence does not exceed two consecutive days.
- (b) An employee shall not be entitled to sick leave until the expiration of three months' continuous service.
- (c) Each employee shall take all reasonably practicable steps to inform the employer of his or her inability to attend for duty and as far as possible state the estimated duration of the absence. Where practicable such notice shall be given within twenty-four hours of the commencement of such absence.
- (d) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to workers' compensation; provided, however, an employer shall pay to an employee who has sick leave entitlements under this clause, the difference between the amount received as workers' compensation and full pay, if the employee elects such payment. The employee's sick leave entitlements under this clause shall, for each week during which such difference is paid, be reduced by that proportion of hours which the difference paid bears to full pay. On the expiration of available sick leave, weekly compensation payments only shall be payable.

- (e) An employee not eligible for sick leave during periods when he/she would have normally been rostered on overtime shifts.
- (ii) Continuous service for the purpose of this clause shall be calculated in the same manner as provided for in paragraph (a) of subclause (ii) of clause 20, Long Service Leave.
- (iii) Full pay for the purpose of this clause shall include the uniform allowance where payable under clause 16, Uniform and Laundry Allowance.
- (iv) Sick leave as defined shall accrue and be transferable between hospitals, at the rate of 76 rostered ordinary hours of work per year of continuous service, minus leave taken.
- (v) Any sick leave which had accrued to an employee employed immediately prior to the operative date of this Award, under the provisions then in force and who continues in employment under this Award shall remain to his/her credit and such leave may be allowed as provided in this clause in addition to any other leave which has accrued to an employee under the provisions of this clause.
- (vi) Subject to the provision of a satisfactory medical certificate and sick leave being due, annual or long service leave shall be re-credited where an illness of at least a week's duration occurs during the period of annual or long service leave, provided that the period of leave does not occur prior to retirement, resignation or termination of service.

15. Family and Community Services Leave and Personal/Carer's Leave

- (i) Family and Community Services (FACS) Leave and Personal/Carer's Leave are separate, stand alone entitlements.
- (ii) The provisions outlined in Parts A and B of this clause are available to all employees covered by this Award, other than casual employees as defined in subclause (iii) below.
- (iii) Casual employees as defined in the Health Industry Status of Employment (State) Award are entitled to the provisions outlined in Part C of this clause.

A. FACS Leave

- (i) FACS Leave - General
 - (a) For the purpose of this clause relating to FACS leave:
 - "relative" means a person related by blood, marriage or affinity;
 - "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - "household" means a family group living in the same domestic dwelling.
 - (b) The employer may grant FACS leave to an employee:
 - (1) to provide care and/or support for sick members of the employee's relatives or household; or
 - (2) for reasons related to the family responsibilities of the employee (e.g. to arrange and or attend a funeral of a relative; to accompany a relative to a medical appointment where there is an element of emergency; parent/teacher meetings; education week activities; to meet elder-care requirements of a relative); or
 - (3) for reasons related to the performance of community service by the employee (e.g. in matters relating to citizenship; to office holders in local government, other than as a mayor, for attendance at meetings, conferences or other associated duties; representing

Australia or the State in major amateur sport other than in Olympic/Commonwealth Games); or

- (4) in a case of pressing necessity (e.g. where an employee is unable to attend work because of adverse weather conditions which either prevent attendance or threaten life or property; the illness of a relative; where a child carer is unable to look after their charge).

(ii) FACS leave replaces compassionate leave.

(iii) An employee is not to be granted FACS leave for attendance at court to answer a criminal charge, unless the employer approves the grant of leave in the particular case.

Applications for FACS leave to attend court, for reasons other than criminal charges, will be assessed on an individual basis.

(iv) FACS Leave - entitlement

(a) The maximum amount of FACS leave on full pay that may be granted to an employee is:

- (1) 3 working days during the first year of service, commencing on and from 1 January 1995, and thereafter 6 working days in any period of 2 years; or
- (2) 1 working day, on a cumulative basis effective from 1 January 1995, for each year of service after 2 years' continuous service, minus any period of FACS leave already taken by the employee since 1 January 1995,

whichever method provides the greater entitlement.

(b) For the purposes of calculating entitlements under (vi)(a)(1) and (2) above, a working day for employees working 38 hours per week shall be deemed to consist of 8 hours, and a working day for employees working 35 hours per week shall be deemed to consist of 7 hours. The rate at which FACS leave is paid out and utilised shall be on actual hours absent from a rostered shift.

Example A: An employee working 38 hours per week will have an entitlement, in their first year of employment, to 24 hours of FACS leave. If the employee take FACS leave for a full 10 hour shift, the employee would be debited 10 hours of FACS leave.

Example B: An employee working 35 hours per week will have an entitlement, in their first year of employment, to 21 hours of FACS leave. If the employee takes FACS leave for a full 7 hour shift, the employee would be debited 7 hours of FACS leave.

Example C: An employee, employed prior to 1 January 1995, applies for FACS leave on 20 February 1997. The employee is entitled to 6 days in any period of two years. Therefore, to calculate the employee's available FACS leave as at 20 February 1997, add all FACS leave taken from 21 February 1995 to 20 February 1997 and deduct that amount from the 6 days entitlement.

(c) FACS leave is available to part-time employees on a pro rata basis, based on the average number of hours worked per week. A working day shall consist of one-fifth of the employee's average weekly hours during the preceding 12 months or during the employee's period of employment, whichever is the lesser period.

Example: An employee working an average of 30 hours per week will have an entitlement, in his/her first year of employment, of 18 hours of FACS leave. If the employee takes FACS leave for a full rostered shift e.g. of 4 hours, the employee would be debited 4 hours of FACS leave. Likewise, if the employee was rostered for 8 hours and was absent for the full 8 hours on FACS leave, he/she would be debited 8 hours of FACS leave.

(v) Additional FACS leave for bereavement purposes

Where FACS leave has been exhausted, additional FACS leave of up to 2 days for bereavement may be granted on a discrete, "per occasion" basis to an employee on the death of a relative or member of a household as defined in subclause (i) (a) of Part A of this clause.

(vi) Use of other leave entitlements

The employer may grant an employee other leave entitlements for reasons related to family responsibilities or community service, by the employee.

An employee may elect, with the consent of the employer, to take annual leave; long service leave; or leave without pay.

B. Personal/Carer's Leave

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

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

- (a) a spouse of the employee; or
- (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (e) a relative of the employee who is a member of the same household, where for the purpose of this clause relating to Personal/Carer's Leave:

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

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

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

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

- (a) The entitlement to use sick leave in accordance with this subclause is subject to:
 - (1) the employee being responsible for the care and support of the person concerned; and
 - (2) the person concerned being as defined in subclause (i) of Part B of this clause.
- (b) Other than a casual or any other employee who receives a loading in lieu of sick leave, an employee with responsibilities in relation to a person who needs their care and support shall be entitled to use the untaken sick leave, from that year's annual sick leave entitlement, to provide care and support for such persons when they are ill.
- (c) Sick leave accumulates from year to year. In addition to the current year's grant of sick leave available under (b) above, sick leave untaken from the previous 3 years may also be accessed by an employee with responsibilities in relation to a person who needs their care and support.

- (d) The employer may, in special circumstances, make a grant of additional sick leave. This grant can only be taken from sick leave untaken prior to the period referred to in subclause (c) above.
- (e) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, that the illness of the person concerned is such as to require care by another person.
- (f) The employee has the right to choose the method by which the ground for leave is established, that is, by production of either a medical certificate or statutory declaration.
- (g) The employee is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration.
- (h) The employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
- (i) In normal circumstances, the employee must not take leave under this part where another person has taken leave to care for the same person.

(iii) Use of other leave entitlements

An employee may elect, with the consent of the employer, to take:

- (a) annual leave, including annual leave not exceeding 10 days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties. An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least 5 consecutive annual leave days are taken. An employee may elect with the employer's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
- (b) long service leave; or
- (c) leave without pay for the purpose of providing care and support to the person concerned as defined in subclause (i) of Part B of this clause.

(iv) Time off in lieu of payment of overtime

- (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment of overtime at a time or times agreed with the employer within 12 months of the said election
- (b) Overtime taken as time off during ordinary time shall be taken at the ordinary time rate, that is, one hour off for each hour of overtime worked.
- (c) If, having elected to take time as leave in accordance with (iv)(a) above and the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve 12 month period from the date the overtime was worked, or earlier by agreement, or on termination.
- (d) Where no election is made in accordance with paragraph (iv)(a) above, the employee shall be paid overtime rates in accordance with the provisions of clause 9, Overtime.

(v) Use of make-up time

- (a) An employee may elect, with the consent of the employer, to work "make-up time". "Make-up time" is worked when the employee takes time off during ordinary hours for family or

community service responsibilities, and works those hours at another time, during the spread of ordinary hours provided for in clause 6 of this Award, at the ordinary rate of pay.

- (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off during ordinary hours and works those hours at another time) at the applicable shift work rate which would have been applicable to the hours taken off.

C. Entitlements for Casual Employees

(i) Bereavement entitlements for casual employees

- (a) Casual employees are entitled to not be available to attend work or to leave work upon the death in Australia of a relative or member of a household as prescribed in subclause (i)(a) of Part A of this clause.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this part. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

(ii) Personal carers entitlement for casual employees

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

15A. Family Violence Leave

- (i) For the purpose of this clause, family violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*. The violence may have been reported to the police and/or may be the subject of an Apprehended Violence Order.
- (ii) An employee experiencing family and domestic violence can utilise Award leave entitlements provided for in Sick Leave and Family and Community Services Leave provisions of the Award.
- (iii) Where leave entitlements to Sick Leave and Family and Community Services Leave are exhausted, the employer will grant up to five days per year of paid special leave to attend legal proceedings, counselling, appointments with a medical or legal practitioner and relocation and safety activities directly associated with alleviating the effects of family and domestic violence. This leave entitlement does not accumulate from year to year.
- (iv) Upon exhaustion of the paid leave entitlement, an employee may request further periods of unpaid leave, for the same activities for which paid leave would be available.

- (v) To access paid and unpaid leave, the employee must provide the employer with evidence, to the employer's satisfaction, substantiating the purpose of the leave and that the leave is related to alleviating the effects of family violence. The employer may accept a variety of agreed documentation in support of an application for leave. Supporting documentation may be presented in the form of an agreed document issued by the Police Force, a Court, a doctor, a Family Violence Support Service or a lawyer.
- (vi) Matters related to family violence can be sensitive. Information collected by the employer will be kept confidential. No information relating to the details of the family violence will be kept on an employee's personnel file without their express permission. However, records about the use of family violence leave will need to be kept.
- (vii) The employer, where appropriate, may facilitate flexible working arrangements subject to operational requirements. This may include changes to working times and locations, telephone numbers and email addresses.
- (viii) The employer will co-operate with all legal orders protecting an employee experiencing domestic violence.

16. Uniform and Laundry Allowances

- (i) Sufficient suitable and serviceable uniforms shall be provided for each employee required to wear a uniform and such uniforms shall be laundered at the expense of the employer.
- (ii) Where an employer requires a uniform to be worn but does not provide such uniform, the following allowances shall be paid:
 - (a) where a full uniform, including special shoes, is required, an amount per week as set in Item 3 of Table 1 - Allowances;
 - (b) in other cases, an amount as also set in Item 3 of Table 1.

17. Continuing Medical Education

- (i) After 12 months employment, an employee shall be entitled to 7 days of paid leave per annum for the purposes of Continuing Medical Education and professional development. This entitlement can accrue to a maximum of 21 days. The value of such leave is not payable on termination.
- (ii) The approval of the employer is required for such leave, which must not interfere with the maintenance of essential services and patient care. Approval shall not be unreasonably withheld.
- (iii) The Continuing Medical Education or professional development activities undertaken during such paid leave must be relevant to the position occupied by the employee.
- (iv) Expenses associated with such leave are to be reimbursed by the employer, provided that no expenses or allowances shall be payable in respect of travel or accommodation outside Australia, except in respect of courses run under the auspices of a recognised Australasian Specialist College in New Zealand. The provisions of the Ministry of Health Policy Directive PD2015_019, Official Travel, as amended from time to time, shall apply to any travel under this clause.
- (v) Expenses shall be reimbursed where the approved Continuing Medical Education or professional development activity falls on days that would not otherwise be working days.

18. Settlement of Disputes

- (i) Where a dispute arises in a particular section which cannot be resolved between the employees or their representative and the supervising staff, it shall be referred to the Chief Executive Officer of the Public Health Organisation or his/her nominee, who will arrange for the matter to be discussed with the employees concerned and a local representative or representatives of the Association.

- (ii) Failing settlement of the issue at this level, the matter shall be referred to the Secretary and the Head Office of the Association(s). The dispute will then be dealt with pursuant to subclause (v) of this clause.
- (iii) While these procedures are continuing, no stoppage of work or any form of ban or limitation of work shall be applied. Unless agreed otherwise by the parties the status quo before the emergence of the issue must continue while these procedures are being followed. For this purpose "status quo" means the work procedures and practice in place:
 - (a) immediately before the issue arose; or,
 - (b) immediately before any change to those procedures or practices, which caused the issue to arise, was made.
- (iv) The Association(s) reserve(s) the right to vary this procedure where it is considered a safety factor is involved.
- (v) With a view to an amicable and speedy settlement, all disputes that firstly cannot be settled in accordance with subclauses (i) and (ii) of this clause may be submitted to a committee consisting of not more than six members with equal representatives of the Secretary and the Association(s). Such committee shall have the power to investigate all matters in dispute and to report to the Chief Executive Officer and the Association(s) respectively with such recommendation as it may think right and in the event of no mutual decision being arrived at by such committee, the matter in dispute may be referred to the industrial committee.
- (vi) This clause shall not interfere with the rights of either party to institute proceedings for the determination of any matter in accordance with the *Industrial Relations Act 1996*.

19. Travelling Allowances

- (i) An employee seconded to another hospital may be granted a daily travel allowance at the rate of the difference between the cost of travel by public transport to his/her normal place of employment and travel by public transport to the seconding hospital. Provided that where an employee drives his/her own vehicle, he/she shall, in lieu, be eligible for an allowance equivalent to the transport allowance rate payable to members of the New South Wales Health Service as determined under the *Health Services Act 1997* from time to time, for the difference between the distance to his/her normal place of employment and the distance to the seconding hospital.
- (ii) An employee who, with the approval of the chief executive officer, uses on official business, a motor vehicle maintained primarily for other than official business, shall be paid the abovementioned allowance from time to time effective. However, where it is estimated that an employee will, with the approval of the chief executive officer, be required to use his/her private vehicle on official business on at least 50 days during any period of 12 months and during that period aggregate at least 805 kilometres of official running, he/she shall be paid at the official business rate payable to members of the New South Wales Public Service as determined by clause 36 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 from time to time.
- (iii) For the purpose of subclause (ii) travel on official business:
 - (a) occurs when an employee is required by the employer as part of his/her duty to use his/her motor vehicle to attend away from his/her normal place of employment or seconding hospital to another clinic, annexe or hospital. Where an employee travels on official business direct from his/her place of residence to a clinic, annexe or hospital, other than his/her normal place of employment he/she shall be paid for the difference between the distance to his/her normal place of employment or seconding hospital and that other annexe, clinic or hospital;
 - (b) does not include "call backs";
- (iv) Nothing in this clause shall make the employer liable for the cost of the employee's daily travel to his/her usual and normal place of employment.

NOTATION: -

- (i) For conditions relating to secondments see relevant Ministry of Health policy directives.
- (ii) Travelling compensation applies to staff required to work at centres other than their headquarters.

20. Long Service Leave

(i)

- (a) Each employee shall be entitled to two months long service leave on full pay after ten years of service; thereafter additional long service shall accrue on the basis of five months long service leave on full pay for each ten years service.

Employees with at least seven years service and less than 10 years service are entitled, proportionate to his or her length of service, to proceed on a proportionate period of long service leave on the basis of two months' long service leave for ten years' service on full pay.

- (b) Where the services of an employee with at least five years service and less than seven years service are terminated by the employer for any reason other than the employee's serious and wilful misconduct, or by the employee, on account of illness, incapacity or domestic or other pressing necessity, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service.

Where the services of an employee with at least seven years are terminated by the employer or by the employee, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service. Where the services of an employee with at least 10 years service are terminated by the employer or by the employee, he/she shall be entitled to be paid on the basis of two months' long service leave for ten years' service and thereafter on the basis of five months long service leave for each ten years service.

(ii) For the purposes of subclause (i) of this clause:

- (a) service shall mean continuous service with the employer. For the purpose of this paragraph, continuous service will be determined in accordance with the provisions of Section 17 of the Ministry of Health Policy Directive PD2014_029, Leave Matters for the NSW Health Service, as amended from time to time.
- (b) Broken periods of service with the employer in one or more hospitals shall count as service subject to the condition that where an employee, after ceasing employment with the employer is re-employed subsequent to the 1st July 1974, any service of that employee before he/she was so re-employed shall not be counted for the purpose of determining any long service leave due to that employee in respect of his/her service after he/she was so re-employed unless he/she has completed at least five years' continuous service from the date of his/her being so re-employed.
- (c) Service shall not include -
 - (1) any period of leave without pay except in the case of employees who have completed at least ten years service (any period of absence without pay being excluded there from) in which case service shall include any period of leave without pay not exceeding six months taken after 1 July 1974;
 - (2) any period of part-time service, except permanent part-time service.

(iii) An employee with an entitlement to long service leave may elect to access such entitlement:

- (a) on full pay;
- (b) on half pay; or

- (c) on double pay.
- (iv) When an employee takes long service leave, the leave entitlement will be deducted on the following basis:
 - (a) a period of leave on full pay - the number of days so taken;
 - (b) a period of leave on half pay - half the number of days so taken; or
 - (c) a period of leave on double pay - twice the number of days so taken.
- (v) When taking long service leave and an employee would otherwise have had a rostered shift fall on a public holiday during that period, the amount of long service leave to be deducted is to be reduced by one day for the public holiday.
- (vi) Long service leave shall be taken at a time mutually arranged between the employer and the employee.
- (vii)
 - (a) On the termination of employment of an employee, otherwise than by his/her death, an employer shall pay to the employee the monetary value of all long service leave accrued and not taken at the date of such termination and such monetary value shall be determined according to the salary payable to the employee at the date of such termination unless the employee transfers his or her leave entitlement in accordance with Section 17 of the NSW Health Policy Directive PD2014_029 Leave Matters for the NSW Health Service, as amended from time to time.
 - (b) Where an employee who has acquired a right to long service leave, or after having had five years service and less than ten years service dies, the widow or the widower of such employee, or if there is no such widow or widower, the children of such employee, or if there is no such widow, widower, or children, such person who, in the opinion of the employer, was at the time of the death of such employee, a dependent relative of such employee, shall be entitled to receive the monetary value of the leave not taken or which would have accrued to such employee, had his/her services terminated as referred to in paragraph (b) of subclause (i) of this clause and such monetary value shall be determined according to the salary payable to the employee at the time of his/her death.

Where there is a guardian of any children entitled under this paragraph the payment, to which such children are entitled, may be made to such guardian for their maintenance, education and advancement.

Where there is no person entitled under this paragraph to receive the monetary value of any leave payable under the foregoing provisions payment in respect thereof shall be made to the legal personal representative of such employee.
- (viii) Rights to long service leave under this clause shall be in replacement of rights to long service leave, if any, which at the 1st July 1974, may have accrued or may be accruing to an employee and shall apply only to persons in the employ of the employer on or after the 1st July 1974. Where an employee has been granted long service leave or has been paid its monetary value prior to the 1st July 1974, the employer shall be entitled to debit such leave against any leave to which the employee may be entitled pursuant to this clause.

21. Maternity, Adoption and Parental Leave

A. Maternity Leave

- (i) Eligibility for Paid Maternity Leave

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

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

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after her services have been otherwise dispensed with; or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

(ii) Portability of Service for Paid Maternity Leave

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

When determining an employee's eligibility for paid maternity leave, continuous service with an organisation that is part of the government sector as defined in the *Government Sector Employment Act 2013* will be recognised, provided that:

- (a) service was on a full-time or permanent part-time basis;
- (b) cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;
- (c) the employee immediately commences duty with the new employer. There may be a break in service of up to two months before commencing duty with the new employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.

(iii) Entitlement to Paid Maternity Leave

An eligible employee is entitled to fourteen weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen weeks prior to the expected date of birth.

It is not compulsory for an employee to take this period off work. However, if an employee decides to work during the nine weeks prior to the date of birth it is subject to the employee being able to satisfactorily perform the full range of normal duties.

Paid maternity leave may be paid:

- on a normal fortnightly basis; or
- in advance in a lump sum; or
- at the rate of half pay over a period of twenty-eight weeks on a regular fortnightly basis.

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

(iv) Unpaid Maternity Leave

- (a) Full-time and permanent part-time employees who are entitled to paid maternity leave are entitled to a further period of unpaid maternity leave of not more than 12 months after the actual date of birth.

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

(v) Applications

An employee who intends to proceed on maternity leave should formally notify her employer of such intention as early as possible, so that arrangements associated with her absence can be made.

Written notice of not less than eight weeks prior to the commencement of the leave should accordingly be given. This notice must include a medical certificate stating the expected date of birth and should also indicate the period of leave desired.

(vi) Variation after Commencement of Leave

After commencing maternity leave, an employee may vary the period of her maternity leave once only without the consent of her employer by giving the employer notice in writing of the extended period at least fourteen days' before the start of the extended period. An employer may accept less notice if convenient.

An employee may extend the period of maternity leave at any time with the agreement of the employer.

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

(vii) Staffing Provisions

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

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

When the employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual leave, sick leave and long service leave and any period of maternity leave on half pay is taken into account to the extent of one half thereof when determining the accrual of annual leave, sick leave and long service leave.

Except in the case of employees who have completed ten years' service the period of maternity leave without pay does not count as service for long service leave purposes. Where the employee has completed ten years' service the period of maternity leave without pay shall count as service provided such leave does not exceed six months.

Maternity leave without pay does not count as service for incremental purposes. Periods of maternity leave at full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.

Where public holidays occur during the period of paid maternity leave, payment is at the rate of maternity leave received i.e., public holidays occurring in a period of full pay maternity leave are paid at full rate and those occurring during a period of half pay leave are paid at half rate.

(ix) Illness Associated with Pregnancy

If, because of an illness associated with her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.

Where an employee is entitled to paid maternity leave, but because of illness, is on sick, annual, long service leave, or sick leave without pay prior to the birth, such leave ceases nine weeks prior to the expected date of birth. The employee then commences maternity leave with the normal provisions applying.

(x) Transfer to a More Suitable Position

Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. This obligation arises from Section 70 of the *Industrial Relations Act 1996*. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(xi) Miscarriages

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

(xii) Stillbirth

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

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

An employee who gives birth prematurely and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

(xiv) Right to Return to Previous Position

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

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

(xv) Further Pregnancy While on Maternity Leave

Where an employee becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If an employee enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases

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

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

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

B. Adoption Leave

(i) Eligibility

All full-time and permanent part-time employees who are adopting a child and are to be the primary care giver of the child are eligible for unpaid adoption leave.

To be eligible for paid adoption leave a full-time or permanent part-time employee must also have completed at least 40 weeks continuous service prior to the date of taking custody of the child.

An employee who has once met the conditions of paid adoption leave, will not be required to again work the 40 weeks continuous service in order to qualify for further periods of paid adoption leave, unless

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with; or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Worker's Compensation Act 1987*.

(ii) Portability of Service for Paid Adoption Leave

As per maternity leave conditions.

(iii) Entitlement

(a) Paid Adoption Leave

Eligible employees are entitled to paid adoption leave of fourteen weeks at the ordinary rate of pay from and including the date of taking custody of the child.

Paid adoption leave may be paid:-

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(b) Unpaid Adoption Leave

Eligible employees are entitled to unpaid adoption leave as follows:

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

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

(iv) Applications

Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should

formally notify the employer as early as practicable of the intention to take adoption leave. This will allow arrangements associated with the adoption leave to be made.

(v) Variation after Commencement of Leave

After commencing adoption leave, an employee may vary the period of leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

(vi) Staffing Provisions

As per maternity leave conditions.

(vii) Effect of Adoption Leave on Accrual of Leave, Increments, etc.

As per maternity leave conditions.

(viii) Right to return to Previous Position

As per maternity leave conditions.

C. Parental Leave

(i) Eligibility

To be eligible for parental leave a full-time or permanent part-time employee must have completed at least 40 weeks continuous service prior to the expected date of birth or to the date of taking custody of the child.

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

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with: or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

(ii) Portability of Service for Paid Parental Leave

As per maternity leave conditions.

(iii) Entitlements

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

- (a) an unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave), and
- (b) a further unbroken period in order to be the primary caregiver of the child (extended parental leave).
- (c) The entitlement of one week's paid leave may be taken at any time within the 52 week period and shall be paid:

at the employees ordinary rate of pay for a period not exceeding one week on full pay, or two weeks at half pay or the period of parental leave taken, whichever is the lesser period.

- (d) Extended parental leave cannot be taken at the same time as the employee's spouse or partner is on maternity or adoption leave except as provided for in subclause (i)(a) of Part D Right to Request of this clause.

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

(iv) Applications

An employee who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.

- (a) In the case of extended parental leave, the employee should give written notice of the intention to take the leave.
- (b) The employee must, at least four weeks before proceeding on leave, give written notice of the dates on which they propose to start and end the period of leave, although it is recognised in situations of taking custody of a child, little or no notice may be provided to the employee. In such an instance, the employee should notify the employer as early as practicable.
- (c) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.
- (d) In the case of extended parental leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:
- (1) if applicable, the period of any maternity leave sought or taken by his spouse, and
 - (2) that they are seeking the period of extended parental leave to become the primary care giver of the child.

(v) Variation after Commencement of Leave -

After commencing parental leave, an employee may vary the period of her/his parental leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

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

As per maternity leave conditions.

(vii) Right to Return to Previous Position

As per maternity leave conditions.

D. Right to Request

- (i) An employee entitled to maternity, adoption or parental leave may request the employer to allow the employee:
- (a) to extend the period of simultaneous maternity, adoption or parental leave use up to a maximum of eight weeks;

- (b) to extend the period of unpaid maternity, adoption or extended parental leave for a further continuous period of leave not exceeding 12 months;
 - (c) to return from a period of maternity, adoption or parental leave on a part-time basis until the child reaches school age;
to assist the employee in reconciling work and parental responsibilities.
- (ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
 - (iii) The employee's request and the employer's decision made under subclauses (i)(b) and (c) must be recorded in writing.
 - (iv) Where an employee wishes to make a request under subclause (i)(c):
 - (a) the employee is to make an application for leave without pay to reduce their full-time weekly hours of work
 - (b) such application must be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks notice must be given;
 - (c) salary and other conditions of employment are to be adjusted on a basis proportionate to the employee's full-time hours of work i.e. for long service leave the period of service is to be converted to the full-time equivalent and credited accordingly.
 - (d) employees who return from leave under this arrangement remain full-time employees. Therefore the payment of any part-time allowance to such employees does not arise.

E. Communication During Leave

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

NOTE:

- (a) The entitlement to Maternity, Adoption and Parental leave for part-time employees who receive an adjusted hourly rate along with casual employees, are in accordance with the provisions of Part 4, Parental Leave of the *Industrial Relations Act 1996* and/or Determination made under the *Health Services Act 1997*.

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

An employer must not fail to re-engage a casual employee because:

the employee or employee's spouse is pregnant; or

the employee is or has been immediately absent on parental leave.

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

- (c) Part-time employees who receive an adjusted hourly rate are also entitled to the provisions of Part D Right to Request and Part E Communication During Leave of this clause.

- (d) Liability for Superannuation Contributions

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

21A. Lactation Breaks

- (i) This clause applies to employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this Award.
- (ii) A full-time employee or a part-time employee working more than four hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day or per shift.
- (iii) A part-time employee working four hours or less on any day or shift is entitled to only one paid lactation break of up to 30 minutes each per day or per shift worked.
- (iv) A flexible approach to lactation breaks can be taken by mutual agreement between an employee and their manager provided the total lactation break time entitlement is not exceeded. When giving consideration to any such requests for flexibility, a manager needs to balance the operational requirements of the organisation with the lactating needs of the employee.
- (v) The employer shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk. Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and the employee will take place to attempt to identify reasonable alternative arrangements for the employee's lactation needs.
- (vi) Employees experiencing difficulties in effecting the transition from home based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.
- (vii) Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave or other leave in accordance with the award.

22. Trade Union Leave

- (i) Eligibility

Applies to members of the Association(s) accredited by the Association(s) as delegates.

(ii) Paid Special Leave

Paid special leave is available for attendance at:

- (a) annual or bi-annual conferences of the delegate's union; and
- (b) meetings of the union's executive/committee of management;
- (c) authorised union delegate meetings;
- (d) annual conference of Unions NSW;
- (e) bi-annual conference of the Australian Council of Trade Unions.

(iii) Limits

There is no limit on the special leave that could be applied for or granted.

(iii) Responsibilities of the Union Delegate

Responsibilities of the union delegate are:

- (a) to establish accreditation as a delegate with the union;
- (b) to provide sufficient notice of absence to the employer; and,
- (c) to lodge a formal application for special leave.

(v) Responsibilities of the relevant Association

Responsibilities of the relevant Association are:

- (a) to provide documentary evidence to the employer about an accredited delegate in sufficient time to enable the employer to make arrangements for performance of duties;
- (b) to meet all travelling, accommodation and any other costs incurred by the accredited delegate; and,
- (c) to provide the employer with confirmation of attendance of the accredited delegate.

(vi) Responsibilities of the employer

Responsibilities of the employer are:

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

(vii) Period of Notice

Generally, dates of conferences or meetings are known well in advance and it is expected that employers would be notified as soon as accreditation has been given to a delegate or at least two weeks before the date of attendance.

Where extraordinary meetings are called at short notice, a shorter period of notice would be acceptable, provided such notice is given to the employer as soon as advice of the meeting is received by the accredited delegate.

(viii) Travel Time

Where a delegate has to travel to Sydney, inter or intra state, to attend a conference or meeting, special leave will also apply to reasonable travelling time to and from the venue of the conference or meeting.

No compensation, such as time off in lieu, is to be provided if travel can be and is taken on an accredited delegate's non-working day or before or after their normal hours of work.

(ix) Payment of Allowances

No allowances will be claimable in cases of special leave granted for attendance at union conferences or executive meetings covered by this clause - see also subclause (v) above.

23. Labour Flexibility

- (i) An employer may direct an employee to carry out such duties as are reasonable, and within the limits of the employee's skill, competence and training consistent with employee's classification, grouping and/or career stream provided that such duties are not designed to promote deskilling.
- (ii) An employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained or has otherwise acquired the necessary skills in the use of such tools and equipment.
- (iii) Any direction issued by an employer pursuant to subclause (i) and (ii) shall be consistent with the employer's responsibilities to provide a safe and healthy work environment.
- (iv) Existing provisions with respect to the payment of mixed functions/higher duties allowances shall apply in such circumstances. In no circumstances shall an employee's salary be reduced by the application of this clause.

24. Anti-Discrimination

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

25. Salary Sacrifice to Superannuation

- (i) Notwithstanding the salaries prescribed in clause 3 Salaries as varied from time to time, an employee may elect, subject to the agreement of the employee's employer, to sacrifice a part or all of the salary payable under the salaries clause to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. The amount sacrificed together with any salary packaging arrangements under clause 26. Salary Packaging, of this Award may be made up to one hundred (100) per cent of the salary payable under the salaries clause, or up to one hundred (100) per cent of the currently applicable superannuable salary, whichever is the lesser.

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

- (ii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees and private health fund membership fees.
- (iii) Where the employee has elected to sacrifice a part or all of the available payable salary to additional employer superannuation contributions:
- (a) The employee shall be provided with a copy of the signed agreement. The salary sacrifice agreement shall be terminated at any time at the employee's election and shall cease upon termination of the employee's services with the employer.
- (b) Subject to Australian taxation law, the amount of salary sacrificed will reduce the salary subject to appropriate PAYE taxation deductions by the amount sacrificed; and
- (c) Any allowance, penalty rate, overtime, payment for unused leave entitlements, weekly workers' compensation, or other payment, other than any payment for leave taken in service, to which an employee is entitled under the relevant Award or any applicable Award, Act, or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the salaries clause in the absence of any salary sacrifice to superannuation made under this Award.
- (iv) The employee may elect to have the specified amount of payable salary which is sacrificed to additional employer superannuation contributions:
- (a) paid into the superannuation scheme established under the *First State Superannuation Act 1992* as optional employer contributions; or
- (b) subject to the employer's agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.

- (v) Where an employee elects to salary sacrifice in terms of subclause (iv) above, the employer will pay the sacrificed amount into the relevant superannuation fund.
- (vi) Where the employee is a member of a superannuation scheme established under:
 - (a) the *Police Regulation (Superannuation) Act 1906*;
 - (b) the *Superannuation Act 1916*;
 - (c) the *State Authorities Superannuation Act 1987*;
 - (d) the *State Authorities Non-contributory Superannuation Act 1987*; or
 - (e) the *First State Superannuation Act 1992*.

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

- (vii) Where, prior to electing to sacrifice a part or all of their salary to superannuation, an employee had entered into an agreement with their employer to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in subclause (v) above, the employer will continue to base contributions to that fund on the salary payable under Clause 3. Salaries of the Award to the same extent as applied before the employee sacrificed that amount of salary to superannuation. This clause applies even though the superannuation contributions made by the employer may be in excess of the superannuation guarantee requirements after the salary sacrifice is implemented.

