



NEW SOUTH WALES  
**INDUSTRIAL GAZETTE**

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NEW SOUTH WALES

**INDUSTRIAL GAZETTE**

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**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES**

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Ms M. MORGAN

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(1611)

**SERIAL C8847**

**CROWN EMPLOYEES (NSW DEPARTMENT OF JUSTICE) -  
MUSEUM OF APPLIED ARTS AND SCIENCES ELECTRICAL  
PREPARATORS AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Industrial Relations Secretary.

(Case No. 2018/179143)

Before Chief Commissioner Kite

22 June 2018

**AWARD**

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MONETARY RATES

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PART A

**1. Title**

- 1.1 This Award shall be known as the "Crown Employees (NSW Department of Justice) - Museum of Applied Arts and Sciences Electrical Preparators Award 2018.

**2. Parties**

- 2.1 This Award has been made between the following parties:

The Industrial Relations Secretary

Electrical Trades Union of Australia, NSW Branch

### 3. Definitions

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

"Conditions Award" means the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

"Department" means the NSW Department of Justice.

"Department Head" means the Secretary of the NSW Department of Justice.

"-Industrial Relations Secretary" means the Secretary of Treasury as defined in s.49 of the Act.

"Operative Date" means the date on which this Award is made by the Industrial Relations Commission of New South Wales and becomes legally binding on the parties.

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

"Supervision" means, in addition to normal supervisory responsibilities, the assessment, evaluation and training of staff.

"Union" means the Electrical Trades Union of Australia, NSW Branch.

### 4. Intention

- 4.1 It is intended that the Award will provide a suitable basis for the parties to implement appropriate arrangements to ensure that corporate objectives are met.
- 4.2 The Award will help facilitate the processes necessary to enhance the productivity of the organisation and provide a better return to the organisation, the staff, and the community.

### 5. Wage Rates

- 5.1 The wage rates paid to staff covered by this Award are specified in Part B Table 1 - Rates of Pay, of Part B, Monetary Rates.
- 5.2 These rates will move in accordance with the Crown Employees Wages Staff (Rates of Pay) Award 2018 as varied or any replacement award.

### 6. General Conditions of Employment

- 6.1 Conditions of employment are regulated by the *Government Sector Employment Act 2013* and its Regulations and Rules.
- 6.2 Conditions provided by this Award are:
  - 6.2.1 The ordinary working hours shall be an average of thirty-five per week.
  - 6.2.2 All allowances previously paid to staff covered by this Award, including the Licence Allowance, Tool Allowance and Leading Hand Allowance, are to be rolled into salary.
  - 6.2.3 As from the date of effect of this Award, staff covered by this Award shall not be required to provide their own tools.
  - 6.2.4 Employees will be entitled to an additional holiday on a working day nominated by the Department Head within the period between Boxing Day and New Year's Day. This holiday



applies in lieu of the Union Picnic Day entitlement provided by the Crown Employees (Skilled Trades) Award 2018.

### 6.3 Conditions provided by other Awards

6.3.1 Conditions of employment not regulated by this clause shall be covered by the Crown Employees (Skilled Trades) Award 2018 except for Overtime, Travelling Compensation and Excess Travelling Time for which provisions of the Conditions Award shall apply and;

6.3.2 Any other conditions not regulated by this Award or the Crown Employees (Skilled Trades) Award 2018 shall be provided by the Conditions Award as varied.

6.4 Where there is any inconsistency between this Award, the Crown Employees (Skilled Trades) Award 2018 and the Conditions Award this Award shall prevail to the extent of the inconsistency.

### 6.5 Flexible Working Hours

Flexible Working Hours: The Museum of Applied Arts and Sciences Flexible Working Hours Agreement of 1999 shall govern the employees covered under this award in terms of the hours of duty and flexible working hours.

### 6.6 Union deduction

Subject to a staff member making written authorisation, the Department shall deduct from the staff member's pay, subscriptions payable to a nominated industrial organisation of employees (Union) and shall pay the deducted subscriptions to such an organisation.

## 7. Consultative Committee

7.1 The Museum of Applied Arts and Sciences ETU/Management Consultative Committee shall monitor the implementation of this Award and make, during its period of operation, recommendations to the Secretary of the Museum of Applied Arts and Sciences with regard to any matters regarding the implementation of this Award.

7.2 The ETU/Management Consultative Committee shall consist of representatives of management and representatives of the unions which are party to this Award, the latter chosen at the discretion of the union members covered by this Award.

7.3 Should the parties to the ETU/Management Consultative Committee fail to reach agreement on any matter the Dispute Resolution Procedures outlined in clause 8 will be followed.

## 8. Grievance and Disputes Settling Procedures

8.1 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.

8.2 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.

8.3 Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti Discrimination Act 1977*) that makes it impractical for the staff member to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Department Head or delegate.

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

- 8.5 If the matter remains unresolved with the immediate manager, the staff member may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager shall respond within two (2) working days, or as soon as practicable. The staff member may pursue the sequence of reference to successive levels of management until the matter is referred to the Department Head.
- 8.6 The Department Head may refer the matter to the Industrial Relations Secretary for consideration.
- 8.7 If the matter remains unresolved, the Department Head shall provide a written response to the staff member and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- 8.8 A staff member, at any stage, may request to be represented by the Association.
- 8.9 The staff member or the Association on their behalf or the Department Head may refer the matter to the Industrial Relations Commission of NSW if the matter is unresolved following the use of these procedures.
- 8.10 The staff member, Association, Department 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.
- 8.11 Whilst the procedures outlined in subclauses 8.1 to 8.10 of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or, in the case involving work 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.

### **9. Classification Standards**

- 9.1 A role falling within the scope of this Award shall have assigned to it a classification level determined in accordance with the classification standards detailed below. Progression in each level is detailed below.
- 9.1.1 Electrical Preparator Grade 1: There are three salary levels for incremental progression. Progression will be determined by satisfactory performance and satisfactory attendance after 12 months at each level.
- 9.1.2 Electrical Preparator Grade 2: There is a soft barrier from Grade 1. Progression will be determined by satisfactory attendance after 12 months at the Year 3 level of Grade 1, availability of work at the higher level of duties as specified in the role description and satisfactory performance of the higher level of duties. Approval for progression will be in accordance with the Museum of Applied Arts and Sciences' Delegation Manual. There are 2 salary levels in Grade 2. Progression will be determined by satisfactory performance and satisfactory attendance after 12 months at each level.
- 9.1.3 Senior Electrical Preparator: This is a promotional role and there are two levels in this classification. Progression will be determined by satisfactory performance and satisfactory attendance after 12 months at each level.

### **10. Anti-Discrimination**

- 10.1 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.
- 10.2 It follows that in fulfilling their obligations under the dispute resolution procedures 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 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 that, by its terms or operation, has a direct discriminatory effect.

- 10.3 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.
- 10.4 Nothing in this Clause is to be taken to affect:
- (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (b) offering or providing junior rates of pay to persons under 21 years of age;
  - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*.
  - (d) A party to this Award from pursuing or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.
- 10.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.
- (a) Employers and staff members 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."

### **11. Area Incidence and Duration**

- 11.1 This Award applies to all staff of the Museum of Applied Arts and Sciences who are currently employed in the classifications defined in Part B, Table 1 of the Crown Employees (Skilled Trades) Award 2018.
- 11.2 This Award rescinds and replaces the Crown Employees (NSW Department of Justice) - Museum of Applied Arts and Sciences Electrical Preparators Award published 15 January 2016 (378 I.G. 1161) and all variations thereof.

### **12. Savings and Rights**

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

### **13. No Extra Claims**

- 13.1 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 NSW Industrial Relations Commission 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.

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.

**PART B****MONETARY RATES****Table 1 - Rates of Pay****Rates of pay effective 1 July 2018**

	Pay Rates 1/7/2018 \$
Grade 1	
1st Year	62,670.00
2nd Year	64,393.00
3rd Year	66,197.00
Grade 2	
1st Year	68,706.00
2nd Year	71,391.00
Senior Electrical Preparator - Grade 1	
1st Year	74,333.00
2nd Year	75,686.00

P. M. KITE, Chief Commissioner.

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(1298)

**SERIAL C8850**

**CROWN EMPLOYEES (OFFICE OF ENVIRONMENT AND  
HERITAGE - ROYAL BOTANIC GARDENS AND DOMAIN TRUST  
BUILDING AND MECHANICAL TRADES EMPLOYEES) AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Industrial Relations Secretary.

(Case No. 2018/178010)

Before Chief Commissioner Kite

22 June 2018

**AWARD**

**PART A**

**Arrangement**

Clause No.	Subject Matter
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3.	Definitions
4.	Intention
5.	Effects of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009
6.	Wage Rates
7.	General Conditions of Employment
7A.	School Based Apprentices
8.	Consultative Committee
9.	Dispute Resolution Procedures
10.	Classification Standards
11.	Anti-Discrimination
12.	Salary Packaging Arrangements including Salary Sacrifice to Superannuation
13.	No Extra Claims
14.	Area, Incidence and Duration
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**PART B**

**RATES AND ALLOWANCES**

Table 1 - Rates of Pay

Table 2 - Allowances

**PART A**

**1. Title**

- 1.1 This Award shall be known as the Crown Employees (Office of Environment and Heritage - Royal Botanic Gardens and Domain Trust Building and Mechanical Trades Employees) Award 2018.

## 2. Parties

2.1 This Award has been made between the following parties:

The Industrial Relations Secretary for the Office of Environment and Heritage (OEH);

Construction, Forestry, Mining Energy Union; and

Communications Electrical Electronic Energy Information Postal Plumbing and Allies Services Union of Australia (CEPU Plumbers Division NSW Branch).

## 3. Definitions

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

"Award" means this Award.

"OEH" means the Office of Environment and Heritage.

"Organisation" means the Office of Environment and Heritage.

"Chief Executive" means the Chief Executive of the Office of Environment and Heritage.

"Employee" means and includes all persons employed under the provisions of the *Government Sector Employment Act 2013* and who have been assigned to a role covered by this Award.

"Operative Date" means the date on which this Award is made by the Industrial Commission of New South Wales and becomes legally binding on the parties.

"Secretary" means the Industrial Relations Secretary, as established under the *Government Sector Employment Act 2013*.

"Supervision" means, in addition to normal supervisory responsibilities, the assessment, evaluation and training of employees.

"Union" means the:

Construction, Forestry, Mining Energy Union (CFMEU); and

Communications Electrical Electronic Energy Information Postal Plumbing and Allies Services Union of Australia (CEPU Plumbers Division NSW Branch);

having regards for their respective coverage.

## 4. Intention

4.1 It is intended that this Award will align the wages of the employees employed under this Award with the employees employed under the Crown Employees (Parks and Gardens - Horticulture and Rangers Staff) Consent Award 2004 published 21 October 2016 (380 I.G. 1256).

4.2 It is intended that the Award will provide a suitable basis for the parties to implement appropriate arrangements to ensure that corporate objectives are met.

4.3 The Award will help facilitate the processes necessary to enhance the productivity of the organisation and provide a better return to the organisation, the employees, and the community.

## 5. Effect of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009

- 5.1 The parties agree:
- 5.1.1 Overtime - The overtime provisions contained in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as varied, or any replacement Award shall apply to all employees covered by this Award.
- 5.1.2 Travelling Compensation - The travelling compensation provisions contained in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as varied or any replacement Award shall apply to all employees covered by this Award.
- 5.1.3 The provisions of sub-clauses 5.1.1 and 5.1.2 shall apply in lieu of the provisions of the Crown Employees (Skilled Trades) Award 2018, as varied or replaced, in respect of Excess Fares and Travelling Time, and Overtime.
- 5.2 Conditions of employment for employees covered by this Award are to be regulated by the following hierarchy:
- (i) this Award where stated; or
- (ii) the Crown Employees (Skilled Trades) Award 2018 where not regulated by this Award; or
- (iii) any conditions not regulated by this Award or the Crown Employees (Skilled Trades) Award 2018 shall be provided by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as varied or replaced.
- 5.3 Where there is an inconsistency between this Award, the Crown Employees (Skilled Trades) Award 2018 and the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 as varied or replaced, this Award shall prevail to the extent of the inconsistency.

## 6. Wage Rates

- 6.1 The wage rates paid to employees covered by this Award are specified in Part B, Rates and Allowances, Table 1.
- 6.2 Apprentice trades employees shall be paid a percentage of the rate of pay applicable to Level Five Year 1:

Year One	45%
Year Two	60%
Year Three	75%
Year Four	85%

## 7. General Conditions of Employment

- 7.1 Except as otherwise provided in this Award, employees shall be entitled to and shall observe the conditions of employment made pursuant to the provisions of the Act.
- 7.2 The ordinary working hours shall be an average of 38 hours per week worked over a four (4) week settlement period.
- 7.3 Rostered Days Off - rostered days off (RDOs) shall be taken on days set by mutual agreement between employees and management. Where mutual agreement is not reached between employees and management as to the date on which the employee's RDO is to be taken, then the employee shall be entitled to take the day set by the Industry as the RDO for that month.
- 7.3.1 The parties agree that a nine-day fortnight will operate. The additional RDO shall be taken on a day agreed to by the parties to this Award.

- 7.3.2 Employees may, by mutual agreement with management, accrue up to three (3) RDOs in any one year.
- 7.4 Allowances
- 7.4.1 The parties agree that all allowances previously paid to employees covered by this Award, including the Pager Allowance, have been rolled into salary with the exception of the allowances in sub-clauses 7.4.2, 7.4.3 and 7.4.4, the rates for which are specified in Part B, of Table 2.
- 7.4.2 Chokage Allowance - the allowance as contained in Part B, Table 2 will be calculated to and paid as a weekly allowance to an employee required to perform chokages.
- 7.4.3 Asbestos Allowance - the allowance as contained in Part B, Table 2 will be calculated to and paid as a weekly allowance to an employee required to work with asbestos.
- (i) The parties agree that employees who are required to work with asbestos will be provided with the appropriate safety equipment.
- (ii) The parties also agree that employees have the right to refuse to work with asbestos if it is considered that such work is too hazardous to safely work with.
- 7.4.4 Plumbers' Licence Allowance and Plumbers' Registration Allowance - the allowances will be paid to employees required to act on such a Licence.
- 7.4.5 Having regard to clause 6.1 of this Award, allowances contained in Part B, Table 2 have been increased by 2.5% per annum from the first pay period on or after 1 July 2018.
- 7.5 Emergency Call-outs - Where an employee covered by this Award is called out after hours to respond to an emergency alarm, they shall be paid a minimum of four hours overtime.
- 7.6 Employees covered by this Award are not required to provide their own tools.
- 7.7 Employees will be entitled to an additional holiday on a working day nominated by the Director within the period between Boxing Day and New Year's Day. This holiday applies in lieu of the Union Picnic Day entitlement provided by the Crown Employees (Skilled Trades) Award 2018.
- 7.8 Subject to an employee making written authorisation, the Royal Botanic Gardens shall deduct from the employee's pay, subscriptions payable to a nominated industrial organisation of employees (Union) and shall pay the deducted subscriptions to such an organisation.

### **7A. School Based Apprentices**

#### **7A.1 Definition**

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

#### **7A.2 Wages**

- (i) The hourly rates for full-time apprentices as set out in this Award shall apply to school based apprentices for total hours worked including time deemed to be spent in off-the-job training.
- (ii) For the purposes of subclause 7A.2 (i) of this clause, where a school based apprentice is a full-time school student, the time spent in off the job training for which the school based apprentice is paid is deemed to be 25 per cent of the actual hours worked on the job each week.
- (iii) The wages paid for training time may be averaged over the school term or year.



- (iv) Where this Award specifies a weekly rate for full-time apprentices, the hourly rate shall be calculated by dividing the applicable weekly rate by 38.

#### 7A.3 Progression through the Wage Structure

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

#### 7A.4 Conversion from a school based apprentice to a full-time apprenticeship

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

#### 7A.5 Conditions of Employment

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

### 8. Consultative Committee

- 8.1 A Royal Botanic Gardens and Domain Trust Joint Consultative Committee Sub-committee (the Sub-committee) shall monitor the implementation of this Award and make, during its period of operation, recommendations to the Executive Director of the Royal Botanic Gardens and Domain Trust with regard to:
  - (i) implementation of the classification levels and progressions between classification levels as provided in clause 10, Classification Standards.
  - (ii) any other matters regarding the implementation of this Award.
- 8.2 The Sub-committee shall consist of representatives of management and representatives of the unions which are party to this Award, the latter chosen at the discretion of the union members covered by this Award.
- 8.3 Should the parties to the Sub-committee fail to reach agreement on any matter the Dispute Resolution Procedures outlined in clause 9, Dispute Resolution Procedures, will be followed.

### 9. Dispute Resolution Procedures

- 9.1 Subject to the provisions of the *Industrial Relations Act 1996*, should any dispute (including a question or difficulty) about an industrial matter arise, then the following procedures shall apply:
  - 9.1.1 Should any dispute or difficulty arise or is considered likely to occur, in a particular workplace, the matter is discussed between the employee and the supervisor involved as soon as is practicable.
  - 9.1.2 The supervisor will discuss the matter with the employee(s) and/or the union delegate of the employee's representative within a reasonable time frame with a view to resolving the dispute, question or difficulty or by negotiating an agreed method and time frame for processing.
  - 9.1.3 Should the matter remain unresolved, or should the matter be of a nature which involves multiple workplaces, then the employee, union delegate and/or union official or employee's representative may raise the matter with the Curator/Manager with a view to resolving the dispute, question or difficulty or by negotiating an agreed method and time frame for proceeding.

- 9.1.4 Where the procedures in subclause 9.1.3 do not lead to a resolution of the dispute, question or difficulty, the matter will be referred to senior representatives of the Royal Botanic Gardens and Domain Trust management. The parties will discuss the dispute, question or difficulty with a view to resolving the matter or by negotiating an agreed method and time frame for proceeding.
- 9.1.5 Should the above procedures not lead to a resolution then either party may make application to the Industrial Relations Commission.
- 9.1.6 Notwithstanding the intention of the parties to follow the steps in this clause, it is acknowledged that there may be limited circumstances where the parties may directly seek the assistance of the Industrial Relations Commission.

### **10. Classification Standards**

- 10.1 A position falling within the scope of this Award shall have assigned to it a classification level determined in accordance with the classification standards detailed below.

#### **10.2 Broadbanding Classifications**

10.2.1 For the purposes of this Award, Level 5/6 is a broadbanded classification. Progression between Levels 5 and 6 is by way of a "soft" progression based on the assessment and appeal processes that are agreed by the parties.

10.2.2 For the purposes of this Award, Level 7/8 is a broadbanded classification. Progression between Levels 7 and 8 is by way of a "soft" progression based on the assessment and appeal processes that are agreed by the parties.

- 10.3 The following classification levels will apply in each Administrative Unit:

##### **10.3.1 Level 5**

An employee assigned to a role established at Level 5 of this Award will:

- (a) Work under minimal supervision and therefore be required to exercise independent judgement at trade level; and
- (b) Have a recognised trades certificate or equivalent, or be able to demonstrate equivalent prior learning and possess the relevant interpretation skills and other skills and relevant experience required to:
  - (i) perform trade level duties; and/or
  - (ii) provide visitor assistance; and/or
  - (iii) supervise apprentices; and
  - (iv) communicate with supervisors and other employees; and/or

##### **10.3.2 Level 6**

An employee assigned to a role established at level 6 of this Award will:

- (a) Work under minimal supervision and therefore be required to exercise independent judgement at an advanced trade level and exercise initiative with regard to matters of minor complexity; and
- (b) Have a recognised trades certificate, or be able to demonstrate equivalent prior learning, so that they have the developed communication skills, interpretation skills and other skills and relevant experience required to:

- (i) perform advanced trade level duties; or
  - (ii) supervise apprentices; and
  - (iii) communicate with supervisors and other employees; and/or
  - (iv) communicate semi-technical information to the public.
- (c) Fulfil the requirements for progression to Level 6 based on the assessment and appeals processes that are to be agreed between the parties.

#### 10.3.3 Level 7

An employee assigned to a role established at Level 7 of this Award will:

- (a) Work independently on assigned specialist work and/or lead a small work team on assigned work and therefore be required to exercise independent judgement and to be accountable for work performance; and
- (b) Have a recognised trades certificate, and have the skills and relevant supervisory experience required to:
  - (i) manage a small specialist work area as an individual or as the leader of a small team of employees (normally less than 6 employees) - supervising and training employees; and
  - (ii) be accountable for completion of work to agreed standards; and/or
  - (iii) solve technical problems of limited complexity; and
  - (iv) document and communicate technical data and information to other employees and/or the public.

#### 10.3.4 Level 8

An employee assigned to a role established at Level 8 of this Award will:

- (a) Work independently on assigned specialist work and/or lead a team on assigned work and therefore be required to exercise independent judgement and to be accountable for work performance; and
- (b) Have a recognised trades certificate and have the skills and relevant supervisory experience required to:
  - (i) manage a specialist work area as an individual or as the leader of a team of employees - supervising and training employees; and
  - (ii) be accountable for completion of work to agreed standards; and/or
  - (iii) solve technical problems of some complexity; and
  - (iv) document and communicate technical data and information to employees and/or the public.
- (c) Fulfil the requirements for progression to Level 8 based on the assessment and appeals processes that are to be agreed between the parties.

## 11. Anti-Discrimination

- 11.1 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 and age.
- 11.2 It follows that in fulfilling their obligations under the dispute resolution procedures 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 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 that, by its terms or operation, has a direct discriminatory effect.
- 11.3 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.
- 11.4 Nothing in this clause is to be taken to affect:
- (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (b) offering or providing junior rates of pay to persons under 21 years of age;
  - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*.
  - (d) a party to this Award from pursuing or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.
- 11.5 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.
- 11.6 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- 11.7 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."

## 12. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation

- 12.1 The entitlement to salary package in accordance with this clause is available to:
- 12.1.1 ongoing full-time and part-time employees;
  - 12.1.2 temporary employees, subject to the OEH's convenience; and
  - 12.1.3 casual employees, subject to the OEH's convenience, and limited to salary sacrifice to superannuation in accordance with subclause 12.7.
- 12.2 For the purposes of this clause:
- 12.2.1 "salary" means the salary or rate of pay prescribed for the employee's classification by clause 6, Wage Rates, Part B of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.
  - 12.2.2 "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.