26. Salary Packaging

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

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

- (ii) Where an employee elects to package an amount of salary:
 - (a) Subject to Australian taxation law, the packaged amount of salary will reduce the salary subject to PAYE taxation deductions by that packaged amount.
 - (b) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this Award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under this Award in the absence of any salary packaging or salary sacrificing made under this Award.
 - (c) 'Salary' for the purpose of this clause, for superannuation purposes, and for the calculation of Award entitlements, shall mean the Award salary as specified in clause 3, Salaries, and which shall include 'approved employment benefits' which refer to fringe benefit savings, administration costs, and the value of packaged benefits.
- (iii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to

superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees, and private health fund membership fees.

- (iv) The salary packaging scheme utilises a fringe benefit taxation exemption status conferred on public hospitals and local health districts, which provides for a fringe benefit tax exemption cap of \$17,000 per annum. The maximum amount of fringe benefits-free tax savings that can be achieved under the scheme is where the value of benefits when grossed-up, equal the fringe benefits exemption cap of \$17,000. Where the grossed-up value exceeds the cap, the employer is liable to pay fringe benefits tax on the amount in excess of \$17,000, but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits, are deducted from pre-tax dollars.
- (v) The parties agree that the application of the fringe benefits tax exemption status conferred on public hospitals and local health districts is subject to prevailing Australian taxation laws.
- (vi) If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the Salary Packaging Policy and Procedure Manual.
- (vii) Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.
- (viii) Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.
- (ix) The employer and the employee shall comply with the procedures set out in the NSW Health Services Salary Packaging Policy and Procedure Manual as amended from time to time.

27. Reasonable Hours

- (i) Subject to sub-clause (ii) an employer may require an employee to work reasonable overtime at overtime rates unless or as otherwise provided for under the Award.
- (ii) 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.
- (iii) For the purposes of sub-clause (ii) 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.

28. Higher Duties Allowance

An employee who is called upon to relieve an employee in a higher classification continuously for five working days or more and who satisfactorily performs the whole of the duties and assumes the whole of the responsibilities of the higher classification, shall be entitled to receive, for the period of relief, the minimum pay of such higher classification.

29. Underpayment and Overpayment of Salaries

The following process will apply once the issue of underpayment or overpayment is substantiated.

- (i) Underpayment
 - (a) If the amount underpaid is equal to or greater than one day's gross base pay the underpayment will be rectified within three working days.
 - (b) If the amount underpaid is less than one day's gross base pay it will be rectified by no later than the next normal pay. However, if the employee can demonstrate that rectification in this manner would result in undue hardship, every effort will be made by the employer to rectify the underpayment within three working days.
- (ii) Overpayment
 - (a) In all cases where overpayments have occurred, the employer shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The employer will also advise the employee of the pay period from which the recovery of the overpayment is to commence.
 - (b) One off overpayments will be recovered in the next normal pay, except that where the employee can demonstrate that undue hardship would result, the recovery rate shall be at 10% of an employee's gross fortnightly base pay.
 - (c) Unless the employee agrees otherwise, the maximum rate at which cumulative overpayments can be recovered is an amount, calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly base pay.
 - (d) The recovery rate of 10% of an employee's gross fortnightly base pay referred to in subclause (ii)(c) above may be reduced by agreement, where the employee can demonstrate that undue hardship would result.
 - (e) Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause (ii)(c) above, the Employer shall have the right to deduct any balance of such overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

30. No Extra Claims

Other than as provided for in the *Industrial Relations Act* 1996 and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2018 by a party to this Award.

31. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2017 and shall remain in force for a period of one year.
- (ii) This Award rescinds and replaces the Public Hospital Career Medical Officers (State) Award published 29 July 2017 (380 I.G. 573) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained herein employed in the NSW Health Service under section 115(1) of the *Health Services Act* 1997, or their successors, assignees or transmittes.

PART B**Table 1 - Allowances**

Item No.	Clause No.	Description	Rate from first pay period on or after 01/07/2017 \$
1	6	In Charge Allowance	34.20
2	11(iii)	On-call Allowance per on-call period which coincides with a day rostered on duty	37.50
		On-call allowance per on-call period which coincides with a rostered day off	75.00
		per week	262.50
3	16(ii)(a)	Uniform and Laundry Allowance	
		- Full uniform including special shoes	
		- if required (per week)	2.41
		- Other cases (per week)	1.78

P. M. KITE, Commissioner.
J. V. MURPHY, Commissioner.
J. SEYMOUR, Commissioner

Printed by the authority of the Industrial Registrar.

(564)

SERIAL C8841**PUBLIC HOSPITAL MEDICAL OFFICERS (STATE) AWARD 2017**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 2017/199899)

Before Chief Commissioner Kite
 Commissioner Murphy
 Commissioner Seymour

26 October 2018

AWARD**PART A****Arrangement**

Clause No.	Subject Matter
1.	Definition
2.	Salaries
3.	Payment of Salaries
4.	Qualification Allowance
5.	In-charge Allowance
6.	Hours of Work
7.	Part-Time Employees
8.	Penalty Rates
9.	Time Worked
10.	Meal Breaks
11.	Overtime
12.	On Call and Call Back
13.	Higher Duties Allowance
14.	Annual Leave
15.	Public Holidays
16.	Sick Leave
17.	Maternity, Adoption and Parental Leave
17A.	Lactation Breaks
18.	Family and Community Services Leave and Personal/Carer's Leave
18A.	Family Violence Leave
19.	Long Service Leave
20.	Board and Accommodation
21.	Uniform and Laundry Allowances
22.	Termination of Employment
23.	Settlement of Disputes
24.	Anti-Discrimination
25.	Study Leave
26.	Travelling Allowances
27.	Mobility, Excess Fares and Travelling
28.	Secondment
29.	Relocation Expenses
30.	Labour Flexibility
31.	Salary Packaging
32.	Reasonable Hours
33.	Salary Sacrifice to Superannuation
34.	No Extra Claims

35. Area, Incidence and Duration

PART B

Table 1 - Allowances and Other Rates

PART C

PART A

1. Definitions

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

"Health Service" means a Local Health District constituted under section 8 of the *Health Services Act 1997*, a Statutory Health Corporation constituted under section 11 of that Act, and an Affiliated Health Organisation constituted under section 13 of that Act.

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

"Higher Medical Qualifications" means such qualifications obtained by a medical practitioner subsequent to graduation and includes:

- (i) post-graduate university degrees and diplomas recognised by the Medical Board of Australia as qualifications, or
- (ii) membership or fellowship of the Royal College or Royal Australasian College of Physicians or fellowship of the Royal College or Royal Australasian College of Surgeons or membership or fellowship of the Royal College of Obstetricians and Gynaecologists, or
- (iii) such other post-graduate qualifications obtained by examination and recognised by the Medical Board of Australia and acceptable to the employer, including fellowship of the Royal Australian College of General Practitioners.

"Intern" means a medical officer serving in a hospital prior to obtaining full registration with the Medical Board of Australia pursuant to the Health Practitioner Regulation National Law Act.

"Registrar" means a medical officer who:

- (i) has had at least three years' experience in public hospital service as defined under this Award or any lesser period acceptable to the Ministry of Health, and
- (ii) is appointed as a registrar by a hospital, and
- (iii) is occupying a position of registrar in an established position as approved by the employer.

"Resident" means a medical officer who has obtained full registration.

"Secretary" means the Secretary of the Ministry of Health.

"Senior Registrar" means a registrar holding higher medical qualifications and occupying a position of senior registrar in an established position as approved by the employer.

"Service" for the purpose of clause 2, Salaries, means service before and/or after the commencement of this Award in one or more hospitals or in other institutions approved from time to time by agreement between the parties of this Award. It shall include service as a medical officer in the Australian Armed Forces and service, whether continuous or not, in other hospitals within the Commonwealth of Australia.

"Union" means the Health Services Union NSW and the Australian Salaried Medical Officers' Federation (New South Wales).

"Weekly Rates" will be ascertained by dividing an annual amount by 52.17857 or a weekly rate can be multiplied by 52.17857 to obtain the annual amount.

2. Salaries

Salaries for Medical Officers shall be as set out in the Health Professional and Medical Salaries (State) Award.

3. Payment of Salaries

- (i) All salaries and other payments shall be paid fortnightly.
- (i) Employees shall have their salary paid into one account with a bank or other financial institution in New South Wales as nominated by the employee, except where agreement as to another method of payment has been reached between the Union and the employer due to the isolation of the work location.
- (ii) Salaries shall be deposited by the employer in sufficient time to ensure that wages are available for withdrawal by employees no later than pay day, provided that this requirement shall not apply where employees nominate accounts with non-bank financial institutions which lack the technological or other facilities to process salary deposits within 24 hours of the employer making deposits with such financial institutions, but in such cases the employer shall take all reasonable steps to ensure that the wages of such employees are available for withdrawal by no later than pay day.
- (iii) Penalty rates and overtime worked during the second week of the pay fortnight may be paid to employees in the next pay period by the employer.
- (iv) Subject to adequate notice in writing on each occasion, employees who are rostered off on pay day shall be entitled to have their salary deposited before proceeding on their day or days off.
- (v) Underpayment and overpayment of salaries - the following process will apply once the issue of underpayment or overpayment is substantiated.
 - (a) Underpayment
 - (1) If the amount underpaid is equal to or greater than one day's gross base pay the underpayment will be rectified within three working days;
 - (2) If the amount underpaid is less than one day's gross base pay it will be rectified by no later than the next normal pay. However, if the employee can demonstrate that rectification in this manner would result in undue hardship, every effort will be made by the employer to rectify the underpayment within three working days.
 - (b) Overpayment
 - (1) In all cases where overpayments have occurred, the employer shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The employer will also advise the employee of the pay period from which the recovery of the overpayment is to commence.
 - (2) One off overpayments will be recovered in the next normal pay, except that where the employee can demonstrate that undue hardship would result, the recover rate shall be at 10% of an employee's gross fortnightly base pay.
 - (3) Unless the employee agrees otherwise, the maximum rate at which cumulative overpayments can be recovered is an amount, calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly base pay.

- (4) The recovery rate of 10% of an employee's gross fortnightly base pay referred to in subclause (b)(3) above may be reduced by agreement, where the employee can demonstrate that undue hardship would result.
- (5) Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause (b)(3) above, the employer shall have the right to deduct any balance of such overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

4. Qualification Allowance

An allowance detailed in the Medical Officers section of the Health Professional and Medical Salaries Award shall be paid to officers who obtain an appropriate higher medical qualification subject to graduation.

Provided that this clause shall not apply to an officer who is appointed as a Senior Registrar, the salary rate prescribed in clause 2, Salaries, of this Award for such position having taken into account that a higher medical qualification is a prerequisite for appointment.

Provided further that, where an officer in his/her fifth and subsequent years of training is expected to meet the formal requirements of a higher medical qualification in that year, he shall be paid half the qualification allowance.

5. in-Charge Allowance

An allowance as set out in Item 1 of Table 1, Allowances, shall be paid to medical officers for each twelve hours, or part thereof, of continuous in-charge duty for responsibility for after-hours medical services.

6. Hours of Work

- (i) The ordinary hours of work shall not exceed an average of 38 hours per week. This shall be achieved by rostering officers for duty over either forty hours in any period of seven consecutive days or eighty hours in any period of fourteen consecutive days and, in addition, then granting officers roster leave additional to that prescribed in subclause (ii) of this clause to the extent of one additional day per calendar month. Such additional roster leave may accumulate to a maximum of three days and shall be granted in multiples of one day. Upon termination of employment an officer shall be paid the monetary value of any untaken additional roster leave, calculated at the officer's ordinary time rate of pay as prescribed by clause 2, Salaries, of this Award.
- (ii) Officers shall be free from ordinary hours of duty for not less than two days in each week or, where this is not practicable, four days in each fortnight. Where practicable, days off shall be consecutive and where possible additional rostered days off shall be combined with other rostered time off.
- (iii) No shift shall be less than four hours in length.
- (iv) No broken or split shifts shall be worked.
- (v) All time worked in excess of ten hours in any one shift shall be paid as overtime.
- (vi) Where in any pay period, an officer is not employed by a hospital for the whole of the pay period, the ordinary hours of work for the purpose of calculating salary for that pay period (i.e., 38 or 76 hours) will be adjusted by the following factor, rounded to the nearest whole number:

$$\frac{\text{Number of calendar days employed}}{\text{Number of calendar days in pay period}}$$

- (vi) Officers shall be given at least two weeks' notice of rosters to be worked in relation to ordinary hours of work and also, where practicable, in relation to additional (overtime) rostered hours of work, provided that the employer may change the rosters without notice to meet any emergent situation. This clause

shall not apply in respect of the granting by the employer of additional roster leave pursuant to this clause.

7. Part-Time Employees

- (i) Medical officers engaged on a part-time basis as at 1 June 1993 under the provisions of Agreement No 1 of 1975 made in accordance with section 40BA of the *Public Hospitals Act* 1929, were able to elect to be employed as part-time employees under the provisions of this clause. Part-time employees who did not make such an election continue to be subject to the provisions of Agreement No. 1 of 1975 (see Ministry of Health Policy Directive PD2005_474) in lieu of the provisions of this clause.
- (ii) A part-time medical officer is one who is appointed by the employer to work a specified number of hours which are less than those prescribed for the same classification employed on a full-time basis under this Award.
- (iii) A part-time medical officer shall be entitled to all other benefits of this Award not expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.
- (iv) A part-time medical officer shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed for the same classification employed on a full-time basis under clause 2, Salaries of this Award with a minimum payment for two hours for each start.
- (v) A part-time medical officer shall not be entitled to an additional day off or part thereof as prescribed in subclause (ii) of clause 6, Hours of Work of this Award.
- (vi) Annual Leave

A part-time medical officer shall be granted on completion of each 12 months service four weeks annual leave on ordinary pay.

- (vii) Overtime
 - (a) Overtime shall be paid for at the rate of time and one half for the first two hours and double time for the remaining hours worked provided that all overtime performed on Sundays shall be paid for at the rate of double time.
 - (b) Overtime will be paid to part-time medical officers as follows:
 - (1) All time worked in excess of the ordinary hours as prescribed in clause 6 Hours of Work of this Award; or
 - (2) All time worked in excess of ten hours in any one shift.
- (viii) Public Holidays
 - (a) For the purposes of this clause, public holidays are as set out in subclause (iv) of clause 15, Public Holidays of this Award.
 - (b) A public holiday occurring on a part-time medical officer's ordinary working day shall be allowed to employee's without loss of pay.
 - (c) Where a part-time medical officer is required to and does work on a public holiday, the medical officer shall have their ordinary rostered hours on that day added to the period of their annual leave for each public holiday so worked unless time off in respect of time worked on any such public holiday has already been granted to the medical officer.
 - (d) Hours worked on public holidays shall be paid at the rate of time and one half.

8. Penalty Rates

Any ordinary hours worked between the following hours shall be paid at ordinary time plus the appropriate penalty rate.

- (i) Hours worked between 6.00 p.m. and midnight, Monday to Friday - 12.5 per cent.
- (ii) Midnight and 7.00 a.m., midnight Sunday to midnight Friday - 25 per cent.
- (iii) Midnight Friday and midnight Saturday - 50 per cent.
- (iv) Midnight Saturday and midnight Sunday - 75 per cent.

9. Time Worked

Time worked means the time during which an officer is required by the employer to be in attendance at a hospital for the purpose of carrying out such functions as the employer may call on him to perform, and it shall include times when the officer, in waiting to carry out some active function, is studying or resting or sleeping or engaged in any other activity.

Provided that time worked does not include breaks allowed and actually taken for meals.

Provided further that where an officer attends of his/her own volition outside of hours rostered on duty, or where an officer remains in attendance when formally released from the obligation to perform professional duties, the employer shall not be liable to make any payment for such attendance.

10. Meal Breaks

The principles to be applied by the employer in relation to meal breaks for Resident Medical Officers are outlined in Ministry of Health Circular No. 88/251.

Day Shifts - Monday to Friday

- (i) In the interests of patient care and the health and welfare of medical staff, officers must have a break from duty for the purpose of taking a meal.
- (ii) There shall be a uniform meal break of 30 minutes except where locally agreed arrangements for a longer period are made (which shall not exceed one hour).
- (iii) If officers are required to work during their meal break they shall be paid for the time worked.
- (iv) Medical Administrators are to establish simple and effective procedures in consultation with officers to record when staff are required to work through their meal break and to ensure that payment is made.

Shifts Other than Day Shifts - Monday to Friday.

The arrangements outlined in Circular No. 83/250 of 19 August, 1983 in relation to meal breaks during shifts other than Day Shifts, Monday to Friday, will continue to apply.

11. Overtime

- (i) All time worked by officers in excess of the ordinary hours specified in clause 6, Hours of Work, of this Award, shall be paid at the rate of time and one-half for the first two hours, and double time thereafter provided that all overtime performed on a Sunday, shall be at double time.
- (ii) An officer who works authorised overtime and was not notified on or prior to his/her previous shift of the requirement to work such overtime shall be paid in addition to payment for such overtime:

- (a) as set out in Item 2 of Table 1, Allowances, for breakfast when commencing such overtime work at or before 6.00 a.m.;
- (b) as set out in Item 2 of Table 1, Allowances, for an evening meal when such overtime is worked for at least one hour immediately following his/her normal ceasing time, exclusive of any meal break and extends beyond or is worked wholly after 7.00 p.m.;
- (c) as set out in Item 2 of Table 1, Allowances, for luncheon when such overtime extends beyond 2.00 p.m. on Saturdays, Sundays or holidays;

or shall be provided with adequate meals in lieu of such payments.

The rates prescribed in this subclause shall be varied in accordance with any variations in the rates payable under Crown Employees (Public Service Conditions of Employment) Award.

12. On Call and Call Back

- (i) An "on call period" is a period during which an officer is required by the employer to be on call.
- (ii) For the purposes of calculation of payment of on-call allowances and for call-back duty, an on-call period shall not exceed 24 hours.
- (iii) An officer shall be paid for each on-call period which coincides with a day rostered on duty an allowance as set out in Item 3 of Table 1, Allowances, and for each on-call period coinciding with a rostered day off an allowance as set in the said Item 3 with a maximum payment as set out in the said Item 3 per week.
- (iv) Subject to subclauses (v) - (ix) below, officers who are recalled for duty, whether notified before or after leaving the employer's premises, shall be paid for all time worked at the appropriate overtime rate, with a minimum of four hours at such rates.
- (v) Officers may be required to perform other work that arises during the recall period. Officers shall not be required to work the full four hour minimum payment period if they complete the work they were recalled to perform and any additional work they are required to undertake, within a shorter period.
- (vi) The employer must have processes in place for the formal release of officers from recall duty.
- (vii) Officers who are not formally released and who are recalled again during the four hour minimum payment period are not entitled to any additional payment until the expiration of the four hour period.
- (viii) Officers who are advised they will not be required to perform any additional work and are formally released and who are subsequently recalled again during the four hour minimum payment period, shall be entitled to another four hour minimum payment.
- (ix) Officers required to work overtime after leaving the employer's premises to provide a technology support resolution or clinical appraisal remotely without onsite presence, shall be paid for such work at the appropriate overtime rate, with a minimum payment of one hour at such rates.
- (x) The amounts specified in subclause (iii) shall be taken to include expenses incurred in taking telephone calls at one's own residence and other expenses incurred in being available for emergency duty.
- (xi) For the purposes of subclause (ix) "clinical appraisal remotely" means as provided in either (a) or (b) below:
 - (a) assessing (by an on-call resident medical officer or registrar) a patient's physical condition to make a diagnosis or a differential diagnosis away from a hospital that incorporates all of the following:

1. The taking of a telephone call or calls, or receiving an email or emails, from a medical practitioner on duty in a hospital about a patient.
 2. Receiving the history of the patient so that the patient's current medical condition and any relevant past medical history including previous surgery and use of medications, if known, is provided.
 3. Discussing with the medical practitioner on duty the patient's current medical condition and asking questions in respect of the condition as necessary such that the information provided enables an evaluation of the patient's physical condition.
 4. Directing further examination to be conducted as clinically required, and obtaining other clinical information or opinion from other medical practitioners as necessary.
 5. Identifying the likely cause of the patient's condition and providing a diagnosis and a prognosis based on the information provided from undertaking 1 to 4 above.
 6. Ensuring that there is a sufficient clinical justification for the proposed treatment including, if relevant, admission to hospital.
 7. Instructing the medical practitioner on duty in a hospital what course of treatment should be followed including ensuring the proposed treatment is not contraindicated, being satisfied that such treatment is able to be determined, and can be properly implemented, without requiring the return of the on-call resident medical officer or registrar. This would include developing or confirming a management plan, or varying an existing management plan with the endorsement of the staff specialist or VMO responsible for the care of the patient.
 8. Directing follow-up requirements and subsequently reviewing the patient, if appropriate, based on those requirements.
 9. Complying with relevant NSW Health and local policies, procedures and directions.
- (b) the provision of a report by an on call registrar on images forwarded electronically in circumstances where:
1. had the communications technology involved not been utilised the registrar would have had to have returned to the workplace to provide that report; and
 2. there has been prior approval at the facility level to the use, and the conditions of use, of such technology by the registrar.
- (xii) A clinical appraisal provided remotely pursuant to subclause (xi) (a) above shall attract a minimum payment of one hour at the appropriate overtime rate only in circumstances where, if it had not been provided remotely, the on-call resident medical officer or registrar would have otherwise needed to have returned to the workplace. Any additional requirement to provide further clinical appraisal falling within the hour from which the initial clinical appraisal commenced shall not attract an additional payment. Any time worked beyond the expiration of one hour shall be paid at overtime rates. Time where work is not being performed will not be counted as time for the purposes of overtime payment.

13. Higher Duties Allowance

An employee who is called upon to relieve an employee in a higher classification continuously for five working days or more and who satisfactorily performs the whole of the duties and assumes the whole of the responsibilities of the higher classification, shall be entitled to receive, for the period of relief, the minimum pay of such higher classification.

14. Annual Leave

- (i) All officers shall be allowed four calendar weeks leave of absence on full pay in respect of each twelve months' service plus one day on full pay in respect of each public holiday occurring within the period of such leave.
- (ii) Officers who are required to work on Sundays and/or public holidays during a qualifying period of employment for annual leave purposes shall be entitled to receive additional annual leave in respect of each complete period of eight hours so worked as follows:
 - (a) if 35 or more such periods on such days have been worked - one week;
 - (b) if less than 35 such periods on such days have been worked - leave proportionately calculated on the basis of 38 hours leave for 35 such periods worked;
 - (c) work performed by reason of call backs pursuant to clause 12, On Call and Call Back, of this Award shall be disregarded when assessing an officer's entitlement under the subclause.
 - (d) The calculations referred to in paragraphs (a) and (b) of this subclause shall be made to the nearest one-fifth of the ordinary hours worked, half or more than half of one-fifth being regarded as one-fifth and less than half being disregarded.
 - (e) An officer with accrued additional annual leave pursuant to this subclause can elect at any time to be paid an amount equivalent to the value of accrued additional annual leave in lieu of taking additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave was actually taken.
- (iii) Annual leave shall be given and shall be taken in one consecutive period, or, if the officer and the employer so agree, in either two or three separate periods, but not otherwise.
- (iv) Annual leave shall be given and shall be taken within a period of six months after the date when the right to annual leave accrued; provided that the giving and taking of the whole or any separate period of such annual leave may, by mutual agreement between the employer and the officer, be postponed for a further period not exceeding six months.
- (v) If the officer and the employer so agree, the annual leave or any such separate periods, may be taken wholly or partly in advance before the officer has become entitled to that leave, but where leave is taken in such circumstances a further period of annual leave shall not commence to accrue until the expiration of the twelve months in respect of which the annual leave or part thereof has been so taken.
- (vi) Except as provided by this clause, payment shall not be made by the employer to an officer in lieu of any annual leave or part thereof nor shall any such payment be accepted by the officer.
- (vii) The employer shall give the officer at least two months' notice of the date from which his or her annual leave is to be taken.
- (viii) The employer shall pay each officer before entering upon annual leave his or her ordinary rate of salary for the period of leave. For the purposes of this subclause "ordinary rate of salary" means the Award rate of salary and qualification allowance if applicable.
- (ix) Where the employment of an officer is terminated, the officer shall be entitled to receive proportionate payment for each completed month of service together with such additional annual leave entitlements due under subclause (ii). All payments are to be made at the rate of salary to which such officer is entitled under this Award.
- (x) Where the annual leave under this clause or any part thereof has been taken in advance by an officer pursuant to subclause (v), of this clause; and

- (a) the employment of the officer is terminated before he/she has completed the year of employment in respect of which such annual leave or part was taken; and
- (b) the sum paid by the employer to the officer as ordinary pay for the annual leave or part so taken in advance exceeds the sum which the employer is required to pay to the officer under subclause (ix) of this clause;
- (c) the employer shall not be liable to make any payment to the officer under the said subclause (ix) and shall be entitled to deduct the amount of such excess from any remuneration payable to the officer upon the termination of the employment.

NOTATION: The conditions under when the annual leave loading shall be paid to officers are the same as generally applied through circulars issued by the Ministry of Health.

15. Public Holidays

- (i) Public holidays shall be allowed to officers on full pay.
- (ii) Where an officer is required to, and does work on any of the public holidays set out in this clause, the officer shall be paid for the hours worked at the rate of time and one-half. In addition, the officer shall have one day added to annual leave for each public holiday so worked unless time off in respect of time worked on such public holiday has been granted.
- (iii) Where a public holiday falls on a rostered day off, the officer shall have one day added to annual leave.
- (iv) Provided that an employee who has accrued additional annual leave referred to in subclauses (ii) and (iii) of this clause can elect at any time to be paid an amount equivalent to the value of the accrued additional annual leave in lieu of taking additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave as actually taken.
- (v) For the purpose of this clause the following shall be deemed to be public holidays: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day, Boxing Day, or in lieu of any such day any holiday proclaimed in lieu thereof, together with any other day duly proclaimed as a special day and observed as a public holiday within the area in which the hospital is situated.

16. Sick Leave

- (i) An officer shall be allowed sick leave on full pay calculated by allowing 76 "ordinary" hours per year for each year of continuous service less any sick leave on full pay already taken, subject to the following conditions:
 - (a) the employer may require the sickness to be certified to by the medical superintendent or by a legally qualified medical practitioner approved by the employer, or may require other satisfactory evidence thereof;
 - (b) an officer shall not be entitled to sick leave until the expiration of three months' continuous service;
 - (c) each officer shall take all reasonably practicable steps to inform the employer of his or her inability to attend for duty and as far as possible state the estimated duration of the absence. Where practicable such notice shall be given within twenty-four hours of the commencement of such absence;
 - (d) an officer shall not be entitled to sick leave on full pay for any period in respect of which such officer is entitled to accident pay or workers' compensation; provided, however, that where an officer is not in receipt of accident pay an employer shall pay to an officer who has sick leave entitlements under this clause, the difference between the amount received as workers'

compensation and full pay. The officer's sick leave entitlements under this clause shall, for each week during which such difference is paid, be reduced by that proportion of hours which the difference paid bears to full pay. On the expiration of available sick leave, weekly compensation payments only shall be payable;

- (e) an officer is not eligible for sick leave during periods when he would have normally been rostered on overtime shifts;
- (f) an officer is not entitled to more than 8 hours' sick leave in respect of any one day.
- (ii) Continuous service for the purpose of this clause shall be calculated in the same manner as provided for in paragraph (a) of subclause (ii) of clause 19, Long Service Leave, of this Award.
- (iii) Full pay for the purpose of this clause shall include the uniform allowance where payable, under clause 21, Uniform and Laundry Allowance, of this Award.
- (iv) The employer shall not terminate the services of an officer except on the grounds of misconduct during the currency of any periods of paid sick leave.
- (v) Sick leave as defined, shall accrue and be transferable between hospitals, at the rate of 76 hours per year of continuous service, minus hours taken.

17. Maternity, Adoption and Parental Leave

A. Maternity Leave

(i) Eligibility for Paid Maternity Leave

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

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

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

(ii) Portability of Service for Paid Maternity Leave

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

When determining an employee's eligibility for paid maternity leave, continuous service with an organisation that is part of the government sector as defined in the *Government Sector Employment Act 2013* will be recognised, provided that:

- (a) service was on a full-time or permanent part-time basis:

- (b) cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;
- (c) the employee immediately commences duty with the new employer. There may be a break in service of up to two months before commencing duty with the new employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.

(iii) Entitlement to Paid Maternity Leave

An eligible employee is entitled to fourteen weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen weeks prior to the expected date of birth.

It is not compulsory for an employee to take this period off work. However, if an employee decides to work during the nine weeks prior to the date of birth it is subject to the employee being able to satisfactorily perform the full range of normal duties.

Paid maternity leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(iv) Unpaid Maternity Leave

(a) Full-time and permanent part-time employees who are entitled to paid maternity leave are entitled to a further period of unpaid maternity leave of not more than 12 months after the actual date of birth.

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

(v) Applications

An employee who intends to proceed on maternity leave should formally notify her employer of such intention as early as possible, so that arrangements associated with her absence can be made.

Written notice of not less than eight weeks prior to the commencement of the leave should accordingly be given. This notice must include a medical certificate stating the expected date of birth and should also indicate the period of leave desired.

(vi) Variation after Commencement of Leave

After commencing maternity leave, an employee may vary the period of her maternity leave once only without the consent of her employer by giving the employer notice in writing of the extended period at least fourteen days' before the start of the extended period. An employer may accept less notice if convenient.

An employee may extend the period of maternity leave at any time with the agreement of the employer.

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

(vii) Staffing Provisions

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

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

When the employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual leave, sick leave and long service leave and any period of maternity leave on half pay is taken into account to the extent of one half thereof when determining the accrual of annual leave, sick leave and long service leave.

Except in the case of employees who have completed ten years' service the period of maternity leave without pay does not count as service for long service leave purposes. Where the employee has completed ten years' service the period of maternity leave without pay shall count as service provided such leave does not exceed six months.

Maternity leave without pay does not count as service for incremental purposes. Periods of maternity leave at full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.

Where public holidays occur during the period of paid maternity leave, payment is at the rate of maternity leave received i.e., public holidays occurring in a period of full pay maternity leave are paid at full rate and those occurring during a period of half pay leave are paid at half rate.

(ix) Illness Associated with Pregnancy

If, because of an illness associated with her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.

Where an employee is entitled to paid maternity leave, but because of illness, is on sick, annual, long service leave, or sick leave without pay prior to the birth, such leave ceases nine weeks prior to the expected date of birth. The employee then commences maternity leave with the normal provisions applying.

(x) Transfer to a More Suitable Position

Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. This obligation arises from Section 70 of the *Industrial Relations Act 1996*. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(xi) Miscarriages

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

(xii) Stillbirth

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

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

An employee who gives birth prematurely and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

(xiv) Right to Return to Previous Position

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

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

(xv) Further Pregnancy While on Maternity Leave

Where an employee becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If an employee enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases.

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

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

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

B. Adoption Leave

(i) Eligibility

All full-time and permanent part-time employees who are adopting a child and are to be the primary care giver of the child are eligible for unpaid adoption leave.

To be eligible for paid adoption leave a full-time or permanent part-time employee must also have completed at least 40 weeks continuous service prior to the date of taking custody of the child.

An employee who has once met the conditions of paid adoption leave, will not be required to again work the 40 weeks continuous service in order to qualify for further periods of paid adoption leave, unless

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with; or
 - (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the Worker's Compensation Act.
- (ii) Portability of Service for Paid Adoption Leave
- As per maternity leave conditions.
- (iii) Entitlement
- (a) Paid Adoption Leave
- Eligible employees are entitled to paid adoption leave of fourteen weeks at the ordinary rate of pay from and including the date of taking custody of the child.
- Paid adoption leave may be paid:
- on a normal fortnightly basis; or
 - in advance in a lump sum; or
 - at the rate of half pay over a period of twenty-eight weeks on a regular fortnightly basis.
- Annual and/or long service leave credits can be combined with periods of adoption leave at half pay to enable an employee to remain on full pay for that period.
- (b) Unpaid Adoption Leave
- Eligible employees are entitled to unpaid adoption leave as follows:
- where the child is under the age of 12 months - a period of not more than 12 months from the date of taking custody;
 - where the child is over the age of 12 months and under 18 years old - a period of up to 12 months, such period to be agreed upon by both the employee and the employer.
- (iv) Applications
- Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave. This will allow arrangements associated with the adoption leave to be made.
- (v) Variation after Commencement of Leave
- After commencing adoption leave, an employee may vary the period of leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.
- (vi) Staffing Provisions
- As per maternity leave conditions.

- (vii) Effect of Adoption Leave on Accrual of Leave, Increments, etc.

As per maternity leave conditions.

- (viii) Right to return to Previous Position

As per maternity leave conditions.

C. Parental Leave

- (i) Eligibility

To be eligible for parental leave a full-time or permanent part-time employee must have completed at least 40 weeks continuous service prior to the expected date of birth or to the date of taking custody of the child.

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

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with: or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

- (ii) Portability of Service for Paid Parental Leave

As per maternity leave conditions.

- (iii) Entitlements

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

- (a) an unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave), and
- (b) a further unbroken period in order to be the primary caregiver of the child (extended parental leave).
- (c) The entitlement of one week's paid leave may be taken at anytime within the 52 week period and shall be paid:

at the employees ordinary rate of pay for a period not exceeding one week on full pay, or

- two weeks at half pay or the period of parental leave taken, whichever is the lesser period.

- (d) Extended parental leave cannot be taken at the same time as the employee's spouse or partner is on maternity or adoption leave except as provided for in subclause (i)(a) of Part D Right to Request of this clause.

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

(iv) Applications

An employee who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.

- (a) In the case of extended parental leave, the employee should give written notice of the intention to take the leave.
- (b) The employee must, at least four weeks before proceeding on leave, give written notice of the dates on which they propose to start and end the period of leave, although it is recognised in situations of taking custody of a child, little or no notice may be provided to the employee. In such an instance, the employee should notify the employer as early as practicable.
- (c) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.
- (d) In the case of extended parental leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:
 - (1) if applicable, the period of any maternity leave sought or taken by his spouse, and
 - (2) that they are seeking the period of extended parental leave to become the primary care giver of the child.

(v) Variation after Commencement of Leave -

After commencing parental leave, an employee may vary the period of her/his parental leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

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

As per maternity leave conditions.

(vii) Right to Return to Previous Position

As per maternity leave conditions.

D. Right to Request

- (i) An employee entitled to maternity, adoption or parental leave may request the employer to allow the employee:
 - (a) to extend the period of simultaneous maternity, adoption or parental leave use up to a maximum of eight weeks;
 - (b) to extend the period of unpaid maternity, adoption or extended parental leave for a further continuous period of leave not exceeding 12 months;
 - (c) to return from a period of maternity, adoption or parental leave on a part-time basis until the child reaches school age;to assist the employee in reconciling work and parental responsibilities.

- (ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (iii) The employee's request and the employer's decision made under subclauses (i)(b) and (c) must be recorded in writing.
- (iv) Where an employee wishes to make a request under subclause (i)(c):
 - (a) the employee is to make an application for leave without pay to reduce their full-time weekly hours of work
 - (b) such application must be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks notice must be given;
 - (c) salary and other conditions of employment are to be adjusted on a basis proportionate to the employee's full-time hours of work i.e. for long service leave the period of service is to be converted to the full-time equivalent and credited accordingly.
 - (d) employees who return from leave under this arrangement remain full-time employees. Therefore the payment of any part-time allowance to such employees does not arise.

E. Communication During Leave

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

NOTE:

- (a) The entitlement to maternity, adoption and parental leave for part-time employees who receive an adjusted hourly rate, along with casual employees, are in accordance with the provisions of Part 4, Parental Leave of the *Industrial Relations Act 1996* and/or Ministry Determination.
- (b) Where a casual employee is entitled to parental leave under the *Industrial Relations Act 1996*, the following provisions shall also apply in addition to those set out in the Act.

An employer must not fail to re-engage a casual employee because:

the employee or employee's spouse is pregnant; or

the employee is or has been immediately absent on parental leave.

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

- (c) Part-time employees who receive an adjusted hourly rate are also entitled to the provisions of Part D Right to Request and Part E Communication During Leave of this clause.
- (d) Liability for Superannuation Contributions

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

17A. Lactation Breaks

- (i) This clause applies to employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this Award.
- (ii) A full-time employee or a part-time employee working more than four hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day or per shift.
- (iii) A part-time employee working four hours or less on any day or shift is entitled to only one paid lactation break of up to 30 minutes each per day or per shift worked.
- (iv) A flexible approach to lactation breaks can be taken by mutual agreement between an employee and their manager provided the total lactation break time entitlement is not exceeded. When giving consideration to any such requests for flexibility, a manager needs to balance the operational requirements of the organisation with the lactating needs of the employee.
- (v) The employer shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk. Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and the employee will take place to attempt to identify reasonable alternative arrangements for the employee's lactation needs.
- (vi) Employees experiencing difficulties in effecting the transition from home based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.
- (vii) Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave or other leave in accordance with the Award.

18. Family and Community Services Leave and Personal/Carers' Leave

- (i) Family and Community Services (FACS) Leave and Personal/Carer's Leave are separate, and alone entitlements.
- (ii) The provisions outlined in Parts A and B of this clause are available to all employees covered by this Award, other than casual employees as defined in subclause (iii) below.
- (iii) Casual employees as defined in the Health Industry Status of Employment (State) Award are entitled to the provisions outlined in Part C of this clause.

A. FACS Leave

(i) FACS Leave - General

(a) For the purpose of this clause relating to FACS leave:

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

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

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

(b) The employer may grant FACS leave to an employee:

- (1) to provide care and/or support for sick members of the employee's relatives or household; or
- (2) for reasons related to the family responsibilities of the employee (e.g. to arrange and or attend a funeral of a relative; to accompany a relative to a medical appointment where there is an element of emergency; parent/teacher meetings; education week activities; to meet elder-care requirements of a relative); or
- (3) for reasons related to the performance of community service by the employee (e.g. in matters relating to citizenship; to office holders in local government, other than as a mayor, for attendance at meetings, conferences or other associated duties; representing Australia or the State in major amateur sport other than in Olympic/Commonwealth Games); or
- (4) in a case of pressing necessity (e.g. where an employee is unable to attend work because of adverse weather conditions which either prevent attendance or threaten life or property; the illness of a relative; where a child carer is unable to look after their charge).

(ii) FACS leave replaces compassionate leave.

(iii) An employee is not to be granted FACS leave for attendance at court to answer a criminal charge, unless the employer approves the grant of leave in the particular case.

Applications for FACS leave to attend court, for reasons other than criminal charges, will be assessed on an individual basis.

(iv) FACS Leave - entitlement

(a) The maximum amount of FACS leave on full pay that may be granted to an employee is:

- (1) 3 working days during the first year of service, commencing on and from 1 January 1995, and thereafter 6 working days in any period of 2 years; or
- (2) 1 working day, on a cumulative basis effective from 1 January 1995, for each year of service after 2 years' continuous service, minus any period of FACS leave already taken by the employee since 1 January 1995,

whichever method provides the greater entitlement.

(b) For the purposes of calculating entitlements under (vi)(a)(1) and (2) above, a working day for employees working 38 hours per week shall be deemed to consist of 8 hours, and a working day for employees working 35 hours per week shall be deemed to consist of 7 hours. The rate at which FACS leave is paid out and utilised shall be on actual hours absent from a rostered shift.

Example A: An employee working 38 hours per week will have an entitlement, in their first year of employment, to 24 hours of FACS leave. If the employee takes FACS leave for a full 10 hour shift, the employee would be debited 10 hours of FACS leave.

Example B: An employee working 35 hours per week will have an entitlement, in their first year of employment, to 21 hours of FACS leave. If the employee takes FACS leave for a full 7 hour shift, the employee would be debited 7 hours of FACS leave.

Example C: An employee, employed prior to 1 January 1995, applies for FACS leave on 20 February 1997. The employee is entitled to 6 days in any period of two years. Therefore, to calculate the employee's available FACS leave as at 20 February 1997, add all FACS leave taken from 21 February 1995 to 20 February 1997 and deduct that amount from the 6 days entitlement.

- (c) FACS leave is available to part-time employees on a pro rata basis, based on the average number of hours worked per week. A working day shall consist of one-fifth of the employee's average weekly hours during the preceding 12 months or during the employee's period of employment, whichever is the lesser period.

Example: An employee working an average of 30 hours per week will have an entitlement, in his/her first year of employment, of 18 hours of FACS leave. If the employee takes FACS leave for a full rostered shift e.g. of 4 hours, the employee would be debited 4 hours of FACS leave. Likewise, if the employee was rostered for 8 hours and was absent for the full 8 hours on FACS leave, he/she would be debited 8 hours of FACS leave.

- (v) Additional FACS leave for bereavement purposes

Where FACS leave has been exhausted, additional FACS leave of up to 2 days for bereavement may be granted on a discrete, "per occasion" basis to an employee on the death of a relative or member of a household as defined in subclause (i) (a) of Part A of this clause.

- (vi) Use of other leave entitlements

The employer may grant an employee other leave entitlements for reasons related to family responsibilities or community service, by the employee.

An employee may elect, with the consent of the employer, to take annual leave; long service leave; or leave without pay.

B. Personal/Carer's Leave

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

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

- (a) a spouse of the employee; or
- (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (e) a relative of the employee who is a member of the same household, where for the purpose of this clause relating to Personal/Carer's Leave:

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

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

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

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

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

- (1) the employee being responsible for the care and support of the person concerned; and
- (2) the person concerned being as defined in subclause (i) of Part B of this clause.

(b) Other than a casual or any other employee who receives a loading in lieu of sick leave, an employee with responsibilities in relation to a person who needs their care and support shall be entitled to use the untaken sick leave, from that year's annual sick leave entitlement, to provide care and support for such persons when they are ill.

(c) Sick leave accumulates from year to year. In addition to the current year's grant of sick leave available under (b) above, sick leave untaken from the previous 3 years may also be accessed by an employee with responsibilities in relation to a person who needs their care and support.

(d) The employer may, in special circumstances, make a grant of additional sick leave. This grant can only be taken from sick leave untaken prior to the period referred to in subclause (c) above.

(e) The employee shall, if required, establish either by production of a medical certificate or statutory declaration that the illness of the person concerned is such as to require care by another person.

(f) The employee has the right to choose the method by which the ground for leave is established, that is, by production of either a medical certificate or statutory declaration.

(g) The employee is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration.

(h) The employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

(i) In normal circumstances, the employee must not take leave under this part where another person has taken leave to care for the same person.

(iii) Use of other leave entitlements

An employee may elect, with the consent of the employer, to take:

(a) annual leave, including annual leave not exceeding 10 days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties. An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least 5 consecutive annual leave days are taken. An employee may elect with the employer's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

(b) long service leave; or

- (c) leave without pay for the purpose of providing care and support to the person concerned as defined in subclause (i) of Part B of this clause.
- (iv) Time off in lieu of payment of overtime
 - (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment of overtime at a time or times agreed with the employer within 12 months of the said election.
 - (b) Overtime taken as time off during ordinary time shall be taken at the ordinary time rate, that is, one hour off for each hour of overtime worked.
 - (c) If, having elected to take time as leave in accordance with (iv)(a) above and the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve 12 month period from the date the overtime was worked, or earlier by agreement, or on termination.
 - (d) Where no election is made in accordance with paragraph (iv)(a) above, the employee shall be paid overtime rates in accordance with the provisions of clause 11, Overtime.
- (v) Use of make-up time
 - (a) An employee may elect, with the consent of the employer, to work "make-up time". "Make-up time" is worked when the employee takes time off during ordinary hours for family or community service responsibilities, and works those hours at another time, during the spread of ordinary hours provided for in clause 6 of this Award, at the ordinary rate of pay.
 - (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off during ordinary hours and works those hours at another time) at the applicable shift work rate which would have been applicable to the hours taken off.

C. Entitlements for Casual Employees

- (i) Bereavement entitlements for casual employees
 - (a) Casual employees are entitled to not be available to attend work or to leave work upon the death in Australia of a relative or member of a household as prescribed in subclause (i)(a) of Part A of this clause.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this part. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
- (ii) Personal carers entitlement for casual employees
 - (a) Subject to the evidentiary and notice requirements in subclauses (ii)(e) - (h) of Part B of this clause casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause (i) of Part B of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

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

18A. Family Violence Leave

- (i) For the purpose of this clause, family violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*. The violence may have been reported to the police and/or may be the subject of an Apprehended Violence Order.
- (ii) An employee experiencing family and domestic violence can utilise Award leave entitlements provided for in Sick Leave and Family and Community Services Leave provisions of the Award.
- (iii) Where leave entitlements to Sick Leave and Family and Community Services Leave are exhausted, the employer will grant up to five days per year of paid special leave to attend legal proceedings, counselling, appointments with a medical or legal practitioner and relocation and safety activities directly associated with alleviating the effects of family and domestic violence. This leave entitlement does not accumulate from year to year.
- (iv) Upon exhaustion of the paid leave entitlement, an employee may request further periods of unpaid leave, for the same activities for which paid leave would be available.
- (v) To access paid and unpaid leave, the employee must provide the employer with evidence, to the employer's satisfaction, substantiating the purpose of the leave and that the leave is related to alleviating the effects of family violence. The employer may accept a variety of agreed documentation in support of an application for leave. Supporting documentation may be presented in the form of an agreed document issued by the Police Force, a Court, a doctor, a Family Violence Support Service or a lawyer.
- (vi) Matters related to family violence can be sensitive. Information collected by the employer will be kept confidential. No information relating to the details of the family violence will be kept on an employee's personnel file without their express permission. However, records about the use of family violence leave will need to be kept.
- (vii) The employer, where appropriate, may facilitate flexible working arrangements subject to operational requirements. This may include changes to working times and locations, telephone numbers and email addresses.
- (viii) The employer will co-operate with all legal orders protecting an employee experiencing domestic violence.

19. Long Service Leave

- (i)
 - (a) Each employee shall be entitled to two months long service leave on full pay after ten years of service; thereafter additional long service shall accrue on the basis of five months long service leave on full pay for each ten years service.

Employees with at least seven years service and less than 10 years service are entitled, proportionate to his or her length of service, to proceed on a proportionate period of long service leave on the basis of two months' long service leave for ten years' service on full pay.
 - (b) Where the services of an employee with at least five years service and less than seven years service are terminated by the employer for any reason other than the employee's serious and wilful misconduct, or by the employee, on account of illness, incapacity or domestic or other pressing necessity, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service.

Where the services of an employee with at least seven years are terminated by the employer or by the employee, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service.

Where the services of an employee with at least 10 years service are terminated by the employer or by the employee, he/she shall be entitled to be paid on the basis of two months' long service leave for ten years' service and thereafter on the basis of five months long service leave for each ten years service.

- (ii) For the purposes of subclause (i) of this clause:
- (a) Service shall mean continuous service with the employer. For the purpose of this paragraph, continuous service shall be determined in accordance with the provisions of Section 17 of the NSW Health Policy Directive PD2014_029 Leave Matters for the NSW Health Service, as amended from time to time.
 - (b) Broken periods of service with the employer in one or more hospitals shall count as service subject to the following:
 - (1) where an officer, after ceasing employment with the employer is re-employed by the employer a subsequent to the 1st July 1974, any service of that officer before he/she was so re-employed shall not be counted for the purpose of determining any long service leave due to that officer in respect of his/her service after he/she was so re-employed unless he/she has completed at least five years' continuous service from the date of his/her being so re-employed;
 - (2) an officer employed at the 1st July 1974, and who was entitled to count broken service under the provisions of the Award in force prior thereto shall be entitled to count such broken service prior to the 1st July 1974.
 - (c) Service shall not include -
 - (1) any period of leave without pay except in the case of employees who have completed at least ten years service (any period of absence without pay being excluded there from) in which case service shall include any period of leave without pay not exceeding six months taken after 1 July, 1974;
 - (2) any period of part-time service (excluding part-time service under clause 7 of this Award), except as provided in subclause (d) of this clause.
 - (d) An employee shall be entitled to have previous part-time service under Agreement No.1 of 1975 which is the equivalent of at least two full day's duty per week taken into account for long service leave purposes in conjunction with full-time service or part-time service under clause 7 of this Award, on the basis of the proportion that the actual number of hours worked each week bears to 40 hours up until 30 June 1987 and bears to 38 on and from 1 July 1987, provided the part-time service merges without break with the subsequent full-time or part-time service.
- (iii) An employee with an entitlement to long service leave may elect to access such entitlement:
- on full pay;
 - on half pay; or
 - on double pay.
- (iv) When an employee takes long service leave, the leave entitlement will be deducted on the following basis:
- a period of leave on full pay - the number of days so taken;

a period of leave on half pay - half the number of days so taken; or

a period of leave on double pay - twice the number of days so taken.

- (v) When taking long service leave and an employee would otherwise have had a rostered shift fall on a public holiday during that period, the amount of long service leave to be deducted is to be reduced by one day for the public holiday.
- (vi) Long Service Leave shall be taken at a time mutually arranged between the employer and the employee.
- (vii)
 - (a) On the termination of employment of an employee, otherwise than by his/her death, an employer shall pay to the employee the monetary value of all long service leave accrued and not taken at the date of such termination and such monetary value shall be determined according to the salary payable to the employee at the date of such termination unless the employee transfers his/her leave entitlement in accordance with Section 17 of the NSW Health Policy Directive PD2014_029 Leave Matters for the NSW Health Service, as amended from time to time.
 - (b) Where an employee who has acquired a right to long service leave, or after having had five years service and less than ten years service dies, the widow or the widower of such employee, or if there is no such widow or widower, the children of such employee, or if there is no such widow, widower, or children, such person who, in the opinion of the employer, was at the time of the death of such employee, a dependent relative of such employee, shall be entitled to receive the monetary value of the leave not taken or which would have accrued to such employee, had his/her services terminated as referred to in paragraph (b) of subclause (i) of this clause and such monetary value shall be determined according to the salary payable to the employee at the time of his/her death.

Where there is a guardian of any children entitled under this paragraph the payment, to which such children are entitled, may be made to such guardian for their maintenance, education and advancement.

Where there is no person entitled under this paragraph to receive the monetary value of any leave payable under the foregoing provisions payment in respect thereof shall be made to the legal personal representative of such employee.
- (viii) Rights to long service leave under this clause shall be in replacement of rights to long service leave, if any, which at the 1st July 1974, may have accrued or may be accruing to an officer and shall apply only to persons in the employ of the employer on or after the 1st July 1974. Where an officer has been granted long service leave or has been paid its monetary value prior to the 1st July 1974, the employer shall be entitled to debit such leave against any leave to which the officer may be entitled pursuant to this clause.

20. Board and Accommodation

- (i) Where an officer lives at a hospital, deductions from his/her salary for accommodation and/or board may be made by the employer at the rates prescribed from time to time by the Public Health System Nurses' and Midwives' (State) Award.
- (ii) Where individual meals only are provided, the officer may be charged the charges applicable under the Public Health System Nurses' and Midwives' (State) Award.
- (iii) No deduction shall be made from the salary of an officer for board and accommodation when the officer is absent on annual, sick or long service leave, provided that the employer shall be entitled to make the deduction for accommodation where the officer:
 - (a) having been requested to leave his/her room completely vacant fails to do so; or

- (b) is absent on sick leave and such absence does not exceed six consecutive days.

21. Uniform and Laundry Allowance

- (i) Sufficient suitable and serviceable uniforms shall be provided for each officer required to wear a uniform and such uniforms shall be laundered at the expense of the employer.
- (ii) Where the employer requires a uniform to be worn but does not provide such uniform, the following allowances shall be paid:
 - (a) where a full uniform, including special shoes, is required, an amount per week as set in Item 4 of Table 1, Allowances ;
 - (b) in other cases, an amount as also set in Item 4 of Table 1.

22. Termination of Employment

Employment may be terminated only by four weeks' notice given in writing either by the employer or the officer at any time during the week or by payment or forfeiture of four weeks' salary as the case may be, provided that the officer and the employer may agree to a lesser period of notice. Nothing in this clause shall prevent the summary dismissal of an officer for misconduct or neglect of duty.

23. Settlement of Disputes

- (i) Where a dispute arises in a particular section which cannot be resolved between the employees or their representative and the supervising staff, it shall be referred to the Chief Executive Officer of the Health Service or establishment or his/her nominee, who will arrange for the matter to be discussed with the employees concerned and a local representative or representatives of the Union.
- (ii) Failing settlement of the issue at this level, the matter shall be referred to the Secretary, and the Head Office of the Union. The dispute will then be dealt with pursuant to subclause (v) of this clause.
- (iii) Whilst these procedures are continuing, no stoppage of work or any form of ban or limitation of work shall be applied.
- (iv) The Union reserves the right to vary this procedure where it is considered a safety factor is involved.
- (v) With a view to an amicable and speedy settlement, all disputes that firstly cannot be settled in accordance with subclauses (i) and (ii) of this clause may be submitted to a committee consisting of not more than six members, with equal representatives of the Secretary and the Union. Such committee shall have the power to investigate all matters in dispute and to report to the Chief Executive Officer of the Health Service and the Union respectively with such recommendations as it may think right and, in the event of no mutual decision being arrived at by such committee, the matter in dispute may be referred to the Public Health Employees (State) Industrial Committee.
- (v) This clause shall not interfere with the rights of either party to institute proceedings for the determination of any matter in accordance with the *Industrial Relations Act 1996*.

24. Anti-Discrimination

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

25. Study Leave

- (i) Subject to the terms of this clause the employer may grant to officers other than interns, study leave without loss of pay as follows:

Face-to-face courses: Half hour study time for every hour of compulsory lecture and/or tutorial attendance, up to a maximum of four hours study time per week. Where no face-to-face course is provided: A maximum of four hours study time per week for a maximum of 27 weeks per year.
- (ii) Study leave shall only be granted in respect of a course:
 - (a) leading to higher medical qualifications as defined in clause 1, Definitions, of this Award; and
 - (b) in respect of a qualification which when obtained would be relevant to the needs of the hospital.
- (iii) The officer shall submit to the employer a timetable of the proposed course of study and evidence of the officer's enrolment in the course.
- (iv) The grant of study leave is subject to the convenience of the employer and should not interfere with the maintenance of essential services or with patient care.
- (v) Periods of study leave granted shall not be taken into account for the purposes of calculating overtime payments;
- (vi) Study leave granted subject to the terms of this clause, may be accrued to a maximum of seven working days for the purpose of enabling the officer to study prior to a written, oral or clinical examination. An option to accumulate study leave in terms of this subclause shall be exercised at the commencement of each academic year and the officer shall notify the employer accordingly;

- (vii) Officers who have given continuous service of more than one year shall be allowed to accrue study leave not taken up to a maximum of fourteen calendar days.

26. Travelling Allowances

- (i) An officer seconded to another hospital may be granted a daily travel allowance at the rate of the difference between the cost of travel by public transport to his/her normal place of employment and travel by public transport to the seconding hospital. Provided that where an officer drives his/her own vehicle, he/she shall, in lieu, be eligible for a mileage allowance equivalent to the "Transport Allowance" as determined under the *Health Services Act 1997* from time to time, for the difference between the distance to his/her normal place of employment and the distance to the seconding hospital.
- (ii) An officer who, with the approval of the employer, uses on official business, a motor vehicle maintained primarily for other than official business, shall be paid the above-mentioned mileage allowance from time to time effective. However, where it is estimated that an officer will, with the approval of the employer, be required to use his/her private vehicle on official business on at least 50 days during any period of 12 months and during that period aggregate at least 850 kilometres of official running, he/she shall be paid at the "Official Business Rate" prescribed by clause 36 of the Crown Employees (Public Service Conditions of Employment) Award 2009 at the rate in force from time to time throughout the year.
- (iii) For the purpose of subclause (ii) travel on official business:
 - (a) occurs when an officer is required by the employer as part of his/her duty to use his/her motor vehicle to attend away from his/her normal place of employment or seconding hospital to another clinic, annexe or hospital. Where an officer travels on official business direct from his/her place of residence to a clinic, annexe or hospital, other than his/her normal place of employment he/she shall be paid for the difference between the distance to his/her normal place of employment or seconding hospital and that other annexe, clinic or hospital;
 - (b) does not include "call backs";
 - (c) shall include other arrangements as agreed to between the employer and the Union from time to time.
- (iv) Nothing in this clause shall make the employer liable for the cost of the officer's daily travel to his/her usual and normal place of employment.

27. Mobility, Excess Fares and Travelling

For the purpose of this clause accustomed place of work shall mean the location where an employee is regularly required to commence duty by the employer.

- (i) An employee shall be required to proceed to the accustomed place of work and return home once on each ordinary working day or shift in the employee's own time and at the employee's own expense.
- (ii)
 - (a) Where an employee is directed to report for duty to a place of work other than the employee's accustomed place of work the employee shall travel to and from the alternative place of work in the employer's time for those periods in excess of time normally taken to travel to and from the accustomed place of work.
 - (b) If the excess of travelling time on a particular day or shift is greater than the prescribed ordinary hours of duty for the particular category of staff for that day or shift, then the excess of hours shall be paid at the ordinary rate of pay to the extent of travelling time.

- (c) Fares incurred by such employee in excess of the fares normally incurred in travelling to the employee's accustomed place of work and returning home from the accustomed place of work shall be reimbursed.
 - (d) Where the employee is required to report to an alternative place of work and has the prior approval of the employer to travel by his/her own mode of conveyance, the employee shall be paid a kilometre allowance for kilometres travelled in excess of the kilometres the employee normally travels between the accustomed place of work and home. The kilometre allowance will be prescribed from time to time by the Industrial Relations Secretary.
- (iii)
- (a) Where an employer has determined that an employee or employees should report to a new accustomed place of work on a permanent basis, the decision must be discussed with the affected employee(s) and the local branch of the Union prior to notice of changed accustomed place of work being given.
 - (b) The employer shall give the employee reasonable notice of the requirement to report to a new accustomed place of work. For the purpose of this subclause "reasonable notice" shall be one calendar month prior to the date the employee is first required to report to the new accustomed place of work.
 - (c) Where the accustomed place of work is changed on a permanent basis by the employer, the employee shall report to the new accustomed place of work on the date specified by the employer.
 - (d) If there is disagreement about such a decision after such discussion or if a significant number of employees are involved, the matter should be referred to the Secretary who will discuss the matter with the Union and will determine the date upon which notice will be given to employee(s).
- (iv)
- (a) The provision of this clause shall not apply to an employee appointed to regularly perform relief duties or to employees specifically employed to perform duties at more than one place of work except as provided in (b) hereunder.
 - (b) If a reliever incurs fares in excess of \$5 per day in travelling to and from the relief site, the excess shall be reimbursed.
- Where a reliever, with the prior approval of the employer, travels by his/her own mode of conveyance and incurs travelling costs in excess of \$5 per day to and from the relief site, such excess shall be reimbursed. The rate applicable shall be the kilometre allowance prescribed from time to time by the Industrial Relations Secretary less \$5.
- This \$5 shall be reviewed annually by the employer.
- (v) No payment shall be made under this clause unless the employer is satisfied that the employee has incurred additional expenditure in having to report to an alternative place of work, at the direction of the employer.
 - (vi) Travel to an alternative place of work, either by public transport or own mode of conveyance, shall in all instances be by the most direct route.

28. Secondment

- (i) Allowance - An officer, other than an intern, seconded to work in a hospital listed at Part C of this Award shall have his/her salary increased by one incremental step, by way of allowance, for the period the officer works in such hospital.

For the duration of the officer's secondment, other than periods of leave, the allowance shall be treated as salary for the purpose of calculating overtime and shift penalties.

- (ii) Travel - An officer referred to in subclause (i) of this clause shall be allowed a paid journey to Sydney and return by economy class airfare or equivalent thereof for each period of 7 weeks in the employment of a hospital listed at Part C of this Award.

At the discretion of the employer the paid journey may be taken in advance. Such travel may be used for the purpose of furthering the officer's medical education.

29. Relocation Expenses

Where an officer is employed by the employer within the metropolitan area and applies for and obtains a permanent position at a country location (being either a position covered by this Award or a Career Medical Officer position), the costs incurred by the officer in respect to removal of furniture and effects and conveyancing in the purchase of a residence are to be refunded by the employer on the following basis: -

At the time the appointment is taken up: 50% of costs incurred.

After one year's service at the country location: a further 25% of the costs incurred.

After two years service at the country location: the remaining 25% of the costs incurred.

These arrangements become effective in relation to country appointments made after 1 January 1989.

30. Labour Flexibility

- (i) The employer may direct an employee to carry out such duties as are reasonable, and within the limits of the employee's skill, competence and training consistent with the employee's classification, grouping and/or career stream provided that such duties are not designed to promote de-skilling.
- (ii) The employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained or has otherwise acquired the necessary skills in the use of such tools and equipment.
- (iii) Any direction issued by the employer pursuant to subclauses (i) and (ii) shall be consistent with the employer's responsibilities to provide a safe and healthy work environment.
- (iv) Existing provisions with respect to the payment of higher duties allowances shall apply in such circumstances.

31. Salary Packaging

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

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

- (ii) Where an employee elects to package an amount of salary:
 - (a) Subject to Australian taxation law, the packaged amount of salary will reduce the salary subject to PAYE taxation deductions by that packaged amount.

- (b) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this Award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under this Award in the absence of any salary packaging or salary sacrificing made under this Award.
- (c) 'Salary' for the purpose of this clause, for superannuation purposes, and for the calculation of Award entitlements, shall mean the Award salary as specified in clause 2. Salaries, and which shall include 'approved employment benefits' which refer to fringe benefit savings, administration costs, and the value of packaged benefits.
- (iii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees, and private health fund membership fees.
- (iv) The salary packaging scheme utilises a fringe benefit taxation exemption status conferred on public hospitals and local health districts, which provides for a fringe benefit tax exemption cap of \$17,000 per annum. The maximum amount of fringe benefits-free tax savings that can be achieved under the scheme is where the value of benefits when grossed-up, equal the fringe benefits exemption cap of \$17,000. Where the grossed-up value exceeds the cap, the employer is liable to pay fringe benefits tax on the amount in excess of \$17,000, but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits, are deducted from pre-tax dollars.
- (v) The parties agree that the application of the fringe benefits tax exemption status conferred on public hospitals and local health districts is subject to prevailing Australian taxation laws.
- (vi) If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the Salary Packaging Policy and Procedure Manual.
- (vii) Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.
- (viii) Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.
- (ix) The employer and the employee shall comply with the procedures set out in the NSW Health Services Salary Packaging Policy and Procedure Manual as amended from time to time.

32. Reasonable Hours

- (i) Subject to subclause (ii) the employer may require an employee to work reasonable overtime at overtime rates unless or as otherwise provided for under the Award.
- (ii) The employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
- (iii) For the purposes of subclause (ii) 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.

33. Salary Sacrifice to Superannuation

- (i) Notwithstanding the salaries prescribed in clause 2, Salaries as varied from time to time, an employee may elect, subject to the agreement of the employee's employer, to sacrifice a part or all of the salary payable under the salaries clause to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. The amount sacrificed together with any salary packaging arrangements under clause 31, Salary Packaging, of this Award may be made up to one hundred (100) per cent of the salary payable under the relevant salaries clause, or up to one hundred (100) per cent of the currently applicable superannuable salary, whichever is the lesser.

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

- (ii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees and private health fund membership fees.
- (iii) Where the employee has elected to sacrifice a part or all of the available payable salary to additional employer superannuation contributions:
 - (a) The employee shall be provided with a copy of the signed agreement. The salary sacrifice agreement shall be terminated at any time at the employee's election and shall cease upon termination of the employee's services with the employer.
 - (b) Subject to Australian taxation law, the amount of salary sacrificed will reduce the salary subject to appropriate PAYE taxation deductions by the amount sacrificed; and
 - (c) Any allowance, penalty rate, overtime, payment for unused leave entitlements, weekly workers' compensation, or other payment, other than any payment for leave taken in service, to which an employee is entitled under the relevant Award or any applicable Award, act, or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the salaries clause of the relevant Award in the absence of any salary sacrifice to superannuation made under this Award.
- (iv) The employee may elect to have the specified amount of payable salary which is sacrificed to additional employer superannuation contributions:
 - (a) paid into the superannuation scheme established under the *First State Superannuation Act 1992* as optional employer contributions; or
 - (b) subject to the employer's agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.
- (v) Where an employee elects to salary sacrifice in terms of subclause (iv) above, the employer will pay the sacrificed amount into the relevant superannuation fund.
- (vi) Where the employee is a member of a superannuation scheme established under:
 - (a) the *Police Regulation (Superannuation) Act 1906*;

- (b) the *Superannuation Act* 1916;
- (c) the *State Authorities Superannuation Act* 1987;
- (d) the *State Authorities Non-contributory Superannuation Act* 1987; or
- (e) the *First State Superannuation Act* 1992.

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

- (vii) Where, prior to electing to sacrifice a part or all of their salary to superannuation, an employee had entered into an agreement with their employer to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in subclause (v) above, the employer will continue to base contributions to that fund on the salary payable under clause 2, Salaries of the Award to the same extent as applied before the employee sacrificed that amount of salary to superannuation. This clause applies even though the superannuation contributions made by the employer may be in excess of the superannuation guarantee requirements after the salary sacrifice is implemented.

34. No Extra Claims

Other than as provided for in the *Industrial Relations Act* 1996 and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2018 by a party to this Award.

35. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2017 and shall remain in force for a period of one year.
- (ii) This Award rescinds and replaces the Public Hospital Medical Officers (State) Award published 29 July 2016 (380 I.G. 615) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained herein employed in the New South Wales Health Service under section 115(1) of the *Health Services Act* 1997, or their successors, assignees or transmittes.