12.3 By mutual agreement with the Secretary, an employee may elect to package a part or all of their post compulsory deduction salary in order to obtain:

12.3.1 a benefit or benefits selected from those approved by the Secretary; and

12.3.2 an amount equal to the difference between the employee's salary, and the amount specified by the Secretary for the benefit provided to or in respect of the employee in accordance with such agreement.

12.4 An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.

12.5 The agreement shall be known as a Salary Packaging Agreement.

12.6 Except in accordance with subclause 12.7, 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 Executive Officer at the time of signing the Salary Packaging Agreement.

12.7 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:

12.7.1 paid into the superannuation fund established under the *First State Superannuation Act 1992*; or

12.7.2 where the OEH is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or

12.7.3 subject to the OEH's agreement, paid into another complying superannuation fund.

12.8 Where the employee makes an election to salary sacrifice, the OEH shall pay the amount of post compulsory deduction salary, the subject of election, to the relevant superannuation fund.

12.9 Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:

12.9.1 *Police Regulation (Superannuation) Act 1906*;

12.9.2 *Superannuation Act 1916*;

12.9.3 *State Authorities Superannuation Act 1987*; or

12.9.4 *State Authorities Non-Contributory Superannuation Act 1987*,

the OEH 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.

12.10 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 12.9 of this clause, the OEH 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 OEH may be in excess of superannuation guarantee requirements after the salary packaging is implemented.

- 12.11 Where the employee makes an election to salary package:
- 12.11.1 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
  - 12.11.2 any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this Award or any applicable Award, Act or statute which is expressed to be determined by reference to the employee's rate of pay, shall be calculated by reference to the rate of pay which would have applied to the employee under clause 6, Wage Rates, or Part B of this Award if the Salary Packaging Agreement had not been entered into.
- 12.12 The Secretary may vary the range and type of benefits available from time to time following discussion with the Unions. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.
- 12.13 The Secretary will determine from time to time the value of the benefits provided following discussion with the Unions. 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.

### **13. No Extra Claims**

- 13.1 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 NSW Industrial Relations Commission 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.

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.

### **14. Area Incidence and Duration**

- 14.1 This Award will apply to employees assigned to a role in classifications covered by Construction, Forestry, Mining Energy Union and Communications Electrical Plumbing Union - Plumbers Division NSW, within the Royal Botanic Gardens Trust Division employed in the OEH.
- 14.2 This Award rescinds and replaces the Crown Employees (Office of Environment and Heritage - Royal Botanic Gardens and Domain Trust Building and Mechanical Trades Employees) Award 2015 published 15 January 2016 (378 I.G. 1261) and shall take effect from the first full pay period on or after 1 July 2018 and remain in force for a period of one year.

### **15. Savings and Rights**

- 15.1 At the time of making this Award, no employee covered by this Award will suffer a reduction in his or her rate of pay or any loss of or diminution in his or her conditions of employment as a consequence of the making of this Award.
- 15.2 Should there be a variation to the Crown Employees (Skilled Trades) Award 2018 or the Crown Employees (Parks and Gardens - Horticulture and Rangers Staff) Award 2007 or any Award replacing those Awards, the employees covered by this Award will maintain the same rates of pay relationship to the classifications covered by the Crown Employees (Skilled Trades) Award 2018 or the Crown Employees (Parks and Gardens - Horticulture and Rangers Staff) Award 2007 either by an application for variation, or by the making of a new Award.

**PART B****RATES AND ALLOWANCES****Table 1 - Rates of Pay**

Classification	2.5% increase effect from the first full pay period on or after 01.07.18 Per Annum \$
Apprentice Year 1	28,222.00
Apprentice Year 2	37,630.00
Apprentice Year 3	47,037.00
Apprentice Year 4	53,309.00
Trades Level 5/6 Year 1	62,715.00
Trades Level 5/6 Year 2	64,395.00
Trades Level 5/6 Year 3	66,199.00
Trades Level 5/6 Year 4	68,033.00
Trades Level 7/8 Year 1	69,964.00
Trades Level 7/8 Year 2	72,054.00
Trades Level 7/8 Year 3	74,334.00
Trades Level 7/8 Year 4	77,363.00

**Table 2 - Allowances**

Clause No. and Brief Description	2.5% increase effective from the first full pay period on or after 01.07.18 \$
7.3.1 Chokage (per hour)	1.27
7.3.2 Asbestos (per hour)	1.01
7.3.3 Plumbers Licence (per hour)	1.76
7.3.4 Plumbers Registration (per hour)	1.00

P.M. KITE, Chief Commissioner.

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(013)

**SERIAL C8849****CROWN EMPLOYEES (SECURITY AND GENERAL SERVICES)  
AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Industrial Relations Secretary.

(Case No. 2018/178038)

Before Chief Commissioner Kite

22 June 2018

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

## PART A

Clause No.	Subject Matter
1.	Arrangement
2.	Monetary Rates
3.	Definitions
4.	Contract of Employment
5.	Hours
6.	Rostered Days Off Duty
7.	Rates of Pay
8.	Enterprise Consultation
9.	Additional Rates
10.	Shift Allowances
11.	Saturday and Sunday Work During Ordinary Hours
12.	Payment of Wages
13.	General Conditions
14.	Travelling Time and Expenses
15.	Outside Duties
16.	Lifting of Weights
17.	Sunday Work
18.	Overtime
19.	Call Back
20.	Mixed Functions
21.	Sick Leave/Personal Carer's Leave
22.	Public Holidays
23.	Recreation Leave
24.	Family and Community Services/Personal Carer's Leave
25.	Parental Leave
26.	Extended Leave/Long Service Leave
27.	Other Forms of Leave
28.	Anti-Discrimination
29.	Dispute Resolution
30.	Non-Reduction of Existing Wages
31.	Exemptions
32.	Deduction of Union Membership Fees
33.	Area, Incidence and Duration
34.	No Extra Claims



## PART B

## MONETARY RATES

Table 1 - Rates of Pay

Table 2 - Allowances

**3. Definitions**

Act means the *Government Sector Employment Act 2013*.

Afternoon Shift means any shift finishing after 6.00 p.m. and at or before midnight.

Broken Shifts means the working of two or more shifts per day by an employee within the ordinary hours as specified in subclause (iii) of clause 5, Hours.

Casual Employee means an employee engaged and paid as such and who may be employed for a period of not more than ten (10) consecutive working days for each engagement but shall not include an employee required to work a constant number of ordinary hours each week.

Conditions Award means the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009

Day means the period from midnight to midnight.

Head means as defined in the Act in respect of a Public Service agency.

Early Morning Shift means any shift commencing at or after 5.00 a.m. and before 6.30 a.m.

General Services Officer Grade 1 - An employee engaged as a General Service Officer Grade 1 may be required to carry out a range of duties, which may include:

Making and/or serving morning or afternoon teas or lunches or other meals including washing up and other duties in connection with such work. In addition they may undertake a range of routine tasks under close supervision with set instructions, including basic clerical functions.

General Services Officer Grade 2 - An employee engaged as a General Service Officer Grade 2 may be required to carry out a range of duties, which may include:

Cleaning work of any description or the bringing into or maintaining of premises in a clean condition in Government offices, courthouses, police stations, technical colleges and other Government establishments.

General Services Officer Grade 3 - An employee engaged as a General Service Officer Grade 3 may be required to carry out a range of duties which may include but not be limited to any of the following:

- (a) Pick up and delivery of parcels, goods and furniture
- (b) General maintenance of departmental cars and parking areas
- (c) Furniture removal and storage
- (d) Driving of departmental motor vehicles as required including loading and unloading
- (e) Relief security duties
- (f) or clerical functions as required
- (g) or cleaning and gardening as required

- (h) Other duties as required
- (i) Routine or minor maintenance of such a nature so as not to require a qualified tradesperson

Part-Time Employee means an employee engaged by the week but who is required to work a constant number of ordinary hours each week less than the ordinary number of hours prescribed for weekly employees.

Night Shift means any shift finishing subsequent to midnight and at or before 8.00 a.m. or any shift commencing at or after midnight and before 5.00 a.m.

#### Security Officer - Grade 1

Means a person employed in one or more of the following capacities:

- (a) to watch, guard or protect persons and/or premises and/or property,
- (b) to respond to basic fire/security alarms at their designated site,
- (c) to monitor a single closed circuit television unit recording from a stationary camera,
- (d) as an employee stationed at an entrance and/or exit whose principal duties shall include the control of movement of persons, vehicles, goods and/or property coming out of or going into premises or property and including vehicles carrying loads of any description. This is to ensure that the quantity and description of such goods accords with the requirements of the relevant document and/or gate pass. The employee may also have other duties to perform, including as an area or door attendant or commissionaire in a commercial building;

A security officer Grade 1 may perform incidental duties that need not be of a security nature.

#### Security Officer - Grade 2

Means a person who is employed as one of the following:

- (a) A mobile patrol officer. This means an employee who is required to patrol two or more premises in a vehicle. It also includes a security officer who, in order to perform his/her designated duties is required, as an integral part of those duties, to use a motor vehicle, or
- (b) A security officer who, as part of the shift or duty is required to monitor and act upon intrusion, detection equipment or access control equipment terminating in a televised display or computerised print-out;

A security officer Grade 2 may perform incidental duties which need not be of a security nature.

- (c) A caretaker whose presence is required for the protection, good order or convenient use of premises, and/or the cleanliness or upkeep of such, including routine or minor maintenance, but the work is not of a nature that requires a qualified tradesperson. A caretaker may also be required to receive and distribute stores.

#### Security Officer - Grade 3

Means a person employed substantially in a security and/or data input and/or a monitoring function within a central station and principally occupied in one or more of the following duties -

Monitoring, recording, inputting information or reacting to signals and instruments related to electronic surveillance of any kind; co-ordinating, checking or recording the activities of mobile patrol officers and static security officers; operating or monitoring any medium of verbal communication; or

A person, who in addition to performing the duties defined in Grade 2(b), monitors or acts upon integrated intelligent building management systems terminating at a visual display unit or computerised print-out that has the capacity for and requires data input from the security officer.

Seven Day Shift Worker: for purposes of this award, a seven day shift worker means an employee whose ordinary working period includes Saturdays, Sundays and/or Public Holidays on which the employee may be regularly rostered for work.

Union means the United Voice - New South Wales Branch.

Weekly Employee means an employee engaged and paid by the week or fortnight, as the case may be.

#### **4. Contract of Employment**

- (i) Employees under this award shall be engaged either as weekly employees, part-time employees, or casual employees.
- (ii) An employer may direct an employee covered by this award to carry out such duties as are within the limits of the employee's skill, competence and training.
- (iii) The employer shall clearly display at some place accessible to the employees, the commencing and ceasing time of ordinary hours of work. One week's notice must be given for any change to such hours, otherwise payment of overtime is incurred. Less than one week's notice may be given by mutual agreement between the employer and the employee.
- (iv) The employment of any employee other than a casual employee shall be terminated only by one week's notice or by the payment or forfeiture, as the case may be, of one week's wages in lieu thereof.
- (v) The employment of a resident Security Officer Grade 2b or 2c (as defined) engaged by the week shall only be terminated by three weeks' notice or by the payment or forfeiture, as the case may be, of three week's wages in lieu thereof.
- (vi) The employment of a casual employee may be terminated by one hour's notice.
- (vii) Notwithstanding the foregoing provisions, the employer may dismiss an employee at any time for misconduct or serious misconduct and then shall be liable for payment only up to the time of dismissal.
- (viii) Termination of employment by an employer shall not be harsh, unjust, or unreasonable.

For the purposes of this clause termination of employment shall include terminations with or without notice.

Termination on the ground of race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction and social origin shall constitute harsh, unjust, or unreasonable termination of employment. This definition, without limiting the above, applies except where a distinction, exclusion, or preference is based on the inherent requirements of a particular position.

- (ix) On the termination of employment the employer shall, at the request of the employee, give such employee a statement signed by the employer, stating the period of employment and when the employment terminated.
- (x) On the termination of employment an employee shall return to the employer all uniforms, identity cards, vehicles, keys and all other items issued to employees.
- (xi) Mechanisation and Technological Changes - Three months notice of termination of employment must be given to an employee who has been employed for at least twelve months and has had their services terminated on account of the introduction, or proposed introduction, by an employer of mechanisation or

technological changes in the industry in which the employer is engaged. This applies notwithstanding the provisions of subclauses (iii) and (iv).

(xii) If there is a failure to give such notice in full:

- (a) the employee shall be paid at the rate specified for the employee's ordinary classification set out in Part B, Table 1 of this award, for a period equal to the difference between three months and the period of the notice given; and
- (b) the period of notice required by this subclause to be given shall be deemed to be service with the employer for the purpose of the *Long Service Leave Act 1955*, the *Annual Holidays Act 1944*, *Government Sector Employment Act 2013* or any Act, amending or replacing any of those Acts. The right of the employer summarily to dismiss an employee for the reasons specified in subclause (vi), of this clause, shall not be prejudiced by the fact that the employee has been given notice pursuant to this subclause of the termination of the employment.

An employer who gives an employee notice of the termination of employment on grounds as set out in subclause (xi), must within fourteen days thereafter, give notification of the fact in writing to the Industrial Registrar, and the Secretary of United Voice - New South Wales Branch. The employer must state the employee's name, address and usual occupation and the date when the employment terminated in accordance with the notice given.

## 5. Hours

(i) Security Officers: (Other than Caretakers)

- (a) Subject to the provisions of clause 6, Rostered Days Off Duty, ordinary hours of Security Officers shall not exceed one hundred and fifty-two in each roster period of twenty consecutive days. Such hours shall be worked in not more than twenty shifts in each roster period. The shifts shall not be more than eight consecutive hours in duration and only one shift shall be worked in any period of twenty-four hours.
- (b) Except in the case of change of shifts, notice of which has been given in accordance with subclause (iii), of clause 4, Contract of Employment, of this award, not more than six consecutive shifts in any period of seven consecutive days shall be worked without the payment of overtime.
- (c) The arrangement of working hours, as set out herein may be altered by agreement between the employer and the union.
- (d) In all cases shifts shall be continuous and time shall start from the commencement of the shift.
- (e) After four hours and no later than five hours from the commencement of each shift, a crib time of not less than thirty minutes shall be allowed, where it is reasonably practicable to do so. Time allowed as crib time will be regarded as time worked and shall be paid for as such.

(ii) Caretakers:

- (a) The ordinary working hours, exclusive of meal breaks, shall be an average of 38 per week. The hours shall be worked in shifts of no more than 8 hours duration from Monday to Friday inclusive.

In establishments operating Monday to Sunday the ordinary working hours shall be an average of 38 per week. The hours shall be worked in 5 shifts of no more than 8 hours duration from Monday to Sunday inclusive.

- (b) The employer shall fix the time for working such hours on such days in one, two or three shifts.

## (iii) General Service Officers Grade 2 &amp; 3, (Cleaners And Basement Attendants)

The ordinary working hours, exclusive of meal breaks, shall not exceed an average of thirty-eight per week. Such hours shall be worked as follows -

- (a) Day Workers: Between 6.30 a.m. and 6.00 p.m. Monday to Friday, inclusive. These hours shall be worked on each day in one or two shifts of not more than eight hours total duration. An employee may commence thirty minutes earlier than the normal starting time or the ceasing time may be extended by thirty minutes. This thirty minutes may be divided between the starting and ceasing time if mutually agreed to by the employer and the employee.
- (b) Afternoon Shift Workers: Between 4.00 p.m. and 12 midnight, Monday to Friday, inclusive, to be worked in one shift of no more than eight hours daily.
- (c) Early Morning Shift Workers: Between 5.00 a.m. and 2.00 p.m., Monday to Friday, inclusive, to be worked in one shift daily of no more than eight hours' duration.
- (d) Broken Shift Workers: Between 6.30 a.m. and 6.00 p.m. Monday to Friday inclusive, to be worked in two shifts daily, subject to the provisions of subclause (a) with respect to alterations in starting and ceasing times.
- (e) Night Shift Workers: Five shifts of not more than eight hours each, between 10.00 p.m. on Sundays and 6.30 a.m. on the succeeding day (Sunday to Friday) or five shifts of not more than eight hours between 6.00 p.m. and 6.30 a.m. on each day, Monday to Saturday, inclusive.
- (f) In establishments operating from Monday to Sunday the ordinary working hours shall be an average of 38 per week which shall be worked in 5 shifts of no more than 8 hours duration from Monday to Sunday inclusive. This is subject to the provisions of paragraphs (a), (b), (c), (d) and (e) of this subclause.

## (iv) General Services Officer Grade 1

The ordinary working hours, exclusive of meal times, shall not exceed an average of thirty-eight per week or eight per day. Such hours shall be worked in one or two shifts per day between 7.00 a.m. and 6.00 p.m. Monday to Friday inclusive.

In establishments operating from Monday to Sunday the ordinary working hours shall be an average of 38 per week, which shall be worked in one or two shifts per day between 7 a.m. and 6 p.m. from Monday to Sunday inclusive.

## (v) Casual Employees

For casual employees the ordinary working hours shall not exceed eight hours on any day or night or shift without the payment of overtime.

## (vi) Meal Breaks: (Other than Security Officers)

A meal break of not less than thirty minutes and not more than one hour shall be allowed for a meal. An employee shall not be required to work for more than five hours without a meal break. The provisions of this subclause shall also apply to Caretakers (Security Officer Grade 2).

## 6. Rostered Days Off Duty

### (i) Four-Week Work Cycle - Accrual Provisions:

#### (a) Shiftworkers - Weekly Employees

Employees on shift work shall accrue 0.4 of an hour for each eight-hour shift worked to allow one complete shift to be taken off as a paid shift during every shift cycle. This shift shall be paid for at the appropriate shift rate as prescribed by clause 10, Shift Allowances, of this award.

#### (b) Dayworkers - Weekly Employees

The ordinary working hours shall be worked as a twenty-day four-week cycle, Monday to Friday inclusive. The cycle consists of nineteen working days of eight hours each, with 0.4 of one hour on each day worked accruing as an entitlement to take the twentieth day in each cycle as a day off paid for as though worked.

#### (c) Part-Time Employees

Accrual of rostered day off credits for part-time employees may be accounted for in the calculation of the part-time rates. The rate includes provision for automatic crediting of one twentieth of all time worked towards rostered days actually taken as provided in subclause (iii) of this clause.

### (ii) Accrual and Paid Leave:

Each day of paid leave taken (excluding long service/extended leave and workers' compensation/accident leave) and leave without pay during periods of closedowns occurring during any cycle of four weeks, shall be regarded as a day worked for accrual provisions.

### (iii) Rostering - Four Week Cycle:

(a) Rostered days off shall be scheduled by mutual agreement between employees and the employer. This does not preclude an individual employee with the employer's agreement, substituting another day for their rostered day off.

(b) Except as provided by paragraph (c) of this subclause, at least four weeks notice shall be given to an employee of the weekday he/she is to be rostered off duty.

(c) In the case of a breakdown of machinery or to meet the requirements of the establishment, the employer may, with the agreement of the majority of employees concerned, substitute another day for the employee's rostered day off.

(d) Under normal conditions, employees on a rostered day off that coincides with a pay day will be paid no later than the working day immediately following pay day.

(e) Rostered days off may accumulate and in the case of school/college locations may be scheduled during vacation periods to suit the needs of the employer. Dates for the taking of such accumulated leave shall be agreed between the employer and the employee.

### (iv) Rostered Day Off Falling on a Public Holiday:

In the event of an employee's rostered day off falling on a public holiday, the employee and the employer shall agree to an alternative day off duty as a substitute. In the absence of agreement the substituted day shall be determined by the employer.

## (v) Work on Rostered Day Off Duty:

Subject to subclause (iii), Rostering - Four Week Cycle, of this clause, any employee required to work on their rostered day off shall only be paid in accordance with the provisions of clause 18, Overtime, of this Award.

## (vi) Sick Leave and Rostered Days Off:

Employees are not eligible for sick leave in respect of absences on rostered days off as such absences are outside their ordinary hours of duty.

## 7. Rates of Pay

Rates of pay and allowances for classifications covered by this Award are provided for by the Crown Employees Wages Staff (Rates of Pay) Award 2018 or any instrument replacing such.

## (i) Weekly Employees - A weekly employee shall be paid according to the rate for the classification as set out in Table 1 of Part B of the Award.

## (ii) Part-Time Employees -

General Services Officer Grade 2 (Cleaners)

(a) Part-time employees shall be paid at an hourly rate as set out in Table 1 of Part B for all ordinary time worked and for all paid leave.

(b) The part-time rate includes provision for automatic crediting of one twentieth of all time worked towards rostered days as provided for in paragraph (c) of subclause (i) of clause 6, Rostered Days Off Duty.

(c) The hourly rate prescribed by paragraph (a) of this subclause will be adjusted by the percentage movements in the weekly rate for a General Services Officer Grade 2 in subclause (i).

All Other Part time Employees:

(a) For each hour worked during ordinary time, part time employees shall be paid the hourly equivalent of the appropriate weekly rate of pay prescribed by subclause (i) of this clause plus an additional amount of ten per cent.

(b) The hourly equivalent for the purposes of this subclause shall be based on 38 hours where a part-time employee is not accruing credits towards rostered days off but is paid only for hours worked.

(c) The hourly equivalent for the purposes of this subclause shall be based on 40 hours where a part-time employee is accruing credit for time worked towards rostered days off as provided for in paragraph (c) of subclause (i) of clause 6, Rostered Days Off Duty.

A minimum payment of three hours shall be made for each start. Part-time cleaners in small locations may be engaged on two hours per start where the total assessed cleaning area is 500 square metres or more, and no less than one hour per shift where the total assessed cleaning area is less than 500 square metres.

## (iii) Casual Employees:

(a) A casual employee for working ordinary time shall be paid per hour one thirty-eighth of the weekly wage prescribed by this award for the class of work performed, plus 15 per cent.