PART B

Table 1 - Allowances and Other Rates

Item No.	Clause No.	Description	Rate from first full pay period on or after 01/07/2017 \$
1	5	In charge Allowance	19.90
2	11(ii)	Meal Allowance for overtime	
		(a) Breakfast at or before 6.00 a.m.	29.40
		(b) Evening at least 1 hour after normal ceasing time and extends beyond or is worked wholly after 7.00 p.m.	29.40
		(c) Lunch beyond 2.00 p.m. Saturdays, Sundays or Holidays	29.40

3	12(iii)	On-call Allowance per on-call period which coincides with a day rostered on duty	15.50
		On-call allowance per on-call period which coincides with a rostered day off	31.00
		per week	108.30
4	21(ii)	Uniform and Laundry Allowance	2.41
		- Full uniform including special shoes if required - Other cases	1.78

PART C

Albury Base Hospital

Armidale and New England Hospital

Bathurst Base Hospital

Bega Hospital

Broken Hill Hospital

Coffs Harbour Hospital

Dubbo Base Hospital

Goulburn Base Hospital

Grafton Base Hospital

Griffith Hospital

Lismore Base Hospital

Orange Base Hospital

Port Macquarie Base Hospital

Shoalhaven Memorial Hospital

Tamworth Rural Referral hospital

Taree Manning Base Hospital

Tweed Heads District Hospital

Wagga Wagga Base Hospital

P. M. KITE, Chief Commissioner.
J. V. MURPHY, Commissioner.
J. SEYMOUR, Commissioner

(563)

SERIAL C8837**PUBLIC HOSPITALS (MEDICAL SUPERINTENDENTS) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 2017/200473)

Before Chief Commissioner Kite
 Commissioner Murphy
 Commissioner Seymour

26 October 2017

AWARD**PART A****Arrangement**

Clause No.	Subject Matter
1.	Definitions
2.	Salaries
3.	Grading Committee
4.	Annual Leave
5.	Sick Leave
6.	Maternity, Adoption and Parental Leave
6A.	Lactation Breaks
7.	Public Holidays
8.	Long Service Leave
9.	Higher Grade Duty
10.	Payment and Particulars of Salaries
11.	Settlement of Disputes
12.	Anti-Discrimination
13.	Mobility, Excess Fares and Travelling
14.	Family and Community Services Leave and Personal/Carer's Leave
14A.	Family Violence Leave
15.	Labour Flexibility
16.	Termination of Employment
17.	Salary Packaging
18.	Reasonable Hours
19.	Salary Sacrifice to Superannuation
20.	No Extra Claims
21.	Area, Incidence and Duration

PART A**1. Definitions**

"Secretary" means the Secretary of the Ministry of Health.

"Employer" means the Secretary of the Ministry of Health exercising employer functions on behalf of the Government of New South Wales (and includes a delegate of the Secretary).

"Health Service" means a Local Health District constituted under section 8 of the *Health Services Act 1997*, a Statutory Health Corporation constituted under section 11 of that Act, and an Affiliated Health Organisation constituted under section 13 of that Act.

"Higher Medical Qualification" means such qualification obtained by a medical practitioner subsequent to graduation and includes:

- (a) post-graduate University degrees and diplomas recognised by the Medical Board of Australia as qualifications; or
- (b) membership or fellowship of the Royal College or Royal Australian College of Physicians or Fellowship of the Royal College or Royal Australasian College of Surgeons or membership or fellowship of the Royal College of Obstetricians and Gynaecologists; or Fellowship of the Australian College of Medical Administrators;
- (c) such other post-graduate qualification recognised by the Medical Board of Australia and acceptable to the Ministry of Health.

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

"Officer" means a person who is a registered medical practitioner and who is employed as a Chief Executive Officer, Deputy Chief Executive Officer, Medical Superintendent, Deputy Medical Superintendent, Assistant Medical Superintendent or Clinical Superintendent in a position as such by the employer.

"Service" unless the context otherwise indicates or requires, means service before or and/or after the commencement of this Award with the employer.

"Union" means the Health Services Union NSW and the Australian Salaried Medical Officers' Federation (New South Wales).

"Weekly rates" will be ascertained by dividing an annual amount by 52.17857 or a weekly rate can be multiplied by 52.17857 to obtain the annual amount.

2. Salaries

Salaries for Medical Superintendents shall be as set out in the Health Professional and Medical Salaries (State) Award.

3. Grading Committee

A Committee consisting of up to three representatives of the employer and up to three representatives of the Union shall be constituted to consider and recommend to the Industrial Commission of New South Wales upon application by the Union or the employer:

- (i) The grading of any new position or any variation of grading of a position as a result of any substantial change in duties and/or responsibilities; and
- (ii) the date of the effect of the grading recommended. Provided that -
 - (a) an officer shall, whilst the grading of his/her position is under consideration, be ineligible to be a member of the Committee;
 - (b) the Committee shall not, without sufficient reason, recommend the retrospective operation of any grading or remuneration; and
 - (c) where a retrospective date of effect is recommended such date shall not be earlier than a date six months prior to the date on which the matter was referred to the Committee.

4. Annual Leave

- (i) Annual leave shall accrue at the rate of five calendar weeks per annum.
- (ii) Annual leave shall not accrue beyond ten calendar weeks without the approval of the employer.

- (iii) Such annual leave shall be taken by officers at mutually convenient times as arranged with the employer.
- (iv) The employer shall pay each officer in advance before the commencement of any period of annual leave his ordinary pay for the period of the leave.
- (v) Where any special or public holiday for which the officer is entitled to payment under this Award or under any Act or under his contract of employment occurs during any period of annual leave taken by an officer, the holiday shall not be reckoned as a deduction from the officer's annual leave entitlement.
- (vi) Annual leave for a period of accrual of less than twelve months shall accrue on a proportionate basis at the rate of five calendar weeks per annum.
- (vii) Where the employment of an officer who has become entitled to a period of annual leave is terminated or the officer resigns, the due period of annual leave shall be deemed to be taken from the date of termination or resignation and the employer shall forthwith pay to the officer, in addition to all other amounts due to him, his ordinary pay for the period of annual leave.

NOTATION: The conditions under when the annual leave loading shall be paid to officers are the same as generally applied through circulars issued by the Ministry of Health.

- (viii) The provisions of subclause 4(i) above entitle Medical Superintendents to paid annual leave additional to that available under clause 3(1)(b) of the *Annual Holidays Act 1944*, which is four weeks paid leave per annum. A Medical Superintendent entitled to such additional paid annual leave can elect at any time to be paid an amount equivalent to the value of accrued additional annual leave in lieu of taking the additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave was actually taken.

5. Sick Leave

An officer shall be entitled to ten days per year for each year of continuous service less any sick leave on full pay already taken, subject to the following conditions:

- (a) The employer may require the sickness to be certified to by a legally qualified medical practitioner approved by the employer or may require other satisfactory evidence thereof.
- (b) An officer shall not be entitled to sick leave until after three months' continuous service.
- (c) An officer shall not be entitled to sick leave on full pay for any period in respect of which such officer is entitled to accident pay or workers' compensation.

Provided, however, that where an officer is not in receipt of accident pay, the employer shall pay to an officer, who has sick leave entitlements under this clause, the difference between the amount received as workers' compensation and full pay. The officer's sick leave entitlements under this clause shall, for each week during which such difference is paid, be reduced by that proportion of hours which the difference paid bears to full pay. On the expiration of available sick leave, weekly compensation payments only shall be payable.

- (d) For the purpose of this clause "service" means service in any of the positions covered by this Award provided that any person who was employed by the employer immediately prior to becoming an officer in any position covered by this Award shall be entitled to add to his or her service under this Award the service that he or she has had under any other Award or agreement covering his/her employment with the employer; provided that officers who are employed at the date of commencement of this Award shall retain to their credit until exhausted, any accumulation of sick leave to their credit immediately prior to such date; and provided further that such credit is not less than the entitlement otherwise prescribed by this clause.

- (e) The employer shall not terminate the services of an employee, except on the grounds of misconduct, during the currency of any period of paid sick leave unless an agreed independent registered medical practitioner certifies that an employee is fit to continue in employment and the employee refuses to resume duty.

If a dispute arises as to whether an employee is fit to continue in employment, such dispute shall be referred to a Disputes Committee.

6. Maternity, Adoption and Parental Leave

A. Maternity Leave

(i) Eligibility for Paid Maternity Leave

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

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

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after her services have been otherwise dispensed with: or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

(ii) Portability of Service for Paid Maternity Leave

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

When determining an employee's eligibility for paid maternity leave, continuous service with an organisation that is part of the government sector as defined in the *Government Sector Employment Act 2013* will be recognised, provided that:

- (a) service was on a full-time or permanent part-time basis;
- (b) cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;
- (c) the employee immediately commences duty with the new employer. There may be a break in service of up to two months before commencing duty with the new employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.

(iii) Entitlement to Paid Maternity Leave

An eligible employee is entitled to fourteen weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen weeks prior to the expected date of birth.

It is not compulsory for an employee to take this period off work. However, if an employee decides to work during the nine weeks prior to the date of birth it is subject to the employee being able to satisfactorily perform the full range of normal duties.

Paid maternity leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(iv) Unpaid Maternity Leave

(a) Full time and permanent part time employees who are entitled to paid maternity leave are entitled to a further period of unpaid maternity leave of not more than 12 months after the actual date of birth.

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

(v) Applications

An employee who intends to proceed on maternity leave should formally notify her employer of such intention as early as possible, so that arrangements associated with her absence can be made.

Written notice of not less than eight weeks prior to the commencement of the leave should accordingly be given. This notice must include a medical certificate stating the expected date of birth and should also indicate the period of leave desired.

(vi) Variation after Commencement of Leave

After commencing maternity leave, an employee may vary the period of her maternity leave once only without the consent of her employer by giving the employer notice in writing of the extended period at least fourteen days' before the start of the extended period. An employer may accept less notice if convenient.

An employee may extend the period of maternity leave at any time with the agreement of the employer.

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

(vii) Staffing Provisions

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

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

When the employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual leave, sick leave and long service leave and any period of maternity leave on half pay is taken into account to the extent of one half thereof when determining the accrual of annual leave, sick leave and long service leave.

Except in the case of employees who have completed ten years' service the period of maternity leave without pay does not count as service for long service leave purposes. Where the employee has completed ten years' service the period of maternity leave without pay shall count as service provided such leave does not exceed six months.

Maternity leave without pay does not count as service for incremental purposes. Periods of maternity leave at full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.

Where public holidays occur during the period of paid maternity leave, payment is at the rate of maternity leave received i.e., public holidays occurring in a period of full pay maternity leave are paid at full rate and those occurring during a period of half pay leave are paid at half rate.

(ix) Illness Associated with Pregnancy

If, because of an illness associated with her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.

Where an employee is entitled to paid maternity leave, but because of illness, is on sick, annual, long service leave, or sick leave without pay prior to the birth, such leave ceases nine weeks prior to the expected date of birth. The employee then commences maternity leave with the normal provisions applying.

(x) Transfer to a More Suitable Position

Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. This obligation arises from Section 70 of the *Industrial Relations Act 1996*. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(xi) Miscarriages

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

(xii) Stillbirth

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

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

An employee who gives birth prematurely and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

(xiv) Right to Return to Previous Position

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

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

(xv) Further Pregnancy While on Maternity Leave

Where an employee becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If an employee enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases.

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

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

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

B. Adoption Leave

(i) Eligibility

All full time and permanent part time employees who are adopting a child and are to be the primary care giver of the child are eligible for unpaid adoption leave.

To be eligible for paid adoption leave a full time or permanent part-time employee must also have completed at least 40 weeks continuous service prior to the date of taking custody of the child.

An employee who has once met the conditions of paid adoption leave, will not be required to again work the 40 weeks continuous service in order to qualify for further periods of paid adoption leave, unless

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with; or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Worker's Compensation Act 1987*.

(ii) Portability of Service for Paid Adoption Leave

As per maternity leave conditions.

(iii) Entitlement

(a) Paid Adoption Leave

Eligible employees are entitled to paid adoption leave of fourteen weeks at the ordinary rate of pay from and including the date of taking custody of the child.

Paid adoption leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(b) Unpaid Adoption Leave

Eligible employees are entitled to unpaid adoption leave as follows:

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

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

(iv) Applications

Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave. This will allow arrangements associated with the adoption leave to be made.

(v) Variation after Commencement of Leave

After commencing adoption leave, an employee may vary the period of leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

(vi) Staffing Provisions

As per maternity leave conditions.

(vii) Effect of Adoption Leave on Accrual of Leave, Increments, etc.

As per maternity leave conditions.

(viii) Right to Return to Previous Position

As per maternity leave conditions.

C. Parental Leave

(i) Eligibility

To be eligible for parental leave a full time or permanent part-time employee must have completed at least 40 weeks continuous service prior to the expected date of birth or to the date of taking custody of the child.

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

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with: or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

(ii) Portability of Service for Paid Parental Leave

As per maternity leave conditions.

(iii) Entitlements

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

- (a) an unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave), and
- (b) a further unbroken period in order to be the primary caregiver of the child (extended parental leave).
- (c) The entitlement of one week's paid leave may be taken at any time within the 52 week period and shall be paid:

at the employees ordinary rate of pay for a period not exceeding one week on full pay, or two weeks at half pay or the period of parental leave taken, whichever is the lesser period.
- (d) Extended parental leave cannot be taken at the same time as the employee's spouse or partner is on maternity or adoption leave except as provided for in subclause (i)(a) of Part D Right to Request of this clause.

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

(iv) Applications

An employee who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.

- (a) In the case of extended parental leave, the employee should give written notice of the intention to take the leave.

- (b) The employee must, at least four weeks before proceeding on leave, give written notice of the dates on which they propose to start and end the period of leave, although it is recognised in situations of taking custody of a child, little or no notice may be provided to the employee. In such an instance, the employee should notify the employer as early as practicable.
- (c) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.
- (d) In the case of extended parental leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:
 - (1) if applicable, the period of any maternity leave sought or taken by his spouse, and
 - (2) that they are seeking the period of extended parental leave to become the primary care giver of the child.
- (v) Variation after Commencement of Leave -

After commencing parental leave, an employee may vary the period of her/his parental leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.
- (vi) Effect of Parental Leave on Accrual of Leave, Increments etc.

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

As per maternity leave conditions.

D. Right to Request

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

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

- (iv) Where an employee wishes to make a request under subclause (i)(c):
 - (a) the employee is to make an application for leave without pay to reduce their full time weekly hours of work
 - (b) such application must be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks notice must be given;
 - (c) salary and other conditions of employment are to be adjusted on a basis proportionate to the employee's full time hours of work i.e. for long service leave the period of service is to be converted to the full time equivalent and credited accordingly.
 - (d) employees who return from leave under this arrangement remain full time employees. Therefore the payment of any part time allowance to such employees does not arise.

E. Communication During Leave

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

NOTE:

- (a) The entitlement to maternity, adoption and parental leave for part-time employees who receive an adjusted hourly rate, along with casual employees, are in accordance with the provisions of Part 4, Parental Leave of the *Industrial Relations Act 1996* and/or Determination under the *Health Services Act 1997*.
- (b) Where a casual employee is entitled to parental leave under the *Industrial Relations Act 1996*, the following provisions shall also apply in addition to those set out in the Act.

An employer must not fail to re-engage a casual employee because:

the employee or employee's spouse is pregnant; or

the employee is or has been immediately absent on parental leave.

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

- (c) Part time employees who receive an adjusted hourly rate are also entitled to the provisions of Part D Right to Request and Part E Communication During Leave of this clause.

(d) Liability for Superannuation Contributions

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

6A. Lactation Breaks

- (i) This clause applies to employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this Award.
- (ii) A full time employee or a part time employee working more than four hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day or per shift.
- (iii) A part time employee working four hours or less on any day or shift is entitled to only one paid lactation break of up to 30 minutes each per day or per shift worked.
- (iv) A flexible approach to lactation breaks can be taken by mutual agreement between an employee and their manager provided the total lactation break time entitlement is not exceeded. When giving consideration to any such requests for flexibility, a manager needs to balance the operational requirements of the organisation with the lactating needs of the employee.
- (v) The employer shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk. Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and the employee will take place to attempt to identify reasonable alternative arrangements for the employee's lactation needs.
- (vi) Employees experiencing difficulties in effecting the transition from home based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.
- (vii) Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave or other leave in accordance with the Award.

7. Public Holidays

No deduction shall be made from the salary of an officer for any public or statutory holidays on which he/she is not required to work. For the purpose of this clause, the following shall be deemed public holidays: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day, Boxing Day, and such other public holidays as may be proclaimed throughout the State of New South Wales or for any district therein which an officer is employed.

8. Long Service Leave

- (i)
 - (a) Each employee shall be entitled to two months long service leave on full pay after ten years of service; thereafter additional long service shall accrue on the basis of five months long service leave on full pay for each ten years service.

Employees with at least seven years service and less than 10 years service are entitled, proportionate to his or her length of service, to proceed on a proportionate period of long service leave on the basis of two months' long service leave for ten years' service on full pay.

- (b) Where the services of an employee with at least five years service and less than seven years service are terminated by the employer for any reason other than the employee's serious and wilful misconduct, or by the employee, on account of illness, incapacity or domestic or other pressing necessity, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service.

Where the services of an employee with at least seven years are terminated by the employer or by the employee, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service. Where the services of an employee with at least 10 years service are terminated by the employer or by the employee, he/she shall be entitled to be paid on the basis of two months' long service leave for ten years' service and thereafter on the basis of five months long service leave for each ten years service.

- (ii) For the purposes of subclause (i) of this clause:

- (a) service shall mean continuous service with the employer. For the purpose of this paragraph, continuous service shall be determined in accordance with the provisions of Section 17 of the NSW Health Policy Directive PD2014_029 Leave Matters for the NSW Health Service, as amended from time to time.

- (b) Broken periods of service in one or more hospitals shall count as service subject to the following:

- (1) where an officer, after ceasing employment with the employer is re-employed by the employer subsequent to the 1st July 1974, any service of that officer before he/she was so re-employed shall not be counted for the purpose of determining any long service leave due to that officer in respect of his/her service after he/she was so re-employed unless he/she has completed at least five years' continuous service from the date of his/her being so re-employed;
- (2) an officer employed in a hospital at the 1st July 1974, and who was entitled to count broken service under the provisions of the Award in force prior thereto shall be entitled to count such broken service prior to the 1st July 1974.

- (c) Service shall not include -

- (1) any period of leave without pay except in the case of employees who have completed at least ten years service (any period of absence without pay being excluded there from) in which case service shall include any period of leave without pay not exceeding six months taken after 1 July 1974;
- (2) any period of part-time service, except permanent part-time service.

- (iii) An employee with an entitlement to long service leave may elect to access such entitlement:

- (a) on full pay;
- (b) on half pay; or
- (c) on double pay.

- (iv) When an employee takes long service leave, the leave entitlement will be deducted on the following basis:

- (a) a period of leave on full pay - the number of days so taken;
- (b) a period of leave on half pay - half the number of days so taken; or
- (c) a period of leave on double pay - twice the number of days so taken.

- (v) When taking long service leave and an employee would otherwise have had a rostered shift fall on a public holiday during that period, the amount of long service leave to be deducted is to be reduced by one day for the public holiday.
- (vi) Long Service Leave shall be taken at a time mutually arranged between the employer and the employee.
- (vii)
 - (a) On the termination of employment of an employee, otherwise than by his/her death, an employer shall pay to the employee the monetary value of all long service leave accrued and not taken at the date of such termination and such monetary value shall be determined according to the salary payable to the employee at the date of such termination unless the employee transfers his/her leave entitlement in accordance with NSW Health Policy Directive PD2014_029 Leave Matters for the NSW Health Service, as amended from time to time.
 - (b) Where an employee who has acquired a right to long service leave, or after having had five years service and less than ten years service dies, the widow or the widower of such employee, or if there is no such widow or widower, the children of such employee, or if there is no such widow, widower, or children, such person who, in the opinion of the employer, was at the time of the death of such employee, a dependent relative of such employee, shall be entitled to receive the monetary value of the leave not taken or which would have accrued to such employee, had his/her services terminated as referred to in paragraph (b) of subclause (i) of this clause and such monetary value shall be determined according to the salary payable to the employee at the time of his/her death.

Where there is a guardian of any children entitled under this paragraph the payment, to which such children are entitled, may be made to such guardian for their maintenance, education and advancement.

Where there is no person entitled under this paragraph to receive the monetary value of any leave payable under the foregoing provisions payment in respect thereof shall be made to the legal personal representative of such employee.
- (viii) Rights to long service leave under this clause shall be in replacement of rights to long service leave, if any, which at the 1st July 1974, may have accrued or may be accruing to an officer and shall apply only to persons in the employ of the employer on or after the 1st July 1974. Where an officer has been granted long service leave or has been paid its monetary value prior to the 1st July 1974, the employer shall be entitled to debit such leave against any leave to which the officer may be entitled pursuant to this clause.

9. Higher Grade Duty

An officer who is called upon to relieve continuously in a higher classification for five working days or more and who satisfactorily performs the whole of the duties and assumes the whole of the responsibilities of the higher classification shall be entitled to receive the minimum salary of such higher classification for all such periods of relief.

10. Payment and Particulars of Salary

- (i) All salaries and other payments shall be paid fortnightly.
- (ii) Employees shall have their salary paid into one account with a bank or other financial institution in New South Wales as nominated by the employee. Salaries shall be deposited by the employer in sufficient time to ensure that wages are available for withdrawal by employees by no later than payday, provided that this requirement shall not apply where employees nominate accounts with non-bank financial institutions which lack the technological or other facilities to process salary deposits within 24 hours of the employer making deposits with such financial institutions but in such cases the employer shall take all reasonable steps to ensure that the wages of such employees are available for withdrawal by no later than payday.

- (iii) Underpayment and overpayment of salaries - the following process will apply once the issue of underpayment or overpayment is substantiated.
- (a) Underpayment
- (1) If the amount underpaid is equal to or greater than one day's gross base pay the underpayment will be rectified within three working days;
 - (2) If the amount underpaid is less than one day's gross base pay it will be rectified by no later than the next normal pay. However, if the employee can demonstrate that rectification in this manner would result in undue hardship, every effort will be made by the employer to rectify the underpayment within three working days.
- (b) Overpayment
- (1) In all cases where overpayments have occurred, the employer shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The employer will also advise the employee of the pay period from which the recovery of the overpayment is to commence.
 - (2) One off overpayments will be recovered in the next normal pay, except that where the employee can demonstrate that undue hardship would result, the recover rate shall be at 10% of an employee's gross fortnightly base pay.
 - (3) Unless the employee agrees otherwise, the maximum rate at which cumulative overpayments can be recovered is an amount, calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly base pay.
 - (4) The recovery rate of 10% of an employee's gross fortnightly base pay referred to in subclause (b)(3) above may be reduced by agreement, where the employee can demonstrate that undue hardship would result.
 - (5) Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause (b)(3) above, the employer shall have the right to deduct any balance of such overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

11. Settlement of Disputes

- (i) Where a dispute arises in a particular section which cannot be resolved between the employees or their representative and the supervising staff, it shall be referred to the Chief Executive Officer of the Health Service or establishment or his/her nominee, who will arrange for the matter to be discussed with the employees concerned and a local representative or representatives of the Union.
- (ii) Failing settlement of the issue at this level, the matter shall be referred to the Secretary and the Head Office of the Union. The dispute will then be dealt with pursuant to subclause (v) of this clause.
- (iii) Whilst these procedures are continuing, no stoppage of work or any form of ban or limitation of work shall be applied.
- (iv) The Union reserves the right to vary this procedure where it is considered a safety factor is involved.
- (v) With a view to an amicable and speedy settlement, all disputes that firstly cannot be settled in accordance with subclauses (i) and (ii) of this clause may be submitted to a committee consisting of not more than six members, with equal representatives of the Secretary and the Union. Such committee shall have the power to investigate all matters in dispute and to report to the Chief Executive Officer of the Health Service and the Union respectively with such recommendation as it may think right and, in

the event of no mutual decision being arrived at by such committee, the matter in dispute may be referred to the Public Health Employees (State) Industrial Committee.

- (vi) This clause shall not interfere with the rights of either party to institute proceedings for the determination of any matter in accordance with the *Industrial Relations Act 1996*.

12. Anti-Discrimination

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

13. Mobility, Excess Fares and Travelling

For the purpose of this clause accustomed place of work shall mean the location where an employee is regularly required to commence duty by the employer.

- (i) An employee shall be required to proceed to the accustomed place of work and return home once on each ordinary working day or shift in the employee's own time and at the employee's own expense.

(ii)

- (a) Where an employee is directed to report for duty to a place of work other than the employee's accustomed place of work the employee shall travel to and from the alternative place of work in the employer's time for those periods in excess of time normally taken to travel to and from the accustomed place of work.
- (b) If the excess of travelling time on a particular day or shift is greater than the prescribed ordinary hours of duty for the particular category of staff for that day or shift, then the excess of hours, shall be paid at the ordinary rate of pay to the extent of the excess of travelling time.
- (c) Fares incurred by such employee in excess of the fares normally incurred in travelling to the employee's accustomed place of work and returning home from the accustomed place of work, shall be reimbursed.
- (d) Where the employee is required to report to an alternative place of work and has the prior approval of the employer to travel by his/her own mode of conveyance, the employee shall be paid a kilometre allowance for kilometres travelled in excess of the kilometres the employee normally travels between the accustomed place of work and home. The kilometre allowance will be as prescribed from time to time by the Crown Employees (Public Service Conditions of Employment) Award.

(iii)

- (a) Where an employer has determined that an employee or employees should report to a new accustomed place of work on a permanent basis, the decision must be discussed with the affected employee(s) and the local branch of the Union prior to notice of changed accustomed place of work being given.
- (b) The employer shall give the employee reasonable notice of the requirement to report to a new accustomed place of work. For the purpose of this subclause "reasonable notice" shall be one calendar month prior to the date the employee is first required to report to the new accustomed place of work.
- (c) Where the accustomed place of work is changed on a permanent basis by the employer, the employee shall report to the new accustomed place of work on the date specified by the employer.
- (d) If there is disagreement about such decision after such discussion or if a significant number of employees are involved, the matter should be referred to the Ministry of Health which will discuss the matter with the Union and will determine the date upon which notice will be given to employee(s).

(iv)

- (a) The provision of this clause shall not apply to an employee appointed to regularly perform relief duties or to employees specifically employed to perform duties at more than one place of work except as provided in (b) hereunder.
- (b) If a reliever incurs fares in excess of *\$5 per day in travelling to and from the relief site, the excess shall be reimbursed.
- (c) Where a reliever, with the prior approval of the employer, travels by his/her own mode of conveyance and incurs travelling costs in excess of *\$5 per day to and from the relief site, such excess shall be reimbursed. The rate applicable shall be the kilometre allowance prescribed from time to time by the Crown Employees (Public Service Conditions of Employment) Award, less *\$5.

This \$5 shall be reviewed annually by the employer.

- (v) No payment shall be made under this clause unless the employer is satisfied that the employee has incurred additional expenditure in having to report to an alternative place of work, at the direction of the employer.
- (vi) Travel, to an alternative place of work, either by public transport or own mode of conveyance, shall in all instances be by the most direct route.

14. Family and Community Services Leave and Personal/Carers' Leave

- (i) Family and Community Services (FACS) Leave and Personal/Carer's Leave are separate, stand alone entitlements.
- (ii) The provisions outlined in Parts A and B of this clause are available to all employees covered by this Award, other than casual employees as defined in subclause (iii) below.
- (iii) Casual employees as defined in the Health Industry Status of Employment (State) Award are entitled to the provisions outlined in Part C of this clause.

A. FACS Leave

- (i) FACS Leave - General
 - (a) For the purpose of this clause relating to FACS leave:
 - "relative" means a person related by blood, marriage or affinity;
 - "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - "household" means a family group living in the same domestic dwelling.
 - (b) The employer may grant FACS leave to an employee:
 - (1) to provide care and/or support for sick members of the employee's relatives or household; or
 - (2) for reasons related to the family responsibilities of the employee (e.g. to arrange and or attend a funeral of a relative; to accompany a relative to a medical appointment where there is an element of emergency; parent/teacher meetings; education week activities; to meet elder-care requirements of a relative); or
 - (3) for reasons related to the performance of community service by the employee (e.g. in matters relating to citizenship; to office holders in local government, other than as a mayor, for attendance at meetings, conferences or other associated duties; representing Australia or the State in major amateur sport other than in Olympic/Commonwealth Games); or
 - (4) in a case of pressing necessity (e.g. where an employee is unable to attend work because of adverse weather conditions which either prevent attendance or threaten life or property; the illness of a relative; where a child carer is unable to look after their charge).
- (ii) FACS leave replaces compassionate leave.
- (iii) An employee is not to be granted FACS leave for attendance at court to answer a criminal charge, unless the employer approves the grant of leave in the particular case.

Applications for FACS leave to attend court, for reasons other than criminal charges, will be assessed on an individual basis.

(iv) FACS Leave - entitlement

(a) The maximum amount of FACS leave on full pay that may be granted to an employee is:

- (1) 3 working days during the first year of service, commencing on and from 1 January 1995, and thereafter 6 working days in any period of 2 years; or
- (2) 1 working day, on a cumulative basis effective from 1 January 1995, for each year of service after 2 years' continuous service, minus any period of FACS leave already taken by the employee since 1 January 1995,

whichever method provides the greater entitlement.

(b) For the purposes of calculating entitlements under (vi)(a)(1) and (2) above, a working day for employees working 38 hours per week shall be deemed to consist of 8 hours, and a working day for employees working 35 hours per week shall be deemed to consist of 7 hours. The rate at which FACS leave is paid out and utilised shall be on actual hours absent from a rostered shift.

Example A: An employee working 38 hours per week will have an entitlement, in their first year of employment, to 24 hours of FACS leave. If the employee take FACS leave for a full 10 hour shift, the employee would be debited 10 hours of FACS leave.

Example B: An employee working 35 hours per week will have an entitlement, in their first year of employment, to 21 hours of FACS leave. If the employee takes FACS leave for a full 7 hour shift, the employee would be debited 7 hours of FACS leave.

Example C: An employee, employed prior to 1 January 1995, applies for FACS leave on 20 February 1997. The employee is entitled to 6 days in any period of two years. Therefore, to calculate the employee's available FACS leave as at 20 February 1997, add all FACS leave taken from 21 February 1995 to 20 February 1997 and deduct that amount from the 6 days entitlement.

(c) FACS leave is available to part-time employees on a pro rata basis, based on the average number of hours worked per week. A working day shall consist of one-fifth of the employee's average weekly hours during the preceding 12 months or during the employee's period of employment, whichever is the lesser period.

Example: An employee working an average of 30 hours per week will have an entitlement, in his/her first year of employment, of 18 hours of FACS leave. If the employee takes FACS leave for a full rostered shift e.g. of 4 hours, the employee would be debited 4 hours of FACS leave. Likewise, if the employee was rostered for 8 hours and was absent for the full 8 hours on FACS leave, he/she would be debited 8 hours of FACS leave.

(v) Additional FACS leave for bereavement purposes

Where FACS leave has been exhausted, additional FACS leave of up to 2 days for bereavement may be granted on a discrete, "per occasion" basis to an employee on the death of a relative or member of a household as defined in subclause (i) (a) of Part A of this clause.

(vi) Use of other leave entitlements

The employer may grant an employee other leave entitlements for reasons related to family responsibilities or community service, by the employee.

An employee may elect, with the consent of the employer, to take annual leave; long service leave; or leave without pay.

B. Personal/Carer's Leave

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

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

- (a) a spouse of the employee; or
- (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (e) a relative of the employee who is a member of the same household, where for the purpose of this clause relating to Personal/Carer's Leave:

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

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

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

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

- (a) The entitlement to use sick leave in accordance with this subclause is subject to:
 - (1) the employee being responsible for the care and support of the person concerned; and
 - (2) the person concerned being as defined in subclause (i) of Part B of this clause.
- (b) Other than a casual or any other employee who receives a loading in lieu of sick leave, an employee with responsibilities in relation to a person who needs their care and support shall be entitled to use the untaken sick leave, from that year's annual sick leave entitlement, to provide care and support for such persons when they are ill.
- (c) Sick leave accumulates from year to year. In addition to the current year's grant of sick leave available under (b) above, sick leave untaken from the previous 3 years may also be accessed by an employee with responsibilities in relation to a person who needs their care and support.
- (d) The employer may, in special circumstances, make a grant of additional sick leave. This grant can only be taken from sick leave untaken prior to the period referred to in subclause (c) above.
- (e) The employee shall, if required, establish either by production of a medical certificate or statutory declaration that the illness of the person concerned is such as to require care by another person.
- (f) The employee has the right to choose the method by which the ground for leave is established, that is, by production of either a medical certificate or statutory declaration.
- (g) The employee is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration.
- (h) The employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not

practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

- (i) In normal circumstances, the employee must not take leave under this part where another person has taken leave to care for the same person.

(iii) Use of other leave entitlements

An employee may elect, with the consent of the employer, to take:

- (a) annual leave, including annual leave not exceeding 10 days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties. An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least 5 consecutive annual leave days are taken. An employee may elect with the employer's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
- (b) long service leave; or
- (c) leave without pay for the purpose of providing care and support to the person concerned as defined in subclause (i) of Part B of this clause.

(iv) Use of make-up time

An employee may elect, with the consent of the employer, to work "make-up time". "Make-up time" is worked when the employee takes time off during ordinary hours for family or community service responsibilities, and works those hours at another time.

C. Entitlements for Casual Employees

(i) Bereavement entitlements for casual employees

- (a) Casual employees are entitled to not be available to attend work or to leave work upon the death in Australia of a relative or member of a household as prescribed in subclause (i)(a) of Part A of this clause.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this part. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

(ii) Personal carers entitlement for casual employees

- (a) Subject to the evidentiary and notice requirements in subclauses (ii)(e) - (h) of Part B of this clause casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause (i) of Part B of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

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

14A. Family Violence Leave

- (i) For the purpose of this clause, family violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*. The violence may have been reported to the police and/or may be the subject of an Apprehended Violence Order.
- (ii) An employee experiencing family and domestic violence can utilise Award leave entitlements provided for in Sick Leave and Family and Community Services Leave provisions of the Award.
- (iii) Where leave entitlements to Sick Leave and Family and Community Services Leave are exhausted, the employer will grant up to five days per year of paid special leave to attend legal proceedings, counselling, appointments with a medical or legal practitioner and relocation and safety activities directly associated with alleviating the effects of family and domestic violence. This leave entitlement does not accumulate from year to year.
- (iv) Upon exhaustion of the paid leave entitlement, an employee may request further periods of unpaid leave, for the same activities for which paid leave would be available.
- (v) To access paid and unpaid leave, the employee must provide the employer with evidence, to the employer's satisfaction, substantiating the purpose of the leave and that the leave is related to alleviating the effects of family violence. The employer may accept a variety of agreed documentation in support of an application for leave. Supporting documentation may be presented in the form of an agreed document issued by the Police Force, a Court, a doctor, a Family Violence Support Service or a lawyer.
- (vi) Matters related to family violence can be sensitive. Information collected by the employer will be kept confidential. No information relating to the details of the family violence will be kept on an employee's personnel file without their express permission. However, records about the use of family violence leave will need to be kept.
- (vii) The employer, where appropriate, may facilitate flexible working arrangements subject to operational requirements. This may include changes to working times and locations, telephone numbers and email addresses.
- (viii) The employer will co-operate with all legal orders protecting an employee experiencing domestic violence.

15. Labour Flexibility

- (i) The employer may direct an employee to carry out such duties as are reasonable, and within the limits of the employee's skill, competence and training consistent with employee's classification, grouping and/or career stream provided that such duties are not designed to promote deskilling.
- (ii) The employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained or has otherwise acquired the necessary skills in the use of such tools and equipment.
- (iii) Any direction issued by the employer pursuant to subclause (i) and (ii) shall be consistent with the employer's responsibilities to provide a safe and healthy work environment.
- (iv) Existing provisions with respect to the payment of higher duties allowances shall apply in such circumstances.

16. Termination of Employment

Employment may be terminated only by four weeks' notice given in writing either by the employer or the officer at any time during the week or by payment or forfeiture of four weeks' salary as the case may be, provided that the officer and the employer may agree to a lesser period of notice. Nothing in this clause shall prevent the summary dismissal of an officer for misconduct or neglect of duty.

17. Salary Packaging

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

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

- (ii) Where an employee elects to package an amount of salary:
- (a) Subject to Australian taxation law, the packaged amount of salary will reduce the salary subject to PAYE taxation deductions by that packaged amount.
 - (b) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this Award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under this Award in the absence of any salary packaging or salary sacrificing made under this Award.
 - (c) 'Salary' for the purpose of this clause, for superannuation purposes, and for the calculation of Award entitlements, shall mean the Award salary as specified in clause 2, Salaries, and which shall include 'approved employment benefits' which refer to fringe benefit savings, administration costs, and the value of packaged benefits.
- (iii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/ garnishee orders, union fees, and private health fund membership fees.
- (iv) The salary packaging scheme utilises a fringe benefit taxation exemption status conferred on public hospitals and local health districts, which provides for a fringe benefit tax exemption cap of \$17,000 per annum. The maximum amount of fringe benefits-free tax savings that can be achieved under the scheme is where the value of benefits when grossed-up, equal the fringe benefits exemption cap of \$17,000. Where the grossed-up value exceeds the cap, the employer is liable to pay fringe benefits tax on the amount in excess of \$17,000, but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits, are deducted from pre-tax dollars.
- (v) The parties agree that the application of the fringe benefits tax exemption status conferred on public hospitals and local health districts is subject to prevailing Australian taxation laws.
- (vi) If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the Salary Packaging Policy and Procedure Manual.
- (vii) Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the

employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.

- (viii) Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.
- (ix) The employer and the employee shall comply with the procedures set out in the NSW Health Services Salary Packaging Policy and Procedure Manual as amended from time to time.

18. Reasonable Hours

- (i) Subject to subclause (ii) the employer may require an employee to work reasonable overtime at overtime rates unless or as otherwise provided for under the Award.
- (ii) 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.
- (iii) For the purposes of subclause (ii) 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.

19. Salary Sacrifice to Superannuation

- (i) Notwithstanding the salaries prescribed in clause 2, Salaries as varied from time to time, an employee may elect, subject to the agreement of the employee's employer, to sacrifice a part or all of the salary payable under the salaries clause to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. The amount sacrificed together with any salary packaging arrangements under clause 17, Salary Packaging, of this Award may be made up to one hundred (100) per cent of the salary payable under the relevant salaries clause, or up to one hundred (100) per cent of the currently applicable superannuable salary, whichever is the lesser.

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

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

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

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

- (vii) Where, prior to electing to sacrifice a part or all of their salary to superannuation, an employee had entered into an agreement with their employer to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in subclause (v) above, the employer will continue to base contributions to that fund on the salary payable under clause 2. Salaries of the Award to the same extent as applied before the employee sacrificed that amount of salary to superannuation. This clause applies even though the superannuation contributions made by the employer may be in excess of the superannuation guarantee requirements after the salary sacrifice is implemented.

20. No Extra Claims

Other than as provided for in the *Industrial Relations Act 1996* and the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014*, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2018 by a party to this Award.

21. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2017 and shall remain in force for a period of one year.

- (ii) This Award rescinds and replaces the Public Hospitals (Medical Superintendents) Award published 29 July 2016 (380 I.G. 662) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained herein employed in the New South Wales Health Service under section 115(1) of the *Health Services Act 1997*, or their successors, assignees or transmittes.

P. M. KITE, Chief Commissioner.
J. V. MURPHY, Commissioner.
J. SEYMOUR, Commissioner.

Printed by the authority of the Industrial Registrar.

(532)

SERIAL C8842

**PUBLIC HOSPITALS (PROFESSIONAL AND ASSOCIATED STAFF)
CONDITIONS OF EMPLOYMENT (STATE) AWARD 2017**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 2017/200420)

Before Chief Commissioner Kite
Commissioner Murphy
Commissioner Seymour

26 October 2017

AWARD

PART A

Arrangement

Clause No.	Subject Matter
1.	Definitions
2.	Hours
3.	Roster of Hours
4.	Climatic and Isolation Allowance
5.	Part-time Employees
6.	Board and Lodging
7.	Relieving Other Members of Staff
8.	Overtime
8A.	On Call - Physiotherapists, Occupational Therapists and Speech Pathologists
8B.	On Call Allowance - Social Workers and Sexual Assault Workers
8C.	Call-Out Allowance - Social Workers and Sexual Assault Workers
9.	Penalty Rates for Shift Work and Weekend Work
10.	Meals
11.	Public Holidays
12.	Annual Leave
13.	Long Service Leave
14.	Sick Leave
15.	Payment and Particulars of Salary
16.	Termination of Employment
17.	Accommodation and Amenities
18.	Inspection of Lockers of Employees
19.	Uniforms and Protective Clothing
20.	Promotions and Appointments
21.	New Positions
22.	Notice Board
23.	Mobility, Excess Fares and Travelling
24.	Disputes
25.	Family and Community Services Leave and Personal/Carer's Leave
25A.	Family Violence Leave
26.	General Conditions
27.	Maternity, Adoption and Parental Leave

- 27A. Lactation Breaks
- 28. Union Representative
- 29. Blood Count
- 30. Exemptions
- 31. Anti-Discrimination
- 32. Labour Flexibility
- 33. Salary Packaging
- 34. Salary Sacrifice to Superannuation
- 35. Reasonable Hours
- 36. Induction and Orientation
- 37. No Extra Claims
- 38. Area, Incidence and Duration

PART B - MONETARY RATES

Table 1 - Rates and Allowances

PART A

1. Definitions

Unless the context otherwise indicates or requires, the several expressions hereunder defined shall have their respective meanings assigned to them -

"Day Worker" means a worker who works his/her ordinary hours from Monday to Friday inclusive and who commences on such days at or after 6 a.m. and before 10 a.m. otherwise than as part of a shift system.

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

"Health Institution" means an institution (other than a hospital) by or at which health services or health support services are provided as defined in the Dictionary of the *Health Services Act 1997*.

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

"Public Health Organisation" means an organisation defined in section 7 of the *Health Services Act 1997* as follows:

- (a) a Local Health District; or
- (b) a statutory health corporation; or
- (c) an affiliated health organisation in respect of its recognised establishments and recognised services.

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

"Union" means the Health Services Union NSW.

2. Hours

- (i) The ordinary hours of work for day workers, exclusive of meal times, shall be 152 hours per 28 calendar days to be worked Monday to Friday inclusive and to commence on such days at or after 6.00 a.m. and before 10.00 a.m.
- (ii) The ordinary hours of work for shift workers exclusive of meal times shall be 152 hours per 28 calendar days.

- (iii) Each day worker shall be free from duty for not less than two full days in each week and each shift worker shall be free from duty for not less than two full days in each week or four full days in each fortnight. Where practicable such days off duty shall be consecutive.
- (iv)
- (a) The hours of work prescribed in subclauses (i) and (ii) of this clause shall, where possible, be arranged in such a manner that in each cycle of 28 days each employee shall not work his or her ordinary hours of work on more than nineteen days in the cycle. The hours worked on each of those days shall be arranged to include a proportion of one hour (in the case of employees working shifts of eight hours duration the proportion of 0.4 of an hour) which shall accumulate towards the employee's allocated day off duty on pay, as the twentieth working day of the cycle.
- (b) Notwithstanding the provisions of paragraph (a) of this subclause, employees who were, as at the 30 June 1984, working shifts of less than eight hours duration may:
- (i) continue to work their existing total hours each 28 days but spread over 19 days, or
- (ii) with the agreement of the employer, continue to work shifts of the same duration over 20 days in each cycle of 28 days.
- (v) The employee's allocated day off duty prescribed in subclause (iv) of this clause shall be determined by mutual agreement between the employee and the employer having regard to the needs of the employer. Where practicable such allocated day off duty shall be consecutive with the days off duty prescribed by subclause (iii) of this clause.
- (vi) Once set the allocated day off duty may not be changed in a current cycle unless there are genuine unforeseen circumstances prevailing. Where such circumstances exist and the allocated day off is changed, another day shall be substituted in the current cycle. Should this not be practicable, the day must be given and taken in the next cycle immediately following.
- (vii) Where the employer and the Union agree that exceptional circumstances exist in a particular hospital, or health institution an employee's allocated days off duty prescribed by subclause (iv) of this clause may, with the agreement of the employee concerned, accumulate and be taken at a time mutually agreed upon between the employee and the employer. Provided that the maximum number of allocated days off duty which may accumulate under this subclause shall be three.
- (viii) There shall be no accrual of 0.4 an hour for each day of ordinary annual leave taken in accordance with subclause (i) of clause 12, Annual Leave of this Award. However, where an employee has accumulated sufficient time to take his/her allocated day off duty prior to entering on annual leave, and that day would have been taken if the employee had not gone on annual leave, it shall be allowed to the employee on the first working day immediately following the period of leave.
- Where an employee has not accumulated sufficient time for an allocated day off duty prior to entering on annual leave, time in credit shall count towards taking the next allocated day off duty falling in sequence after the employee's return to duty.
- (ix) An employee entitled to allocated days off duty in accordance with subclause (iv) of this clause shall continue to accumulate credit towards his/her allocated day off duty whilst on sick leave.
- Where an employee's allocated day off duty falls during a period of sick leave, the employee's available sick leave shall not be debited for that day.
- (x) Where an employee's allocated day off duty falls due during a period of worker's compensation, the employee, on returning to duty, shall be given the next allocated day off duty in sequence irrespective of whether sufficient credits have been accumulated or not.
- (xi) Where an employee's allocated day off duty falls on a public holiday as prescribed by clause 11, Public Holidays of this Award, the next working day shall be taken in lieu thereof.

- (xii) Except for one meal break each day all time worked between the normal starting and ceasing time each day shall be at ordinary rates of pay.
- (xiii)
 - (a) One twenty minute interval (in addition to meal break) shall be allowed each employee on duty for a tea break during each ordinary shift of 8 hours. Such interval shall count as working time. Part-time employees who are engaged for less than a whole shift on any one day shall only be entitled to one tea break of 10 minutes.
 - (b) Where it is not possible due to the nature of the work performed to have one twenty minute break, the employee may take one ten (10) minute break and be permitted to proceed off duty ten (10) minutes prior to the rostered finishing time of that shift.
 - (c) Paragraph (b) of this subclause will only be exercised in special and exceptional circumstances and with the expressed approval of the employer in consultation with the employee.
- (xiv) There shall be a minimum break of eight (8) hours between ordinary rostered shifts.

3. Roster of Hours

- (i) The ordinary hours of work for each employee shall be displayed on a roster in a place conveniently accessible to employees. Where reasonably practicable such roster shall be displayed two weeks, but in any case at least one week, prior to the commencing date of the first working period in any roster.

Provided that this provision shall not make it obligatory for the employer to display any roster of ordinary hours of work of members of the relieving staff.

Provided further that a roster may be altered at any time to enable the services of the hospital or health institution to be carried on where another employee is absent from duty on account of illness or in emergency but where any such alteration involves an employee working on a day which would have been his/her day off such time worked shall subject to subclause (vi) of clause 2, Hours, of this Award, be paid for at overtime rates.

- (ii) Where an employee is entitled to an allocated day off duty in accordance with the said clause 2 that allocated day off duty is to be shown on the roster of hours for that employee.

4. Climatic and Isolation Allowance

- (i) Subject to subclause (ii), of this clause, persons employed in hospitals or health institutions in places situated upon or to the west of a line drawn as herein specified shall be paid an allowances set in Item 1 of Table 1 of Part B in addition to the salary to which they are otherwise entitled. The line shall be drawn as follows, viz:

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

- (ii) Persons employed in hospitals or health institutions in places situated upon or to the west of a line drawn as herein specified shall be paid an allowance set in Item 2 of Table 1 of Part B in addition to the salary to which they are otherwise entitled. The line shall be drawn as follows, viz:

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

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

- (v) A part-time employee shall be entitled to the allowances prescribed by this clause in the same proportion as the average hours worked each week bears to 38 ordinary hours.

5. Part-Time Employees

Part 1 - Permanent Part-time Employees

- (i) A permanent part-time employee is one who is permanently appointed by the employer to work a specified number of hours which are less than those prescribed for a full-time employee.
- (ii) Permanent part-time employees shall be paid an hourly rate calculated on the basis of one thirty-eighth of the rate prescribed by the salaries clause of each relevant calling, with a minimum payment of 3 hours for each start.
- (iii) Employees engaged under this part shall be entitled to all other benefits of this Award not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.

Part 2 - Savings Provisions

- (i) Employees engaged as part-time employees as at 10 February 1992 were entitled to exercise the option of receiving the benefits of employment applicable to those employed under Part 1 of this clause or in lieu thereof the following:
- (a) Such part-time employee shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate, plus 15 per cent of the appropriate hourly rate.
- (b) For entitlement to payment in respect of Annual Leave, see *Annual Holidays Act 1944*.
- (ii) An employee engaged as a part-time employee as at 10 February 1992 who has taken the option of payment in accordance with Part 1 of this clause cannot revert to the provisions of Part 2.

Part 3 - Exclusions

With respect to employees employed under Part 1, the provisions of subclauses (i), (ii) and (iv) to (xii) of clause 2, Hours, shall not apply.

With respect to employees employed under Part 2 of this clause, the provisions of subclauses (i), (ii) and (iv) to (xii) of the said clause 2 and clause 8, Overtime shall not apply.

6. Board and Lodging

- (i) Where an employee is provided with accommodation in a traditional style Nurses' Home deductions from salary shall be made at the rate prescribed from time to time by the Public Health System Nurses' and Midwives' (State) Award, provided that no deduction shall be made when the employee is absent from the hospital for a period of at least six consecutive nights on annual, sick or long service leave.
- (ii) An employer shall provide for an employee who lives out light refreshment for morning and afternoon tea when the employee is on duty at times appropriate for the partaking thereof.

7. Relieving Other Members of Staff

An employee who is called upon to relieve an employee in a higher classification continuously for five working days or more and who satisfactorily performs the whole of the duties and assumes the whole of the responsibilities of the higher classification shall be entitled to receive, for the period of relief, the minimum pay of such higher classification.

8. Overtime

- (i) All time worked by employees outside the ordinary hours in accordance with clause 2, Hours and clause 3, Roster of Hours, of this Award shall be paid for at the rates of time and one-half up to 2 hours each day and thereafter at the rate of double time; provided however, that all overtime worked on Sunday shall be paid for at the rate of double time and all overtime worked on Public Holidays shall be paid for at the rate of double time and one half.
- (ii) Subject to subclauses (iii) - (vii) below, employees who are recalled for duty, whether notified before or after leaving the employer's premises, shall be paid for all time worked at the appropriate overtime rate, with a minimum of four hours at such rates.
- (iii) Employees may be required to perform other work that arises during the recall period. Employees shall not be required to work the full four hour minimum payment period if they complete the work they were recalled to perform and any additional work they are required to undertake, within a shorter period.
- (iv) The employer must have processes in place for the formal release of employees from recall duty.
- (v) Employees who are not formally released and who are recalled again during the four hour minimum payment period are not entitled to any additional payment until the expiration of the four hour period.
- (vi) Employees who are advised they will not be required to perform any additional work and are formally released and who are subsequently recalled again during the four hour minimum payment period, shall be entitled to another four hour minimum payment.
- (vii) Employees required to work overtime after leaving the employer's premises to provide a technology support resolution or clinical appraisal remotely without onsite presence, shall be paid for such work at the appropriate overtime rate, with a minimum of one hour at such rates. This clause shall not apply to employees covered by clause 8B, On Call Allowance - Social Workers and Sexual Assault Workers, of this Award.
- (viii) An employee recalled to work overtime as prescribed by subclause (ii), of this clause shall be paid all fares and expenses reasonably incurred in travelling to and from his/her place of work. Provided further that where an employee elects to use his/her own mode of transport, he/she shall be paid an allowance equivalent to the "Transport Allowance" as provided by Determination made under the *Health Services Act 1997*, as varied from time to time.
- (ix) When overtime work is necessary it shall, wherever reasonably practical, be so arranged that employees have at least eight consecutive hours off duty between the work on successive days or shifts.
- (x) An employee who works so much overtime -
 - (a) between the termination of his/her ordinary work on any day or shift and the commencement of his/her ordinary work on the next day or shift that he/she has not had at least eight consecutive hours off duty between these times; or
 - (b) on a Saturday, a Sunday and a holiday, not being ordinary working days, or on a rostered day off without having had eight consecutive hours of duty in the twenty-four hours preceding his/her ordinary commencing time on his/her next ordinary day or shift; shall, subject to this subclause, be released after completion of such overtime until he/she has eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If, on the instruction of his/her employer, such an employee resumes or continues to work without having such eight consecutive hours off duty he/she shall be paid at double rates until he/she is released from duty for such period and he/she then shall be entitled to be absent until he/she has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

- (xi) For the purposes of assessing overtime each day shall stand alone, provided however that where any one period of overtime is continuous and extends beyond midnight, all overtime hours in this period shall be regarded as if they had occurred within the one day.
- (xii) This clause shall not apply to Social Workers or Sexual Assault Workers in circumstances where they are entitled to payment in accordance with provisions of clause 8C, Call Out Allowance - Social Workers and Sexual Assault Workers, of this Award.
- (xiii) All time worked by employees employed pursuant to Part 1 of clause 5, Part-time Employees, in excess of the rostered daily ordinary hours of work prescribed for the majority of full-time employees employed on that shift in the ward or section concerned shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time and on Public Holidays at the rate of double time and one half.

Time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the ward or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.

- (xiv)
 - (a) In lieu of the conditions specified in subclauses (i) and (ii) employees engaged in Community Health may be compensated for overtime worked by taking time in lieu of the overtime.
 - (b) The time in lieu is to be taken within three months of the overtime being worked and is to be granted at the ordinary time rate.

If the time in lieu is not taken within the three months period it is to be paid to the employee at the appropriate overtime rate at the time the overtime was worked and at the wage rate applying at the time payment is made.

8A. On Call - Physiotherapists, Occupational Therapists and Speech Pathologists

- (i) This clause applies only to staff classified as Physiotherapists, Occupational Therapists and Speech Pathologists under the NSW Health Service Health Professionals (State) Award.
- (ii) An "on call period" is a period during which an employee is required by the employer to be on call.
- (iii) For the purposes of calculation of payment of on-call allowances and for call back duty, an on call period shall not exceed 24 hours.
- (iv) An employee shall be paid for each on call period, at the option of the employer, either an allowance per on call period or an on call allowance per week. The on call allowances are set out in Item 8 of Table 1.

8B. On Call Allowance - Social Workers and Sexual Assault Workers

- (i) This clause applies only to staff classified as Social Workers and Sexual Assault Workers under the NSW Health Service Health Professionals (State) Award or under any other Determination.
- (ii) An "on call period" is a period during which an employee including part-time employees is required by the employer, to be on call in accordance with subclause (iii) of this clause.
- (iii) Employees, including part-time employees, rostered to be "on call" and to provide a telephone counselling service during period of such "on call" shall be entitled to payment at the rate of one-third of the employee's normal pay for each hour of performing the above duty, provided that there shall be a maximum payment in respect of each "on call" period of two and one-half hours' pay. Provided that "on call" periods -
 - (a) which commence on or after 9.00 a.m. Saturday and finish on or before 9.00 a.m. Monday should not exceed 12 hours;

- (b) which commence on or after 9.00 a.m. Monday and finish on or before 9.00 a.m. Saturday should not exceed 16 hours; and
- (c) where "on call" periods outlined in paragraphs (a) and (b) of this clause exceed the maximum allowed therein then such period in excess shall attract additional payment at the rate outlined in this subclause to a maximum of two and one-half hours' pay.

8C. Call Out Allowance - Social Workers and Sexual Assault Workers

- (i) This clause applies only to staff classified as Social Workers and Sexual Assault Workers under the NSW Health Service Health Professionals (State) Award or under any other Determination.
- (ii) "Call out" is the period over which an employee including part-time employees is required by the employer to return to duty. For the purpose of this definition, call out shall only apply to on call and un-rostered time periods.
- (iii) Employees including part-time employees who are recalled to duty outside normal hours shall be paid a minimum of three hours at the appropriate overtime rate for each recall to duty subject to:
 - (a) Where an employee is recalled to duty more than once in any one day, and the second or subsequent recalls commence within the period of the preceding recall for which payment would have been made under the minimum payment provision, payment for such recalls shall be made as follows:
 - (1) A minimum payment as for three hours' work at the appropriate overtime rate shall be made in respect of the last recall.
 - (2) Payment shall be calculated as if the employee had been continuously engaged on overtime from the commencement of work on the first recall until the expiry of the period in (1) above or completion of the work for which he/she had been recalled on the last occasion, whichever is the later.
 - (b) Where an employee is recalled to duty more than once in any one day, and the second or subsequent recall does not commence within the period for which payment will be made under the minimum payment provision, the minimum payment for each such recall shall be as for three hours' work at the appropriate overtime rate.

An employee, including part-time employees, where recalled to work as prescribed in subclause (ii) of this clause shall be paid all fares and expenses reasonably incurred in travelling to and from his/her place of work in accordance with clause 23, Mobility, Excess Fares and Travelling, of this Award.

Where employees are recalled to work as prescribed in subclause (ii) of this clause the employee shall have at least eight consecutive hours off duty between the work on successive days. If, on the instructions of the employer such employee resumes or continues work without having had such eight consecutive hours off duty the employee shall be paid at double rates until the employee is released from duty for such period and the employee then shall be entitled to be absent until the employee has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

9. Penalty Rates for Shift Work and Weekend Work

- (i) Shift workers working afternoon or night shifts shall be paid the following percentages in addition to the ordinary rate for such shift provided that part-time employees shall only be entitled to the additional rates where their shifts commence prior to 6 a.m. or finish subsequent to 6 p.m.

Afternoon shift commencing at 10 a.m. and before 1 p.m. - 10 per cent.

Afternoon shift commencing at 1 p.m. and before 4 p.m. - 12½ per cent.

Night shift commencing at 4 p.m. and before 4 a.m. - 15 per cent.

Night Shift commencing at 4 a.m. and before 6 a.m. - 10 per cent.

- (ii) For the purposes of this clause, day, afternoon and night shifts shall be defined as follows:

"Day Shift" means a shift which commences at or after 6 a.m. and before 10 a.m.

"Afternoon Shift" means a shift which commences at or after 10 a.m. and before 4 p.m.

"Night Shift" means a shift which commences at or after 4 p.m. and before 6 a.m. on the day following.

- (iii) Employees whose ordinary working hours include work on a Saturday and/or Sunday shall be paid for ordinary working hours worked between midnight on Friday and midnight on Saturday, at the rate of time and one-half and for ordinary hours worked between midnight on Saturday and midnight on Sunday, at the rate of time and three-quarters. These extra rates shall be in substitution for and not cumulative upon the shift premiums prescribed in subclause (i) of this clause.

The foregoing paragraph shall apply to part-time employees but such worker shall not be entitled to be paid in addition the allowance of 15 per cent prescribed in paragraph (a) of subclause (i) of Part 2 of the said clause 5, in respect of their employment between midnight on Friday and midnight on Sunday.

10. Meals

- (i) Time not exceeding one hour and not less than thirty minutes shall be allowed for each meal, provided that where an employee is called upon to work for any portion of his/her meal break such time shall count as part of his/her ordinary working hours.
- (ii) An employee who works authorised overtime shall be paid in addition to payment for such overtime:
- (a) An amount set in Item 3 of Table 1 for breakfast when commencing such overtime work at or before 6.00 a.m.;
- (b) An amount set in Item 4 of Table 1 for an evening meal when such overtime is worked for at least one hour immediately following his/her normal ceasing time, exclusive of any meal break, and extends beyond or is worked wholly after 7.00 p.m.;
- (c) An amount as set in Item 5 of Table 1 for luncheon when such overtime extends beyond 2.00 p.m. on Saturdays, Sundays or public holidays;
- or shall be provided with adequate meals in lieu of such payment. The rates prescribed by this subclause shall be varied as the equivalent rates are varied from time to time in the Crown Employees (Public Service Conditions of Employment) Award.
- (iii) Where practicable employees shall not be required to work more than four hours without a meal break.

11. Public Holidays

- (i)
- (a) Public holidays shall be allowed to employees on full pay. Where an employee is required to and does work on any of the holidays set out in this subclause, whether for a full shift or not, the employee shall be paid one and one-half day's pay in addition to the weekly rate, such payment to be in lieu of weekend or shift allowances which would otherwise be payable had the day not been a public holiday.

Provided that, if the employee so elects, he/she may be paid one half day's pay in addition to the weekly rate and have one day added to his/her period of annual leave for each holiday worked in lieu of the provisions of the preceding paragraph.

- (b) For the purpose of this clause the following shall be deemed public holidays, viz, New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, local Labour Day, Christmas Day, Boxing Day, and any other day duly proclaimed and observed as a public holiday within the area in which the hospital or health institution is situated.
 - (c) Shift workers rostered off duty on a public holiday shall:
 - (1) be paid one day's pay in addition to the weekly rate; or if the employees so elect,
 - (2) have one day added to their period of annual leave.
 - (d) The election referred to in paragraphs (a) and (c) of this subclause is to be made in writing by the employee at the commencement of each year of employment. Provided that an employee who has accrued additional annual leave referred to in paragraphs (a) and (c) of this subclause can elect at any time to be paid an amount equivalent to the value of the accrued additional annual leave in lieu of taking additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave was actually taken.
- (ii) In addition to those public holidays prescribed in paragraph (b) of subclause (i) of this clause, employees are entitled to an extra public holiday each year. Such public holiday will occur on a day in the Christmas-New Year period as determined by the employer following consultation with the Union, or other suitable day as agreed between the employer and the Union. Such public holiday shall be regarded for all purposes of this clause as any other public holiday. The foregoing does not apply in areas where in each year -
- (a) A day in addition to ten named public holidays specified in paragraph (b) of subclause (i) is proclaimed and observed as a public holiday or
 - (b) Two half days in addition to the ten named public holidays specified in paragraph (b) of subclause (i) are proclaimed and observed as half public holidays.
- (iii)
- (a) A public holiday as defined in paragraph (b) of subclause (i) and subclause (ii) of this clause occurring on an ordinary working day shall be allowed to employees employed pursuant to Part 1 of clause 5, Part-time Employees, without loss of pay, but each such employee who is required to and does work on a public holiday shall have one day or one-half day, as appropriate added to his/her period of annual leave and be paid at the rate of one-half time extra for the time actually worked. Such payment is in lieu of any additional rate for shift work or weekend work which would be otherwise payable had the day not been a public holiday. In lieu of adding to annual leave under this paragraph, an employee may elect to be paid for the time actually worked at the rate of time and one-half in addition to his/her ordinary weekly rate. Where payment is made in lieu of leave in respect of time worked on a public holiday, payment shall be made for a minimum of 4 hours work and any balance of the day of shift not worked shall be paid at ordinary rates.
 - (b) The provisions of subclauses (i) and (ii) of this clause shall apply to Part-time Employees under Part 2, Savings Provisions of the said clause 5, who work 30 hours or more per week over 5 days per week provided that if such an employee is required to and does work on a public holiday as defined in paragraphs (a) and (b) of subclause (i) and subclause (ii) of this clause, he/she shall not be entitled to be paid in addition the allowance of 15 per cent prescribed in paragraph (a) of subclause (i) of Part 2, Savings Provisions of the said clause 5, in respect of such work.
 - (c) Subclauses (i) and (ii) of this clause shall not apply to part-time employees engaged under Part 2 of clause 5, Part-time Employees, of this Award but each such employee who is required to and does work on a public holiday as defined in the said subclauses (i) and (ii) shall be paid at the rate of double time and one half but such employee shall not be entitled to be paid in addition to the allowance of 15 per cent as prescribed in Part 2 of the said clause 5, in respect of such work.

12. Annual Leave

- (i) All employees see *Annual Holidays Act 1944*.
- (ii)
 - (a)
 - (1) This subclause does not apply to part-time employees employed under Part 2 of clause 5, Part-time Employees.
 - (2) This subclause will apply to employees employed under Part 1 of clause 5, Part-time Employees, the additional annual leave shall be calculated based on contracted hours worked.
 - (b) Employees who are rostered to work their ordinary hours on Sundays and/or public holidays during a qualifying period of employment for annual leave purposes shall be entitled to receive additional annual leave as follows:
 - (1) if 35 ordinary shifts on such days have been worked - one week;
 - (2) if less than 35 ordinary shifts on such days have been worked - proportionately calculated on the basis of 38 hours leave for each 35 such shifts worked.

The calculations referred to above shall be made to the nearest one-fifth of the ordinary hours worked, half or more than half of one-fifth being regarded as one-fifth and less than half being disregarded. Provided that an employee entitled to additional annual leave by virtue of this subclause, may elect to be paid an amount equivalent to the value of his/her additional leave entitlement, in lieu of taking the additional leave. Such election is to be made in writing by the employee at the commencement of each year of employment.
 - (c) An employee with accrued additional annual leave pursuant to subclause (b) above, can elect at any time to be paid an amount equivalent to the value of the accrued additional leave in lieu of taking additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave was actually taken.
 - (d) Provided further that on termination of employment shift workers shall be entitled to payment for any untaken annual leave due under this subclause, together with payment for any leave in respect of an uncompleted year of employment, calculated in accordance with this subclause.
- (iii) The employer shall give to each employee three months' notice where practicable and not less than one month's notice of the date upon which the employee shall enter upon annual leave.
- (iv) Shift workers, as defined in clause 1, Definitions, of this Award, shall be paid whilst on annual leave their ordinary pay plus allowances and weekend penalties relating to ordinary time the shift workers would have worked if they had not been on annual leave. Provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during a period of annual leave or for days which have been added to annual leave in accordance with the provisions of clause 11, Public Holidays, of this Award.
- (v) Employees shall be entitled to an annual leave loading of 17½ per cent, or shift penalties as set out in subclause (iv) of this clause, whichever is the greater.
- (vi) Credit of time towards an allocated day off duty shall not accrue when an employee is absent on ordinary annual leave in accordance with subclause (i) of this clause. Employees entitled to allocated days off duty in accordance with clause 2, Hours, of this Award shall accrue credit towards an allocated day off duty in respect of each day those employees are absent on additional annual leave in accordance

with paragraph (b) of subclause (ii) of this clause and subclause (i) of clause 11, Public Holidays, of this Award.

NOTATION - The conditions under which the annual leave loading shall be paid to employees are the same as generally applied through circulars issued by the Ministry of Health.

13. Long Service Leave

(i)

- (a) Each employee shall be entitled to two months long service leave on full pay after ten years of service; thereafter additional long service shall accrue on the basis of five months long service leave on full pay for each ten years service.

Employees with at least seven years service and less than 10 years service are entitled, proportionate to his or her length of service, to proceed on a proportionate period of long service leave on the basis of two months' long service leave for ten years' service on full pay.

- (b) Where the services of an employee with at least five years service and less than seven years service are terminated by the employer for any reason other than the employee's serious and wilful misconduct, or by the employee, on account of illness, incapacity or domestic or other pressing necessity, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service.

Where the services of an employee with at least seven years are terminated by the employer or by the employee, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service. Where the services of an employee with at least 10 years service are terminated by the employer or by the employee, he/she shall be entitled to be paid on the basis of two months' long service leave for ten years' service and thereafter on the basis of five months long service leave for each ten years service.