(b) A minimum payment of four hours shall be made for each start in the case of security officers and three hours for each start in the case of all other employees.

- (iv) The hourly rates of pay prescribed in subclause (ii) and (iii) of this clause, shall be calculated to the nearest whole cent.

### **8. Enterprise Consultation**

Enterprises covered by this award shall establish a consultative mechanism and procedures appropriate to their size, structure and needs for consultation and negotiation on matters affecting their efficiency and productivity.

### **9. Additional Rates**

- (i) Leading Hands Allowance:

Employees placed in charge of other employees shall be paid a weekly amount as set out in Item 1 of Table 2 in addition to their ordinary wages.

- (ii) Qualification Allowance:

An employee acting as a leading hand or a caretaker who has successfully completed a Cleaning Supervisors' Course or a course deemed by the employer to be of equivalent qualification, shall be paid an additional weekly amount as set out in Item 2 of Table 2. This amount shall be part of the ordinary rate of pay for all award purposes.

- (iii) First Aid Allowance:

An employee who is a qualified first-aid attendant and is employed to carry out the duties of a qualified first-aid attendant shall be paid an additional weekly amount as set out in Item 3 of Table 2.

- (iv) Boiler Attendant's Certificate

An employee required to hold a Boiler Attendant's Certificate shall be paid a weekly allowance as set out in Item 4 of Table 2 in addition to the ordinary rate of pay.

- (v) Refrigeration Driver's Certificate

An employee required to hold a Refrigeration Driver's Certificate of competency, 1st or 2nd Class (Air Conditioning) shall be paid a weekly allowance as set out in Item 5 of Table 2 in addition to the ordinary rate of pay.

- (vi) Contingency Allowance:

Employees engaged on any or all of the following duties

- (a) refuse disposal and/or sorting for incinerators and furnaces,
- (b) cleaning of ablution facilities,
- (c) clearing of minor plumbing blockages,
- (d) receiving appropriate stores or minor repair of non-electrical equipment,

shall be paid a weekly allowance as set out in Item 6 of Table 2.

- (vii) Toilet Allowance:

An employee required to work in toilets, on outside steps, outside marble or outside brass or required to scrub marble, terrazzo, rubber floor corridors or stairs which necessitate the employee kneeling shall be paid an additional weekly amount as set out in Item 7 of Table 2.



The cleaning of single sex toilets may be undertaken by both male and female cleaners as long as appropriate steps are taken to ensure that the toilets are not in use at the time of cleaning. Appropriate warning signs are to be supplied by the employer.

The toilet allowance is not applicable for an employee receiving the contingency allowance set out in Item 6 of Table 2.

(viii) Multi-Purpose Machines Allowance:

Employees required to use multi-purpose machines, mobile sweeping machine and other similar mechanical equipment or operate fork lifts shall whilst so employed be paid an additional amount per shift or part thereof as set out in Item 8 of Table 2.

NOTE: A multi-purpose machine is one that performs three or more functions.

(ix) Furniture Removal Allowance:

Cleaners required to be engaged in furniture removal for more than three hours on any day or shift shall be paid an additional allowance per shift as set out in Item 9 of Table 2.

(x) Torches:

Where an employee is required to carry a torch it shall be provided and maintained in full working order by the employer. Employees providing their own torches shall be paid an allowance per shift as set out in Item 10 of Table 2 to cover the replacement of torch globes and batteries.

(xi) Laundry Allowance:

Overalls and coveralls and any uniform where supplied or required to be worn by the employee shall be laundered or dry-cleaned at the employer's expense. In lieu of this, a laundry allowance as set out in Item 11 of Table 2 may be paid for each ordinary shift worked. In the case of security officers this subclause shall apply to shifts worked in accordance with the provisions of clause 5 (i)(b), Hours of this Award.

(xii) Locomotion Allowance:

An employee required by the employer to use a motor cycle or other motor vehicle shall have such vehicle supplied and maintained by the employer. If the employee uses his/her own vehicle they shall be reimbursed each week for each shift worked at the rate set out in Item 12 of Table 2. The employer shall reimburse the employee for the cost of fuel used on the employer's business. In the case of an employee providing a bicycle for use in the employer's business the payment shall be as set out in Item 14 of Table 2 for each shift worked.

The locomotion allowance shall only be paid where the use of a motor vehicle etc. is essential to the performance of an employee's main function.

The locomotion allowance does not apply to caretakers, who are eligible to receive allowances in accordance with Item 13 of Table 2. An employee receiving the locomotion allowance is not eligible to also receive a motor vehicle allowance as set out in Item 13.

(xiii) Motor Vehicle Allowances:

(a) Employees authorised to use a private motor vehicle in the performance of their duties where no public transport is available, or where the use of public transport is not appropriate for the particular duty concerned, shall be paid additional rates as set out in Item 13 of Table 2.

(b) The rates contained in paragraph (a) are based on and shall move in accordance with the "Official Business Rate" payable under the provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 as varied, or any variation or replacement award.

- (c) Where public transport is available employees may use such transport for approved travel and be reimbursed with the costs incurred.
- (d) Employees may elect to use a private motor vehicle (where the use of such is so authorised) and be paid additional rates as set out in Item 13 of Table 2 up to the cost of the available public transport.
- (e) An employee receiving a motor vehicle allowance pursuant to this subclause shall not also receive a locomotion allowance under Item 12 of Table 2.

### 10. Shift Allowances

- (i) The following additional allowances for shift work shall be paid to employees other than Caretakers in respect of work performed during ordinary hours of shift as defined in clause 3, Definitions, of this award:

	Percentage
Early Morning Shift	10%
Afternoon Shift	15%
Night Shift, rotating with day or afternoon shift	17.5%
Night Shift, non-rotating	30%

- (ii) Caretakers:

The following additional allowances shall be paid per hour:

Between the hours of 9.00 p.m. and midnight -	15%
Between the hours of midnight and 6.00 a.m. -	30%

- (iii) Broken Shifts

- (a) Employees working broken shifts shall be paid an additional daily amount as set out in Item 15 of Table 2 of Part B of the Award for each day so worked.
- (b) Employees working broken shifts shall also be paid a weekly excess fares allowance as set out in Item 15 of Table 2 of Part B of the Award.

NOTE: An employee receiving broken shift allowance under the provisions of this subclause shall not receive the allowances provided for under subclause (i) and (ii) of this clause.

### 11. Saturday and Sunday Work During Ordinary Hours

- (i) Employees required to work their ordinary hours on a Saturday or Sunday shall be paid for all time so worked at the following rates:

Saturday Work	time and one-half
Sunday Work	double time

- (ii) The allowances prescribed in this clause shall be in substitution for and not cumulative upon, the shift work allowances prescribed in clause 10, Shift Allowances, of this award.
- (iii) For the purpose of this clause, the rates prescribed shall apply in respect of ordinary hours of work only and shall apply to all employees including casual employees.

### 12. Payment of Wages

- (i) All wages shall be paid fortnightly by electronic funds transfer on a Thursday as determined by the employer, and not more than forty-eight hours from the time when such wages become due.

- (ii) Wages may be paid into an employee's bank or other account as specified by the employee. The employer shall specify the day upon which wages shall be paid into such account.
- (iii) An employee kept waiting for wages on a payday shall be deemed to be working during the time kept waiting. When wages are not paid into the employee's bank or other account on the due date, the employee must notify the employer of such. The employer must make every endeavour within two full working days to ensure the appropriate credit is paid into the nominated account, or that the issuing of a cheque for the appropriate amount is undertaken. This provision will not apply where circumstances preventing payment of wages in such a manner is beyond the employer's control.
- (iv) If payment is not made by the end of the two-day period, the employee is entitled to payment at overtime rates for performance of the next full day's work. The provisions set out in subclauses (i) to (iv) do not apply to periods of employment that are less than one full pay period.
- (v) Casual employees shall be paid within one hour of termination of employment. Wages may in some circumstances be paid by cheque.

### 13. General Conditions

#### (i) Security Officers - All Grades

- (a) Security Licence: A Security Officer required to hold a Class 1 or Class 2 Security Licence pursuant to the provisions of the *Security Industry Act 1997* shall have the cost of such licence reimbursed by the employer. Reimbursement will be made on completion of each twelve months or five years' service, whichever applies to the term of the licence held.

- (b) Training:

All full-time Security Officers who during their current employment are required to undertake an approved training course nominated by the employer and as required by the provisions of the *Security Industry Act 1997* (and Regulations), shall have the costs of such training courses reimbursed by the employer. This is provided that the undertaking of the said training course is a requirement of the employee's current position.

Reimbursable costs as referred to in paragraph 1(a) of this subclause shall include excess travelling expenses relating to the attendance at the said courses.

Employees shall be granted time off without loss of pay during ordinary hours to attend training courses as referred to in this subclause.

In cases where the courses are to be held outside the rostered shift of the employee required to attend the course, then:

The rostered shift should be altered so that the employee can attend during ordinary working hours; or

For the time spent attending the course, the employee can be granted time off in lieu on an hour for hour basis at a time convenient to the employer; or

The employee shall be paid for attending the course at ordinary time rates without the addition of penalties. Such attendance shall not form part of the employee's ordinary roster for the purpose of clause 5, Hours, of this Award.

- (c) The employee may elect which is the preferred option from the above. The final determination regarding the option to be applied lies with the employer, having regard to the needs of the establishment.

- (ii) Security Officer Grade 2(b) and 2(c)
- (a) Where a Security Officer Grade 2b or 2c (as defined) is provided with accommodation, a deduction may be made from the wages for rent, fuel and lighting. The deduction shall not be more than the amount set out in Item 16 of Table 2.
  - (b) An employer shall not require a resident Security Officer Grade 2b or 2c to vacate living quarters during annual leave period for use by a relieving caretaker, unless such arrangements are mutually agreed to between the said employee and the relieving employee.
- (iii) General
- (a) Accommodation for Meals: Employers shall allow employees to take their meals, crib breaks or tea breaks in a suitable place protected from the weather. Every such employee shall be provided by the employer with adequate facilities for tea making and for heating food.  
  
This provision shall not apply to mobile security officers.
  - (b) Dressing Accommodation: Where it is necessary or customary for employees to change their dress or uniform, suitable dressing rooms or dressing accommodation and individual lockable lockers shall be provided.
  - (c) Means of Exit: Provision shall be made for an exit for night employees in case of necessity.
  - (d) Protective Clothing: In complying with the *Work Health and Safety Act 2011* the following clothing and equipment will be issued. The clothing shall remain the property of the employer:  
  
Wet weather coat with hood and trousers for employees who are required to work out of doors.  
  
Rubber boots for employees who are required to work in "wet areas", i.e. toilets, ablution blocks and external areas where water is used as part of the cleaning process.  
  
Protective eye wear for employees who are required to empty rubbish tins and tend incinerators, or work in areas where airborne particles are a hazard.  
  
Long rubber gloves when using detergents or similar cleaning chemicals.  
  
Leather gloves for employees who are required to collect rubbish bins, carry refuse and sweep outside areas.  
  
Washable broad brim hats for employees who are required to work out of doors.
  - (e) Work Clothing : Clean overalls or wrap-ons, gloves and safety footwear shall be supplied by the employer where they are required in undertaking duties.

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

Where an employee is sent to work at a place other than their employer's recognised place of business, the employer shall pay all travelling time from the place of business to the job. If the employee is required to return the same day to the employer's place of business, the employer shall pay travelling time back to the place of business. An employee sent for duty to a place other than the employee's regular place of duty or required by the employer to attend a court or inquiry in connection with the employee's employment shall be paid reasonable authorised expenses.

#### **15. Outside Duties**

All employees covered by this award shall clean outside as required and shall clean above floor or ground level as is safely accessible. Where ladders are used the safety requirements of the *Work Health and Safety Act 2011* must be complied with.

### **16. Lifting of Weights**

An employee shall not be required to lift by hand or carry weights in a manner that does not accord with the provisions of Chapter 4, Part 4.2, Hazardous Manual Tasks of the Work Health and Safety Regulation 2011.

### **17. Sunday Work**

An employee required to perform work on a Sunday shall be paid at the rate of double time, with a minimum payment of not less than four hours at such rate for each start.

### **18. Overtime**

- (i) For all work done outside ordinary hours the rates of pay shall be time and a half for the first two hours and double time thereafter. In computing overtime each day's work stands alone. All work performed after 12 noon on Saturday shall be paid for at the rate of double time.
- (ii) Meal Allowance - An employee who works overtime for one or more hours on any day or shift after the fixed ceasing time shall be paid for such day a meal allowance as set out Item 17 of Table 2 - Allowances, of Part B Monetary Rates. This applies unless notice to work has been given to such employee on or before the termination of the previous shift or day, as the case may be.
- (iii) Where overtime or extra shifts are required to be worked, preference shall be given to employees as classified and covered by the terms of this award where it is reasonably practicable to do so.
- (iv) Where an employee is required to work overtime, the minimum break between the finishing of one period of work or shift and the commencement of another, shall be as set out below:
  - (a) for shift workers, eight hours, including the normal changeover time if any;
  - (b) for day workers, ten hours.

If on the instructions of the employer such an employee resumes or continues work without having the required period off duty, the employee shall be paid at double ordinary time until released from duty. The employee shall be entitled to be absent without loss of pay for ordinary working time occurring during such absence until they have had the required period off duty.

- (v) For the purposes of this clause ordinary hours shall be inclusive of time worked for accrual purposes as provided for by clause 5, Hours.

### **19. Call Back**

An employee who after leaving their place of employment, is required to return to the employer's premises for any reason other than carrying out rostered duties, shall be paid a minimum of four hours' pay at the appropriate rate for each such attendance. This payment shall apply whether the employee was notified before or after leaving the place of employment.

This clause shall not apply where a period of duty is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time. The employee shall be given at least eight hours off duty, excluding travelling time in excess of thirty minutes and a meal break of thirty minutes, before there is a requirement to resume ordinary hours. An employee requested to resume duty before eight hours' rest is given shall be paid at double ordinary rates until such employee has been relieved from duty for a period of eight hours.

### **20. Mixed Functions**

An employee engaged for at least two hours on any day or shift on duties carrying a higher rate than the employee's ordinary classification shall be paid the higher rate for such a day or shift. Where an employee is engaged for less than two hours on any one day or shift, payment shall be at the higher rate for the time so worked.

An employee who is required to perform work temporarily for which a lower rate is paid, shall not suffer any reduction in wages whilst so employed. Any work of less than one week's duration shall be deemed temporary.

This clause shall not apply in situations where the higher duties result from the absence of an employee on a rostered day off.

## 21. Sick Leave/Personal Carer's Leave

(i) The entitlement to sick leave shall be as follows:

(a) Employees:

- (1) Shall be entitled to 15 days sick leave per year. Any untaken leave is cumulative. Sick leave on full pay accrues at the beginning of the calendar year. If an employee commences after 1 January, sick leave on full pay accrues on a proportionate basis for the year in which employment commences.
- (2) An employee absent from duty for more than 3 consecutive working days because of illness must furnish a medical certificate to the Head in respect of the absence.
- (3) An employee shall be put on notice in advance if required by the Head to furnish a medical certificate in respect of an absence from duty for 3 consecutive working days or less because of illness.

(b) Ministerial Employees, engaged under Ministerial Authority: in accordance with the Uniform Leave Conditions

(ii) Use of sick leave to care for a sick dependant - general

When family and community service leave, as outlined in clause 24 is exhausted, the sick leave provisions under clause (i) may be used by an employee to care for a sick dependant.

(iii) Use of sick leave to care for a sick dependant - entitlement

(a) The entitlement to use sick leave in accordance with this clause is subject to:

- (1) the employee being responsible for the care and support of the person concerned, and
- (2) the person concerned being:
  - (1) a spouse of the employee; or
  - (2) a de facto spouse, who in relation to a person, is a person of the opposite sex to 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
  - (3) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial) 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
  - (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
  - (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
- (b) An employee with responsibilities in relation to a person who needs their care and support shall be entitled to use sick leave available from that year's annual sick leave entitlement minus any sick leave taken from that year's 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, sick leave accrued 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) In special circumstances, the Chief Executive Officer or Managing Director may make a grant of additional sick leave. This grant can only be taken from sick leave accrued prior to the period referred to in paragraph (c).
  - (e) If required, a medical certificate or statutory declaration must be made by the employee to establish the illness of the person concerned and that the illness is such to require care by another person.
  - (f) The employee is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration and has the right to choose which of the two methods to use in the establishment of grounds for leave.
  - (g) Wherever practicable, the employee shall give the Chief Executive Officer or Managing Director prior notice of the intention to take leave, the name of the person requiring care and that person's relationship to the employee. They must also give reasons for taking such leave and the estimated length of absence. If the employee is unable to notify the Chief Executive Officer or Managing Director beforehand, notification should be given by telephone at the first opportunity on the day of absence.
  - (h) In normal circumstances, the employee must not take leave under this subclause where another person has taken leave to care for the same person.

## 22. Public Holidays

- (i) The days on which the following holidays are observed shall be holidays under this Award, namely New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day and Boxing Day and any day which may hereafter be proclaimed a public holiday throughout the State. The Picnic Day of the Union shall also be observed as an additional holiday under this Award, to be granted on one of the three working days between Christmas and New Year's Day. The specific date is to be advised to employees prior to December each year.
- (ii) Except as hereinafter provided -
  - (a) Employees on weekly hiring shall be entitled to the above holidays without loss of pay;
  - (b) Employees shall be paid at the rate of double time and one-half with a minimum payment of four hours at such rate for all time worked on the above holidays.
- (iii) For the purpose of this clause any employee whose ordinary hours of work commence before and continue past midnight shall be regarded as working on a holiday only if the greater number of working hours fall on the holiday, in which case all the time worked shall be regarded as holiday work. If the number of ordinary hours worked before and past midnight is equal, all ordinary time worked shall be regarded as time worked on the day on which the shift commenced.

(iv)

- (a) Where a holiday occurs on the rostered day off of a seven day shift worker who is not required to work on the day, the employee is entitled to a day's ordinary pay in respect of such day. The employer may, in lieu of the payment of a day's ordinary pay, add a day to the recreation leave credit.
- (b) Where the worker is required to work on that day, the employer shall pay the employee a day's ordinary pay in respect of such time, plus time and one-half for the first eight hours (with a minimum payment of four hours) and double time and one-half thereafter.
- (c) Where the employment of a seven-day shift worker has been terminated and there is an entitlement to payment in lieu of recreation leave with respect to a period of employment, the employee shall also be entitled to an additional payment for each day accrued under this clause at the appropriate ordinary rate of pay. This is provided that payment has not already been made in accordance with paragraph (a), of this subclause.

### **23. Recreation Leave**

(i) The entitlement to recreation leave shall be as follows:

- (a) Employees: in accordance with the Conditions Award.
- (b) Ministerial employees, engaged under Ministerial authority: in accordance with the Uniform Leave Conditions.

(ii) Caretakers and Seven-Day Shift Workers -

- (a) In addition to the normal recreation leave provisions, a caretaker or seven-day shift worker, at the end of each year of continuous employment shall be entitled to an additional one week's leave:

If during the year of employment only a portion of it has been served as a caretaker or a seven-day shift worker, the additional leave shall be 3.25 hours for each completed month of employment in those classifications. Where the additional leave is or comprises a fraction of a day, such fraction shall not form part of the leave period and shall be discharged by payment only.

- (b) Where the employment of a caretaker or seven-day shift worker is terminated and the person thereby becomes entitled to payment in lieu of recreation leave for a period of employment, such person also shall be entitled to an additional payment of 3.25 hours at their ordinary rate of pay for each completed month of service.

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

Redundant as leave is provided in (i)

### **24. Family and Community Services Leave**

(i) The Chief Executive Officer or Managing Director may grant family and community service leave to an employee:

- (a) for reasons related to the family responsibilities of the employee, or
- (b) for reasons related to the performance of community service by the employee, or
- (c) in a case of pressing necessity

(ii) Family and Community Services Leave replaces Short leave.



- (iii) The maximum amount of family and community services leave on full pay that may be granted to an employee is:
  - (a) 2.5 working days during the first year of service and 5 working days in any period of 2 years after the first year of service, or
  - (b) 1 working day for each year of service after 2 years continuous service, minus any period of family and community service leave already taken by the employee, whichever is the greater period
- (iv) Family and community service leave is available to part-time employees on a pro rata basis, based on the number of hours worked.
- (v) Where family and community service leave has been exhausted, additional paid family and community service leave of up to 2 days may be granted on a discrete 'per occasion' basis on the death of a person defined in clause 21(iii)a)(2).

### **25. Parental Leave**

The entitlement to parental leave shall be as follows:

- (a) Employees: in accordance with the Conditions Award
- (b) Ministerial employees, engaged under Ministerial Authority, in accordance with the Uniform Leave Conditions.

### **26. Extended Leave/Long Service Leave**

- (i) The entitlement to extended leave/long service leave shall be as follows:
  - (a) Employees: in accordance with the Act and the Government Sector Employment Regulation 2014.
  - (c) Ministerial employees, engaged under Ministerial authority in accordance with the Uniform Leave Conditions.

### **27. Other Forms of Leave**

- (i) Employees: in Accordance With the Public Sector Employment and Management (General) Regulation 1996 and the Conditions Award, Or Any Replacement Award,
- (ii) Ministerial employees, engaged under Ministerial Authority: see Uniform Leave Conditions.

### **28. Anti-Discrimination**

- (i) It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act* 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award, which, by its terms or operation, has a direct or indirect discriminatory effect.
- (iii) Under the *Anti-Discrimination Act* 1977, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

- (iv) Nothing in this clause is to be taken to affect:
  - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (b) offering or providing junior rates of pay to persons under 21 years of age;
  - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - (d) a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.
  - (i) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
  - (ii) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

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

### **29. Dispute Resolution**

Any dispute shall be dealt with in the following manner:

- (i) in the event of a claim, issue or dispute, the employee(s) and/or delegate(s) of the union will place the claim, issue or dispute before the immediate supervisor. The immediate supervisor will take all reasonable steps to reply to the employee(s) and/or delegate(s) as soon as possible.
- (ii) Failing agreement, employee(s) and/or delegate(s) of the union will place the claim, issue or dispute before the Manager or his/her deputy. The Manager or his/her deputy will take all reasonable steps to reply to the employee(s) and/or delegate(s) as soon as possible.
- (iii) If no agreement is reached at this stage on the claim, issue or dispute, the matter will be fully reviewed by the Secretary of the union or its representative and senior management. All reasonable steps will be taken to resolve the matter.
- (iv) Failing agreement, the claim, issue or dispute shall be referred to the Industrial Relations Commission of New South Wales for resolution.
- (v) All work shall continue normally while the above procedures are taking place.