(ii) For the purposes of subclause (i) of this clause:

- (a) Service shall mean continuous service with the employer. For the purpose of this paragraph, continuous service will be determined in accordance with the provisions of Section 17 of the NSW Health Policy Directive PD2014_029 Leave Matters for the NSW Health Service, as amended from time to time.
- (b) Broken periods of service with the employer in one or more hospitals shall count as service.
- (c) Service shall not include -
- (1) any period of leave without pay except in the case of employees who have completed at least ten years service (any period of absence without pay being excluded there from) in which case service shall include any period of leave without pay not exceeding six months taken after 1 January, 1973;
 - (2) any period of part-time service arising from employment under Part 2, of clause 5, Part-time Employees, except as provided for in subclause (ix).

(iii) An employee with an entitlement to long service leave may elect to access such entitlement:

- (a) on full pay;
- (b) on half pay; or
- (c) on double pay.

- (iv) When an employee takes long service leave, the leave entitlement will be deducted on the following basis:
- (a) a period of leave on full pay - the number of days so taken;
 - (b) a period of leave on half pay - half the number of days so taken; or
 - (c) a period of leave on double pay - twice the number of days so taken.
- (v) When taking long service leave and an employee would otherwise have had a rostered shift fall on a public holiday during that period, the amount of long service leave to be deducted is to be reduced by one day for the public holiday.
- (vi) Long Service Leave shall be taken at a time mutually arranged between the employer and the employee.
- (vii)
- (a) On the termination of employment of an employee, otherwise than by his/her death, an employer shall pay to the employee the monetary value of all long service leave accrued and not taken at the date of such termination and such monetary value shall be determined according to the salary payable to the employee at the date of such termination unless the employee elects to transfer his or her leave entitlement in accordance with Section 17 of the NSW Health Policy Directive PD2014_029 Leave Matters for the NSW Health Service, as amended from time to time
 - (b) Where an employee who has acquired a right to long service leave, or after having had five years service and less than ten years service dies, the widow or the widower of such employee, or if there is no such widow or widower, the children of such employee, or if there is no such widow, widower, or children, such person who, in the opinion of the employer, was at the time of the death of such employee, a dependent relative of such employee, shall be entitled to receive the monetary value of the leave not taken or which would have accrued to such employee, had his/her services terminated as referred to in paragraph (b) of subclause (i) of this clause and such monetary value shall be determined according to the salary payable to the employee at the time of his/her death.
- Where there is a guardian of any children entitled under this paragraph the payment, to which such children are entitled, may be made to such guardian for their maintenance, education and advancement.
- Where there is no person entitled under this paragraph to receive the monetary value of any leave payable under the foregoing provisions payment in respect thereof shall be made to the legal personal representative of such employee.
- (viii) The provisions of subclauses (i) to (v) of this clause shall not apply to part-time employees who receive an adjusted hourly rate (as defined in Part 2, of clause 5, of this Award). Such employees shall be entitled to long service leave in accordance with the provisions of the *Long Service Leave Act 1955*, and/or Determination made under the *Health Services Act 1997*.
- (ix) A full-time employee shall be entitled to have previous part-time service which is the equivalent of at least two full days' duty per week taken into account for long service purposes in conjunction with full-time or permanent part-time service on the basis of the proportion that the actual number of hours worked each week bears to forty hours up until 30 June 1984 and bears to 38 on and from 1 July 1984, provided the part-time service merges without break with the subsequent full-time service.
- (x) Except as provided for in subclause (xi) of this clause, rights to long service leave under this clause shall be in replacement of rights to long service leave, if any, which at the date of commencement of this Award may have accrued or may be accruing to an employee and shall apply only to persons in the employ of the employer on or after the date of commencement of this Award. Where an employee has been granted long service leave or has been paid its monetary value prior to the date of commencement

of this Award, the employer shall be entitled to debit such leave against any leave to which the employee may be entitled pursuant to this clause.

- (xi) The following provisions shall apply only to employees employed in a hospital at 1 January 1973:
- (a) An employee who -
- (1) has had service in a hospital, to which clause 4, Climatic and Isolation Allowance, applies, prior to 1 January 1973;
 - (2) Is employed in a hospital, to which clause 4, Climatic and Isolation Allowance, applies, at 1 January 1973 shall be granted long service leave in accordance with the long service leave provisions in force prior to 1st January, 1973, in lieu of the provisions provided by this Award where such benefits are more favourable to the employee.
- (b) An employee employed -
- (1) as a part-time employee at 1st January 1973 may be allowed to continue to be granted long service leave in accordance with the long service provisions in force prior to 1st January 1973 in lieu of the provisions of the *Long Service Leave Act 1955*, as provided for in sub-clause (ix) of this clause;
 - (2) on a full-time basis at 1 January 1973, but who had prior part-time service may be allowed to continue to be granted long service leave in accordance with the long service leave provisions in force prior to 1 January 1973, in lieu of the provisions provided by this Award where such benefits are more favourable to the employee.
- (xii) Where an employee has accrued a right to an allocated day off duty on pay prior to entering a period of long service leave such day shall be taken on the next working day immediately following the period of long service leave.

An employee returning to duty from long service leave shall be given the next allocated day off duty in sequence irrespective of whether sufficient credits have been accumulated or not.

14. Sick Leave

- (i) Full-time employees - A full-time employee shall be entitled to sick leave on full pay by allowing 76 rostered ordinary hours of work for each year of continuous service less any sick leave on full pay already taken subject to the following conditions:
- (a) all periods of sickness shall be certified to by the Medical Superintendent of the hospital or by a legally qualified Medical Practitioner approved by the employer; provided, however, that the employer may dispense with the requirements of a medical certificate where the absence does not exceed two (2) consecutive days or where in the employer's opinion the circumstances are such as not to warrant such requirements;
 - (b) the employer shall not change the rostered hours of work of an employee fixed by the roster or rosters applicable to the seven days immediately following the commencement of sick leave merely by reason of the fact that the employee is on sick leave;
 - (c) an employee shall not be entitled to sick leave until after three months' continuous service;
 - (d) service, for the purpose of this clause, shall mean service with the employer and shall be deemed to have commenced on the date of engagement by the employer in respect of any period of employment with that employer current at the date of the commencement of this Award in respect of employees then so employed and in respect of others it shall be deemed to commence on the first day of engagement by the employer after the commencement of this Award;

- (e) employees who are employed at the date of the commencement of this Award shall retain to their credit, until exhausted, any accumulation of sick leave to their credit immediately prior to such date, provided that such credit is not less than the entitlement otherwise prescribed by this clause.
 - (f) "Continuous Service", for the purpose of this clause, shall be calculated in the same manner as provided under paragraph (a) of subclause (ii) of clause 13, Long Service Leave, of this Award, excepting that all periods of service with the employer in any hospital (providing such service is not less than three months' actual service) shall be counted;
 - (g) employees shall take all reasonably practicable steps to inform the employer of their inability to attend for duty and as far as possible state the estimated duration of the absence. Where practicable such notice shall be given within twenty-four hours of the commencement of such absence.
- (ii) A part-time employee as defined in Part 1 and Part 2 of clause 5, Part-time Employees shall be entitled to sick leave in the same proportion of 76 hours as the average weekly hours worked over the preceding twelve months or from the time of the commencement of employment, whichever is the lesser, bears to 38 ordinary hours of one week. Such entitlement shall be subject to all the above conditions applying to full-time employees.
 - (iii) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to workers' compensation; provided, however, that an employer shall pay to an employee, who has sick leave entitlements under this clause, the difference between the amount received as workers' compensation and full pay. The employee's sick leave entitlement under this clause shall, for each week during which such difference is paid, be reduced by the proportion of hours which the difference bears to full pay. On the expiration of available sick leave, weekly compensation payments only shall be payable.
 - (iv) For the purpose of determining a full-time employee's sick leave credit as at 1 July 1984, sick leave entitlement shall be proportioned on the basis of 76:80.
 - (v) Subject to the provision of a satisfactory medical certificate and sick leave being due, annual leave or long service leave shall be re-credited where an illness of at least one week's duration occurs during the period of annual or long service leave provided that the period of leave does not occur prior to retirement, resignation or termination of services and provided further that the employer is satisfied on the circumstances and the nature of the incapacity.

15. Payment and Particulars of Salary

- (i) All salaries and other payments shall be paid fortnightly provided that payment for any overtime and/or shift penalties worked may be deferred to the pay day next following the completion of the working cycle within which such overtime and/or shift penalties is worked, but for no longer.
- (ii) Employees shall have their salary paid into one account with a bank or other financial institution in New South Wales as nominated by the employee. Salaries shall be deposited the employer in sufficient time to ensure that wages are available for withdrawal by employees by no later than payday, provided that this requirement shall not apply where employees nominate accounts with non-bank financial institutions which lack the technological or other facilities to process salary deposits within 24 hours of the employer making their deposits with such financial institutions but in such cases the employer shall take all reasonable steps to ensure that the wages of such employees are available for withdrawal by no later than payday.
- (iii) Notwithstanding the provisions of subclause (ii), of this clause, an employee who has been given notice of termination of employment, in accordance with clause 16, Termination of Employment, of this Award shall be paid all moneys due to him/her prior to ceasing duty on the last day of employment.

Where an employee is dismissed or his/her services are terminated without due notice, in accordance with the said clause 16, any moneys due to him/her shall be paid as soon as possible after such dismissal or termination but in any case not more than three days thereafter.

- (iv) On each pay day an employee, in respect of the payment then due shall be furnished with a statement, in writing, containing the following particulars, namely, name, the amount of ordinary salary, the total number of hours of overtime worked, if any, the amount of any overtime payment, the amount of any other moneys paid and the purpose for which they are paid and the amount of the deductions made from total earnings and the nature thereof.
- (v) Where retrospective adjustments of wages are paid to employees, such payments where practical shall be paid as a separate payment to ordinary salary. Such payment shall be accompanied by a statement containing particulars as set out in subclause (iv) of this clause.
- (vi) Employees with a credit of time accrued towards an allocated day off duty shall be paid for such accrual upon termination.
- (vii) Underpayment and overpayment of salaries - the following process will apply once the issue of underpayment or overpayment is substantiated.
 - (a) Underpayment
 - (1) If the amount underpaid is equal to or greater than one day's gross base pay the underpayment will be rectified within three working days;
 - (2) If the amount underpaid is less than one day's gross base pay it will be rectified by no later than the next normal pay. However, if the employee can demonstrate that rectification in this manner would result in undue hardship, every effort will be made by the employer to rectify the underpayment within three working days.
 - (b) Overpayment
 - (1) In all cases where overpayments have occurred, the employer shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The employer will also advise the employee of the pay period from which the recovery of the overpayment is to commence.
 - (2) One off overpayments will be recovered in the next normal pay, except that where the employee can demonstrate that undue hardship would result, the recover rate shall be at 10% of an employee's gross fortnightly base pay.
 - (3) Unless the employee agrees otherwise, the maximum rate at which cumulative overpayments can be recovered is an amount, calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly base pay.
 - (4) The recovery rate of 10% of an employee's gross fortnightly base pay referred to in subclause (b)(3) above may be reduced by agreement, where the employee can demonstrate that undue hardship would result.
 - (5) Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause (b)(3) above, the employer shall have the right to deduct any balance of such overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

16. Termination of Employment

During the first three months of employment, employment shall be from week to week. After three months continuous service, employment may be terminated only by 28 days notice given either by the employer or the employee or by payment or forfeiture of 28 days salary, as the case may be. Nothing in this clause, however, shall prevent the summary dismissal of an employee for misconduct or neglect of duty.

17. Accommodation and Amenities

- (i) Suitable dining room accommodation and lavatory convenience shall be provided for all resident and non-resident employees.
- (ii) In all hospitals erected after 1 January 1960, dressing room, lockers, hot and cold showers and conveniences also shall be provided for non-resident employees and where practicable, such facilities shall be provided in hospitals erected prior to that day.
- (iii) The following outlines the minimum standards which the employer seeks to achieve in all hospitals:
 - (1) Sanitary Conveniences -
 - (a) Seats - in the proportion of 1 seat to every 15 employees or fraction of 15 employees of each sex.
 - (b) Separate and distinct conveniences for each sex, together with screened approaches to ensure privacy. These facilities must be located conveniently to work places, they must be adequately lighted and ventilated and have floors, walls and ceilings finished with a smooth surface resistant to moisture.
 - (2) Washing and Bathing Facilities -
 - (a) Washing provision by way of basins of suitable impervious material with taps set at 600 mm centres and with hot and cold water supplied, in the proportion of one hot tap and one cold tap for each 15 employees or part of 15 employees of each sex. Space in front of wash points to be not less than 900 mm.
 - (b) Showers spaced at not less than 900 mm centres and with hot and cold water connected for persons ceasing work at any one time in a minimum ratio of one shower for every 20 persons or part of 20 persons of each sex ceasing work at any one time.
 - (c) Washing and bathing facilities must be adequately lighted and ventilated; floors, walls and ceilings finished with a smooth faced surface resistant to moisture.
 - (d) These facilities must be incorporated in, or communicate directly with, the change room and should not be contained within any closet block.
 - (3) Change Rooms and Lockers -
 - (a) Properly constructed and ventilated change room equipped with a vented steel locker, at least 300 mm wide by 450 mm deep by 1800 mm high for each employee.
 - (b) Floor area not less than 0.56 square metres per employee to be accommodated.
 - (c) Space between lockers - set up facing one another not less than 1.5 metres. Traffic ways not less than 1 metre wide.
 - (d) Sufficient seating not less than 260 mm wide by 380 mm high should be provided.
 - (e) Lockers should be set up with at least 150 mm clearance between the floor of the locker and the floor of the room. Lockers shall be of the lock-up type with keys attached.
 - (4) Dining Room -
 - (a) Well constructed, ventilated and adequately lighted dining room(s). Generally floor area should not be less than 1 square metre per employee using the meal room at any one time.

- (b) Tables not more than 1.8 metres long, spaced 1.2 metres apart allowing 600 linear millimetres of table space per person.
 - (c) Chairs or other seating with back rests. Sufficient table and chairs must be provided for all persons who will use the dining room at any one time.
 - (d) Facilities for boiling water, warming and refrigerating food and for washing and storing of dining utensils shall be provided.
- (5) Rest Room -

A well constructed and adequately lighted and ventilated rest room or screened off portion of the change room for women. Such rest room or rest area to be equipped with day bed or couch with mattress, blankets, pillow and hot water bottle.

The above standards shall be the minimum to be included in working drawings approved after 1 December 1976 for new hospitals.

Where major additions to presently occupied building or new building are erected within a presently constituted hospital, the amenities to be provided in such additions or new buildings shall be the subject of negotiations between the parties.

18. Inspection of Lockers of Employees

Lockers may only be opened for inspection in the presence of the employee but in cases where the employee neglects or refuses to be present or in any circumstances where notice to the employee is impracticable such inspection may be carried out in the absence of the employee by an employee appointed by the employer, and if practicable, a Union Branch Employee, otherwise by any two employees so appointed by the employer.

19. Uniforms and Protective Clothing

- (i)
 - (a) Subject to paragraph (c), of this subclause, sufficient suitable and serviceable uniforms shall be supplied, free of cost, to each employee required to wear them, provided that any employee to whom a new uniform or part of a uniform has been supplied by the employer, who, without good reason, fails to return the corresponding article last supplied, shall not be entitled to have such article replaced without payment thereof at a reasonable price in the absence of a satisfactory reason for the loss of such article or failure to produce such uniform or part thereof.
 - (b) An employee on leaving the service of the employer shall return any uniform or part thereof supplied by the employer which is still in use by that employee immediately prior to leaving.
 - (c) In lieu of supplying a uniform to an employee required to wear such uniform, the employer may pay to such employee the sum set in Item 6 of Table 1.
 - (d) If the uniform of an employee is not laundered at the expense of the employer, an allowance as set in Item 7 of Table 1 shall be paid to such employee.
 - (e) An employee who works less than 38 hours shall be entitled to the allowances prescribed by this clause in the same proportion as the average hours worked each week bears to 38 ordinary hours.
- (ii) Employees whose duties require them to work out of doors shall be supplied with over-boots. Sufficient raincoats shall also be made available for use by these employees.
- (iii) Employees whose duties require them to work in a hazardous situation with or near machinery shall be supplied with appropriate protective clothing and equipment.

20. Promotions and Appointments

- (i) Promotion and/or appointment shall be by merit, provided however that no employee with a claim to seniority shall be passed over without having their claims considered.
- (ii) In the case of an employee or employees disputing a promotion and/or appointment the Union may apply to the Public Health Employees (State) Industrial Committee for determination of the dispute.

21. New Positions

The employer may create any new position of a classification not covered by the Awards to which these conditions apply at any time and may fix the remuneration thereof but in such circumstances the employer shall advise the Union of such decision within 28 days and give an opportunity to the representatives of the Union to confer with the representatives of the employer as to the rate of wages so fixed for the duties to be performed and the hours the employee is required to work.

22. Notice Boards

The hospital or health institution shall permit a notice board of reasonable dimensions to be erected in a prominent position upon which the Union representatives shall be permitted to post Union notices.

23. Mobility, Excess Fares and Travelling

For the purpose of this clause accustomed place of work shall mean the location where an employee is regularly required to commence duty by the employer.

- (i) An employee shall be required to proceed to the accustomed place of work and return home once on each ordinary working day or shift in the employee's own time and at the employee's own expense.
- (ii)
 - (a) Where an employee is directed to report for duty to a place of work other than the employee's accustomed place of work the employee shall travel to and from the alternative place of work in the employer's time for those periods in excess of time normally taken to travel to and from the accustomed place of work.
 - (b) If the excess travelling time on a particular day or shift is greater than the prescribed ordinary hours of duty for the particular category of staff for that day or shift, the excess hours, shall be paid at the ordinary rate of pay to the extent of the excess of travelling time.
 - (c) Fares incurred by such employee in excess of the fares normally incurred in travelling to the employee's accustomed place of work and returning home from the accustomed place of work, shall be reimbursed.
 - (d) Where the employee is required to report to an alternative place of work and has the prior approval of the employer to travel by his/her own mode of conveyance, the employee shall be paid a kilometre allowance for kilometres travelled in excess of the kilometres the employee normally travels between the accustomed place of work and home. The kilometre allowance will be as prescribed from time to time in the Crown Employees (Public Service Conditions of Employment) Award.
- (iii)
 - (a) Where an employer has determined that an employee or employees should report to a new accustomed place of work on a permanent basis, the decision must be discussed with the affected employee(s) and the local branch of the Union prior to notice of changed accustomed place of work being given.

- (b) The employer shall give the employee reasonable notice of the requirement to report to a new accustomed place of work. For the purpose of this subclause "reasonable notice" shall be one calendar month prior to the date the employee is first required to report to the new accustomed place of work.
 - (c) Where the accustomed place of work is changed on a permanent basis by the employer, the employee shall report to the new accustomed place of work on the date specified by the employer.
 - (d) If there is a disagreement about such decision after discussion or if a significant number of employees are involved, the matter should be referred to the Ministry of Health, which will discuss the matter with the Union and will determine the date upon which notice will be given to employee(s).
- (iv)
- (a) The provisions of this clause shall not apply to an employee appointed to regularly perform relief duties or to employees specifically employed to perform duties at more than one place of work except as provided in (b) hereunder.
 - (b) If a reliever, with the prior approval of employer, travels by his/her own mode of conveyance and incurs travelling costs in excess of *\$5 per day to and from the relief site, such excess shall be reimbursed. The rate applicable shall be the kilometre allowance prescribed from time to time in the Crown Employees (Public Service Conditions of Employment) Award less *\$5.
- This \$5 shall be reviewed annually by the employer.
- (v) No payment shall be made under this clause unless the employer is satisfied that the employee has incurred additional expenditure in having to report to the alternative place of work, at the direction of the employer.
 - (iv) Travel to an alternative place of work, either by public transport or own mode of conveyance, shall in all instances be by the most direct route.

24. Disputes

- (i) Where a dispute arises in a particular section which cannot be resolved between the employees or their representative and the supervising staff, it shall be referred to the Chief Executive Officer of the Public Health Organisation or his/her nominee, who will arrange for the matter to be discussed with the employee concerned and a local representative or representatives of the Union.
- (ii) Failing settlement of the issue at this level, the matter shall be referred to the Secretary and the Head Office of the Union. This dispute will then be dealt with pursuant to subclause (v) of this clause.
- (iii) Whilst these procedures are continuing, no stoppage of work or any form of ban or limitation of work shall be applied.
- (iv) The Union reserves the right to vary this procedure where it is considered a safety factor is involved.
- (v) With a view to an amicable and speedy settlement all disputes that cannot be settled in accordance with subclauses (i) and (ii) of this clause may be submitted to a committee consisting of not more than six members, with equal representatives of the Secretary and the Union. Such committee shall have the power to investigate all matters in dispute and to report to the Public Health Organisation and the Union respectively with such recommendation as it may think right and in the event of no mutual decision being arrived at by such committee, the matter in dispute may be referred to the Public Health Employees (State) Industrial Committee.
- (vi) This clause shall not interfere with the rights of either party to institute proceedings for the determination of any matter in accordance with the *Industrial Relations Act 1996*.

25. Family and Community Services Leave and Personal/Carers' Leave

- (i) Family and Community Services (FACS) Leave and Personal/Carer's Leave are separate, stand alone entitlements.
- (ii) The provisions outlined in Parts A and B of this clause are available to all employees covered by this Award, other than casual employees as defined in subclause (iii) below.
- (iii) Casual employees as defined in the Health Industry Status of Employment (State) Award are entitled to the provisions outlined in Part C of this clause.

A. FACS Leave**(i) FACS Leave - General**

- (a) For the purpose of this clause relating to FACS leave:

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

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

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

- (b) The employer may grant FACS leave to an employee:

- (1) to provide care and/or support for sick members of the employee's relatives or household; or
- (2) for reasons related to the family responsibilities of the employee (e.g. to arrange and or attend a funeral of a relative; to accompany a relative to a medical appointment where there is an element of emergency; parent/teacher meetings; education week activities; to meet elder-care requirements of a relative); or
- (3) for reasons related to the performance of community service by the employee (e.g. in matters relating to citizenship; to office holders in local government, other than as a mayor, for attendance at meetings, conferences or other associated duties; representing Australia or the State in major amateur sport other than in Olympic/Commonwealth Games); or
- (4) in a case of pressing necessity (e.g. where an employee is unable to attend work because of adverse weather conditions which either prevent attendance or threaten life or property; the illness of a relative; where a child carer is unable to look after their charge).

- (ii) FACS leave replaces compassionate leave.
- (iii) An employee is not to be granted FACS leave for attendance at court to answer a criminal charge, unless the employer approves the grant of leave in the particular case.

Applications for FACS leave to attend court, for reasons other than criminal charges, will be assessed on an individual basis.

(iv) FACS Leave - entitlement

- (a) The maximum amount of FACS leave on full pay that may be granted to an employee is:

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

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

whichever method provides the greater entitlement.

- (b) For the purposes of calculating entitlements under (vi)(a)(1) and (2) above, a working day for employees working 38 hours per week shall be deemed to consist of 8 hours, and a working day for employees working 35 hours per week shall be deemed to consist of 7 hours. The rate at which FACS leave is paid out and utilised shall be on actual hours absent from a rostered shift.

Example A: An employee working 38 hours per week will have an entitlement, in their first year of employment, to 24 hours of FACS leave. If the employee take FACS leave for a full 10 hour shift, the employee would be debited 10 hours of FACS leave.

Example B: An employee working 35 hours per week will have an entitlement, in their first year of employment, to 21 hours of FACS leave. If the employee takes FACS leave for a full 7 hour shift, the employee would be debited 7 hours of FACS leave.

Example C: An employee, employed prior to 1 January 1995, applies for FACS leave on 20 February 1997. The employee is entitled to 6 days in any period of two years. Therefore, to calculate the employee's available FACS leave as at 20 February 1997, add all FACS leave taken from 21 February 1995 to 20 February 1997 and deduct that amount from the 6 days entitlement.

- (c) FACS leave is available to part-time employees on a pro rata basis, based on the average number of hours worked per week. A working day shall consist of one-fifth of the employee's average weekly hours during the preceding 12 months or during the employee's period of employment, whichever is the lesser period.

Example: An employee working an average of 30 hours per week will have an entitlement, in his/her first year of employment, of 18 hours of FACS leave. If the employee takes FACS leave for a full rostered shift e.g. of 4 hours, the employee would be debited 4 hours of FACS leave. Likewise, if the employee was rostered for 8 hours and was absent for the full 8 hours on FACS leave, he/she would be debited 8 hours of FACS leave.

- (v) Additional FACS leave for bereavement purposes

Where FACS leave has been exhausted, additional FACS leave of up to 2 days for bereavement may be granted on a discrete, "per occasion" basis to an employee on the death of a relative or member of a household as defined in subclause (i) (a) of Part A of this clause.

- (vi) Use of other leave entitlements

The employer may grant an employee other leave entitlements for reasons related to family responsibilities or community service, by the employee.

An employee may elect, with the consent of the employer, to take annual leave; long service leave; or leave without pay.

B. Personal/Carer's Leave

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

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

- (a) a spouse of the employee; or

- (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (e) a relative of the employee who is a member of the same household, where for the purpose of this clause relating to Personal/Carer's Leave:

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

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

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

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

- (a) The entitlement to use sick leave in accordance with this subclause is subject to:
 - (1) the employee being responsible for the care and support of the person concerned; and
 - (2) the person concerned being as defined in subclause (i) of Part B of this clause.
- (b) Other than a casual or any other employee who receives a loading in lieu of sick leave, an employee with responsibilities in relation to a person who needs their care and support shall be entitled to use the untaken sick leave, from that year's annual sick leave entitlement, to provide care and support for such persons when they are ill.
- (c) Sick leave accumulates from year to year. In addition to the current year's grant of sick leave available under (b) above, sick leave untaken from the previous 3 years may also be accessed by an employee with responsibilities in relation to a person who needs their care and support.
- (d) The employer may, in special circumstances, make a grant of additional sick leave. This grant can only be taken from sick leave untaken prior to the period referred to in subclause (c) above.
- (e) The employee shall, if required, establish either by production of a medical certificate or statutory declaration that the illness of the person concerned is such as to require care by another person.
- (f) The employee has the right to choose the method by which the ground for leave is established, that is, by production of either a medical certificate or statutory declaration.
- (g) The employee is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration.
- (h) The employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
- (i) In normal circumstances, the employee must not take leave under this part where another person has taken leave to care for the same person.

(iii) Use of other leave entitlements

An employee may elect, with the consent of the employer, to take:

- (a) annual leave, including annual leave not exceeding 10 days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties. An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least 5 consecutive annual leave days are taken. An employee may elect with the employer's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
- (b) long service leave; or
- (c) leave without pay for the purpose of providing care and support to the person concerned as defined in subclause (i) of Part B of this clause.

(iv) Time off in lieu of payment of overtime

- (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment of overtime at a time or times agreed with the employer within 12 months of the said election
- (b) Overtime taken as time off during ordinary time shall be taken at the ordinary time rate, that is, one hour off for each hour of overtime worked.
- (c) If, having elected to take time as leave in accordance with (iv)(a) above and the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve 12 month period from the date the overtime was worked, or earlier by agreement, or on termination.
- (d) Where no election is made in accordance with paragraph (iv)(a) above, the employee shall be paid overtime rates in accordance with the provisions of clause 8, Overtime.

(v) Use of make-up time

- (a) An employee may elect, with the consent of the employer, to work "make-up time". "Make-up time" is worked when the employee takes time off during ordinary hours for family or community service responsibilities, and works those hours at another time, during the spread of ordinary hours provided for in clause 2 of this Award, at the ordinary rate of pay.
- (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off during ordinary hours and works those hours at another time) at the applicable shift work rate which would have been applicable to the hours taken off.

C. Entitlements for Casual Employees

(i) Bereavement entitlements for casual employees

- (a) Casual employees are entitled to not be available to attend work or to leave work upon the death in Australia of a relative or member of a household as prescribed in subclause (i)(a) of Part A of this clause.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this part. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

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

25A. Family Violence Leave

- (i) For the purpose of this clause, family violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*. The violence may have been reported to the police and/or may be the subject of an Apprehended Violence Order.
- (ii) An employee experiencing family and domestic violence can utilise Award leave entitlements provided for in Sick Leave and Family and Community Services Leave provisions of the Award.
- (iii) Where leave entitlements to Sick Leave and Family and Community Services Leave are exhausted, the employer will grant up to five days per year of paid special leave to attend legal proceedings, counselling, appointments with a medical or legal practitioner and relocation and safety activities directly associated with alleviating the effects of family and domestic violence. This leave entitlement does not accumulate from year to year.
- (iv) Upon exhaustion of the paid leave entitlement, an employee may request further periods of unpaid leave, for the same activities for which paid leave would be available.
- (v) To access paid and unpaid leave, the employee must provide the employer with evidence, to the employer's satisfaction, substantiating the purpose of the leave and that the leave is related to alleviating the effects of family violence. The employer may accept a variety of agreed documentation in support of an application for leave. Supporting documentation may be presented in the form of an agreed document issued by the Police Force, a Court, a doctor, a Family Violence Support Service or a lawyer.
- (vi) Matters related to family violence can be sensitive. Information collected by the employer will be kept confidential. No information relating to the details of the family violence will be kept on an employee's personnel file without their express permission. However, records about the use of family violence leave will need to be kept.
- (vii) The employer, where appropriate, may facilitate flexible working arrangements subject to operational requirements. This may include changes to working times and locations, telephone numbers and email addresses.
- (viii) The employer will co-operate with all legal orders protecting an employee experiencing domestic violence.

26. General Conditions

An employee required to answer emergency telephone calls outside of ordinary working hours, but not recalled to duty, shall be reimbursed rental charges on such telephone on production of receipted accounts. Provided that an employee required to answer out of hours telephone calls on a relief basis shall be paid one-twelfth of the yearly telephone rental for each month or part thereof so employed.

27. Maternity, Adoption and Parental Leave

A. Maternity Leave

(i) Eligibility for Paid Maternity Leave

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

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

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

(ii) Portability of Service for Paid Maternity Leave

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

When determining an employee's eligibility for paid maternity leave, continuous service with an organisation that is part of the government sector as defined in the *Government Sector Employment Act 2013* will be recognised, provided that:

- (a) service was on a full-time or permanent part-time basis:
- (b) cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;
- (c) the employee immediately commences duty with the new employer. There may be a break in service of up to two months before commencing duty with the new employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.

(iii) Entitlement to Paid Maternity Leave

An eligible employee is entitled to fourteen weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen weeks prior to the expected date of birth.

It is not compulsory for an employee to take this period off work. However, if an employee decides to work during the nine weeks prior to the date of birth it is subject to the employee being able to satisfactorily perform the full range of normal duties.

Paid maternity leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(iv) Unpaid Maternity Leave

- (a) Full time and permanent part time employees who are entitled to paid maternity leave are entitled to a further period of unpaid maternity leave of not more than 12 months after the actual date of birth.
- (b) Full time and permanent part time employees who are not eligible for paid maternity leave are entitled to unpaid maternity leave of not more than 12 months.

(v) Applications

An employee who intends to proceed on maternity leave should formally notify her employer of such intention as early as possible, so that arrangements associated with her absence can be made.

Written notice of not less than eight weeks prior to the commencement of the leave should accordingly be given. This notice must include a medical certificate stating the expected date of birth and should also indicate the period of leave desired.

(vi) Variation after Commencement of Leave

After commencing maternity leave, an employee may vary the period of her maternity leave once only without the consent of her employer by giving the employer notice in writing of the extended period at least fourteen days' before the start of the extended period. An employer may accept less notice if convenient.

An employee may extend the period of maternity leave at any time with the agreement of the employer.

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

(vii) Staffing Provisions

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

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

When the employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual leave, sick leave and long service leave and any period of maternity leave on half pay is taken into account to the extent of one half thereof when determining the accrual of annual leave, sick leave and long service leave.

Except in the case of employees who have completed ten years' service the period of maternity leave without pay does not count as service for long service leave purposes. Where the employee has completed ten years' service the period of maternity leave without pay shall count as service provided such leave does not exceed six months.

Maternity leave without pay does not count as service for incremental purposes. Periods of maternity leave at full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.

Where public holidays occur during the period of paid maternity leave, payment is at the rate of maternity leave received i.e., public holidays occurring in a period of full pay maternity leave are paid at full rate and those occurring during a period of half pay leave are paid at half rate.

(ix) Illness Associated with Pregnancy

If, because of an illness associated with her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.

Where an employee is entitled to paid maternity leave, but because of illness, is on sick, annual, long service leave, or sick leave without pay prior to the birth, such leave ceases nine weeks prior to the expected date of birth. The employee then commences maternity leave with the normal provisions applying.

(x) Transfer to a More Suitable Position

Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. This obligation arises from Section 70 of the *Industrial Relations Act 1996*. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(xi) Miscarriages

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

(xii) Stillbirth

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

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

An employee who gives birth prematurely and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

(xiv) Right to Return to Previous Position

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

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

(xv) Further Pregnancy While on Maternity Leave

Where an employee becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If an employee enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases.

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

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

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

B. Adoption Leave

(i) Eligibility

All full time and permanent part time employees who are adopting a child and are to be the primary care giver of the child are eligible for unpaid adoption leave.

To be eligible for paid adoption leave a full time or permanent part-time employee must also have completed at least 40 weeks continuous service prior to the date of taking custody of the child.

An employee who has once met the conditions of paid adoption leave, will not be required to again work the 40 weeks continuous service in order to qualify for further periods of paid adoption leave, unless

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

(ii) Portability of Service for Paid Adoption Leave

As per maternity leave conditions.

(iii) Entitlement

(a) Paid Adoption Leave

Eligible employees are entitled to paid adoption leave of fourteen weeks at the ordinary rate of pay from and including the date of taking custody of the child.

Paid adoption leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(b) Unpaid Adoption Leave

Eligible employees are entitled to unpaid adoption leave as follows:

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

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

(iv) Applications

Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave. This will allow arrangements associated with the adoption leave to be made.

(v) Variation after Commencement of Leave

After commencing adoption leave, an employee may vary the period of leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

(vi) Staffing Provisions

As per maternity leave conditions.

(vii) Effect of Adoption Leave on Accrual of Leave, Increments, etc.

As per maternity leave conditions.

(viii) Right to Return to Previous Position

As per maternity leave conditions.

C. Parental Leave

(i) Eligibility

To be eligible for parental leave a full time or permanent part-time employee must have completed at least 40 weeks continuous service prior to the expected date of birth or to the date of taking custody of the child.

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

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with: or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

(ii) Portability of Service for Paid Parental Leave

As per maternity leave conditions.

(iii) Entitlements

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

- (a) an unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave), and

- (b) a further unbroken period in order to be the primary caregiver of the child (extended parental leave).
- (c) The entitlement of one week's paid leave may be taken at anytime within the 52 week period and shall be paid:
 - at the employees ordinary rate of pay for a period not exceeding one week on full pay, or
 - two weeks at half pay or the period of parental leave taken, whichever is the lesser period.
- (d) Extended parental leave cannot be taken at the same time as the employee's spouse or partner is on maternity or adoption leave except as provided for in subclause (i)(a) of Part D Right to Request of this clause.

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

(iv) Applications

An employee who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.

- (a) In the case of extended parental leave, the employee should give written notice of the intention to take the leave.
- (b) The employee must, at least four weeks before proceeding on leave, give written notice of the dates on which they propose to start and end the period of leave, although it is recognised in situations of taking custody of a child, little or no notice may be provided to the employee. In such an instance, the employee should notify the employer as early as practicable.
- (c) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.
- (d) In the case of extended parental leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:
 - (1) if applicable, the period of any maternity leave sought or taken by his spouse, and
 - (2) that they are seeking the period of extended parental leave to become the primary care giver of the child.

(v) Variation after Commencement of Leave -

After commencing parental leave, an employee may vary the period of her/his parental leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

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

As per maternity leave conditions.

(vii) Right to Return to Previous Position

As per maternity leave conditions.

D. Right to Request

- (i) An employee entitled to maternity, adoption or parental leave may request the employer to allow the employee:
 - (a) to extend the period of simultaneous maternity, adoption or parental leave use up to a maximum of eight weeks;
 - (b) to extend the period of unpaid maternity, adoption or extended parental leave for a further continuous period of leave not exceeding 12 months;
 - (c) to return from a period of maternity, adoption or parental leave on a part time basis until the child reaches school age;to assist the employee in reconciling work and parental responsibilities.
- (ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (iii) The employee's request and the employer's decision made under subclauses (i)(b) and (c) must be recorded in writing.
- (iv) Where an employee wishes to make a request under subclause (i)(c):
 - (a) the employee is to make an application for leave without pay to reduce their full time weekly hours of work
 - (b) such application must be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks notice must be given;
 - (c) salary and other conditions of employment are to be adjusted on a basis proportionate to the employee's full time hours of work i.e. for long service leave the period of service is to be converted to the full time equivalent and credited accordingly.
 - (d) employees who return from leave under this arrangement remain full time employees. Therefore the payment of any part time allowance to such employees does not arise.

E. Communication During Leave

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

NOTE:

- (a) The entitlement to maternity, adoption and parental leave for part-time employees who receive an adjusted hourly rate (as defined in clause 5, Part 2, in this Award), along with casual employees, are in accordance with the provisions of Part 4, Parental Leave of the *Industrial Relations Act 1996* and/or Determination made under the *Health Services Act 1997*.
- (b) Where a casual employee is entitled to parental leave under the *Industrial Relations Act 1996*, the following provisions shall also apply in addition to those set out in the Act.

An employer must not fail to re-engage a casual employee because:

the employee or employee's spouse is pregnant; or

the employee is or has been immediately absent on parental leave.

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

- (c) Part time employees who receive an adjusted hourly rate are also entitled to the provisions of Part D Right to Request and Part E Communication During Leave of this clause.
- (d) Liability for Superannuation Contributions

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

27A. Lactation Breaks

- (i) This clause applies to employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this Award.
- (ii) A full time employee or a part time employee working more than four hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day or per shift.
- (iii) A part time employee working four hours or less on any day or shift is entitled to only one paid lactation break of up to 30 minutes each per day or per shift worked.
- (iv) A flexible approach to lactation breaks can be taken by mutual agreement between an employee and their manager provided the total lactation break time entitlement is not exceeded. When giving consideration to any such requests for flexibility, a manager needs to balance the operational requirements of the organisation with the lactating needs of the employee.
- (v) The employer shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk. Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and the employee will take place to attempt to identify reasonable alternative arrangements for the employee's lactation needs.
- (vi) Employees experiencing difficulties in effecting the transition from home based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.
- (vii) Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave or other leave in accordance with the Award.

28. Union Representative

An employee appointed Union Representative shall upon notification thereof in writing, to the employer, be recognised as the accredited representative of the Union and shall be allowed the necessary time, during working hours, to interview the employer on matters affecting employees.

29. Blood Count

Those employees who are regularly required to assist and/or work with a radiologist and/or radiographer in close proximity to diagnostic and/or therapeutic X-ray machines or any other form of radioactive radiators shall have blood counts carried out every three months upon making application therefore to the employer.

30. Exemptions

This Award shall not apply to members, novices or aspirants of religious orders in public hospitals, the names of whom are included or hereafter shall be included in the Third Schedule to the *Health Services Act 1997*.

31. Anti-Discrimination

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

32. Labour Flexibility

- (i) An employer may direct an employee to carry out such duties as are reasonable and within the limits of the employee's skill, competence and training consistent with employee's classification, grouping and/or career stream provided that such duties are not designed to promote deskilling.
- (ii) An employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained or has otherwise acquired the necessary skills in the use of such tools and equipment.
- (iii) Any direction issued by an employer pursuant to subclause (i) and (ii) shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.
- (iv) Existing provisions with respect to the payment of higher duties allowances shall apply in such circumstances.

33. Salary Packaging

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

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

- (ii) Where an employee elects to package an amount of salary:
 - (a) Subject to Australian taxation law, the packaged amount of salary will reduce the salary subject to PAYE taxation deductions by that packaged amount.
 - (b) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this Award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the relevant salaries Award in the absence of any salary packaging or salary sacrificing made under this Award.
 - (c) 'Salary' for the purpose of this clause, for superannuation purposes, and for the calculation of Award entitlements, shall mean the Award salary as specified in the appropriate salaries Award, and which shall include 'approved employment benefits' which refer to fringe benefit savings, administration costs, and the value of packaged benefits.
- (iii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/ garnishee orders, union fees, and private health fund membership fees.
- (iv) The salary packaging scheme utilises a fringe benefit taxation exemption status conferred on public hospitals and Local Health Districts, which provides for a fringe benefit tax exemption cap of \$17,000 per annum. The maximum amount of fringe benefits-free tax savings that can be achieved under the scheme is where the value of benefits when grossed-up, equal the fringe benefits exemption cap of \$17,000. Where the grossed-up value exceeds the cap, the employer is liable to pay fringe benefits tax on the amount in excess of \$17,000, but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits, are deducted from pre-tax dollars.

- (v) The parties agree that the application of the fringe benefits tax exemption status conferred on public hospitals and Local Health Districts is subject to prevailing Australian taxation laws.
- (vi) If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the Salary Packaging Policy and Procedure Manual.
- (vii) Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.
- (viii) Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.
- (ix) The employer and the employee shall comply with the procedures set out in the NSW Health Services Salary Packaging Policy and Procedure Manual as amended from time to time.

34. Salary Sacrifice to Superannuation

- (i) Notwithstanding the salaries prescribed in the relevant salary Awards as varied from time to time, an employee may elect, subject to the agreement of the employee's employer, to sacrifice a part or all of the salary payable under the relevant Award to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. The amount sacrificed together with any salary packaging arrangements under clause 33, Salary Packaging, of this Award may be made up to one hundred (100) per cent of the salary payable under the relevant salaries clause, or up to one hundred (100) per cent of the currently applicable superannuable salary, whichever is the lesser.

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

- (ii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees and private health fund membership fees.
- (iii) Where the employee has elected to sacrifice a part or all of the available payable salary to additional employer superannuation contributions:
 - (a) The employee shall be provided with a copy of the signed agreement. The salary sacrifice agreement shall be terminated at any time at the employee's election and shall cease upon termination of the employee's services with the employer.
 - (b) Subject to Australian taxation law, the amount of salary sacrificed will reduce the salary subject to appropriate PAYE taxation deductions by the amount sacrificed; and
 - (c) Any allowance, penalty rate, overtime, payment for unused leave entitlements, weekly workers' compensation, or other payment, other than any payment for leave taken in service, to which an employee is entitled under the relevant Award or any applicable Award, act, or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the salaries clause of the relevant Award in the absence of any salary sacrifice to superannuation made under this Award.
- (iv) The employee may elect to have the specified amount of payable salary which is sacrificed to additional employer superannuation contributions

- (a) paid into the superannuation scheme established under the *First State Superannuation Act 1992* as optional employer contributions; or
 - (b) subject to the employer's agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.
- (v) Where an employee elects to salary sacrifice in terms of subclause (iv) above, the employer will pay the sacrificed amount into the relevant superannuation fund.
- (vi) Where the employee is a member of a superannuation scheme established under:
- (a) the *Police Regulation (Superannuation) Act 1906*;
 - (b) the *Superannuation Act 1916*;
 - (c) the *State Authorities Superannuation Act 1987*;
 - (d) the *State Authorities Non-contributory Superannuation Act 1987*; or
 - (e) the *First State Superannuation Act 1992*.

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

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

35. Reasonable Hours

- (i) Subject to subclause (ii) an employer may require an employee to work reasonable overtime at overtime rates unless or as otherwise provided for under the Award.
- (ii) 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.
- (iii) For the purposes of subclause (ii) 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.

36. Induction and Orientation

The employer agrees that Orientation/Induction shall be provided to all employees covered by this Award. The employer further agrees that the Union shall have up to one half-hour made available for a presentation on the

role of the Union in such a program provided to employees. If such programs are provided to employees by electronic or remote means, the Union's presentation and associated literature will also be included.

37. No Extra Claims

Other than as provided for in the *Industrial Relations Act* 1996 and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2018 by a party to this Award.

38. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2017 and shall remain in force for a period of one year.
- (ii) This Award rescinds and replaces the Public Hospital Professional and Associated Staff Conditions of Employment (State) Award published 29 July 2016 (380 I.G. 687) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained herein in the following so listed Awards, employed in the NSW Health Service under section 115(1) of the *Health Services Act* 1997, or their successors, assignees or transmittes, excluding the County of Yancowinna.

Health and Community Employees Psychologists (State) Award

Health Employees Dental Officers (State) Award

Health and Community Employees Psychologists (State) Award

Health Employees Dental Officers (State) Award

Health Employees Dental Prosthetists and Dental Technicians (State) Award

Health Employees Oral Health Therapists (State) Award

NSW Health Service Health Professionals (State) Award, excluding diversional therapists and orthotists/prosthetists

Public Hospital Dental Assistants (State) Award

Public Hospital Library Staff (State) Award

Public Hospital Medical Record Librarians (State) Award

Public Hospital Professional Engineers (Biomedical Engineers) (State) Award

PART B

Table 1 - Rates and Allowances

Item No.	Clause No.	Description	Rate from first full pay period on or after 01/07/2017 \$
1	4 (i)	Allowance for persons employed in hospitals upon or west of the line commencing at Tocumwal, etc. (see clause 4(i))(per week)	3.55
2	4 (ii)	Allowance for persons employed in hospitals upon or west of the line commencing at Murray River etc. (see clause 4(ii)) (per week)	7.13

3	10(ii)(a)	Breakfast Allowance	29.40
4	10(ii)(b)	Evening Meal Allowance	29.40
5	10(ii)(c)	Luncheon Allowance	29.40
6	19(i)(c)	Uniform Allowance (per week)	1.37
7	19(i)(d)	Laundering Allowance (per week)	2.72
8	8a(iv)	On Call (per period)	8.98
		On-Call (per week)	44.21

P. M. KITE, Chief Commissioner.

J. V. MURPHY, Commissioner.

J. SEYMOUR, Commissioner

Printed by the authority of the Industrial Registrar.

(470)

SERIAL C8836**STAFF SPECIALISTS (STATE) AWARD 2017**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 2017/200709)

Before Commissioner Murphy

26 October 2017

AWARD**PART A****Arrangement**

Clause No.	Subject Matter
1.	Title
2.	Definitions
3.	Issue Resolution
4.	Normal Duties
5.	Salary
6.	Salary Sacrifice - Definition
7.	Salary Sacrifice
8.	Salary Sacrifice for Superannuation
9.	Limitation on the Amount to be Sacrificed
10.	Exclusions
11.	Managerial Allowance
12.	Performance Agreement
13.	Part-time Employment and Arrangements
14.	Work Location
15.	Outside Practice
16.	Postgraduate Fellow
17.	Annual Leave
18.	Long Service Leave
19.	Sick Leave
20.	Family and Community Service Leave
21.	Personal/Carer's Leave
22.	Maternity, Adoption and Parental Leave
23.	Telephones
24.	Office, Secretarial and Administrative Support
25.	Specialist Medical Administrators
26.	Labour Flexibility
27.	Anti-Discrimination
28.	Underpayment and Overpayment of Salaries
29.	Monthly Leave Return
30.	No Extra Claims
31.	Area, Incidence and Duration

PART B - MONETARY RATES

Schedule 1 - Staff Specialists Salary Rates

Schedule 2 - Allowances

PART C - OTHER MATTERS

Schedule 1 - List of exclusions in relation to clauses 7 - 10
(inclusive)

Schedule 2 - List of recognised Australasian Specialist
Colleges

Schedule 3 - Specialties undertaking shiftwork

Annexure - Pro-forma Staff Specialist Performance
Agreement

PART A**1. Title**

This Award shall be known as the Staff Specialists (State) Award 2017.

2. Definitions

"Award" means the Staff Specialists (State) Award 2017.

"Employer" means the Secretary of the Ministry of Health exercising employer functions on behalf of the Government of New South Wales (and includes a delegate of the Secretary).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Senior Specialist" means a person who:

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

3. Issue Resolution

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

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

If the matter remains unresolved either party may then:

refer the matter to the Secretary of the NSW Ministry of Health; or

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

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

4. Normal Duties

Part A - General

- (a) Normal Duties will be worked for:
 - (i) Not less than 40 hours per week; or
 - (ii) 10 sessions per weekover five days per week.
- (b) The Normal Duties hours set out in (a) above may be averaged over
 - (i) four days per week; or

- (ii) a longer roster period

as agreed between the Staff Specialist and the Employer, and specified in the Staff Specialist's performance agreement.

- (c)

- (i) With the exception of Staff Specialists working in accordance with paragraph (d) below, Normal Duties will be worked within the span of hours of 7.00 am to 6.00 pm Monday to Friday inclusive.

- (ii) Where Normal Duties hours are averaged over a roster period longer than 1 week as provided for in (b) above, Normal Duties may be worked Monday to Sunday inclusive.

- (d) Shift Work

- (i) Staff Specialists who are employed in a specialty or category specified in Part C, Schedule 3 to this Award may be required to undertake shiftwork as part of their Normal Duties as specified in (a) or (b) above. This shiftwork may comprise day or evening shifts.

- (ii) For Staff Specialists working shift work, Normal Duties will be worked within the span of hours of 7.00 am to midnight Monday to Sunday inclusive;

- (iii) For Staff Specialists who undertake shiftwork, the normal rostered duties hours will be paid at ordinary time plus the appropriate penalty rate:

hours worked between 6.00 pm and midnight Monday to Friday - 12.5%;

hours worked between 7.00 am and midnight Saturday - 50%;

hours worked between 7.00 am and midnight Sunday - 75%; and

all hours worked on Public Holidays - 150%.

The penalty rate will be calculated on the Staff Specialist's salary as set in Part B, Schedule 1 - Rates of Pay of this Award plus the Special Allowance and Level 1 Private Practice Allowance specified in the Salaried Senior Medical Practitioners Determination, as varied from time to time.

- (iv) Additional specialties or categories may be included in Part C Schedule 3 to this Award from time to time by agreement between the Federation and the Secretary of the NSW Ministry of Health. If agreement cannot be reached, either party may make application to the Industrial Relations Commission for a variation to Part C, Schedule 3.

- (e) Staff Specialists will be available for reasonable on call and recall duties outside of Normal Duties.

Part B - Normal Duties Roster Changes

- (a) When developing rosters for Normal Duties in accordance with the provisions of clause 4, Normal Duties of the Award, the Employer will ensure that:

- (i) Staff specialists are consulted and regard is to be given to any family, carer or other personal and professional concerns and responsibilities identified by the staff specialist to ensure, where practicable, that the staff specialist is not adversely affected and that alternative arrangements can be made if possible (e.g. change of child care or outside practice arrangements); and

- (ii) the principal outcome of changes to rosters is to maximise the effective delivery of clinical services by ensuring that senior medical staff are rostered to work Normal Duties at times and at places that most effectively meet the service delivery needs and operational requirements; and

- (iii) rosters identify the general nature of the work to be performed on each shift (clinical/direct patient care, administrative, teaching, research or quality improvement) and the facility at which the shift is to be worked.
- (b) On call rosters and responsibilities should align with Normal Duties roster days wherever practicable.
- (c) Wherever practicable, the usual pattern of Normal Duties will be consistent from one roster period to the next.
- (d) Notice Periods
 - (i) Wherever possible, the following notice periods will apply to changes to the Normal Duties roster:
 - 3 months notice of an ongoing change; or
 - 1 months notice of short-term change (e.g. to cover a planned absence or one-off event);
 - (ii) These provisions do not prevent the Employer from varying the roster of Normal Duties at short notice in an emergency, in response to an unplanned event or to cover an unplanned absence.
- (e) Shifts are to be shared equally amongst the staff specialists unless otherwise agreed.

Part C - Transition Arrangements for Implementation of clause 4, Normal Duties

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

5. Salary

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

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

- (e) The weekly rate will be ascertained by dividing the annual salary by 52.17857.
- (f) The hourly rate for calculation of penalty rates will be 1/40th of the weekly rate.

- (g) Except as provided for elsewhere in this Award and other relevant industrial instruments, the salary set out in Part B, Schedule 1 - Rates of Pay of this Award will be full compensation for all aspects and hours of work.

6. Salary Sacrifice - Definition

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

7. Salary Sacrifice

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

- (a) Subject to the other provisions of this clause, Staff Specialists may salary sacrifice from the range of benefits the Secretary of the NSW Ministry of Health and Federation agree upon from time to time.
- (b) Salary sacrifice arrangements must be formalized by an agreement between the Staff Specialist and the employer.
- (c) The salary sacrifice agreement must be prospective, that is, the agreement must be made prior to the commencement of the period of service to which the earnings relate.
- (d) Subject to Australian Taxation Law, the sacrificed amount of superannuable salary will reduce the Staff Specialist's remuneration subject to appropriate PAYE taxation deductions by the amount sacrificed.
- (e) The fringe benefits tax on the benefits chosen by the Staff Specialist that would have been payable except for the public hospital fringe benefit exemption status, will be calculated for each Staff Specialist who enters into a salary sacrifice arrangement. This amount will be divided equally between the Employer and the Staff Specialist.
- (f) Any fringe benefits tax applicable to the benefits packaged by a Staff Specialist will be deducted from the total amount sacrificed in that Staff Specialist's salary sacrifice agreement.
- (g) The administration cost of each salary sacrifice agreement will be shared equally by the Employer and the participating Staff Specialist. The Staff Specialist's share will be deducted from the total amount sacrificed in that Staff Specialist's salary sacrifice agreement.
- (h) Subject to clause 9, the total amount sacrificed in any salary sacrifice agreement may be up to 100% of the Staff Specialist's superannuable salary.
- (i) Any allowance, payment for unused leave entitlements, weekly workers' compensation or other payment, other than any payment for leave taken in service, to which a Staff Specialist is entitled under this Award or applicable Act or statute which is expressed to be determined by reference to a Staff Specialist's salary, shall be calculated by reference to the salary and allowances which would have applied to the Staff Specialist in the absence of any salary sacrifice arrangements made pursuant to this Award.
- (j) Any pre-tax or post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be sacrificed. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees, and private health fund membership fees.

8. Salary Sacrifice for Superannuation

- (a) In this clause ‘superannuable salary’ means the Staff Specialist’s salary as notified from time to time to the New South Wales public sector superannuation trustee corporations as per the relevant superannuation legislation governing the fund, or, in respect of Staff Specialists who elect to have contributions made to a non public sector superannuation scheme, ‘superannuable salary’ means the Staff Specialist’s salary that would have been notified from time to time to the New South Wales public sector superannuation trustee corporations but for the Staff Specialist’s election to have contributions made to a non public sector superannuation scheme.
- (b) Consistent with the provisions of clause 7, Salary Sacrifice, a Staff Specialist may elect, subject to the agreement of the Staff Specialist’s employer, to sacrifice a part or all of his/her superannuable salary to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. Subject to clause 9, the amount sacrificed may be up to 100% of the superannuable salary.
- (c) Where the Staff Specialist has elected to sacrifice a part or all of that superannuable salary to additional employer superannuation contributions:
- (i) Subject to Australian Taxation Law, the sacrificed amount of superannuable salary will reduce the Staff Specialist’s remuneration subject to appropriate PAYE taxation deductions by the amount sacrificed; and
 - (ii) Any allowance, payment for unused leave entitlements, weekly workers’ compensation, or other payment, other than any payment for leave taken in service, to which a Staff Specialist is entitled under this Award or any applicable Act or statute which is expressed to be determined by reference to a Staff Specialist’s salary, shall be calculated by reference to the salary and allowances which would have applied to the Staff Specialist in the absence of any salary sacrifice arrangements made pursuant to this Award.
- (d) The Staff Specialist may elect to have the amount of superannuable salary which is sacrificed to additional superannuation contributions:
- (i) paid into the superannuation scheme established under the *First State Superannuation Act 1992* as optional employer contributions; or
 - (ii) subject to the employer’s agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.
- (e) Where a Staff Specialist elects to salary sacrifice in terms of subclause (d) above, the employer will pay the specified amount into the relevant superannuation fund.
- (f) Where the Staff Specialist is a member of a superannuation scheme established under:
- (i) the *Police Regulation (Superannuation) Act 1906*;
 - (ii) the *Superannuation Act 1916*;
 - (iii) the *State Authorities Superannuation Act 1987*;
 - (iv) the *State Authorities Non-contributory Superannuation Act 1987*; or
 - (v) the *First State Superannuation Act 1992*.

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

- (g) Where, prior to electing to sacrifice a part or all of his/her superannuable salary to superannuation, a Staff Specialist had entered into an agreement with the employer to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in subclause (f) above, the employer will continue to base contributions to that fund on the superannuable salary to the same extent as applied before the Staff Specialist sacrificed that amount of salary to superannuation. This clause applies even though the superannuation contributions made by the employer may be in excess of the superannuation guarantee requirements after the salary sacrifice is implemented.
- (h) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be sacrificed. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees and private health fund membership fees.

9. Limitation on the Amount to be Sacrificed

If a Staff Specialist sacrifices under both clauses 7 and 8, the total amount to be sacrificed may be up to 100% of the superannuable salary.

10. Exclusions

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

11. Managerial Allowance

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

- (e) The Managerial Allowance at the Level 2 rate is payable to those Staff Specialists satisfying the criteria in (c) and (d) who, in the assessment of the Employer, have significant additional managerial responsibilities involving multiple units, services or departments, e.g. Divisional responsibility.
- (f) The Managerial Allowance at the Level 3 rate is payable to those Staff Specialists who, in addition to satisfying the criteria in (e), have a level of managerial responsibility deemed by the Employer to require an allowance at the Level 3 rate, e.g. Area-wide responsibility. It is recognised that managerial responsibilities at this level may not involve the duties at a Department or unit level outlined in (d).
- (g) The Managerial Allowances are not cumulative and are only payable for the period in which the Staff Specialist has been allocated the additional managerial responsibilities by the Employer.
- (h) Managerial allowances may be withdrawn with one month's notice by the Employer if it determines that it no longer requires the Staff Specialist to undertake the relevant managerial responsibilities. This subclause does not apply to Staff Specialists who have been appointed to a position where the managerial duties for which the allowance is paid are an intrinsic part of the substantive position.
- (i) The Managerial Allowances shall be paid during paid absences on approved leave, on termination of employment including voluntary redundancy (on the basis of pro rata the annual amount for each week of paid leave) and for superannuation.
- (j) The Employer may direct a Staff Specialist, as a condition of receiving the managerial allowance, to attend training intended to support and improve management skills and competencies.

12. Performance Agreement

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

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

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

The anticipated on call frequency and roster.

Any specific call back requirements.

Private billing expectations for Level 1 Staff Specialists.

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

Where appropriate, any financial, activity targets or health targets.

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

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

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

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

13. Part-Time Employment and Arrangements

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

14. Work Location

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

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

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

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

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

15. Outside Practice and Other Business Activities

- (a) A full-time Staff Specialist must seek the Employer's approval to engage in medical practice, paid employment or other business activities otherwise than with the Employer.
- (b) Any such approval must be in writing, may be time limited, and must not conflict with the Staff Specialist's commitments to the Employer or obligations under the Code of Conduct issued by the Ministry of Health as varied from time to time.

- (c) Details of the proposed outside practice commitments, including the location, employer (if any), working times, duration of work, and any on-call commitments must be included in the request for approval.
- (d) Part-time staff specialists must notify the Employer of any outside practice (including services provided for another public health organisation or Division of the NSW Health Service). Where the Employer has identified a conflict of interest, or a significant risk of a conflict of interest or conflict with the employer's duty of care arising, and the staff member refuses to cease, or to make necessary adjustments to, his or her outside practice, the Employer may take action to resolve the conflict consistent with any applicable Ministry policies and the Code of Conduct as varied from time to time.
- (e) Subject to any commercial arrangement, a Staff Specialist is not to use any of the Employer's staff or property for activities associated with any outside practice they may undertake.
- (f) No outside practice is to be performed by a Staff Specialist during the span of hours designated for the performance of normal duties as applicable to him or her.

16. Postgraduate Fellow

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

17. Annual Leave and Annual Leave Loading

A. Annual Leave

- (a) All Staff Specialists shall be allowed 5 weeks annual leave on full pay in respect of each 12 months service with the Employer plus 1 day on full pay in respect of each public holiday occurring within the period of such leave.
- (b) Staff Specialists who are employed in a specialty or category specified in Part C, Schedule 3 to this Award and who are required to work on Sundays during a qualifying period of employment for annual leave purposes shall be entitled to receive additional annual leave in respect of each shift so worked as follows:
 - if 30 or more Sunday shifts have been worked - one week;
 - if less than 30 have been worked - leave proportionately calculated on the basis of 40 hours leave for 30 such shifts worked.
- (c) Annual leave shall be given and shall be taken within a period of 6 months after the date when the right to the annual leave accrued; provided that the giving and taking of the whole or any separate period of such annual leave may, by mutual agreement between the Employer and the Staff Specialist be postponed for a further period not exceeding 6 months.
- (d) If the Staff Specialist and the Employer so agree, the annual leave or any such separate period may be taken wholly or partly in advance, before the Staff Specialist has become entitled to that leave, but where leave is taken in such circumstances a further period of annual leave shall not commence to accrue until the expiration of the 12 months in respect of which the annual leave or part thereof has been so taken.

- (e) Except as provided by this clause, payment shall not be made by the Employer to a Staff Specialist in lieu of any annual leave or part thereof nor shall any such payment be accepted by the Staff Specialist.
- (f) Subject to the provisions of the New South Wales *Annual Holidays Act 1944*, the Staff Specialist and the Employer should determine a mutually agreeable date from which annual leave is to be taken and unforeseen circumstances excepted, agreement should be reached two months prior to the commencement of the annual leave.
- (g) The Employer shall pay each Staff Specialist before entering upon annual leave his/her salary for the period of leave if requested by the Staff Specialist, otherwise, the payment will be made in the usual pay period.
- (h) Where the employment of a Staff Specialist is terminated, the Staff Specialist shall be entitled to receive proportionate payment for each completed month of service at the salary which such Staff Specialist is entitled under this Award.
- (i) Where the annual holiday under this clause or any part thereof has been taken in advance by a Staff Specialist pursuant to subclause (d) of this clause, and
 - (i) the employment of the Staff Specialist terminates before he/she has completed the year of employment in respect of which such annual holiday or any part was taken; and
 - (ii) the sum paid by the Employer to the Staff Specialist as ordinary pay for the annual holiday or any part so taken in advance exceeds the sum which the Employer is required to pay to the Staff Specialist under subclause (g) of this clause;

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

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

- (a) Staff Specialists who become entitled to and take annual leave pursuant to Part A of this clause, shall be paid ordinary salary plus either:
 - (i) an annual leave loading in respect of that entitlement equivalent to 17.5% of four weeks ordinary salary, not exceeding the amount equivalent to 17.5% of four weeks ordinary salary for maximum salary of Clerk Grade 12 under the provisions of the Crown Employees (Administrative and Clerical Officers - Salaries 2007) Award varied from time to time; or
 - (ii) in the case of a Staff Specialist employed in a specialty or category specified in Part C, Schedule 3 to this Award who would have earned shift allowances and/or weekend penalties in excess of the amount of annual leave loading indicated in subclause (a) (i) above, had he/she not taken annual leave; those shift allowances and weekend penalties relating to the ordinary time the Staff Specialist would have earned had he/she not taken annual leave (provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during a period of annual leave).
- (b) In respect of a Staff Specialist who becomes entitled to take annual leave pursuant to subclause (a) of Part B of this clause, and takes that annual leave in broken periods; both the annual leave loading and the maximum amount referred to in subclause (a) (i) of Part B of this clause are to be calculated pro rata for the broken period being taken in the same proportion as the period being taken bears to four weeks. The resultant amount of annual leave loading calculated for the broken period of annual leave, not exceeding the maximum amount calculated for the same broken period, is to be paid to the Staff Specialist in addition to ordinary salary for the period.

- (c) In respect of a Staff Specialist employed in a specialty or category specified in Part C, Schedule 3 of this Award, who becomes entitled to take annual leave pursuant to Part A of this clause, and who takes that annual leave in broken periods, the entitlement to annual leave loading and the maximum amount are to be calculated in the same way as indicated in subclause (b) of Part B of this clause, for the period of annual leave being taken compared with the ordinary time shift allowances and weekend penalties the Staff Specialist would have earned had he/she not taken the annual leave (provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during the period of annual leave), and the greater of either the calculated annual leave loading (not exceeding the calculated maximum amount) or ordinary time shift allowances and weekend penalties is to be paid to the Staff Specialist in addition to ordinary salary for the period.
- (d) The entitlement to annual leave loading or shift allowances and weekend penalties referred to in subclauses (a) (b) and (c) of Part B of this clause are to be calculated and paid at the same time as the annual leave is paid.
- (e) Annual leave loading is to be calculated at the rate of ordinary salary payable when the annual leave is taken (except provided for in subclause (f) of Part B of this clause), and excludes allowances, penalty or disability rates, commission, bonuses or incentive payments etc. Where the ordinary rate payable changes effective from a date falling within a period of annual leave, the changed rate is to be taken into account, and if necessary, adjustments calculated and corrections to pay made.
- (f) No annual leave loading is payable to a Staff Specialist who takes annual leave wholly or partly in advance of becoming entitled to such annual leave, except if his/her employment continues until the day he/she would have become entitled to take such annual leave, in which case the loading then becomes payable on that day (calculated on rates applicable on that day) in respect of the period/s of annual leave already taken wholly or partly in advance. Staff specialists employed in a specialty or category specified in Part C Schedule 3 of this Award already paid ordinary time shift allowances and weekend penalties in respect of annual leave taken wholly or partly in advance are not eligible to be paid annual leave loading under this subclause.
- (g) No annual leave loading or shift allowances and weekend penalties are payable to a Staff Specialist who is paid the monetary value of annual leave to his/her credit on resignation (not including retirement).
- (h) Upon retirement of a Staff Specialist or upon termination by the Employer of a Staff Specialist for any reason other than misconduct, the Staff Specialist shall be paid annual leave loading on that annual leave which he/she had become entitled to take that the loading would have applied to had the annual leave been taken.
- (i) In respect of that additional annual leave accrued by virtue of being rostered to work and working ordinary hours shifts on Sundays pursuant to subclause (b) of Part A of this clause, no annual leave loading is payable. Staff specialists employed in a specialty or category specified in Part C Schedule 3 of this Award are to be paid, in addition to ordinary salary for such annual leave period/s the ordinary time shift allowances and weekend penalties the Staff Specialist would have earned had he/she not taken the annual leave (provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during the period of annual leave).