### **30. Non-Reduction of Existing Wages and Conditions**

Wages And Conditions

- (i) Employees still in receipt of a 20% part-time loading shall continue to receive such loading under the protection of the *Public Sector Employment and Management Act 2002*.
- (ii) Existing employees as at 31 January 1992 shall not be compelled to work broken shifts or become seven-day shift workers in accordance with the provisions of this award. However, employees engaged after 31 January 1992 may be required to work broken shifts or work ordinary hours over seven days of the week.

### 31. Exemptions

- (i) This award shall not apply to persons currently employed in terms of Determination No. 768 of 1982 - Security Officers and Senior Security Officers, Various Departments, made pursuant to Section 130 of the *Public Sector Employment and Management Act 2002* or any variation or replacement thereof.

### 32. Deduction of Union Membership Fees

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

### 33. Area, Incidence and Duration

This award shall apply to:

- (i)
  - a. all non-executive public service employees as defined in the *Government Sector Employment Act 2013* employed in Departments, Public Service executive agencies related to Departments, and separate Public Service agencies, listed in Schedule 1 to the *Government Sector Employment Act 2013*, except where another industrial instrument or arrangement applies to the employees; and
  - b. any officer, Departmental temporary employee and casual employee who, as at 23 February 2014, was employed in a Department listed in Schedule 1, Part 1, of the *Public Sector Employment and Management Act 2002* and who was covered by this award on that date will continue to be covered by this award,

who are employed in the classifications contained in this Award or under Ministerial Authority, excluding the County of Yancowinna, within the jurisdiction of the Security and Cleaning, &c (State) Industrial Committee.

- (ii) This award rescinds and replaces the Crown Employees (Security and General Services) Award 2012 published 21 October 2016, (380 I.G. 1419).

### 34. No Extra Claims

- (i) 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 NSW Industrial Relations Commission 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.

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.

## PART B

### MONETARY RATES

**Table 1 - Rates of Pay**

Rates of pay for this award are now contained in the Crown Employees Wages Staff (Rates of Pay) Award 2018.

Rates of Pay Classification	Per week as at 1.7.18 \$
Security Officer	
Grade 1	912.10
Grade 2	944.10
Grade 3	987.30
General Services Officer	
Grade 1	814.00
Grade 2	884.10
Grade 3	912.10
Part-time Employees (Per hour)- General Services Officer Grade 2 (Cleaners)	25.15

Application to school based employees of the Department of Education

Clause 7 Rates of Pay Classification	Per week as at 1.7.18 \$
Security Officer	
Grade 1	983.20
Grade 2	1017.40

**Table 2 - Work Related Allowances**

Item No.	Clause 9 - Additional Rates	As at 1.7.18 \$
1.	Leading Hands Allowance: (per week)	
	1-5 employees	39.10
	6-10 employees	44.50
	11-15 employees	58.00
	16-20 employees	66.90
	Over 20 employees - for each employee over 20 an additional 50 cents is paid	66.90
2.	Qualification allowance (per week)	26.20
3.	First Aid Allowance (per week)	20.20
4.	Boiler Attendants Certificate (per week)	17.10
5.	Refrigeration Drivers Certificate (per week)	17.10
6.	Contingency Allowance (per week)	
	1-10 Hours per week	10.80
	11 to 25 hours per week	16.70
	26 to 38 hours per week	22.40
7.	Toilet allowance (per week)	13.40

8.	Multi-Purpose Machines Allowance - per shift	3.30
9.	Furniture removal allowance - per shift	3.30
10.	Torches - per shift	1.05
11.	Laundry allowance - per shift	2.25
12.	Locomotion allowance - per shift	35.80
13.	Motor Vehicle Allowances - Official Business Rate	0.66
14.	Bicycle allowance - per shift	2.85
15.	Broken Shifts allowance (per day)	16.40
	Excess Fares allowance (per week)	10.40
16.	Accommodation deduction (per week)	20.50
17.	Overtime meal allowance	Per ATO

## Application to school based employees of the Department of Education

Clause 9 - Additional Rates	As at 1.7.18 \$
(i) Leading Hands Allowance (per week)	
1 - 5 employees	42.20
6 - 10 employees	47.70
11-15 employees	62.50
16-20 employees	72.30
Over 20 employees - for each employee over 20 an additional 52 cents is paid	72.30
(v) Contingency Allowance (per week)	
1-10 Hours per week	11.60
11 to 25 Hours per week	17.90
26 to 38 Hours per week	24.20

P. M. KITE, Chief Commissioner.

Printed by the authority of the Industrial Registrar.

(256)

**SERIAL C8852****CROWN EMPLOYEES (SKILLED TRADES) AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Industrial Relations Secretary.

(Case No. 2018/177959)

Before Chief Commissioner Kite

22 June 2018

**AWARD**

Arrangement

**PART A**

Clause No.	Subject Matter
1.	Definitions
2.	Hours - Day Workers
3.	Rates of Pay
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**PART B****RATES AND ALLOWANCES**

Table 1 - Rates of Pay

Table 2 - Tool Allowances

Table 3 - Allowances

**PART A**

This award shall be known as the Crown Employees (Skilled Trades) Award 2018.

**1. Definitions**

- 1.1 For the purpose of this award, the definitions of the various classes specified in clause 3, Rates of Pay, of this award, shall be those which are contained in the respective State Craft Awards in relation to similar classes.
- 1.2 "Plant Mechanic" shall mean a Worker engaged in making, repairing, altering and testing metal parts (including electrics) of engine, frames, tracks, transmissions and auxiliaries of machines used on construction, earthmoving or similar operation.
- 1.3 Mechanical Tradesperson - Special Class means a Mechanical Tradesperson who is mainly engaged in any combination of installing, repairing and maintaining, testing, modifying, commissioning or fault finding on complex machinery and equipment which utilises hydraulic and/or pneumatic principles. They must be able in the course of such work to read and understand hydraulic and/or pneumatic circuitry that controls fluid power systems.

To be classified as a Mechanical Tradesperson - Special Class a tradesperson must have had a minimum of two years on-the-job experience as a tradesperson working predominantly on fluid power systems to enable the carrying out of such work with minimum supervision and technical guidance; and

Additionally they must have satisfactorily completed a prescribed post-trades course or reached a comparable standard of skill and knowledge by other means including in-plant training or on-the-job experience.

- 1.4 Electronic Tradesperson - for the purpose of this definition "mainly engaged" means regularly over a period or intermittently during a week.
- 1.4.1 "Electronic Tradesperson" means an electrical tradesperson who is engaged in applying their knowledge and skills to the task of installing, repairing, maintaining, servicing, modifying, commissioning, testing, fault finding and the diagnosing of various forms of machinery and equipment which are electronically controlled by complex digital and/or analogue control systems utilising integrated circuitry. The application of this skill and knowledge would require an overall understanding of the operating principles of the systems and equipment on which the tradesperson is required to carry out their tasks.

To be classified as an Electronic Tradesperson, the employee must have at least three years on-the-job experience as a tradesperson in electronic systems utilising integrated circuits and in addition, must have satisfactorily completed a post trades course in electronics equivalent to at least two years' part time study. In addition, to be classified as an electronic tradesperson, a tradesperson must be capable of:

- (a) Maintaining and repairing multi-function printed circuitry using circuit diagrams and test equipment;
- (b) Working under minimum supervision and technical guidance;
- (c) Providing technical guidance within the scope of the work described in this definition;

- (d) Preparing reports of a technical nature on specific tasks or assignments as directed and within the scope of the work described in this definition.

## 2. Hours - Day Workers

- 2.1 Except as provided elsewhere in this Award the ordinary working hours shall be thirty-eight per week and shall be worked in accord with the following provisions for a four-week work cycle:

The ordinary working hours shall be worked as a twenty-day four-week cycle Monday to Friday inclusive with nineteen working days of eight hours each between the hours of 6.00a.m. and 6.00p.m. Employees shall be credited with 0.4 of one hour on each day worked. This time will accrue as an entitlement to take the fourth Monday in each cycle as a day off with pay.

By agreement in writing between the employer and the employee(s) an alternate day may be substituted for the fourth Monday. All provisions of the relevant award will apply to the alternate day as to the usual rostered day off (RDO).

The agreement regarding the substituted day shall be made at least seven (7) clear days prior to the date of the RDO.

Where an employee works on their rostered day off in accordance with this sub-clause, they may elect, where practicable, to have another day off before the end of the succeeding work cycle. In such a case the accrued entitlements are transferred to the substituted day off.

Provisions of subclause 2.5 shall not apply where 7 days clear notice is given in accordance with subclause 2.1 of this clause.

No later than the 1st December each year the employer organisation and the Unions NSW Building Trades Group of Unions shall meet to program the calendar so as to ensure that where appropriate rostered days off fall together with Public Holidays as prescribed in clause 11, Holidays and Sunday Work, of the award.

- 2.2 Where the fourth Monday or agreed RDO falls on a public holiday, the next working day shall be taken in lieu of the rostered day off unless an alternative day in that four-week cycle (or the next four-week cycle) is agreed in writing between the employer and the employee.
- 2.3 Each day of paid, sick or recreation leave taken and any public holidays occurring during any cycle of four weeks shall be regarded as a day worked for accrual purposes.
- 2.4 Where an employee has not worked a complete 4 week cycle, they shall be entitled to pro-rata accrued entitlements towards an RDO for each day (or fraction thereof) worked or regarded as worked in the cycle. This provision will also apply to their entitlements on termination of employment.
- 2.5 In addition to their accrued entitlements, employees shall be paid at the rates for Saturday work as provided in clause 9 of this award, if required by the employer to work on an accrued RDO. The requirement to work shall apply in circumstances where it is necessary to enable other workers to be employed productively, or to carry out maintenance outside ordinary working hours, or for any other reasons arising from unforeseen delays and/or emergency circumstances on a project.
- 2.6 A paid rest period of ten minutes shall be provided between 9a.m. and 11a.m. or at such earlier time as may be mutually agreed upon. Employees will be allowed a tea break during the afternoon period at a time to be arranged by the employer. The taking of the tea break shall not involve a complete stoppage of work. Where the majority of employees on a particular site are covered by awards other than this award, the conditions for the taking of morning and afternoon rest breaks that apply to the majority shall be observed by mutual agreement.
- 2.7 Painters shall be allowed five minutes before lunch and before knock off time to clean and put away their brushes, tools, etc., and bridge and wharf carpenters shall be allowed five minutes before ceasing time to wash and put away gear.



### 3. Rates of Pay

An employee of a classification specified in Part B, Table 1 - Rates of Pay shall be paid the weekly rate of pay assigned to that classification as shown in Table 1.

### 4. Allowances

- 4.1 In addition to the wages and tool allowances prescribed in Table 1, Part B, and Item 1 of Table 2 of this Award, the following special rates and allowances as set out in Table 3 - Allowances, Part B, shall be paid to employees.
- 4.2 Carpenter Diver: The hourly rate of pay for a Carpenter Diver shall be calculated by adding the allowance rate specified in Item 1 of Table 3, Part B to the weekly rate for a bridge and wharf carpenter and dividing the result by 31.
- 4.3 The following provisions shall apply when a bridge and wharf carpenter is called upon to work as a diver.
- (a) In the period before the lunch break, payment shall be at the carpenter-diver rate for all time worked, with a minimum payment of three hours.
  - (b) After the lunch break, payment at carpenter-diver rate is for time worked or for three hours, whichever is the greater.
  - (c) Where the employee undertakes work as a carpenter-diver both before and after the daily meal break on the same day, payment for the whole day of six hours twelve minutes shall be at the carpenter-diver rate.
  - (d) For any other work on a day during a period when not paid as a carpenter diver they shall receive the rates for a bridge and wharf carpenter.
  - (e) A carpenter-diver required on any day or shift to work at depths of twelve metres or over shall be paid a minimum of six hours twelve minutes at the Carpenter Divers' rate for such day or shift.
- 4.4 Electricians - An electrician who is the holder of a New South Wales Electrician's licence shall be paid the allowance rate specified in Item 2 of Table 3, Part B.
- 4.5 Lead Burner - The ordinary rates for lead burners shall be calculated by adding to the rate prescribed for journeyman plumbers in this award the allowance rate specified in Item 3 of Table 3, Part B.
- 4.6 Plumber and Drainer - The ordinary rate of wages for employees in each of the undermentioned classifications shall be calculated by adding to the rate specified in Part B, Table 1 the allowance rate specified in Item 4 of Table 3, Part B:
- 4.6.1 When required to act on their Plumber's licence;
  - 4.6.2 When required to act on their Gasfitter's licence;
  - 4.6.3 When required to act on their Drainer's licence;
  - 4.6.4 When required to act on their Plumber's and Gasfitter's licence;
  - 4.6.5 When required to act on their Plumber's and Drainer's licence;
  - 4.6.6 When required to act on their Gasfitter's and Drainer's licence;
  - 4.6.7 When required to act on their Plumber's, Gasfitter's and Drainer's licence.

- 4.7 Electric Welding - An additional allowance as specified in Item 5 of Table 3, Part B, shall be paid to employees holding a Department of Industrial Relations oxy-acetylene or electric welding certificate and who operate at the skill levels required for the certificate. The allowance will be paid in addition to the rates for a journeyman/plumber contained in the award for work necessitating the holding of a certificate, supervision by a certificate holder or while supervising such work.
- 4.8 Boot or Shoe Repairer - A boot or shoe repairer who for the major part of the week is required to repair anatomical, surgical or orthopaedic boots or shoes shall be paid the allowance rate specified in Item 6 of Table 3, Part B.
- 4.9 Shipwright-Boat builder - The ordinary rate of wages for Liner Off, Lofts person and Model Maker shall be calculated by adding to the rate prescribed in clause 3, Rates of Pay, the allowance rate specified in Item 7 of Table 3, Part B.
- 4.10 Computing Quantities - Employees, excluding leading hands and charge hands, who are regularly required to compute or estimate quantities or materials in respect to the work performed by the other employees shall be paid the allowance rate specified in Item 8 of Table 3, Part B.
- 4.11 Joiners, NSW Public Works: A Joiner employed in the NSW Public Works division of the Department of Finance, Services and Innovation shall be paid the allowance rate specified in Item 9 of Table 3, Part B. This rate is fixed for all purposes of the award.

The provisions of this subclause shall only apply to a joiner when required to work at their regular place of employment.

Where a joiner works away from their regular place of employment, a deduction specified in Item 9 of Table 3, Part B, shall be made from the allowance rate so specified for each day so worked.

- 4.12 Registration Allowance - 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 allowance rate specified in Item 10 of Table 3 in Part B. This allowance shall be paid for all purposes of the award with the exception of clause 9, Overtime, and clause 10, Shift Work of this award. In this case it shall be paid as a flat rate for all hours worked.
- 4.13 Marking Off/Setting Out - A building tradesperson mainly employed marking and/or setting out work for other employees shall be paid the allowance rate specified in Item 11 of Table 3, Part B.
- 4.14 Cold Places - Employees working in places where the temperature is reduced by artificial means to less than 0 degrees Celsius shall be paid the allowance rate specified in Item 12 of Table 3, Part B. Where such work continues for more than two hours, employees shall be entitled to twenty minutes rest after every two hours work without loss of pay.
- 4.15 Confined Spaces - Employees required to work in a confined space shall be paid the allowance rate specified in Item 13 of Table 3, Part B. Confined space means a place the dimensions or nature of which necessitate working in a cramped position or without sufficient ventilation.
- 4.16 Dirty Work -
- 4.16.1 Work which is considered by both a supervisor and worker to be 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 the allowance rate specified in Item 14 of Table 3, Part B.

In the case of disagreement between the supervisor and worker the latter shall be entitled within twelve hours to ask for a decision on their claim by the employer, their industrial officer, manager, superintendent or engineer. A decision shall be given on the worker's claim within twenty-four hours of its 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, their industrial officer, manager

or engineer, it shall have the right to bring such case before the Industrial Commission of New South Wales.

4.16.2 In addition to the minimum rates of pay specified by this award, a bridge and wharf carpenter shall receive an allowance as specified in Item 14 of Table 3, Part B, when working in the following circumstances:

- (a) when using creosote, tar, bitumen, wood preservative or any other material or liquid that is damaging to clothes or unduly objectionable to the employee or damaging to their tools; and
- (b) when working with materials which have been treated with any of the said substances in such a way as to pollute the clothes or the person of the employee or damage their tools.

4.16.3 Oil or other suitable solvents shall be provided by the employer free of charge to bridge and wharf carpenters to remove tar, bitumen, creosote or similar preparations from their persons.

4.16.4 In addition to the minimum rates of pay provided by this award, a special hourly allowance set out at Item 14 of Table 3, Part B, is available to a bridge and wharf carpenter in the following circumstances. The allowance is payable where the employee is working in such dirty or dusty conditions that they incur damage to their clothing or injuries to their person. This may include work on, or engagement in, construction, repair, demolition or renovation of coal hoppers or bins, or metal hoppers or bins, or on the repair, demolition or renovation of wharves or gantries, bridges, piers, towers or flying-foxes, jetties, dolphins or works of a like nature.

4.16.5 In the event of any dispute arising as to whether any work is of a character entitling a bridge and wharf carpenter to a special payment in terms of paragraphs 4.16.2 and 4.16.4 of this clause, the matter may be referred to the Industrial Relations Commission of New South Wales. A decision in respect of any claim shall be made by the employer or their engineer within forty-eight hours of the claim being made.

4.16.6 A Shipwright Boat builder who is:

- (a) stripping, caulking, tarring and sheathing on old work below the waterline;
- (b) doing work in connection with coal bunkers and holds in which coal has been carried and dirty steering gear;
- (c) doing work in connection with wooden ceilings in hatches, sheathing in holds, replacing timber on ceilings and sheathing in connection therewith (old work only);
- (d) doing work where laykold, risqué steel, never rust, adfast, wetted lead, on azote or any similar materials are used by shipwrights;
- (e) doing work with a portable sanding machine when an adequate dust catcher is not fitted to such machine;
- (f) doing work in places where bulk sugar, scrap iron, hides and cement have been carried;
- (g) doing work which is rendered unusually dirty by the presence of coal (other than Indian and South African);

shall receive a special hourly rate as set out at Item 14 of Table 3, whilst so employed in addition to the minimum rates of pay provided by this award.

4.17 Height Money:- Employees, working at a height of 7.5 metres from the ground, deck, floor or water shall be paid the allowance rates specified in Item 15 of Table 3, Part B. 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, deck, floor or water. For the purpose of this subclause, deck or floor means a substantial

structure that, 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*.

- 4.18 Hot Places:- Employees working in the shade in places where the temperature is raised by artificial means to between 46 degrees and 54 degrees Celsius shall be paid the allowance rate specified in Item 16 of Table 3, Part B. In places where the temperature exceeds 54 degrees Celsius such employees shall be paid the allowance rate specified in Table 3, Part B.

Where work continues for more than two hours in temperatures exceeding 54 degrees Celsius, employees shall also be entitled to twenty minutes' rest after every two hours work without deduction of pay. The work supervisor will decide as to the temperature level, after consultation with the employees who claim the extra rate.

- 4.19 Insulation Material:- An employee handling charcoal, pumice, granulated cork, silicate of cotton, insulwool, slag wool or other recognised insulating material of a like nature, shall be paid the allowance rate specified in Item 17 of Table 3, Part B. This rate shall also apply to employees working in such close proximity so as to be affected by the insulating material.

- 4.20 Smoke-boxes, etc.:- Employees working on repairs to smoke-boxes, furnace or flues of boilers shall be paid an additional hourly allowance. 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 entitled to an allowance. The rates for both allowances are specified in Item 18 of Table 3, Part B.

- 4.21 Wet Places:-

4.21.1

- (a) An employee working in any place where water is continually dripping on the employee, or where there is water underfoot so that clothing and boots become wet, shall be paid the allowance rate specified in Item 19 of Table 3, Part B. This extra rate is not payable where an employee is provided with suitable and effective protective clothing and/or footwear. An employee who becomes entitled to this extra rate shall be paid at that rate for any part of the day or shift that they are required to work in wet clothing or wet boots.

- (b) Where a plumber is required to work in the rain he shall be paid the allowance rate specified in Item 19 of Table 3, Part B, for time so worked.

4.21.2 An employee who is called upon to work on a raft or open boat, or on a punt or pontoon having a freeboard of 305 mm or less shall be entitled to the allowance rate specified in Item 19 of Table 3, Part B.

4.21.3 An employee called upon to work knee-deep in mud or water, shall be paid at the rate of the allowance rate specified in Item 19 of Table 3, Part B. This subclause shall not apply to an employee who is provided with suitable protective clothing and/or footwear.

- 4.22 Acid furnaces, Stills, etc.:

4.22.1 A bricklayer required to work on the construction or repairs to acid furnaces, acid stills, acid towers and all other acid resisting brickwork, shall be paid the allowance rate specified in Item 20 of Table 3, Part B. This additional rate shall be regarded as part of the wage rate for all purposes of the award.

4.22.2 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 the allowance rate specified in Item 20 of Table 3, Part B. This additional rate shall be regarded as part of the wage rate for all purposes.