C. Pay out of Additional Accrued Annual Leave

- (a) The provisions of subclauses 17(A)(a) and 17(A)(b) above entitle Staff Specialists to paid annual leave additional to that available under clause 3(1)(b) of the *Annual Holidays Act 1944*, which is four weeks paid leave per annum. A Staff Specialist entitled to such additional paid annual leave can elect at any time to be paid an amount equivalent to the value of accrued additional annual leave in lieu of taking the additional leave. This can include additional annual leave accrued through recognised prior service in a classification other than as a Staff Specialist, provided that such leave is additional to that available under clause 3(1)(b) of the *Annual Holidays Act 1944*.

- (b) Such salary for the period of additional leave paid out will be calculated in the manner detailed at subclause (g) below.
- (c) A Staff Specialist electing to be paid an amount equivalent to the value of such accrued additional annual leave in lieu of taking the additional leave shall make such request in writing, which for this purpose can include electronic requests.
- (d) Each election for cashing in additional leave shall be by way of a separate request. Payment shall be made provided the request is received by the employer with a minimum of four weeks' notice, with the payment being effected on the next usual pay day for that employee following the conclusion of such minimum notice.
- (e) An election to cash in additional leave is purely at the volition of the Staff Specialist.
- (f) The amount of accrued additional annual leave to be cashed in will be at the discretion of the requesting Staff Specialist, who may nominate a number of hours or days or weeks. Such nomination will be for a minimum of 40 hours/ five days/one week of additional annual leave.
- (g) Payment of accrued additional annual leave shall occur as follows:

- (i) Staff Specialists Level 1

Cashing in is at the rate that would have been otherwise payable if the annual leave was actually taken. This rate is the applicable salary as set out in Part B, Schedule 1- Salary Rates of this Award, plus the Special Allowance and the Level 1, Private Practice Allowance specified in the Staff Specialists Determination, as varied from time to time.

Such payment will include those additional components considered salary for all purposes e.g. Managerial Allowance; Emergency Physician Allowance where payable to the Staff Specialist.

- (ii) Staff Specialists Levels 2 and 3

Cashing in is at the rate determined by the applicable salary as set out in Part B, Schedule 1 - Salary Rates of this Award, plus the Special Allowance, and the relevant Level 2 or Level 3 - Private Practice Allowance specified in the Staff Specialists Determination, as varied from time to time, but does not include any drawing rights payable pursuant to the rights of private practice provisions of the Staff Specialists Determination.

Such payment will include those additional components considered salary for all purposes e.g. Managerial Allowance, where payable to the Staff Specialist.

- (iii) Staff Specialists Levels 4 and 5

Cashing in is at the rate determined by the applicable salary as set out in Part B, Schedule 1 - Salary Rates of this Award, plus the Special Allowance, as varied from time to time, but does not include any drawing rights payable pursuant to the rights of private practice provisions of the Staff Specialists Determination.

Such payment will include those additional components considered salary for all purposes e.g. Managerial Allowance, where payable to the Staff Specialist.

18. Long Service Leave

- (a) Entitlement and Accrual

- (i) After service for 7 years or more but not more than 10 years, a Staff Specialist is entitled to Long Service Leave, proportionate to his or her length of service, calculated at the rate of 2 months on full pay for 10 years served.

- (ii) After service for more than 10 years, a Staff Specialist is entitled to Long Service Leave under subclause (i) above in respect of the first 10 years and additional long service leave, proportionate to his or her length of service, calculated at the rate of 5 months on full pay for each 10 years served after the first 10 years.
- (b) Definition of Service
- (i) For the purposes of this clause:
 - (1) service shall mean continuous service with the Employer (as defined by this Award),
 - (2) continuous service shall have the same meaning as in Schedule 2 of the Government Sector Employment Regulation 2014,
 - (3) prior government service will be recognised in accordance with the provisions outlined in Schedule 2 of the Government Sector Employment Regulation 2014.
 - (ii) Broken periods of service with the Employer in one or more public health organisations shall count as service.
 - (iii) Service shall not include any period of leave without pay except in the case of Staff Specialists who have completed at least ten years service (any period of absence without pay being excluded there from) in which case service shall include any period of leave without pay not exceeding 6 months taken after 22 August 1972.
- (c) Taking Long Service Leave
- (i) A staff specialist with an entitlement to long service leave may elect to access such entitlement:
 - (1) on full pay;
 - (2) on half pay; or
 - (3) on double pay.
 - (ii) When a Staff Specialist takes long service leave, the leave entitlement will be deducted on the following basis:
 - (1) a period of leave on full pay - the number of days so taken;
 - (2) a period of leave on half pay - half the number of days so taken; or
 - (3) a period of leave on double pay - twice the number of days so taken.
 - (iii) If a public holiday occurs whilst a Staff Specialist is taking long service leave and the Staff Specialist would have otherwise worked on that day but for the public holiday, the amount of long service leave to be deducted is to be reduced by the public holiday.
 - (iv) Long Service Leave shall be taken at a time mutually arranged between the Employer and the Staff Specialist.
- (d) Payment on Termination
- (i) On the termination of employment of a Staff Specialist with an entitlement to long service leave, otherwise than by his/her death, the Employer will pay the Staff Specialist the monetary value of all long service leave accrued and not taken at the date of such termination and such monetary value shall be determined according to the salary payable to the Staff Specialist at the date of such termination.

- (ii) Where a Staff Specialist who has acquired a right to long service leave, or after 5 years and less than seven years service, dies, the Staff Specialist's estate shall be entitled to receive the monetary value of the leave not taken or which would have accrued to such Staff Specialist had his/her services been terminated as referred to in subclause (d)(i) of this clause, and such monetary value shall be determined according to the salary payable to the Staff Specialist at the time of his/her death.
 - (iii) Where the services of a Staff Specialist with at least 5 years service but less than seven years service, are terminated by the Employer for any reason other than the Staff Specialist's serious and wilful misconduct, or by the Staff Specialist on account of illness, incapacity or domestic or other pressing necessity, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of 2 months long service leave for 10 years service.
- (e) Preservation of Rights to Long Service Leave
- (i) Rights to long service leave under this clause shall be in replacement of rights to long service leave, if any, which at the commencement of this Award may have accrued or may be accruing to a Staff Specialist and shall apply only to persons in the employ of the Employer on or after the date of commencement of this Award.
 - (ii) Where a Staff Specialist has been granted long service leave or has been paid its monetary value prior to the date of commencement of this Award, the Employer shall be entitled to debit such leave against any leave to which the Staff Specialist may be entitled pursuant to this clause.
- (f) Accrual of other entitlements whilst on long service leave
- (i) During a period of long service leave on half pay, a Staff Specialist will continue to accrue at the full-time equivalent rate except for annual leave that will accrue at the rate of 50%.
 - (ii) During a period of long service leave on double pay, a Staff Specialist will continue to accrue at the full-time equivalent rate including annual leave which will accrue at the single time rate.

19. Sick Leave

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

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

- (e) The Employer shall not terminate the services of a Staff Specialist, except on the grounds of misconduct, during the currency of any period of paid sick leave unless an agreed independent registered medical practitioner certifies that a Staff Specialist is fit to continue in employment and the Staff Specialist refuses to resume duty.
- (f) If a dispute arises as to whether a Staff Specialist is fit to continue in employment, such dispute shall be addressed in accordance with clause 3, Issue Resolution.
- (g) An employee who ceases employment in one public health organisation and within two months of the last day of service commences employment in another public health organisation does not lose any accrued but untaken sick leave.

20. Family and Community Services Leave

(a) General

- (i) For the purpose of this clause relating to FACS leave:

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

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

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

- (ii) The appropriate Chief Executive or authorised delegate may grant FACS leave to a Staff Specialist:
 - (1) to provide care and/or support for sick members of the Staff Specialist's relatives or household; or
 - (2) for reasons related to the family responsibilities of the Staff Specialist (e.g. to arrange and or attend a funeral of a relative; to accompany a relative to a medical appointment where there is an element of emergency; parent/teacher meetings; education week activities; to meet elder-care requirements of a relative); or
 - (3) for reasons related to the performance of community service by the Staff Specialist (e.g. in matters relating to citizenship; to office holders in local government, other than as a mayor, for attendance at meetings, conferences or other associated duties; representing Australia or the State in major amateur sport other than in Olympic/Commonwealth Games); or
 - (4) in a case of pressing necessity (e.g. where a Staff Specialist is unable to attend work because of adverse weather conditions which either prevent attendance or threaten life or property; the illness of a relative; where a child carer is unable to look after their charge).
- (iii) FACS leave replaces compassionate leave.
- (iv) A Staff Specialist is not to be granted FACS leave for attendance at court to answer a criminal charge, unless the Chief Executive or authorised delegate approves the grant of leave in the particular case.

Applications for FACS leave to attend court, for reasons other than criminal charges, will be assessed on an individual basis.

(b) Entitlement

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

- (1) 3 working days during the first year of service, commencing on and from 1 January 1995, and thereafter 6 working days in any period of 2 years; or
- (2) 1 working day, on a cumulative basis effective from 1 January 1995, for each year of service after 2 years' continuous service, minus any period of FACS leave already taken by the Staff Specialist since 1 January 1995,

whichever method provides the greater entitlement.

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

(c) Additional FACS leave for bereavement purposes

Where FACS leave has been exhausted, additional FACS leave of up to 2 days for bereavement may be granted on a discrete, "per occasion" basis to a Staff Specialist on the death of a relative or member of a household as defined in subclause (a) (i) of this clause.

(d) Use of other leave entitlements

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

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

21. Personal/Carer's Leave

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

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

- (i) a spouse of the Staff Specialist; or
- (ii) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (iii) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the Staff Specialist or spouse or de facto spouse of the Staff Specialist; or
- (iv) a same sex partner who lives with the Staff Specialist as the de facto partner of that Staff Specialist on a bona fide domestic basis; or
- (v) a relative of the Staff Specialist who is a member of the same household, where for the purpose of this clause relating to Personal/Carer's Leave:

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

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

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

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

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

- (1) the Staff Specialist being responsible for the care and support of the person concerned; and
 - (2) the person concerned being as defined in subclause (a) of this clause.
- (ii) A Staff Specialist with responsibilities in relation to a person who needs their care and support shall be entitled to use the untaken sick leave, from that year's annual sick leave entitlement, to provide care and support for such persons when they are ill.
 - (iii) Sick leave accumulates from year to year. In addition to the current year's grant of sick leave available under (ii) above, sick leave untaken from the previous 3 years may also be accessed by a Staff Specialist with responsibilities in relation to a person who needs their care and support.
 - (iv) The Chief Executive or authorised delegate may, in special circumstances, make a grant of additional sick leave. This grant can only be taken from sick leave untaken prior to the period referred to in subclause (iii) above.
 - (v) The Staff Specialist shall, if required, establish, either by production of a medical certificate or statutory declaration, that the illness of the person concerned is such as to require care by another person.
 - (vi) The Staff Specialist has the right to choose the method by which the ground for leave is established, that is, by production of either a medical certificate or statutory declaration.
 - (vii) The Staff Specialist is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration.
 - (viii) The Staff Specialist shall, wherever practicable, give the Employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the Staff Specialist, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the Staff Specialist to give prior notice of absence, the Staff Specialist shall notify the Employer by telephone of such absence at the first opportunity on the day of absence.
 - (ix) In normal circumstances, the Staff Specialist must not take leave under this part where another person has taken leave to care for the same person.
- (c) Use of other leave entitlements
- A Staff Specialist may elect, with the consent of the Employer, to take:
- (i) annual leave, including annual leave not exceeding 10 days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties. A Staff Specialist and the Employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least 5 consecutive annual leave days are taken. A Staff Specialist may elect with the Employer's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
 - (ii) long service leave; or
 - (iii) leave without pay for the purpose of providing care and support to the person concerned as defined in subclause (a) of this clause.
- (d) Use of make-up time
- (i) A Staff Specialist may elect, with the consent of the Employer, to work "make-up time". "Make-up time" is worked when the Staff Specialist takes time off during ordinary hours for family or community service responsibilities, and works those hours at another time, during the spread of normal duties hours defined in clause 4 of this Award, at the ordinary rate of pay.

- (ii) A Staff Specialist on shift work may elect, with the consent of the Employer, to work "make-up time" (under which the Staff Specialist takes time off during ordinary hours and works those hours at another time) at the applicable shift work rate which would have been applicable to the hours taken off.

22. Maternity, Adoption and Parental Leave

A. Maternity Leave

(a) Eligibility

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

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

- (i) there has been a break in service where the Staff Specialist has been re-employed or re-appointed after a resignation, medical retirement, or after her services have been otherwise dispensed with: or
- (ii) the Staff Specialist has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

(b) Portability of Service for Paid Maternity Leave

Portability of service for paid maternity leave involves the recognition of service in government sector agencies for the purpose of determining a Staff Specialist's eligibility to receive paid maternity leave. For example, where a Staff Specialist moves between a public service department and a public hospital, previous continuous service will be counted towards the service prerequisite for paid maternity leave.

When determining a Staff Specialist's eligibility for paid maternity leave, continuous service with an organisation that is part of the government sector as defined in the *Government Sector Employment Act 2013* will be recognised, provided that:

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

(c) Entitlement to Paid Maternity Leave

An eligible Staff Specialist is entitled to fourteen weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen weeks prior to the expected date of birth.

It is not compulsory for a Staff Specialist to take this period off work. However, if a Staff Specialist decides to work during the nine weeks prior to the date of birth it is subject to the Staff Specialist being able to satisfactorily perform the full range of normal duties.

Paid maternity leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(d) Unpaid Maternity Leave

(i) Full-time and part-time Staff Specialists who are entitled to paid maternity leave are entitled to a further period of unpaid maternity leave of not more than 12 months after the actual date of birth.

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

(e) Applications

A Staff Specialist who intends to proceed on maternity leave should formally notify the Employer of such intention as early as possible, so that arrangements associated with her absence can be made.

Written notice of not less than eight weeks prior to the commencement of the leave should accordingly be given. This notice must include a medical certificate stating the expected date of birth and should also indicate the period of leave desired.

(f) Variation after Commencement of Leave

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

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

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

(g) Staffing Provisions

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

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

When the Staff Specialist has resumed duties, any period of full pay leave is counted in full for the accrual of annual leave, sick leave and long service leave and any period of maternity leave on half pay is taken into account to the extent of one half thereof when determining the accrual of annual leave, sick leave and long service leave.

Except in the case of Staff Specialists who have completed ten years' service the period of maternity leave without pay does not count as service for long service leave purposes. Where the Staff Specialist has completed ten years' service the period of maternity leave without pay shall count as service provided such leave does not exceed six months.

Maternity leave without pay does not count as service for incremental purposes. Periods of maternity leave at full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.

Where public holidays occur during the period of paid maternity leave, payment is at the rate of maternity leave received i.e., public holidays occurring in a period of full pay maternity leave are paid at full rate and those occurring during a period of half pay leave are paid at half rate.

(i) Illness Associated with Pregnancy

If, because of an illness associated with her pregnancy a Staff Specialist is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.

Where a Staff Specialist is entitled to paid maternity leave, but because of illness, is on sick, annual, long service leave, or sick leave without pay prior to the birth, such leave ceases nine weeks prior to the expected date of birth. The Staff Specialist then commences maternity leave with the normal provisions applying.

(j) Transfer to a More Suitable Position

Where, because of an illness or risk associated with her pregnancy, a Staff Specialist cannot carry out the duties of her position, the Employer is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. This obligation arises from Section 70 of the *Industrial Relations Act 1996*. A position to which a Staff Specialist is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(k) Miscarriages

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

(l) Stillbirth

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

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

A Staff Specialist who gives birth prematurely and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should a Staff Specialist return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

(n) Right to Return to Previous Position

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

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

(o) Further Pregnancy While on Maternity Leave

Where a Staff Specialist becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If a Staff Specialist enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases

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

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

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

B. Adoption Leave

(a) Eligibility

All full-time and part-time Staff Specialists who are adopting a child and are to be the primary care giver of the child are eligible for unpaid adoption leave.

To be eligible for paid adoption leave a full-time or part-time Staff Specialist must also have completed at least 40 weeks continuous service prior to the date of taking custody of the child.

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

- (i) there has been a break in service where the Staff Specialist has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with; or
- (ii) the Staff Specialist has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Worker's Compensation Act 1987*.

(b) Portability of Service for Paid Adoption Leave

As per maternity leave conditions.

(c) Entitlement

(i) Paid Adoption Leave

Eligible Staff Specialists are entitled to paid adoption leave of fourteen weeks at the ordinary rate of pay from and including the date of taking custody of the child.

Paid adoption leave may be paid:-

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(ii) Unpaid Adoption Leave

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

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

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

(d) Applications

Due to the fact that a Staff Specialist may be given little notice of the date of taking custody of a child, Staff Specialists who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave. This will allow arrangements associated with the adoption leave to be made.

(e) Variation after Commencement of Leave

After commencing adoption leave, a Staff Specialist may vary the period of leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although the Employer may accept less notice if convenient.

(f) Staffing Provisions

As per maternity leave conditions.

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

As per maternity leave conditions.

(h) Right to return to Previous Position

As per maternity leave conditions.

C. Parental Leave

(a) Eligibility

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

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

- (i) there has been a break in service where the Staff Specialist has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with: or
 - (ii) the Staff Specialist has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.
- (b) Portability of Service for Paid Parental Leave
- As per maternity leave conditions.
- (c) Entitlements

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

- (i) an unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave), and
 - (ii) a further unbroken period in order to be the primary caregiver of the child (extended parental leave).
 - (iii) The entitlement of one week's paid leave may be taken at any time within the 52 week period and shall be paid:
 - at the Staff Specialists ordinary rate of pay for a period not exceeding one week on full pay, or
 - two weeks at half pay or the period of parental leave taken, whichever is the lesser period.
 - (iv) Extended parental leave cannot be taken at the same time as the Staff Specialist's spouse or partner is on maternity or adoption leave except as provided for in subclause (a)(i) of Part D Right to Request of this clause.
- Annual and/or long service leave credits can be combined with periods of parental leave on half pay to enable a Staff Specialist to remain on full pay for that period.
- (d) Applications

A Staff Specialist who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.

- (i) In the case of extended parental leave, the Staff Specialist should give written notice of the intention to take the leave.
- (ii) The Staff Specialist must, at least four weeks before proceeding on leave, give written notice of the dates on which they propose to start and end the period of leave, although it is recognised in situations of taking custody of a child, little or no notice may be provided to the Staff Specialist. In such an instance, the Staff Specialist should notify the employer as early as practicable.
- (iii) The Staff Specialist must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.

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

After commencing parental leave, a Staff Specialist may vary the period of her/his parental leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although the Employer may accept less notice if convenient.
- (f) Effect of Parental Leave on Accrual of Leave, Increments etc.

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

As per maternity leave conditions.

D. Right to Request

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

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

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

E. Communication During Leave

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

NOTE:

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

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

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

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

- (b) Liability for Superannuation Contributions

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

23. Telephones

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

- (a) three-quarters of the cost of the rental of the telephone; and
- (b) the cost of all official STD telephone calls or its equivalent.
No payment for residential fixed telephone will be made where the Employer has issued a mobile phone to the Staff Specialist (unless the Staff Specialist resides in an area with no mobile phone coverage).

24. Office, Secretarial and Administrative Support

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

25. Specialist Medical Administrators

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

26. Labour Flexibility

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

27. Anti-Discrimination

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

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

28. Underpayment and Overpayment of Salaries

The following process will apply once the issue of underpayment or overpayment is substantiated.

- (a) Underpayment:
- (i) If the amount underpaid is equal to or greater than one day's gross base pay the underpayment will be rectified within three working days;
 - (ii) If the amount underpaid is less than one day's gross base pay it will be rectified by no later than the next normal pay. However if the employee can demonstrate that rectification in this manner would result in undue hardship every effort will be made by the employer to rectify the underpayment within three working days.
- (b) Overpayment
- (i) In all cases where overpayments have occurred, the employer shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The employer will also advise the employee of the pay period from which the recovery of the overpayment is to commence.
 - (ii) One off overpayments will be recovered in the next normal pay, except that where the employee can demonstrate that undue hardship would result, the recovery rate shall be at 10% of an employee's gross fortnightly base pay.
 - (iii) Unless the employee agrees otherwise, the maximum rate at which cumulative overpayments can be recovered is an amount, calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly base pay.
 - (iv) The recovery rate of 10% of an employee's gross fortnightly base pay referred to in subclause (b)(iii) above may be reduced by agreement, where the employee can demonstrate that undue hardship would result.
 - (v) Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause (b) (iii) above, the employer shall have the right to deduct any balance of such overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

29. Monthly Leave Return

Each Staff Specialist is required to provide a signed monthly leave return showing any leave taken in the previous month, to be certified by the relevant unit or service manager or the relevant hospital executive director/general manager.

30. No Extra Claims

Other than as provided for in the *Industrial Relations Act* 1996 and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2018 by a party to this Award.

31. Area, Incidence and Duration

- (a) This Award takes effect from 1 July 2017 and shall remain in force for a period of one year. The wage rates and allowances as outlined in the tables in Part B - Monetary Rates will apply from the first full pay period on or after 1 July 2017.
- (b) This Award rescinds and replaces the Staff Specialists (State) Award published 29 July 2016 (380 I.G. 739) and all variations thereof.
- (c) This Award shall apply to all Staff Specialists as defined in clause 2, Definitions, of this Award.

PART B - MONETARY RATES

SCHEDULE 1 - STAFF SPECIALISTS SALARY RATES

Staff Specialist	Rates from first pay period on or after 01/07/2017 \$ per annum
1	162,432
2	171,932
3	181,423
4	190,944
5	200,445
Senior	219,452
Postgraduate fellow	188,681

SCHEDULE 2 - ALLOWANCES

Managerial allowances	Rates from first pay period on or after 01/07/2017 \$ per annum
Level 1	22,530
Level 2	39,428
Level 3	56,325

PART C - OTHER MATTERS**SCHEDULE 1****SECTION A**

1. List of individuals

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

Dr Peter Gale
Dr David Kirkpatrick
Dr Garry Nieuwkamp
Dr Martin Pallas
Dr Philip Watt
Dr David York

2. Election rights

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

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

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

(b) This election may be exercised prior to each salary sacrifice review date.

(c) Subject to:

(i) the conditions outlined in paragraph 3 below; and,

(ii) remaining in his/her current position (as at 22 October 1999); and,

(iii) retaining an entitlement to payment of the abnormal hours or managerial allowance (as the case may be);

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

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

3. Modifications

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

Each individual who elects Option 1 in paragraph 2 above shall contribute an amount equivalent to 55% of the average FBT liability for the motor vehicles provided as calculated for those individuals participating in this option. Such calculation is to be based on the assumption that each individual is

packaging the maximum permissible FBT exempt amount. This FBT calculation shall be made at the end of each FBT year and shall be applied to contributions for the following year.

SECTION B

1. List of individuals

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

Dr Richard Burstal	Dr Adarsh Gill
Dr William Saul	Dr Ross Kerridge
	Dr Christopher Wake

2. Modifications

The individuals listed immediately above shall be entitled to the provisions of clauses 6-9 of the Award. In addition, whilst ever these individuals remain in their current positions (as at 22 October 1999) and retain an entitlement to payment of the abnormal hours allowance or managerial allowance (as the case may be), they shall be entitled to continue the current arrangements approved by the Secretary of the NSW Ministry of Health under which they forego payment of the abnormal hours allowance or managerial allowance (as the case may be), receive a motor vehicle under SES provisions and pay the difference up to the SES motor vehicle contribution rate. This entitlement is subject to payment of the full amount of fringe benefits tax payable by SES officers, i.e. the FBT exemption will not be shared between the Employer and the Staff Specialist. This entitlement will not be considered to be part of the salary sacrifice arrangements for the purposes of the calculation of the 50%.

SCHEDULE 2 - RECOGNISED AUSTRALASIAN SPECIALIST COLLEGES

Royal Australasian College of Surgeons

Royal Australasian College of Physicians

Adult Medicine Division
 Australasian Chapter of Addiction Medicine
 Australasian Chapter of Palliative Medicine
 Australasian Chapter of Sexual Health Medicine
 Australasian Faculty of Public Health Medicine
 Australasian Faculty of Rehabilitation Medicine
 Australasian Faculty of Occupational and Environmental Medicine
 Paediatrics and Child Health Division
 Chapter of Community Child Health

Royal Australasian College of Medical Administrators

Royal Australian and New Zealand College of Obstetricians and Gynaecologists

Royal Australian and New Zealand College of Ophthalmologists

Royal Australian and New Zealand College of Psychiatrists

Royal Australian and New Zealand College of Radiologists

Faculty of Radiation Oncology

Royal College of Pathologists of Australasia

Australian and New Zealand College of Anaesthetists

Faculty of Pain Medicine

Australasian College of Dermatologists

College of Intensive Care Medicine of Australia and New Zealand

Australasian College for Emergency Medicine

Australasian College of Sports Physicians

SCHEDULE 3 - SPECIALTIES OR CATEGORIES OF POSITIONS COVERED BY CLAUSE 4 (D)

- (i) Emergency medicine

ANNEXURE

PRO FORMA STAFF SPECIALIST PERFORMANCE AGREEMENT
Name of Staff Specialist:
Name of Supervisor:
Date:
Work location(s):
Allocation of time at location(s):
Full-time or part-time:
Days on which normal duties are worked:
Nature of work to be performed during normal duties and time allocated:
Clinical:
Teaching:
Administrative:
Research:
Quality improvement:
Other:
Part-time Working Arrangement (Yes/No): attach approval if applicable
Outside practice (Yes/No): attach approval if applicable
Anticipated on call frequency and roster:
Any specific call-back requirements:
Agreed College or other professional association activities (include estimate of time spent):

<p>Billing expectations (Level 1 only): (NB: categories of patients, clinics, etc., not financial targets.)</p>
<p>Financial, activity or health targets (where appropriate):</p>
<p>Specific commitments and standards from the Employer for the provision of:</p> <p>Clinical Support:</p>
<p>Staff:</p> <p>Equipment:</p> <p>Facilities:</p> <p>Billing:</p>
<p>Expectations in respect of: Management responsibilities:</p> <p>Quality improvement/clinical governance:</p> <p>Teaching activities:</p> <p>Continuing education:</p> <p>Research:</p> <p>Health outcomes:</p>
<p>Twelve month review: Evaluation of level of achievement by supervisor:</p>
<p>Signature:</p> <p>Comments by Staff Specialist:</p>
<p>Signature:</p>

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

Signature:

J. V. MURPHY, Commissioner.

Printed by the authority of the Industrial Registrar.

INDUSTRIAL GAZETTE

VOLUME 383

INDEX

Key to Abbreviations Used:

<i>(ACC)</i>	—	Award of Commissioner/Committee.
<i>(AIC)</i>	—	Award of Industrial Commission.
<i>(AIRC)</i>	—	Award of Industrial Relations Commission.
<i>(AR)</i>	—	Award Reprint (Consolidation).
<i>(ART)</i>	—	Award of Retail Trade Industrial Tribunal.
<i>(CD)</i>	—	Contract Determination.
<i>(CORR)</i>	—	Correction.
<i>(ERR)</i>	—	Erratum.
<i>(OIC)</i>	—	Order of Industrial Commission.
<i>(OIRC)</i>	—	Order of Industrial Relations Commission.
<i>(RIRC)</i>	—	Award Review by Industrial Relations Commission
<i>(ROIRC)</i>	—	Order following Review by the Industrial Relations Commission
<i>(RVIRC)</i>	—	Variation following Review by Industrial Relations Commission
<i>(VCC)</i>	—	Variation by Commissioner/Committee.
<i>(VCD)</i>	—	Variation of Contract Determination.
<i>(VIC)</i>	—	Variation by Industrial Commission.
<i>(VIR)</i>	—	Variation by the Industrial Registrar
<i>(VIRC)</i>	—	Variation by Industrial Relations Commission.
<i>(VSW)</i>	—	Variation following State Wage Case.

CONTENTS

	Page
Awards and Determinations -	
Crown Employees (Audit Office) Award 2018	AIRC 295
Crown Employees (Audit Office) Award 2018	AIRC 295
Crown Employees (Correctional Officers, Corrective Services NSW) Award 2007 for Kempsey, Dillwynia, Wellington and John Morony Correctional Centres	AIRC 664
Crown Employees (Department of Finance, Services and Innovation) Wages Staff Award 2018	AIRC 681
Crown Employees (Fire & Rescue NSW Tradespersons) Award 2018	AIRC 1082
Crown Employees (Fire & Rescue NSW Tradespersons) Award 2018	VIRC 1117
Crown Employees (Fire and Rescue NSW Firefighting Staff Death and Disability) Award 2017	AIRC 1
Crown Employees (Fire and Rescue NSW Firefighting Staff Death and Disability) Award 2017	VIRC 17
Crown Employees (Fire and Rescue NSW Permanent Firefighting Staff) Award 2017	VIRC 19
Crown Employees (Fire and Rescue NSW Retained Firefighting Staff) Award 2017	VIRC 23
Crown Employees (Independent Pricing and Regulatory Tribunal 2018) Award	AIRC 343
Crown Employees (Independent Pricing and Regulatory Tribunal 2018) Award	AIRC 343
Crown Employees (NSW Police Force (Nurses')) Award 2018	AIRC 716
Crown Employees (NSW Police Force Police Band) Award 2018	AIRC 26
Crown Employees (NSW Police Force Special Constables) (Security) Award 2018	AIRC 60
Crown Employees (Office of Environment and Heritage – National Parks and Wildlife Service) Field Officers and Skilled Trades Salaries and Conditions 2018 Award	AIRC 98
Crown Employees (Police Medical Officers - Clinical Forensic Medicine) (State) Award	VIRC 365
Crown Employees (Police Medical Officers - Clinical Forensic Medicine) (State) Award	VIRC 365
Crown Employees (SAS Trustee Corporation) Award 2018	AIRC 366
Crown Employees (SAS Trustee Corporation) Award 2018	AIRC 366
Crown Employees (State Emergency Service) Learning and Development Officers Award 2012	OIRC 134
Crown Employees (State Emergency Service) Region Staff Award 2018	AIRC 135
Crown Employees Nurses' (State) Award 2018	AIRC 727
Hanson Construction Materials Pty Limited Concrete Carriers Contract Determination	CD 141
Health Employees' (State) Award 2018	AIRC 1128
Health Employees' (State) Award 2018	VIRC 737
Health Employees' Conditions of Employment (State) Award 2018	AIRC 1146
HealthShare NSW Patient Transport Officers' Salaries (State) Award	AIRC 182
Hospital Scientists (State) Award	AIRC 1206
Independent Commission Against Corruption Award 2018	AIRC 425
Independent Commission Against Corruption Award 2018	AIRC 425
Insurance and Care NSW Award 2017	VIRC 454
Insurance and Care NSW Award 2017	VIRC 454
Landcom Award 2018	AIRC 460
Landcom Award 2018	AIRC 460
Local Government (State) Award 2017	VIRC 511
Local Government (State) Award 2017	VIRC 511

Local Land Services Award 2018	AIRC	514
Local Land Services Award 2018	AIRC	514
Metromix Pty Limited Maxi Concrete Cartage Contract Determination	CD	185
Metromix Pty Limited Mini Concrete Contract Determination	CD	240
Nurses' (Department of Family and Community Services - Ageing, Disability and Home Care) (State) Award 2018	AIRC	738
Operational Ambulance Managers (State) Award	AIRC	1246
Operational Ambulance Officers (State) Award	AIRC	1276
Parliamentary Reporting Staff (Salaries) Award	AIRC	764
Public Health System Nurses' and Midwives' (State) Award 2018	AIRC	772
Public Hospital Career Medical Officers (State) Award 2017	AIRC	1321
Public Hospital Medical Officers (State) Award 2017	AIRC	1353
Public Hospitals (Medical Superintendents) Award 2017	AIRC	1388
Public Hospitals (Professional and Associated Staff) Conditions of Employment (State) Award 2017	AIRC	1414
Skilled Trades Staff - Department of Family and Community Services - Ageing, Disability and Home Care (State) Award 2018	AIRC	874
South Sydney City Council Salaried Officers Award 2017	AIRC	887
South Sydney City Council Wages Staff Award 2017	AIRC	923
Staff Specialists (State) Award 2018	AIRC	1453
State Transit Authority Bus Engineering and Maintenance Enterprise (State) Award 2018	AIRC	957
Sydney Cricket and Sports Ground Trust (Maintenance Staff) Enterprise Award 2018	AIRC	571
Sydney Cricket and Sports Ground Trust (Maintenance Staff) Enterprise Award 2018	AIRC	571
Taronga Conservation Society Australia Retail and Restaurant Employees' Award	AIRC	599
Taronga Conservation Society Australia Retail and Restaurant Employees' Award	AIRC	599
Taronga Conservation Society Australia Wages Employees' Award 2018 - 2020	AIRC	621
Taronga Conservation Society Australia Wages Employees' Award 2018 - 2020	AIRC	621
The City of Sydney Wages/Salary Award 2017	AIRC	1005
Transport Industry - Car Carriers (NSW) Contract Determination	VCD	1076
Transport Industry - Excavated Materials, Contract Determination	VCD	292

Obsolete Awards —

Crown Employees (Technical Officers - Treasury) Award 424

Enterprise Agreements Approved by the Industrial Relations Commission 662