- 4.23 Towers Allowance:- An employee working on a chimney stack, spire, tower, radio or television mast or tower, air shaft (other than above ground in a multi-storey building), cooling tower, water tower or silo over fifteen metres in height shall be paid the allowance rates specified in Item 21 of Table 3, Part B, for all work above fifteen metres.
- 4.24 Depth Money:- An employee working in tunnels, cylinders, caissons, coffer dams and sewer work, and in underground shafts exceeding 3 metres in depth shall be paid the allowance rate specified in Item 22 of Table 3, Part B.
- 4.25 Swing Scaffolds:- The allowance rates specified in Item 23 of Table 3, Part B, for the first four hours or any portion thereof, and for each hour thereafter on any day shall be made to any persons employed:
- (a) on any type of swing scaffold or any scaffold suspended by rope or cable, bosun's chair, etc.
  - (b) 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.
- 4.25.1 Solid plasterers when working off a swing scaffold shall receive an additional hourly payment as set out in Item 23 of Table 3, Part B.
- 4.26 Spray Application:- A painter engaged on all spray applications carried out in other than a properly constructed booth approved by the Department of Industrial Relations shall be paid the allowance rate specified in Item 24 of Table 3, Part B.
- 4.27 An allowance shall be paid as specified in Item 25 of Table 3, Part B, for all work, other than chokages, that is done in connection with lavatories, urinals, soil or waste pipes where used principally for venereal patients in hospitals or ships. The allowance need not be paid if suitable gloves and (where necessary) suitable boots are supplied to the employee concerned for use during such work. Gloves and boots remain the property of the employer.
- 4.28 Working Second hand Timber:- If, while working with second hand timber, a Bridge and Wharf Carpenter's tools are damaged by nails, dumps or other foreign matter in the timber, he/she shall be entitled to the allowance rate specified in Item 26 of Table 3, Part B, for each day upon which his/her tools are so damaged. Payment of the allowance is contingent upon the damage being reported immediately to the employer's representative on the job in order that the claim can be proved.
- 4.29 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 allowance rate specified in Item 27 of Table 3, Part B.
- 4.30 Electric Welding - Plumbers:- A plumber engaged on electric welding applicable to plumbing shall be paid the allowance rate specified in Item 28 of Table 3, Part B, for the time so worked.

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.

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.

- 4.31 Explosive Powered Tools -
- 4.31.1 Employees required to use explosive powered tools shall be paid the allowance rate specified in Item 29 of Table 3, Part B.
- 4.31.2 If bridge and wharf carpenters are required to use power driven tools they shall be paid the allowance rate specified in Item 29 of Table 3, Part B.

4.32 Scaffolding Rigging - An employee who is the holder of a scaffolding or rigging certificate issued by the Department of Industrial Relations and undertakes work that requires a person to have such a certificate, shall be paid the allowance rate specified in Item 30 of Table 3, Part B.

4.33 Corrective Establishments - An employee of the NSW Public Works division of the Department of Finance, Services and Innovation who is required to work in the maximum security sections of the following Corrective establishments - Cessnock, Goulburn, Lithgow, Mulawa, Parklea, Special Purpose Centre, Metropolitan Remand & Reception Centre, Metropolitan Special Programs Centre, Metropolitan Medical Transient Centre/Long Bay Hospital, Endeavour House and Minda Patterson House) and Bathurst shall be paid the hourly allowance rate specified in Item 31 of Table 3, Part B.

4.33.1 Mental Institutions - Employees of the NSW Public Works division of the Department of Finance, Services and Innovation working in mental institutions shall be paid the allowance rate specified in Item 31 of Table 3, Part B, in addition to all other rates payable under this award. This payment is not applicable to overtime or other penalty rates:

Payment under this subclause shall not be made in respect of work done in such areas as may be agreed upon between the respective unions and the Industrial Relations Secretary.

4.33.2 Geriatric Hospitals - Employees working or required to work in the following geriatric hospitals: namely, Allandale, Garrawarra and Strickland, shall be paid an allowance as set out in Item 31 of Table 3, Part B. Those working or required to work at Lidcombe Hospital shall be paid the allowance rate specified in Item 31 of Table 3, Part B, in addition to all other rates payable under this Award. This payment is not applicable to overtime or other penalty rates:

4.33.3

(a) A Plumber who shall be required to work in hot and/or cold water tanks for the purpose of the control of Legionella Pneumophilia shall be required to use and wear the appropriate respiratory equipment and safety clothing as directed by the Department of Health. They will be paid the allowance rate specified in Item 32 of Part B, Table 3 per hour or part thereof while undertaking such work.

The allowance prescribed by this subclause shall be in lieu of the special rates prescribed in subclauses 4.14, Cold Places, 4.15, Confined Spaces, 4.18, Hot Places and 4.21, Wet Places of this clause.

(b) An employee who is required to assist a plumber in the performance of work described in (a) above shall not be entitled to the allowance as so prescribed but shall be entitled to any other special rates prescribed under clause 4, Allowances if applicable.

4.34 Distant Places -

4.34.1 All employees working in districts west and north of and excluding:

- (i) State Highway No. 17 from Tocumwal to Gilgandra
- (ii) State Highway No. 11 from Gilgandra to Tamworth
- (iii) Trunk Road No. 63 to Yetman and State Highway No. to Boggabilla up to the Western Division boundary and excluding the municipalities through which the road passes.

shall be paid the allowance rate specified in Item 33 of Part B, Table 3.

4.34.2 All employees working the in Western Division of the State shall be paid the allowance rate specified in Item 33 of Part B, Table 3.

4.34.3 All employees working within the area bounded by and inclusive of:

- (i) Snowy River from the New South Wales border to Dalgety, then by road directly from Dalgety to Berridale
- (ii) on the Snowy Mountain Highway at Adaminaby to Blowering
- (iii) from Blowering southwest to Welaregang and on the Murray River
- (iv) in a south-easterly direction along the New South Wales border to the point of commencement.

shall be paid the allowance rate specified in Item 32 of Table 3, Part B, extra per day or part thereof.

4.34.4 Bridge and Road Construction:- Employees engaged on road and bridge construction and repair within the area bounded by and inclusive of

- (i) Queensland border on the north
- (ii) State Highway No. 9 from Tenterfield to Bendemeer on the west
- (iii) State Highway No. 11 from Bendemeer to Port Macquarie on the south
- (iv) the coastline from Port Macquarie to Tweed Heads on the east.

shall be paid the allowance rate specified in Item 32 of Table 3, Part B, per day extra.

4.35 Morgues - An employee required to work in a morgue shall be paid the allowance rate specified in Item 33 of Table 3, Part B, per hour whilst so employed.

4.36 Applying Obnoxious Substances -

4.36.1 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 allowance rate specified in Item 34 of Table 3, Part B.

4.36.2 In addition, employees applying such material in buildings which are normally air conditioned shall be paid the allowance rate specified in Item 34 of Table 3, Part B.

4.36.3 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. In addition, protective clothing shall be supplied where recommended by the NSW Department of Health.

4.36.4 Employees working in close proximity to employees so engaged shall be paid the allowance rate specified in Item 34 of Table 3, Part B.

4.36.5 For the purpose 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.

4.37 Bricklayers laying other than Standard Bricks - Bricklayers employed laying blocks (other than concrete blocks for plugging purposes) shall be paid the allowance rates specified in Item 35 of Table 3, Part B, in relation to the weight of the blocks.

- (a) Where the block weighs over 5.5 kg and under 9 kg.
- (b) Where the block weighs 9 kg or over and up to 18 kg.
- (c) Where the block weighs over 18 kg.

4.37.1 An employee shall not be required to lift a building block in excess of 20 kg in weight unless provided with a mechanical aid or an assistant. An employee shall not be required to manually lift any building block in excess of 20 kg in weight to a height of more than 1.2 metres above the working platform.

4.37.2 This subclause shall not apply to employees being paid the extra rate for refractory work.

4.38 Bagging - Employees engaged upon bagging bricks or concrete structures shall be paid the allowance rate specified in Item 36 of Table 3, Part B.

4.39 Cleaning down Brickwork - A bricklayer required to clean down bricks using acids or other corrosive substances shall be paid the allowance rate specified in Item 37 of Table 3, Part B. Employees will be supplied with gloves by the employer when undertaking such work.

4.40 Asbestos - Employees required to work with 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. Where it is mandatory to wear protective equipment the employees shall be paid the allowance rate specified in Item 38 of Table 3, Part B, whilst engaged on such work.

4.41 Pneumatic Tool Operation - A stonemason in New South Wales using pneumatic tools of 2.75 kilograms or over in weight shall be paid the allowance rate specified in Item 39 of Table 3, Part B, each day on which he uses such a tool.

4.42 Brick Cutting Machine - One bricklayer on each site to operate the cutting machine and to be paid the allowance rate specified in Item 40 of Table 3, Part B, per hour or part thereof while so engaged.

4.43 Asbestos Eradication -

This subclause shall apply to employees engaged in the process of asbestos eradication on the performance of work within the scope of this award.

Asbestos eradication is defined as work on or about building, involving the removal or any other method of neutralisation of any materials that consist of, or contain asbestos.

All aspects of asbestos eradication work shall be conducted in accordance with the *Work Health and Safety Act 2011* concerning construction work involving asbestos and asbestos cement.

In addition to the rates prescribed in this Award an employee engaged in asbestos eradication (as defined) shall receive the allowance rate specified in Item 41 of Table 3, Part B. This is in lieu of special rates as prescribed in clause 4, Allowances, with the exception of subclauses 4.14, cold places; 4.18 hot places; 4.25 swing scaffold; 4.26 spray application and 4.28 working second hand timber.

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.

4.44 Animal Houses -

An employee who is required to work in an Animal House shall be paid an additional hourly allowance as set out in Item 42 of Table 3, Part B, whilst so employed.

4.45 Coal Wash: Employees of the Roads and Traffic Authority involved in road construction work in the Illawarra region working in areas where coal wash is being unloaded, handled or spread shall be paid an hourly allowance as set out in Item 43 of Table 3, Part B. The Illawarra region is defined to represent the area serviced from the Bellambi Works Office



## 5. Tool Allowance

In addition to the rate of pay as prescribed in Table 1 - Rates of Pay of Part B, an employee of a classification specified in Item 1 of Table 2, Part B, clause 5, Tool Allowances shall be paid a tool allowance as prescribed in that table. The tool allowance is applicable to both skilled tradespeople and apprentices and is to form part of the ordinary pay for all purposes.

## 6. Leading Hands

Leading hands shall be shall be paid allowances prescribed in Table 3 - Allowances of Part B, Rates and Allowances, as follows:

- 6.1 Employees appointed to be in charge of up to and including five employees as per Item 44 of Table 3, Part B.
- 6.2 Employees appointed to be in charge of more than five and up to and including ten employees as per Item 45 of Table 3, Part B.
- 6.3 Employees appointed to be in charge of more than ten employees as per Item 46 of Table 3, Part B.

## 7. Mixed Functions

Where an employee is engaged for more than two hours daily or per shift on higher duties, including duties entitling them to a leading hand allowance, they shall be entitled to a higher duties allowance or rate allowance for the whole of such day or shift.

If the higher duties are undertaken for two hours or less during one day, payment at the higher rate shall apply only to hours worked. If an employee is required to act as leading hand at the commencement of a day or shift, they shall be paid the appropriate allowance for the whole of such day or shift.

## 8. Excess Fares and Travelling Time

- 8.1 An allowance specified in Item 51 of Table 3, Part B, shall be paid by employers to employees to compensate for excess fares and travelling time to and from places of work:
  - 8.1.1 the above stated allowance shall not be payable if the employer provides or offers to provide transport free of charge to the employees in which case the allowance rate specified in Item 52 of Table 3, Part B, shall be paid.
  - 8.1.2 An employee is still entitled to the allowance, subject to the foregoing provisions if instead of using public transport they have used other means of travel or walked to their places of work.
  - 8.1.3 Entitlement to an allowance under the provisions of this subclause applies only when tradespeople work away from their regular place of employment.
- 8.2 Allowances specified in Item 53 of Table 3, Part B, clause shall be paid to first year apprentices (or probationers) and to 2nd, 3rd, 4th and 5th year apprentices to compensate for excess fares and travelling to and from work.
  - 8.2.1 The above stated allowance shall not be payable if the employing Authority provides or offers to provide transport free of charge to the apprentices in which case the allowance rates specified in Item 54 of Table 3, Part B, shall be paid.
  - 8.2.2 An apprentice is still entitled to the allowance, subject to the foregoing provisions if instead of using public transport they use other means of travel or walk to their places of work.

The provisions of this subclause apply to an apprentice only when working away from his/her regular place of employment and/or workshop.

- 8.3 An employee who is required by their employer to work at a job away from their accustomed workshop shall report for work at the job at their usual starting time. For each day spent on such work, employees will be entitled to an allowance as set out in Item 51 of Table 3, Part B, and at Item 53 for apprentices. Where the travel time and fares are in excess of those normally incurred in travelling to their customary workshop, they shall be paid an allowance for the excess travel time and fares as set out in Item 51 of Table 3, Part B.

If the employee receives approval from their employer to use their own means of transport to and from outside jobs, they are entitled to payment of excess fares based on public transport rates, unless they have an arrangement with their employer for a regular allowance.

- 8.4 If an employee is sent during working hours to undertake work at one or more different sites to their usual workplace, the employer shall, in addition to the amount they are liable to pay under subclauses 8.1 and/or 8.2 of this clause, pay all travelling time and fares incurred,
- 8.5 Electricians and/or electrical apprentices shall be paid in accordance with the fares and travelling allowances prescribed from time to time, by the Electricians, &c. (State) Award published 4 March 20018 (365 I.G. 181), as varied.
- 8.6 Except as provided by subclause 8.4 of this clause, this clause shall not apply to employees of the Roads and Traffic Authority or the Department of Industry (formerly Department of Land and Water Conservation). Employees of these organisations shall be paid the rates in respect of fares and travelling time as provided by the General Construction and Maintenance, Civil and Mechanical Engineering &c. (State) Award public sector rates within the (Crown Employees Wages Staff (Rates of Pay) Award 2017.

## 9. Overtime

- 9.1 Overtime shall be payable for all time worked outside the ordinary hours prescribed in clause 2 for any one day, including accrued time. The rates of pay shall be time and a half for the first two hours and double time thereafter, such double time to continue until the completion of the overtime work.

Except as provided in this subclause or subclause 9.2 of this clause, in computing overtime each day's work shall stand alone.

- 9.2 Rest Period after Overtime: Following completion of overtime, an employee shall either;
- (a) Be released from resuming ordinary duty for a period of 10 consecutive hours. This number of hours does not include time spent travelling; or,
  - (b) If required to resume or continue working without having had a break of ten (10) consecutive hours, excluding travel, shall be paid at the rate of double time until such a break is given. This break shall be granted without loss of pay for ordinary working time occurring during such absence.
  - (c) In the case of shift workers, the provisions of this subclause shall apply as if eight hours were substituted for ten hours when overtime is worked:-
    - 9.2.1 for the purpose of changing shift rosters; or
    - 9.2.2 where a shift worker does not report for duty and a day worker or a shift worker is required to replace such shift worker; or
    - 9.2.3 where a shift is worked by arrangement between the employees themselves.
- 9.3 Call Back:
- 9.3.1 An employee recalled to work overtime after leaving his/her employer's business premises (whether notified before or after leaving the premises) shall be paid for a minimum of four hours'

work at the appropriate rate for each time recalled. In the case of unforeseen circumstances arising, the employee shall not be required to work the full four hours if the job he/she was recalled to perform is completed within a shorter period. This subclause does not apply:

- (a) in cases where it is customary for an employee to return to his/her employer's premises to perform a specific job outside his/her ordinary working hours or
- (b) where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

9.3.2 Overtime worked in the circumstances specified in this subclause shall not be regarded as overtime for the purposes of subclause 9.2 of this clause, where the actual time worked is less than three hours on such recall or on each of such recalls.

9.3.3 If an employee is required to work in excess of four hours, he/she shall be paid a meal allowance specified in Item 55 of Table 3, Part B for each subsequent meal. The employee will be allowed a crib time of 20 minutes without deduction of pay at the end of each four hours' work, provided work is to continue after the said period of four hours.

#### 9.4 Saturday Work - Five Day Week:

A day worker on a five day week who is required to work on a Saturday shall be paid for not less than four hours' work, except where such overtime is continuous with overtime commenced the previous day. All work performed in the afternoon shall be paid for at double time rates. Tea Breaks shall be allowed in accordance with subclause 2.2 of clause 2, Hours - Day Workers, of this Award.

#### 9.5 Standing By:

An employee required to hold himself in readiness to work after ordinary hours shall, until released, be paid standing-by time at ordinary rates from the time he/she is advised of the requirement to stand by. This is subject to any custom now prevailing under which an employee is required regularly to hold himself in readiness for a call back,

#### 9.6 Meal Hours - General:

Except as provided in subclause 9.7 of this clause, work done during meal hours thereafter until a meal-hour break is allowed shall be paid for at double time rates. An employee shall not be compelled to work for more than six hours without a break for a meal.

#### 9.7 Meal Hours - Maintenance Employees, Concrete Pours etc.

9.7.1 Where breakdowns of plant occur or routine maintenance of plant can only be done while such plant is idle, an employee employed as a regular maintenance person shall, whenever instructed to do so, work during meal breaks at the ordinary rates prescribed herein. This shall be subject to the provisions of subclause 9.6 of this clause.

9.7.2 Where, for special reasons, it is necessary to alter the time of the recognised meal hours for the purpose of finishing the pouring of concrete, hot mix, etc. or where work is affected by tides, the employer may alter the lunch break either forward or backward by one hour.

#### 9.8 Tea Money:

An employee required to work overtime for one and a half hours or more without being notified on the previous day or earlier of such requirement shall be supplied with a meal by the employer or paid the allowance rate specified in Item 56 of Table 3, Part B. After the completion of each four hours on continuous overtime the employee shall be paid the allowance rate specified in Item 56 of Table 3, Part B, for each subsequent meal in addition to his/her overtime payment. 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.

#### 9.9 Transport of Employees:

An employer shall provide transport for an employee who finishes overtime work or a shift not part of their regular roster, at a time when reasonable means of transport are not available. If transport is not provided the employee shall be paid at their current rate for the time reasonably occupied in reaching their home. This subclause shall not apply to an employee who uses their own vehicle to travel to and from their place of work).

#### 9.10 Compulsory Overtime:

An employer may direct any employee to work reasonable overtime at overtime rates 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:

- (a) the employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements,
- (b) any risk to employee's health and safety,
- (c) the urgency of the work required to be performed during overtime, the impact on the operational commitments of the organisation and the effect on client services,
- (d) the notice (if any) given by the employer regarding the working of the overtime, and by the employee of their intention to refuse overtime, or
- (e) any other relevant matter.

#### 9.11 Cribs:

9.11.1 An employee who is required to work overtime for two hours or more after the normal ceasing time shall be allowed, at the expiration of the said two hours, 30 minutes for a meal or crib and thereafter a similar time allowance after every four hours of overtime worked. Time for meals or crib through overtime periods shall be allowed without loss of pay, provided that overtime work continues after such break. For the purposes of this paragraph "normal ceasing time" is at the end of ordinary hours inclusive of time worked for accrual purposes as prescribed in clause 2, Hours, Day Workers and clause 10, Shift Work, of this award.

9.11.2 Where overtime is worked on a Saturday, if work continues after 12 noon, a break for a meal of 30 minutes shall be allowed between 12 noon and 1 pm without loss of pay.

#### 9.12 Limitation of Overtime:

No employee, including a night shift worker, shall work for more than 16 hours' overtime in any week excepting in the case of extreme urgency such as urgent repairs or delay causing unemployment.

#### 9.13 Availability Allowance - Roads and Maritime Services (RMS)

9.13.1 Notwithstanding the provisions of subclause 9.5 of this clause, an electrical tradesperson employed by the RMS who is rostered to be available in connection with emergency repairs to toll collection equipment shall be paid a daily availability allowance of three hours at ordinary rates of pay for each week night (Monday to Friday) (excluding public holidays) the employee is available between normal ceasing time and commencing time on each day.

9.13.2 An employee rostered to be available in connection with emergency repairs to toll collection equipment on a Saturday, Sunday and Public Holidays from 6.00 am Saturday to 6.00 am Sunday and 6.00 am Sunday to 6.00 am Monday and the same hours on a Public Holiday shall be paid 7.6 hours pay at ordinary rates for each twenty-four hours he is actually available.

9.13.3 The allowance set out in subclauses 9.13.1 and 9.13.2 of this subclause, shall be in compensation for the employee being available for the periods between normal ceasing time and normal commencing time during week days and for being available for twenty-four hours on each Saturday, Sunday or Public Holidays, to answer emergency calls from the toll collection centres.

9.13.4 Any overtime worked on a call-out during the time covered by the rostered period shall be paid for in accordance with subclause 9.3 of this clause.

## 10. Shift Work

### PART A

#### OTHER THAN CONSTRUCTION WORK

(a) Definitions

10.1 For the purpose of this clause

10.1.1 "Afternoon Shift" means any shift finishing after 6 pm and at or before midnight.

10.1.2 "Continuous Work" means work carried on with consecutive shifts of employees throughout the twenty-four hours of each of at least six consecutive days without interruption, except during breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.

10.1.3 "Night Shift" means any shift finishing subsequent to midnight and at or before 8 am.

10.1.4 "Rostered Shift", means a shift of which the employee concerned has had at least forty-eight hours' notice.

(b) Hours - General

10.2 Employees on shift work shall accrue 0.4 of an hour for each eight hour shift worked to allow one complete shift to be taken off as a paid shift for every 20 shift cycle. This 20th shift shall be paid for at the appropriate shift rate as prescribed by this clause.

10.3 Paid leave taken during any cycle of four weeks and public holidays as prescribed by Clause 11, Holidays and Sunday Work, of this award shall be regarded as shifts worked for accrual purposes.

10.4 Except as provided above, employees not working a complete four week cycle shall be paid accrued pro-rate accrued entitlements for each shift worked on the programmed shift off, or in the case of termination of employment on termination.

10.5 The employer and employees shall agree in writing upon arrangements for rostered paid days off during the 20 day cycle or for accumulation of accrued days to be taken at or before the end of the particular contract. This accumulation shall be limited to no more than 5 days before they are taken as paid days off. When taken, the days shall be regarded as days worked for accrual purposes in the particular 20 shift cycle.

10.6 Where an employer, for emergency reasons requires an employee to work on his/her rostered day off, the terms and conditions prescribed in clause 2 Hours - Day Workers, of this award shall apply.

#### Hours

(a) Continuous Work Shifts And

(b) Other Than Continuous Work Shifts

#### Hours - Continuous Work Shifts

10.7 This subclause shall apply to shift workers on continuous work as hereinbefore defined.

10.7.1 The ordinary hours of such shift workers shall not exceed -

- (a) eight in any one day; nor
- (b) forty-eight in any one week; nor
- (c) eighty-eight in fourteen consecutive days; nor
- (d) one hundred and fifty two in twenty-eight consecutive days.

10.7.2 Subject to the following conditions such shift workers shall work at such times as the employer may require:

a shift shall consist of not more than eight hours, inclusive of crib time;

Hours - Other than Continuous Work

10.8 This subclause shall apply to shift workers not upon continuous work as hereinbefore defined. The ordinary hours of such shift workers shall not exceed -

10.8.1 forty in any week to be worked in five shifts of eight hours on Monday to Friday, inclusive; or

10.8.2 eighty in fourteen consecutive days in which case an employee shall not, without payment for overtime, be required to work more than eight consecutive hours on any shift or more than six shifts in any week;

10.8.3 one hundred and twenty-one consecutive days in which case an employee shall not, without payment of overtime, be required to work more than eight consecutive hours on any shift or more than six shifts in any week.

Such ordinary hours shall be worked continuously except for meal breaks at the discretion of the employer. An employee shall not be required to work for more than six hours without a break for a meal.

10.8.4 Rosters

Shift rosters shall specify the commencing and finishing times of ordinary working hours of the respective shifts.

10.8.5 Variation by Agreement

The method of working shifts may in any case be varied by agreement between the employer and the accredited representative of the Union to suit the circumstances of the establishment.

Determined commencing and finishing times of shifts may be varied by agreement between the employer and the accredited representative of the Union to suit the circumstances of the establishment. In the absence of agreement, variation can occur by the employer giving seven days' notice of alteration to the employee.

10.8.6 Afternoon or Night Shift Allowances

Shift workers whilst on afternoon or night shifts shall be paid 15 per centum more than the ordinary rate for such shifts.

Shift workers who work on any afternoon or night shift which does not continue for at least five successive afternoons or nights shall be paid at the rate of time and a half for the first three hours and double time thereafter.

An employee who -

- (i) during a period of engagement on shifts, works night shift only; or
- (ii) remains on night shift for a longer period than four consecutive weeks; or
- (iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give them at least one-third of their working time off night shift in each shift cycle;

shall during such engagement, period or cycle be paid 30 per centum more than their ordinary rate for all time worked ordinary working hours on such night shifts.

#### 10.8.7 Saturdays

The minimum rate to be paid to any shift worker for work performed between midnight on Friday and midnight on Saturday shall be time and a half. Such extra rate shall be in substitution for and not cumulative upon the shift premiums prescribed in the first and second paragraphs of subclause 10.8.6 of this clause.

#### 10.8.8 Overtime

An employer may require any employee to work reasonable overtime at overtime rates and such employee shall work in accordance with such requirement.

#### 10.8.9 Sundays and Holidays

- (i) Shift workers on continuous shifts for work on a rostered shift the major portion of which is performed on a Sunday shall be paid at the rate of time and three quarters. Shift workers on continuous shifts for work on a rostered shift the major portion of which is performed on a public holiday shall be paid at the rate of double time and one half.
- (ii) Shift workers on other than continuous work for all time worked on a Sunday or holiday shall be paid at the rates prescribed by clause 11, Holidays and Sunday Work, of this award. Where shifts commence between 11 pm and midnight on a Sunday or a holiday the time so worked before midnight shall not entitle the employee to the Sunday or holiday rate. The time worked by an employee on a shift commencing before midnight on a Saturday or preceding a holiday and extending into a Sunday or holiday shall be regarded as time worked on such Sunday or holiday.

Where the major portion of shifts fall partly on a holiday, that shift shall be regarded as the holiday shift.

- 10.8.10 Seven Day Shift Workers - A seven day or continuous shift worker is a shift worker who is rostered to work regularly on Sundays and holidays. When their rostered day off falls on a public holiday prescribed by this clause, they shall, at the discretion of the employer, be paid for that day at the ordinary rate or have an additional day added to their annual leave. This subclause shall not apply when the holiday on which they are rostered off falls on a Saturday or Sunday.

## PART B

### CONSTRUCTION WORK

- 10.9 Notwithstanding the foregoing provisions of this clause, the terms and conditions prescribed by the General Construction and Maintenance Civil and Mechanical Engineering &c. (State) Award may apply in lieu for employees carrying out shift work in the following circumstances:

- (a) whenever it maybe found necessary in the erection, alteration, renovation or demolition of buildings or on work in connection with the construction
  - (b) and/or maintenance of water supply and sewerage works, roads, bridges, water conservation and irrigation works or harbour and reclamation and irrigation works to work wholly by night or in a two or three shift system.
- 10.10 An employee employed for less than five continuous shifts in any working week shall be paid in accordance with clause 9, Overtime, of this award. Where an employee is employed on night shift for more than one week continuously and the job finishes mid-week, the employer may terminate the engagement. In this instance the employee will be paid the current shift rate for time actually worked. In cases where due to the action of the employee, less than a full week is worked, the employee is paid for the actual time worked at ordinary night shift rates.

### **11. Holidays and Sunday Work**

- 11.1 Employees shall be entitled to the following public holidays without loss of pay: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Queen's Birthday, Labour Day, Anzac Day, Christmas Day, Boxing Day, and all other gazetted holidays proclaimed to operate throughout the State.
- 11.2 Except as provided in subclause 10.8.9, Sundays and Holidays of Part A - Other than Construction Work, of clause 10, Shift Work, of this award, an employee not engaged on continuous work shall be paid at the rate of double time for work done on Sundays, such double time to continue until he is relieved from duty, and double time and one half for work done on public holidays, such double time and one half to continue until he is relieved from duty.
- 11.3 An employee not engaged on continuous work who works on a Sunday or a public holiday and (except for meal breaks) immediately thereafter continues such work, shall on being relieved from duty be entitled to be absent until he has had ten consecutive hours off duty. The 10 hour break shall be without deduction of pay for ordinary time of duty occurring during such absence.
- 11.4 An employee, other than on shift, who attends for work as required on a Sunday or public holiday shall be paid for not less than four hours' work.
- 11.5 Where an employee is absent from their employment on the working day before or the working day after a public holiday without reasonable excuse or without the consent of the employer, they shall not be entitled to payment for such holiday.
- Where public holidays fall on successive days an employee shall be entitled to payment for the holiday closest to the said day if they have worked on either the day preceding or the day after such holiday but not on both. No payment shall be made if the employee has ceased work without permission on either of the said days.
- 11.6 Where an employee, other than a shift worker, is required to work after 12 noon on a Sunday or holiday, the employee shall be allowed a meal break of 30 minutes between 12 noon and 1 pm for a crib without loss of pay.
- 11.7 The provisions of clause 2, Hours - Day Workers, of this award shall apply to employees working on Sundays and Holidays.
- 11.8 Where an additional or substitute public holiday is proclaimed by Order in Council or otherwise gazetted by authority of the Australian or a State Government under any Act throughout any State or part thereof, such day shall, within the defined locality, be deemed to be a holiday for the purposes of this Award. An employee shall not be entitled to the benefit of more than one holiday upon such occasion.



## 12. Payment of Wages

- 12.1 Wages shall be paid fortnightly. For the purpose of any increase to the wages, the wages shall be made up on a weekly basis.
- 12.2 Wages shall be paid into a bank or other account, except in isolated areas where payment will be made by cheque.
- 12.3 The employer shall not keep more than 3 days pay in hand.
- 12.4 Upon termination of the employment wages shall be paid according to the usual method no later than the next working day. Where an employee is summarily dismissed, as provided for in clause 13, Contract of Employment of this award, the employer shall make payment according to the usual method, within 48 hours of dismissal.

## 13. Contract of Employment

### 13.1 Weekly Employment

Except as hereinafter provided, employment shall be by the week.

- 13.2 Employment shall be terminated by a week's notice on either side given at any time during the week or by the payment or forfeiture of a week's wages as the case may be. This shall not affect the right of the employer to dismiss any employee without notice for malingering, inefficiency, neglect of duty or misconduct. In such cases wages shall be paid only up to the time of dismissal.
- 13.3 Payment shall be deducted for any day the employee cannot be usefully employed because of any strike or through any breakdown in machinery or any stoppage of work by any cause for which the employer cannot reasonably be held responsible. This is not including time lost for wet weather. Where an employee has given or been given notice in line with subclause 13.2, employment is continued until the date of the expiration of such notice, except by agreement between the parties.

An employee who has given or been given notice in line with subclause 13.2, must provide a reasonable explanation for any absences during the period of notice. Proof of the reason for such absence must be able to be provided by the employee. If no proof is provided, the employee shall be deemed to have abandoned their employment, and shall not be entitled to payment for work done within the period of notice.

- 13.4 An employee (other than an employee who has given or received notice in accordance with subclause 13.2 of this clause) not attending for duty shall, except as provided by clause 11, Holidays and Sunday Work, of this award, shall receive no payment for the actual time of such non-attendance.
- 13.5 During the first week of employment, an employee's services may be terminated by the giving of one hour's notice on either side.
- 13.6 Late Comers: Notwithstanding anything elsewhere contained in this award, employees who report for duty after their appointed starting time or stop work before their appointed finishing time may have their wages adjusted by a fraction or decimal proportion of an hour (not exceeding a quarter of an hour). This subclause does not apply where an employee has a legitimate reason for coming late or leaving early and promptly advises the employer of such.

An employer who adopts a proportion for the aforesaid purposes shall apply the same proportion for the calculation of overtime.

### 13A. School Based Apprentices

(a) Definition

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

(b) Wages

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

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

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

(iv) Where this Award specifies a weekly rate for full time apprentices, the hourly rate shall be calculated by dividing the applicable weekly rate by 38.

(c) Progression through the Wage Structure

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

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

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

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

(e) Conditions of Employment

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

### 14. Distant Work

14.1 Distant work is defined as work that requires employees to live away from their usual place of residence. An applicant for a position involving distant work shall provide the employer with a statement in writing of their usual place of residence. If the employee, whilst employed on distant work changes their usual place of residence one or more times, determination of whether the work can still be defined as distant work is based on the location of the new place of residence. The employee must inform the employer in writing of any change to their usual place of residence.

This clause will not apply to an employee who, after four weeks employment is appointed to work as a regular employee at a permanent workshop, while they are employed at such a workshop.

14.2 An employee who is engaged on distant work shall be transported, with tools, to and from the work location once per day at the employer's expense. If the employee is called back to the work site after finishing their daily duties, they again shall be transported to and fro at the employer's expense for each occurrence.

14.3 Return fares and travelling time need not be paid to an employee who:

- (a) leaves their employment of their own free will; or
- (b) is discharged for misconduct

before completion of three months employment or before the job is completed, whichever occurs first; or is discharged for incompetence within one week of engagement.

14.4 Time occupied in travelling to and from distant work shall be paid for at ordinary rates. No employee shall be paid more than an ordinary day's wages for any day spent in travelling unless they are on the same day occupied in working for an employer. An allowance to cover any expenses incurred in reaching home and for transporting tools is set out in Item 56 of Table 3, Part B.

14.5

14.5.1 On distant work reasonable board and lodging shall be provided by the employer or a weekly (7 day) allowance as set out in Item 57 of Table 3, Part B. This allowance shall not be wages. In the case of broken parts of the week occurring at the beginning or the ending of the employment on a distant job, the allowance per day shall be as set out in Item 57 of Table 3, Part B.

14.5.2 The foregoing allowances may be increased if an employee can satisfy an employer that they reasonably incurred greater expenses than those covered by such allowances. In the event of disagreement, the Dispute Resolution procedures contained in clause 28 of the reviewed award should be utilised. This does not preclude the matter being referred to the Industrial Relations Commission of New South Wales.

14.5.3 Reasonable board and lodging shall mean lodging in a well-kept establishment with adequate furnishing, good bedding and floor coverings, good lighting and heating with hot and cold running water, in either a single room or twin room if a single room is not available.

14.6 Where an employee is required to camp either by direction of the employer or because no reasonable transport facilities are available for the employee to proceed to and from their home each day, subclauses 14.5.1, 14.5.2 and 14.5.3 of this clause shall not apply to the following:

Employees of the Roads and Maritime Services; Department of Investment or NSW State Forests in respect of the following work:

Construction and/or maintenance of water supply and sewerage works; roads, bridges, water conservation and irrigation works, harbour and reclamation works or forest works.

For such employees, the employer shall provide a camp with accommodation in single cubicles, not less than 14 cubic metres in size. Each cubicle shall be fitted with a bed with mattress. Each cubicle shall have a timber floor covering, be fitted with a door and a moveable window of reasonable size, with wire screen covering. The cubicle shall be furnished with a table or suitable substitute, a seat and a wardrobe. Each cubicle shall be ceiled and lined and artificial lighting provided. If reasonably required, the employer shall provide a suitable heating appliance for each cubicle.

Provision shall be made in the camp for suitable washing facilities; including hot and cold showers, provided that an adequate water supply is available. Employees shall also be provided with sufficient facilities to wash their clothes. Sanitary conveniences shall be adequate, sewered where reasonably practicable and situated within reasonable distance from the living quarters. The conveniences shall have adequate access by properly lighted paths. Effluent from kitchen, laundry and showers should be dispersed in such a way as to avoid any health risk. A veranda shall be constructed in front of each room, except where corridor-type barracks are provided.

The employer shall provide an enclosed galley conforming to the requirements of the General Construction and Maintenance, Civil and Mechanical Engineering &c (State) Award, as varied from time to time, or by any award replacing the said award.

Where the circumstances so require, the employer may, as an alternative provide caravans for employees. The caravans should contain as far as practicable, amenities at least equal to those specified above.

An employee who is required to camp has an entitlement to a daily allowance as specified in Item 58 of Table 3 for each day they remain in camp. The allowance is not paid for any working day the employee is absent from duty, except in such cases of sickness or for any reason beyond the employee's control.

Leave is reserved to the employers to apply in respect of the standards of accommodation under this subclause.

14.7 Employees who wish to return home for the weekends will be paid an allowance at the rate shown in Item 60 of Table 3, Part B on each occasion they return home provided they:

- (i) work as required during the ordinary working hours, and
- (ii) work on the working day both before and after a weekend, and
- (iii) notify the employer no later than the Tuesday of each week, and
- (iv) return home for the weekend.

Employees in receipt of this allowance will not be entitled to payment of the camping allowance prescribed in subclause 14.6 of this clause, for the day or days on which they are absent.

14.7.1 This subclause shall not apply to an employee who is receiving the allowance rate specified in Item 60 of Table 3, Part B, in lieu of board and lodging being provided by the employer.

14.7.2 An employee shall be deemed to have returned home at the weekend only if this involves the employee in being absent from his accommodation for not less than half the hours between ceasing work in the one week and commencing work in the next week.

14.8 The provisions of this clause shall apply wherever the employee is engaged.

14.9 Where an employee is engaged upon distant jobs and is required to reside elsewhere than on the site of the job they shall be paid the fares and travelling time allowance prescribed by clause 8, Excess Fares and Travelling Time, of this award.

14.10 An employee on distant work may return to their home at a weekend after three months' continuous service and thereafter at three monthly intervals. The employee shall be paid the fares reasonably incurred in so travelling to their home and to the place of work. If the work upon which the employee is engaged will be completed within twenty-eight days after the expiration of any such period of three months, then the provisions of this subclause shall not apply.

14.11 If any employer and employee engaged on distant work agree in writing and subject to the procedure outlined in subclause 2.1 of clause 2, Hours-Day Workers, of this award, the employee may take a paid rostered day off as prescribed in that subclause, at a mutually agreed time. The agreement shall only provide for a paid day or days off work up to a maximum accrual of five days.

## 15. Chokages

15.1 If an employee is employed upon any chokage and is required to;

- (i) open up any soil pipe, waste pipe, drain pipe or pump conveying offensive material
- (ii) or a scupper containing sewerage
- (iii) or required to work in a septic tank in operation

the employee shall be paid the allowance rate specified in Item 47 of Table 3, Part B per day or part of a day thereof.

#### 15.2 Fouled Equipment

An employee who is required to work on any pipe line or equipment containing body fluids or body waste and encounters same, shall be paid the allowance rate specified in Item 48 of Table 3, Part B. This allowance shall not apply in circumstances where subclause 15.1 of this clause would normally be paid.

### 16. Special Conditions

- 16.1 Employees engaged in installing brine or ammonia pipes or repairs to same who have their clothing or boots destroyed or damaged shall be reimbursed the amount of damage sustained.
- 16.2 All rope and gear shall be of sound material, used or stored in such a way that it does not come in contact with sharp edges, acids or acid fumes. At all times the *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011*, shall be complied with.
- 16.3 Employees working in battery rooms or like places where acids or caustic soda are stored or used shall be provided with gloves, overalls and rubber boots. These are to be periodically disinfected in accordance with the requirements of the NSW Department of Health for disinfecting clothing while in use and before being issued to another person.
- 16.4 The employer shall provide a suitable gas mask at the place of work when the employee is required to work on a live gas service.

### 17. Hygiene and Safety First- Aid Kit

- 17.1 The employer shall provide at the place of work and continuously maintain an efficient first-aid kit and appliances in line with the provisions of the *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011*.
- 17.2 In the event of any serious accident happening to any employee whilst at work or going to or from the camp, the employer shall, at their expense, provide transport facilities to the nearest hospital or doctor.
- 17.3 At a place of work where 50 or more persons are employed the employer shall provide a stretcher and, where practicable, include amongst the employees a qualified first-aid person. Where an employee is a qualified first-aid person and is employed to carry out the duties of a qualified first-aid person, they shall be paid an additional daily rate as set out in Item 49 of Table 3, Part B.

### 18. Conveniences

- 18.1 The employer shall provide at the place of work sanitary conveniences in accordance with the requirements of the local health authority providing that such conveniences will at least measure up to the following minimum standard:

They shall be at least 1.066 metres wide and 1.371 metres long and 2.34 metres high internal measurement and shall have a hinge door capable of being fastened both inside and on the outside.

The walls and roof and door shall be of weatherproof material and shall be so constructed as to ensure privacy.

Each convenience shall be provided with a suitable receptacle for, and an adequate supply of, deodorising or fly-repellent material, blue oil or kerosene or phenol. It shall also be provided with a means for disposing of sanitary items.

A fly-proof cover and seat shall be provided should sewerage not be accessible or connected to the toilet or convenience: The ratio of such accommodation shall be one convenience to eight employees or part of eight employees.

- 18.2 The employer shall provide at the place of work a suitable and secure weatherproof lock-up solely for the purpose of storing employees' tools. Where tools are stolen because no lock-up has been provided, the employee shall be compensated to the extent of their loss.
- 18.3 Where a total of fifteen tradespeople are working on site, whether employed under this award or otherwise, and the job has been or will be of two months' duration or longer, the employer shall provide for employees at the work site weatherproof accommodation for changing clothes. This accommodation shall be not less than .84 square metres to each employee.
- 18.4 At permanent places of work, the employer shall provide weather and dust proof accommodation for dressing, and lockers securely fixed with suitable locks, solely for the use of their employees.
- 18.5 At meal times and rest periods, boiling water shall be provided by the employer at a location that is reasonably accessible to employees.
- 18.6 The employer shall provide for employees an adequate supply of cool and wholesome drinking water.

### **19. Piecework**

- 19.1 Piecework is prohibited.
- 19.2 No employee shall execute any work for profit or reward except at the rates and under the conditions prescribed by this award.

### **20. Damage to Clothing or Tools**

An employee whose clothing or tools are spoiled by acids or sulphur or other deleterious substance due to the circumstances of their employment shall be recompensed by their employer to the extent of their loss.

### **21. Sharpening Tools**

- 21.1 The employer shall provide at the place of work a suitable sand grindstone or a carborundum stone for the use of carpenters and/or bridge and wharf carpenters.
- 21.2 Where such a grindstone or carborundum stone is not driven by mechanical power, the employer shall provide assistance in turning the grindstone or carborundum stone.
- 21.3 Saw sharpening and tool grinding may be done by the employee during the progress of work.
- 21.4 Where the provisions of subclauses 21.1 and 21.2 of this clause are not observed by the employer, the employer shall pay for or provide for grinding of the tools.
- 21.5 Bridge and Wharf Carpenters and/or Shipwright Boat Builder shall be supplied with saw files.

### **22. Special Tools and Clothing**

- 22.1 The employer shall provide the following tools and protective clothing when they are required for the work to be performed by the employees:
- 22.1.1 Bricklayers: Scutch combs, hammers (excepting mash and brick hammers), rubber mallets and T squares.
- 22.1.2 Carpenters: Dogs and cramps of all descriptions, bars of all descriptions over 61 cm. long, augers, of all sizes, star bits and bits not ordinarily used in a brace, hammers (except claw hammers and tack hammers), glue pots and glue brushes, dowel plates, trammels, hand thumb screws, and soldering irons.
- 22.1.3 Plasterers shall be provided with overalls when required to brush on to walls and ceilings bondcrete, plaster weld or similar substances.

The approved grass brush to perform the work prescribed in this subclause shall be provided by the employer.

- 22.1.4 Plumber: Metal pots, mandrills, long dummies, stock and dies for iron, copper and brass pipes, cutters, tongs, vices, taps and drills, ratchets, files, cramps caulking tools, hacksaw and blades, welding and brazing outfits, goggles where necessary and liquid petroleum gas equipment where necessary, and all shop tools, the usual kit bag of tools only to be supplied by the employee.
- 22.1.5 Shipwright-Boat builder: Beetles, horse irons, cramps, pitch ladles, mops, drift bolts, spanners, stripping bars and punches, all augers 32 mm and over, dowelling bits, plumbs and levels and boring tools for power machines.
- 22.1.6 Sign writers to be supplied with all brushes.
- 22.1.7 All power tools shall be provided where, in the opinion of the employers, they are necessary.
- 22.2 Where necessary, the employer shall provide overalls, boots, goggles, gloves and masks for the use of employees engaged on the classes of work covered by subclause 4.20 of clause 4, Allowances, of this award.
- 22.3 If, in the course of their employment, an employee is required to use any alkaline or acid based products he shall be provided with protective clothing.
- 22.4 The employer shall supply to employees, rubber gloves when working on any sewerage or drainage work and protective clothing and goggles when engaged on welding work.
- 22.5 Painters. When working in cooling or freezing chambers where the temperature is below 4 degrees Celsius, painters shall be supplied with suitable boots and a clean blanket suit properly disinfected in accordance with the requirements of the NSW Department of Health.
- 22.6 Bricklayers. A bricklayer required to work on the construction or repairs to acid furnaces, acid stills, acid towers and all other acid resisting brickwork and/or engaged to work on the construction or alteration or repairs to boilers, flues, furnaces, retorts or kilns, shall be supplied with gloves, boots and overalls as set out hereunder:
- 22.6.1 Gloves shall be supplied and shall be replaced as required, subject to employees handing in the used gloves.
- 22.6.2 Boots shall be supplied upon request of the bricklayer after six weeks' employment, the cost of such boots to be assessed at a rate set out in Item 61 of Table 3, Part B. Employees are to accrue credit at the weekly rate set out in Item 61 of Table 3, Part B of this award.
- A bricklayer leaving or being dismissed before 20 weeks' employment shall pay the difference between the credit accrued and the Item 4 rate.
- The right to accrue credit shall commence from the date of request for the boots.
- In the event of boots being supplied and the bricklayer not wearing them while at work, the employer shall be entitled to deduct the cost of the boots if the failure to wear them continues after one warning by the employer.
- Upon issue of the boots the bricklayer may be required to sign the authority form in or to effect of the Annexure to this clause. Boots shall be replaced each six months dating from the first issue.
- 22.6.3 Overalls will be supplied upon request of the bricklayer and on the condition that they are worn while performing the work.

## ANNEXURE

### Authority Form

, acknowledge receipt of one (1) pair of boots provided in accordance with the provisions of subclause 22.6.2 of clause 22, Special Tools and Clothing of this award.

Should the full cost of the boots (\$ ) not be met by accumulation of credit (at the rate of \$ per week)

from I authorize deduction from any moneys due to me by my employer of an amount necessary to meet the difference between the credit accrued and \$.

Signed:

Date:

### 23. Insurance of Tools

- 23.1 The employer shall insure and keep insured against loss or damage by fire whilst on the employer's premises such tools of the employee as are used by the employee in the course of their employment.
- 23.2 An employee shall be entitled to be reimbursed by their employer for loss of tools up to a value as set out in Item 62 of Table 2, when such tools are lost by theft from a breaking and entering outside ordinary working hours, where the tools are stored at the employer's direction on the job.
- 23.3 The employee shall, if requested so to do, furnish the employer with a list of their tools so used.

### 24. Exhibition of Award

An up to date copy of this award shall be posted and kept posted by the employer in a prominent place on the employer's premises that is accessible to all employees.

### 25. Anti-Discrimination

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

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

## 26. Carer's Leave

- 26.1 The definition of "family" and "relative" for the purpose of this clause is the person who needs the officer's care and support and is referred to as the "person concerned" and is:
- (a) a spouse of the officer; or
  - (b) a de facto spouse, who in relation to a person, is a person of the opposite sex to 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) parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the officer or spouse or de facto spouse of the officer; or
  - (d) a same sex partner who lives with the officer as the de facto partner of that officer on a bona fide domestic basis; or
  - (e) a relative of the officer 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.
- 26.2 Use of sick leave to care for a sick dependant - entitlement
- (a) The entitlement to use sick leave in accordance with this clause is subject to:
    - (i) the employee being responsible for the care and support of the person concerned, and
    - (ii) the person concerned being as defined as above.
  - (b) An employee with responsibilities in relation to a person who needs their care and support shall be entitled to use sick leave available from that year's annual sick leave entitlement minus any sick leave taken from that year's 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, sick leave accrued 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) In special circumstances, the Chief Executive Officer may make a grant of additional sick leave. This grant can only be taken from sick leave accrued prior to the period referred to in subclause 26.2 (c).
- (e) If required, a medical certificate or statutory declaration must be made by the employee to establish the illness of the person concerned and that the illness is such to require care by another person.
- (f) The employee is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration and has the right to choose which of the two methods to use in the establishment of grounds for leave.
- (g) Wherever practicable, the employee shall give the Chief Executive Officer prior notice of the intention to take leave, the name of the person requiring care and that person's relationship to the employee. They must also give reasons for taking such leave and the estimated length of absence. If the employee is unable to notify the Chief Executive Officer beforehand, notification should be given by telephone at the first opportunity on the day of absence.
- (h) In normal circumstances, the employee must not take leave under this subclause where another person has taken leave to care for the same person.

### 26.3 Time Off in Lieu of Payment for Overtime

- 26.3.1 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.
- 26.3.2 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.
- 26.3.3 If, having elected to take time as leave in accordance with paragraph 3.1 of this subclause, 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.
- 26.3.4 Where no election is made in accordance with the said paragraph 3.1, the employee shall be paid overtime rates in accordance with the award.

### 26.4 Make-up Time

- 26.4.1 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.

## 27. Union Delegates

An employee appointed shop steward in the shop or department in which they are employed shall, upon notification, be recognised by the employer as an accredited representative of the Union. The union delegate shall be allowed the necessary time during working hours to interview the employer or their representative on matters affecting the employees who are represented by the delegate.

## 28. Dispute Resolution

The procedure for the resolution of grievances and industrial disputation concerning matters arising under this award shall be in accordance with the following:

### 28.1 Procedure relating to a grievance of an individual employee:

- 28.1.1 The employee shall notify (in writing or otherwise) the employer as to the substance of the grievance, request a meeting with the employer for bilateral discussions and state the remedy sought.

- 28.1.2 The grievance must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
- 28.1.3 Reasonable time limits must be allowed for discussion at each level of authority.
- 28.1.4 At the conclusion of the discussion, the employer must provide a response to the employee's grievance if the matter has not been resolved, including reasons for not implementing any proposed remedy.
- 28.1.5 While a procedure is being followed, normal work must continue. No party shall be prejudiced as to the final settlement by the continuation of work in accordance with this subclause.
- 28.1.6 The employer may be represented by an industrial organisation of employers and the employee may be represented by an industrial organisation of employees for the purpose of each procedure.
- 28.2 Procedure for a dispute between an employer and the employees:
- 28.2.1 A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
- 28.2.2 Reasonable time limits must be allowed for discussion at each level of authority.
- 28.3 While a procedure is being followed, normal work must continue. No party shall be prejudiced as to the final settlement by continuation of work in accordance with this subclause.
- 28.4 The employer may be represented by an industrial organisation of employers and the employees may be represented by an industrial organisation of employees for the purpose of each procedure.

### **29. Transport of Employee's Tools**

When an employee on construction or maintenance work is required to transfer from one job to another, an employer shall provide transport for the employee's tools to the nearest public conveyance. On termination of employment, the employer shall provide transport for the employee's tools to the nearest public conveyance except where the employee gives notice or is dismissed for misconduct.

### **30. Picnic Day**

- 30.1 The first Monday in December of each year shall be the Union Picnic Day.
- 30.2 All employees shall, as far as practicable, be given and shall take this day as a picnic day at their ordinary rate of pay including accrual for a rostered day off. Any employee required to work on such day shall be paid at the rate of double time and one-half for all time worked on such day, with a minimum payment for four hours work. An employee who is required to work on picnic day and who fails to comply with such requirement shall not be entitled to payment for the day.
- 30.3 An employer may require from an employee evidence of attendance at the picnic. The production of the butt of a picnic ticket issued for the picnic shall be sufficient evidence of such attendance. Where the employer requests production of the ticket butt, payment need not be made unless the evidence is produced.
- 30.4 Where an employer holds a regular picnic for their employees on some other working day during the year, then such day may be given and may be taken as a picnic day in lieu of the picnic day here fixed.
- 30.5 This clause shall apply to employees working within the Counties of Cumberland, Northumberland and Camden and in such other areas where a picnic is actually held and in respect of which one month's notice is given in writing by the Union to the employer.

- 30.6 In Departments to which the Government Sector Employment Act 2013 applies, employees may take a day designated by their Department Head as a public service holiday during the period between Boxing Day and New Year's Day in lieu of the Picnic Day prescribed in this clause.

### **31. General Leave Conditions and Accident Pay**

- 31.1 General leave conditions and accident pay of employees engaged by Government bodies under the provisions of the Government Sector Employment Act 2013 shall be bound by the Government Sector Employment Regulation 2014.

- 31.2 General leave conditions and accident pay of employees engaged under Ministerial authority in Government and quasi-government bodies shall be regulated by the Government Uniform Leave Conditions.

- 31.3 In addition to the leave entitlements provided in 31.1 and 31.2, the following provisions shall also apply.

(a) Right to request

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

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

to assist the 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) Employee's request and the employer's decision to be in writing.

The employee's request and the employer's decision made under paragraph 31.3 (a)(i) and 31.3 (a)(ii) above, must be recorded in writing.

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

Where an employee wishes to make a request under 31.3 (a)(i)(C) above, 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.

(b) Communication during parental leave

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

- (A) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental 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 parental 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 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.
- (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 subparagraph 31.3 (b)(i).

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

- 32.1 The union shall provide the employer with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- 32.2 The union shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.
- 32.3 Subject to 32.1 and 32.2 above, the employer shall deduct union fortnightly membership fees from the pay of any employee who is a member of the union in accordance with the union's rules, provided that the employee has authorised the employer to make such deductions.
- 32.4 Monies so deducted from employee's pay shall be forwarded regularly to the union together with all necessary information to enable the union to reconcile and credit subscriptions to employees' union membership accounts.
- 32.5 Unless other arrangements are agreed to by the employer and the union, all union membership fees shall be deducted on a fortnightly basis.
- 32.6 Where an employee has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

### **33. Work Health and Safety for Employees of Labour Hire Employers**

- (i) For the purposes of this subclause, the following definitions shall apply:
  - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
  - (1) consult with employees of the labour hire business and/or contract business regarding the workplace work health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate work health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Work Health and Safety Act 2011* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (iv) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this subclause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

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

34.1 This award shall apply to:

- (a) all non-executive public service employees as defined in the Government Sector Employment Act, 2013 employed in Departments, Public Service executive agencies related to Departments, and separate Public Service agencies, listed in Schedule 1 to the *Government Sector Employment Act 2013*, except where another industrial instrument or arrangement applies to the employees; and
- (b) any officer, Departmental temporary employee and casual employee who, as at 23 February 2014, was employed in a Department listed in Schedule 1, Part 1, of the *Public Sector Employment and Management Act 2002* and who was covered by the predecessor to this award on that date,

of the classes specified in clause 3, Rates of Pay, of this Award in the employment of the New South Wales Ambulance Board, Roads and Maritime Services and Government organisations to which the *Government Sector Employment Act 2013* applies, other than those referred to hereunder. It shall not apply to employees covered by the Sydney Harbour Bridge Employees Award, nor to those employed by the Roads and Maritime Services, and Department of Public Works and Services in Broken Hill, or those employed by the Zoological Parks Board of New South Wales.

34.2 This award rescinds and replaces the Crown Employees (Skilled Trades) Award published 29 July 2016 (380 I.G 174) and all variations thereof.

### **35. No Extra Claims**

35.1 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 NSW Industrial Relations Commission 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.

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.

## PART B

### RATES AND ALLOWANCES

**Table 1 - Rates of Pay**

Classification - Clause 3. All up Rate - includes Industry Allowance Special loading, Trade Allowance	Amount per week as at 1.7.18 \$
Bespoke Bootmaker	961.80
Blacksmith	1052.10
Body Maker, First Class	1041.60
Boilermaker and/or Structural Steel Tradesperson	1041.60
Boot or Shoe Repairer	944.10
Bricklayer	1041.60
Bridge and Wharf Carpenter	1041.60
Cabinet Maker	1081.00
Carpenter and/or Joiner	1041.60
Coach and/or Spray Painter	1041.60
Drainer	1052.10
Electrical Fitter	1110.70
Electrical Instrument Fitter	1163.20
Electrical Mechanic	1110.70
Electrician in Charge of Plant having a capacity of 75 Kilowatts or more less	1184.30
Electrician in Charge of Plant having a capacity of than 75 Kilowatts	1131.10
Electronics Tradesperson	1276.10
Farrier	1052.10
Fitter	1041.60
Forger and/or Faggoter	1041.60
French Polisher	1081.00
Machinist, A Grade (Woodworking)	1041.60
Machinist, First Class (Metal Trades)	1060.20
Marker-off	1052.10
Mechanical Tradesperson - Special Class (as defined)	1099.60
Motor Mechanic	1041.60
Painter	1041.60
Panel Beater	1041.60
Patternmaker	1072.90
Plant Electrician	1172.50
Plant Mechanic	1041.60
Plasterer	1041.60
Plumber and/or Gasfitter	1052.10
Radio Mechanic or Fitter	1110.70
Refrigeration and/or Air Conditioning	1110.70
Saw Doctor	1110.70
Sawyer, No. 1 Benchperson	1060.20
Scalemaker and/or Adjuster	1041.60
Scientific Instrument Maker	1072.90
Sewing Machine Mechanic	1041.60
Sheetmetal Worker, First Class	1041.60
Shipwright and/or Boatbuilder	1041.60
Classification - Clause 3. All up Rate - includes Industry Allowance	

Special loading, Trade Allowance	Amount per week 1.7.18 as at \$
Signwriter	1072.90
Slater and Tiler	1041.60
Stonemason	1041.60
Stonemason-Carver	1110.70
Tilelayer	1041.60
Toolmaker	1072.90
Toolsmith	1052.10
Trimmer (Motor)	1041.60
Turner	1041.60
Watchmaker	1022.70
Welder, Special Class	1052.10
Welder, First Class	1041.60

### WAGES FOR APPRENTICES

Wages for Apprentices - Apprentices shall receive as minimum weekly rates of pay, the following:

(i)

Four Year Term	Per week as at 1.7.18 \$
1st year	450.30
2nd year	592.40
3rd year	758.80
4th year	875.20

Wages for apprentices employed by Department of Education and Communities

Four Year Term	Per week as at 1.7.18 \$
1st year	485.60
2nd year	638.80
3rd year	818.30
4th year	944.10

- (ii) An apprentice who has passed the prescribed annual technical college examinations for the preceding year shall be paid an additional weekly allowance of \$1.17. Payment of this allowance is subject to a satisfactory report as to conduct, punctuality and workshop progress by his/her supervisor. Such additional allowance shall be payable from the beginning of the first pay period commencing in January following the examinations.
- (iii) An apprentice who, in any year fails to complete a subject or subjects but completes them concurrently with passing the succeeding year's examinations, shall be deemed to qualify for payment of the allowance specified in this subclause for the succeeding year as if he had not initially failed to complete the subject or subjects
- (iv) All wages shall be paid on a weekly basis: It shall be an implied term of any contract of apprenticeship that the employing Authority may deduct from the weekly wage of an apprentice an amount proportionate to the time lost by an apprentice for any reason not considered satisfactory to the employing Authority.
- (v) Apprentice patternmakers shall be paid the sum of \$1.17 per week in addition to the wage rates prescribed for apprentices in subclause (i).



**Table 2 - Tool Allowances**

An employee under this award of a classification as listed underneath shall receive the prescribed tool allowance. The tool allowance is applicable to both skilled tradespeople and apprentices and is to form part of the ordinary pay for all purposes.

Clause No.		As from fpp 1/7/18 \$
5	Tool Allowances	
	Blacksmith	32.40
	Bodymaker, First Class	32.40
	Boilermaker and/or Structural Steel	32.40
	Bricklayer	23.20
	Bridge and Wharf Carpenter and/or Civil Engineering Construction Carpenter	32.40
	Cabinet Maker	13.10
	Carpenter	32.40
	Drainer	32.40
	Farrier	32.40
	Fitter	32.40
	Forger and/or Faggoter	32.40
	Machinist, First Class (Metal Trades)	32.40
	Machinist (Metal Trades) Special Class	32.40
	Marker Off	32.40
	Motor Mechanic	32.40
	Painter	7.90
	Panel Beater	32.40
	Patternmaker	32.40
	Plant Mechanic	32.40
	Plasterer	32.40
	Plumber	32.40
	Plumber and Gasfitter	32.40
	Plumber, Gasfitter and Drainer	32.40
	Sewing Machine Mechanic	32.40
	Sheetmetal Worker, First Class	32.40
	Shipwright/Boatbuilder	32.40
	Signwriter	7.90
	Slater and Tiler	16.90
	Stonemason	32.40
	Stonemason-Carver	32.40
	Tilelayer	23.20
	Toolmaker	32.40
	Toolsmith	32.40
	Trimmer (Motor)	32.40
	Turner	32.40
	Vehicle Builder	32.40
	Watchmaker	10.60
	Welder, Special Class	32.40
	Welder, First Class	32.40

Tool Allowances - Electrical		
Clause No.	Brief Description	As at 1.7.18 \$
5	Electrical Fitter	20.40
	Electrical Fitter/Mechanic	20.40
	Electrical Instrument Fitter	20.40
	Electrical Mechanic	20.40
	Electrician in charge of plant having a capacity of less than 75 kilowatts	20.40
	Electronic Tradesperson	20.40
	Electrical Instrument Fitter	20.40
	Plant Electrician	20.40
	Radio Mechanic and Fitter	20.40
	Refrigeration and/or Air Conditioning Mechanic	20.40

**Table 3 - Allowances**

Clause No.	Brief Description	As at 1.7.18 \$
4.2	Carpenter Diver (p.w)	303.90
4.4	Electrician who is holder of a NSW electrician's licence:	
	A Grade Licence (p.w.)	50.50
	B Grade Licence (p.w.)	27.20
4.5	Lead Burner (p.h.)	1.04
4.6	Plumber and Drainer when required to act on plumbers licence (p.h.)	1.32
	gasfitters licence (p.h.)	1.32
	drainers licence (p.h.)	1.09
	plumbers and gasfitters licence (p.h.)	1.76
	plumbers and drainers licence (p.h.)	1.76
	gasfitters and drainers licence (p.h.)	1.76
	plumbers, gasfitters and drainers licence (p.h)	2.43
4.7	Holder of Electric Welding [DIRE Certificate] (p.h.)	0.77
4.8	Boot or Shoe Repairer required to repair anatomical, surgical or orthopaedic boots or shoes (p.w.)	27.40
4.9	Shipwright-Boatbuilder, for: Liner Off, Loftsperson and Model Maker (p.h.)	1.40
4.10	Computing quantities (p.d.)	5.95
4.11	Joiner, Public Works and Education Departments:	
	when working at regular place of employment (p.w.)	47.00
	when working away from regular place of employment (p.d.)	9.45
4.12	Registration allowance (p.h.)	1.00
4.13	Building tradesperson - Marking off/Setting out (p.w.)	1.30
4.14	Cold places:	
	below 0 degree Celsius (p.h.)	0.82
	below minus 7 degrees Celsius (p.h.)	0.95
4.15	Confined spaces (p.h.)	1.01
4.16	Dirty work (p.h.)	0.82
	For Bridge and wharf carpenter who:	
	uses material or liquid that is injurious to clothes or damages his/her tools (p.h.)	0.83
	is engaged in work where dirt or dust or other foreign matter or refuse has accumulated to become damaging to the clothes or tools or objectionable or injurious to the person. (p.h.)	0.82
	Shipwright Boatbuilder engaged in work as set out in subclause 5.16.2 (v) (p.h.)	0.82

4.17	Height money:	
	7.5 metres from ground, deck, floor or water (p.h.) for every additional 3 metres (p.h.)	0.82 0.16
4.18	Hot places: between 46 degrees celsius and 54 degrees celsius (p.h.) exceeds 54 degrees celsius (p.h.)	0.82 1.01
4.19	Handling insulation material (p.h.)	0.99
4.20	Smoke boxes: repairs to smoke-boxes furnace or flues of boilers (p.h.) repairs to and while inside oil fired boilers (p.h.)	0.52 2.02
4.21	Wet places: where water other than rain is falling and required to work in wet clothing or boots (p.h.) when required to work in the rain (p.h.) called upon to work on a raft, open board, punt or pontoon having a freeboard of 305m.m or less (p.d.) called upon to work knee-deep in mud or water (p.d.)	0.82 0.82 3.10 6.45
4.22	Construction or repairs to acid furnaces, stills, towers and all other acid resisting brickwork (p.h.)	4.16
	Construction or alteration or repairs to boilers, flues, furnaces, retorts, kilns, ovens, ladles and similar refractory work (p.h.)	4.16
4.23	Towers allowances: construction exceeding 15 metres in height, and (p.h.) for each additional 15 metres (p.h.)	0.82 0.82
4.24	Depth exceeding 3 metres (p.h.)	0.82
4.25	Swing scaffolds: for the first four hours or any portion thereof, and (p.h.) for each hour thereafter (p.h.)	6.00 1.23
	Solid plasterers when working off a swing scaffold (p.h.)	0.16
4.26	Spray application (p.h.)	0.80
4.27	Soil pipes (p.h.)	1.01
4.28	Working on second-hand timber (p.d.)	3.20
4.29	Roof work:	
	work in excess of 12 metres from the nearest floor level (p.h.) minimum payment (p.h.)	1.01 1.01
4.30	Electric welding (p.h.)	0.32
4.31	Explosive powered tools: employee required to use explosive powered tools (p.d.) bridge and wharf carpenter when required to use these tools (p.d.)	1.95 1.95
4.32	Scaffolding rigging (p.h.)	0.82
4.33	Corrective establishments (p.h.)	2.04
	Mental institutions (p.h.)	1.57
	Geriatric hospitals: Allandale, Garrawarra and Strickland Hospitals (p.h.)	0.57
	Geriatric hospitals:- Lidcombe Hospital (p.h.)	0.52
	Work in hot/cold water tanks for the purpose of the control of Legionella Pneumophilia (p.h.)	3.80
4.34	Distant places: in districts as set out in subclause 5.3 (p.d.) in western division of the state (p.d.) within the area as set out in subclause 5.36.3 (p.d.) Bridge and road construction within the area as set out in subclause 4.34.4 (p.d.)	1.55 2.55 2.55 1.45
4.35	Morgues (p.h.)	0.95
4.36	Application of epoxy based materials or materials of a like nature (p.h.) Application of such material in buildings which are normally air conditioned (p.h.)	1.01 0.70

	Working in close proximity to employees so engaged (p.h.)	0.82
4.37	Bricklayers laying other than standard bricks where block weighs: over 5.5 kg and under 9 kg (p.h.) 9 kg or over and up to 18 kg (p.h.) over 18 kg (p.h.)	0.82 1.42 2.25
4.38	Bagging bricks or concrete structures (p.h.)	0.75
4.39	Cleaning down brickwork using acids or other corrosive substances (p.h.)	0.75
4.40	Materials containing asbestos (p.h.)	1.01
4.41	Operation of pneumatic tools of 2.75 kg or over (p.d.)	4.40
4.42	Operation of brick cutting machine (p.h.)	1.01
4.43	Asbestos eradication (p.h.)	2.72
4.44	Employee required to work in an Animal House (p.h.)	0.50
4.45	Employee of Roads and Traffic Authority, Illawarra region working in areas where coal wash is being unloaded, handled or spread (p.h.)	0.82
6.1	Employee appointed to be in charge of up to and including five employees (p.w.)	51.70
6.2	Employee appointed to be in charge of more than five and up to and including ten employees (p.w.)	66.20
6.3	Employee appointed to be in charge of more than ten employees (p.w.)	86.50
15.1	Chokages pipe or pump (p.d.)	9.55
15.2	Fouled equipment (p.d.)	9.55
17.3	First Aid qualifications (p.d.)	3.55

## Application to employees of Department of Education and Communities

Clause No	Brief Description	As at 1.7.18 \$
5	Tool Allowances - Electrical Radio Mechanic and Fitter	22.30

Clause No.	Brief Description	As at 1/7/18
8.1	Excess fares and travelling time to and from place of work	25.20 p.d.
8.1.1	If employer provides or offers to provide transport free of charge	10.00 p.d.
8.2	Excess fares and travelling to and from work: - first year apprentices (or probationers) - to all other apprentices	21.20 p.d. 24.60 p.d.
8.2.1	If employer provides or offers to provide transport free of charge - to first year apprentices - to all other apprentices	8.40 p.d. 9.90 p.d.
9.3.3	Meal allowance: - after working in excess of four hours - for each subsequent meal	15.70 13.40
9.8	Tea Money: - required to work overtime for one and a half hours or more without being notified on the previous day or earlier, for a meal - after each four hours on continuous overtime, for each meal	15.70 13.70
14.4	Expenses of reaching home and of transporting tools from distant work	24.40
14.5.1	Allowance for board and lodging: - while on distant work - for broken parts of week	528.70 p.w. 75.50 p.d.
14.6	Camping allowance	30.20 p.d.
14.7	Returning home for the weekend from distant work	41.80

22.6.2	Supply of boots	39.10
	Accrual of credit	4.60 p.w.
23.2	Reimbursement for loss of tools	1,880.80

P. M. KITE, Chief Commissioner.

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**CROWN EMPLOYEES (TRANSPORT DRIVERS, &C.) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Industrial Relations Secretary.

(Case No. 2018/178072)

Before Chief Commissioner Kite

22 June 2018

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

Clause No.	Subject Matter
1.	Title
2.	Rates of Pay
3.	Deduction of Union Membership Fees
4.	Shift Allowances
5.	Anti-Discrimination
6.	Grievance and Dispute Settling Procedures
7.	General
8.	Area, Incidence and Duration
9.	No Extra Claims

**PART B****MONETARY RATES**

Table 1 - Rates of Pay

**PART A****1. Title**

This award shall be known as the Crown Employees (Transport Drivers &c.) Award 2018.

**2. Rates of Pay**

The rates of pay are set out in Table 1 of Part B, Monetary Rates. The rates are provided by the Crown Employees Wages Staff (Rates of Pay) Award 2018.

**3. Deduction of Union Membership Fees**

- (i) The union shall provide the employer with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- (ii) The union shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.

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

#### 4. Shift Allowances

For the ordinary hours of shift, shift workers shall be paid the following loadings in addition to the rates prescribed for their respective classifications:

	Loadings per shift %
(a) ordinary afternoon or night shifts (other than shifts referred to hereunder).	15
(b) permanently working afternoon or night shifts or a combinations of such shifts.	30
(c) an ordinary shift, the major portion of which falls on a Saturday or Sunday shall in substitution for the loading specified in paragraphs (a) or (b) of this clause, be paid for at the rate of 50 per cent or 75 per cent respectively in addition to the ordinary rate for such shift.	
(d) where, at the employees own request and to suit the employees own personal requirements, any employee works permanently on a combination of such shifts, then, provided the employer notifies the union of the agreement in writing, and the union agrees, the employee shall be paid 15 per cent extra per shift in lieu of the shift loading of 30 per cent specified in paragraph (b) of this clause.	
(e) for an ordinary shift worked on a public holiday, an employee shall receive an additional one and half day's ordinary pay in addition to the normal shift payment calculated in accordance with paragraph (a) or (b) of this clause.	

#### 5. Anti-Discrimination

- (i) It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act* 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.
- (iii) Under the *Anti-Discrimination Act* 1977, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

- (iv) Nothing in this clause is to be taken to affect:
  - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (b) offering or providing junior rates of pay to persons under 21 years of age;
  - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - (d) a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

### **6. Grievance and Dispute Settling Procedures**

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



### 7. General

- (i) Except as otherwise provided for in this award, the provisions of the Transport Industry (State) Award shall apply.
- (ii) For employees engaged under the *Government Sector Employment Act 2013* the provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or its replacement, shall apply in respect of the following entitlements:

Recreation Leave  
 Extended Leave  
 Sick Leave  
 FACS Leave

### 8. Area, Incidence and Duration

- (i) This award shall apply to all employees in the classifications specified in Table 1 - Rates of Pay, of Part B, Monetary Rates, of this Award and clause 1 of the Transport Industry (State) Award, employed in organisations to which the *Government Sector Employment Act 2013* applies.
- (ii) This Award rescinds and replaces the Crown Employees (Transport Drivers &c.) Award published 15 January 2016 (378 I.G. 1536) and all variations thereof.

### 9. No Extra Claims

- (i) 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 NSW Industrial Relations Commission 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.

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.

## PART B

### MONETARY RATES

Table 1 - Rates of Pay

Clause 2 Wages	Classification	Weekly Rate FFPP 1.7.18 \$
1. Drivers of motor wagons - having a manufacturer's gross vehicle mass in kilograms		
(a)	Up to 295 -	936.10
(b)	Over 2950 and up to 4650	944.10
(c)	Over 4650 and up to 6250	951.70
(d)	Over 6250 and up to 7700	951.70
(e)	Over 7700 and up to 9200	961.80
(f)	Over 9200 and up to 10800	961.80
(g)	Over 10800 and up to 12350	970.20
(h)	Over 12350 and up to 13950	970.20
(i)	Over 13950 and up to 15500	977.80
(j)	Over 15500 and up to 16950	987.30
(k)	Over 16950 and up to 18400	987.30
(l)	Over 18400 and up to 19750	987.30
(m)	Over 19750 and up to 21100	987.30
(n)	Over 21100 and up to 22450	994.90

(o)	Over 22450 and up to 23850	994.90
(p)	Over 23850 and up to 25200	994.90
(q)	Over 25200 and up to 26550	1004.70
(r)	Over 26550 and up to 27900	1004.70
(s)	Over 27900 and up to 29300	1004.70
(t)	Over 29300 and up to 30650	1004.70
(u)	Over 30650 and up to 32000	894.30
(v)	Over 32000 and up to 33350	894.30
(w)	Over 33350 and up to 34750	1022.60
(x)	Over 34750 and up to 36100	1022.60
(y)	Over 36100 and up to 37450	1022.60
(z)	Over 37450 and up to 38800	1022.60
(aa)	Over 38800 and up to 40200	1032.80
(ab)	Over 40200 and up to 41550	1032.80
(ac)	Over 41550 and up to 42900	1032.80
(ad)	Over 42900 and up to 44250	1041.30
(ae)	Over 44250 and up to 45650	1041.30
2. Drivers of mobile cranes		
- employed in connection with the carriage and delivery of goods, merchandise and the like and/or in the performance of work incidental to the loading, unloading, handling and/or placement of goods		
- where the mobile crane has a lifting capacity in kilograms		
(a)	Up to and not exceeding 3050	951.70
(b)	Over 3050 and not exceeding 5100	961.80
(c)	Over 5100 and not exceeding 6100	970.20
(d)	Over 6100 and not exceeding 7100	970.20
(e)	Over 7100 and not exceeding 8100	970.20
(f)	Over 8100 and not exceeding 9150	970.20
(g)	Over 9150 and not exceeding 10150	977.80
(h)	Over 10150 and not exceeding 11200	977.80
(i)	Over 11200 and not exceeding 12200	977.80
(j)	Over 12200 and not exceeding 13200	987.30
(k)	Over 13200 and not exceeding 14200	987.30
(l)	Over 14200 and not exceeding 15250	987.30
(m)	Over 15250 and not exceeding 16250	987.30
(n)	Over 16250 and not exceeding 17250	994.90
(o)	Over 17250 and not exceeding 18300	994.90
(p)	Over 18300 and not exceeding 19300	994.90
(q)	Over 19300 and not exceeding 20300	994.90
(r)	Over 20300 and not exceeding 21350	1004.70
(s)	Over 21350 and not exceeding 22350	1004.70
(t)	Over 22350 and not exceeding 23350	1004.70
(u)	Over 23350 and not exceeding 24400	1004.70
(v)	Over 24400 and not exceeding 25500	1004.70
(w)	Over 25500 and not exceeding 26400	1004.70
(x)	Over 26400 and not exceeding 27450	1004.70
(y)	Over 27450 and not exceeding 28450	1012.60
(z)	Over 28450 and not exceeding 29450	1012.60
(aa)	Over 29450 and not exceeding 30500	1004.70
And for each additional 1000 kg or part thereof over - 37cents		
3. Drivers of fork lifts - of a capacity		
(a)	Up to 4500 kg	951.70
(b)	Over 4500 to 9100	970.20
(c)	Over 9100 kg	977.80

4. Drivers of prime movers where the crane has a lifting capacity of where the crane has a lifting capacity of		
(a)	Up to 20350 kg	961.80
(b)	Over 20350 kg	987.30
5. Extra Hands		915.40

P. M. KITE, Chief Commissioner.

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(4236)

**SERIAL C8853**

## **CROWN EMPLOYEES WAGES STAFF (RATES OF PAY) AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Industrial Relations Secretary.

(Case No. 2018/179469)

Before Chief Commissioner Kite

22 June 2018

### **AWARD**

### **PART A**

#### **1. Arrangement**

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

#### PART A

- |     |                                    |
|-----|------------------------------------|
| 1.  | Arrangement                        |
| 2.  | Title                              |
| 3.  | Coverage                           |
| 4.  | No Extra Claims                    |
| 5.  | Wages and Allowances               |
| 6.  | Facilitative Arrangement           |
| 7.  | Salary Packaging Arrangements      |
| 8.  | Carer's Leave                      |
| 9.  | Anti-Discrimination                |
| 10. | Dispute Resolution Procedures      |
| 11. | Deduction of Union Membership Fees |
| 12. | Area, Incidence and Duration       |

Schedule A - List of Awards and Agreements Affected

#### PART B

#### MONETARY RATES

Schedule B - Rates of Pay

Schedule C - Work Related Allowances

Schedule D - Expense Related Allowances

#### **2. Title**

This award shall be known as the Crown Employees Wages Staff (Rates of Pay) Award 2018.

#### **3. Coverage**

The provisions of this award shall apply to officers, departmental temporary employees and casual employees employed by the Government of NSW under the *Government Sector Employment Act 2013* who are covered by the provisions of the awards and agreements set out at Schedule A of this Award (with the exception of the New South Wales Health Service, New South Wales Ambulance Service and Division of Analytical Laboratories).

#### 4. No Extra Claims

- (i) This Award provides rates of pay increases to the instruments listed at Schedule A of 2.5% with effect from the first full pay period to commence on or after 1 July 2018.
- (ii) 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 NSW Industrial Relations Commission 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.

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.

#### 5. Wages and Allowances

- (i) Wage rates and allowances are set out in Part B.
- (ii) The wage increases referred to in clause 4(i) of this award shall only be paid to those employees who are employed as at the date of the making of this award.
- (iii) The increases referred to in clause 4(i) of this award do not apply to expense related allowances as set out in Schedule D of Part B.

#### 6. Facilitative Arrangement

- (i) The purpose of this arrangement is to facilitate agency level bargaining on classification structures.
- (ii) Specifically, the industrial parties are committed to the introduction of classification structures which provide a career path for trades and wages staff, recognise the importance of training and provide for appropriate progression. These arrangements are to be developed on an agency by agency basis. The parties at the sector-wide level are to establish minimum standards to include in the Crown Employees Wages Staff Rates of Pay Award.
- (iii) Further achievement of agency level outcomes should be achieved through:
  - (a) Each agency that has not implemented a skills based classification structure is to establish a joint union and management committee.
  - (b) Where applicable, the Industrial Relations Secretary and Unions NSW may seek quarterly progress reports on agency level committee negotiations.
  - (c) The committee is to consider the existing arrangements in an agency, review the arrangements achieved already in other agencies, and establish negotiation parameters including:
    - (1) the development of level descriptors;
    - (2) identification of structured training for the purposes of the level descriptors; and
    - (3) translation of existing staff into any new structure.
  - (d) It is anticipated that agency level committees will complete their negotiations by the making of appropriate agency level industrial instruments. Such agency level arrangements will be reviewed by Unions NSW and the Industrial Relations Secretary to establish minimum standards in the sector-wide Wages Staff Rates of Pay Award.
  - (e) The usual Dispute Resolution procedures as set out in clause 10 will be followed by the industrial parties in the context of these negotiations.

- (f) Should the agency level bargaining not be likely to be settled by the wages unions claim for a particular agency, then either party may seek the assistance of the Industrial Relations Commission of NSW through either conciliation and/or arbitration.

#### **7. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation**

- (i) The entitlement to salary package in accordance with this clause is available to:
  - (a) permanent full-time and part-time employees;
  - (b) temporary employees, subject to the Department or agency's convenience; and
  - (c) casual employees, subject to the Department or agency's convenience, and limited to salary sacrifice to superannuation in accordance with subclause (vii).
- (ii) For the purposes of this clause:
  - (a) "salary" means the salary or rate of pay prescribed for the employee's classification by clause 5, Wages and Allowances, Part B of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.
  - (b) "post compulsory deduction salary" means the amount of salary available to be packaged after payroll deductions required by legislation or order have been taken into account. Such payroll deductions may include, but are not limited to, taxes, compulsory superannuation payments, HECS payments, child support payments, and judgement debtor/garnishee orders.
- (iii) 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:
  - (a) a benefit or benefits selected from those approved by the Industrial Relations Secretary; and
  - (b) 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.
- (iv) An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.
- (v) The agreement shall be known as a Salary Packaging Agreement.
- (vi) Except in accordance with subclause (vii), 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.
- (vii) Where an employee makes an election to sacrifice a part or all of their post compulsory deduction salary as additional employer superannuation contributions, the employee may elect to have the amount sacrificed:
  - (a) paid into the superannuation fund established under the *First State Superannuation Act 1992*; or
  - (b) where the employer is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or
  - (c) subject to the Department or agency's agreement, paid into another complying superannuation fund.
- (viii) 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.

- (ix) Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:
- (a) *Police Regulation (Superannuation) Act 1906*;
  - (b) *Superannuation Act 1916*;
  - (c) *State Authorities Superannuation Act 1987*; or
  - (d) *State Authorities Non-Contributory Superannuation Act 1987*,
- the employee's Department 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.
- (x) 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 (ix) 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.
- (xi) Where the employee makes an election to salary package:
- (a) subject to Australian Taxation law, the amount of salary packaged will reduce the salary subject to appropriate PAYG taxation deductions by the amount packaged; and
  - (b) any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this Award or any applicable Award, Act or statute which is expressed to be determined by reference to the employee's rate of pay, shall be calculated by reference to the rate of pay which would have applied to the employee under clause 5, Wages and Allowances, or Part B of this Award if the Salary Packaging Agreement had not been entered into.
- (xii) The Industrial Relations Secretary may vary the range and type of benefits available from time to time following discussion with the Unions NSW and unions. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.
- (xiii) The Industrial Relations Secretary will determine from time to time the value of the benefits provided following discussion with the Unions NSW and unions. 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.

## 8. Carer's Leave

- (i) Use of Sick Leave:
- (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph 8(i)(c)(2) shall be entitled to use, in accordance with this subclause, any sick leave accruing from 1 January 1998 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.
  - (b) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned.
  - (c) The entitlement to use sick leave in accordance with this subclause is subject to:
    - (1) the employee being responsible for the care of the person concerned; and

(2) the person concerned being:

- (i) a spouse of the employee; or
- (ii) a de facto spouse, who, in relation to the employee, is a person of the opposite sex to the employee who lives with the employee as the husband or wife of the employee 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 or legal guardian), grandparent, grandchild or sibling of the employee or of the spouse or de facto spouse of the employee; or
- (iv) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (v) a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:

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

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

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

- (d) 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 the absence.
- (ii) Unpaid Leave for Family Purpose: An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subparagraph 8(i)(c)(2) who is ill.
- (iii) Annual Leave:
  - (a) An employee may elect, with the consent of the employer, subject to annual leave provisions applicable to employees covered by this award, 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.
  - (b) Access to annual leave, as prescribed in paragraph 8(iii)(a) above, shall be exclusive of any shutdown period provided for elsewhere under the industrial instruments covered by this award.
  - (c) Where applicable, an employee and employer may agree to defer payment of annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- (iv) Time Off in Lieu of Payment for Overtime:
  - (a) 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.
  - (b) 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.
  - (c) If, having elected to take time as leave in accordance with paragraph 8(iv)(a) above, the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.



- (d) Where no election is made in accordance with the said paragraph 8(iv)(a), the employee shall be paid overtime rates in accordance with the award.
- (v) Make-up Time:
  - (a) 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.
- (vi) Bereavement Leave:
  - (a) An employee other than a casual employee shall be entitled to up to two days Bereavement Leave without deduction of pay on each occasion of the death of a member of a class of person set out in subparagraph 8(i)(c)(2) above.
  - (b) The employee must notify the employer as soon as practicable of the intention to take Bereavement Leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.
  - (c) Bereavement Leave shall be available to the employee in respect of the death of a person in relation to whom the employee could have utilised Carer's Leave as prescribed by this clause. The employee need not have been responsible for the care of the person concerned to be eligible for Bereavement Leave as prescribed in this subclause.
  - (d) An employee shall not be entitled to Bereavement Leave under this clause during any period in respect of which the employee has been granted other leave.
  - (e) Bereavement leave may be taken in conjunction with any other leave available to employees. Where such other available leave is to be taken in conjunction with Bereavement Leave, consideration will be given to the circumstances of the employee and the reasonable operational requirements of the employer.

### 9. Anti-Discrimination

- (i) It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award that, 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

Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

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."

### **10. Dispute Resolution Procedures**

Subject to the provisions of the *Industrial Relations Act 1996*, all disputes relating to the provisions of this Award shall be dealt with in the following manner so as to ensure the orderly settlement of the matters in question:

- (i) Any grievance or dispute which arises shall, where possible, be settled by discussion on the job between the staff member and the immediate supervisor.
- (ii) If the matter is not resolved at this level, it will be further discussed between the staff member and the union delegate/employees representative and the employer.
- (iii) If no agreement is reached within a reasonable time period, the union or the employees representative will discuss the matter with the staff member's nominated representative.
- (iv) While the foregoing procedure is being followed, work shall continue normally. No part shall be prejudiced as to the final settlement by the continuance of work in accordance with this subclause.
- (v) Should the matter still not be resolved within a reasonable time period, it may be referred to the Industrial Relations Commission of New South Wales for settlement by either party.

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

- (i) The union shall provide the employer with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- (ii) The union shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.
- (iii) Subject to 11(i) and (ii) above, the employer shall deduct union fortnightly membership fees from the pay of any employee who is a member of the union in accordance with the union's rules, provided that the employee has authorised the employer to make such deductions.
- (iv) Monies so deducted from employee's pay shall be forwarded regularly to the union together with the necessary information to enable the union to reconcile and credit subscriptions to employees' union membership accounts.
- (v) Unless other arrangements are agreed to by the employer and the union, all union membership fees shall be deducted on a fortnightly basis.
- (vi) Where an employee has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

## 12. Area, Incidence and Duration

The provisions of this Award shall apply to officers, departmental temporary employees and casual employees employed by the Government of NSW under the *Government Sector Employment Act 2013* in classifications covered by the provisions of the awards and agreements set out at Schedule "A" of this Award (with the exception of the New South Wales Health Service, New South Wales Ambulance Service and Division of Analytical Laboratories) and will not apply to employees covered by the Taronga Conservation Society Australia Wages Employees' Award.

This award rescinds and replaces the Crown Employees Wages Staff (Rates of Pay) Award 2017 published 18 August 2017 (381 I.G. 463).

This Award shall take effect from the beginning of the first full pay period to commence on or after 1 July 2018 and shall remain in force until 30 June 2019.

### SCHEDULE A - LIST OF AWARDS AND AGREEMENTS AFFECTED BY THE CROWN EMPLOYEES WAGES STAFF (RATES OF PAY) AWARD 2018

1. (013) Crown Employees (Security and General Services) Award
2. (256) Crown Employees (Skilled Trades) Award
3. (745) Crown Employees (Transport Drivers, &c) Award
4. (1565) Farm Assistants (Department of Education and Communities) Wages and Conditions Award
5. (045) Crown Employees (Household Staff - Department of Education) Wages and Conditions Award
6. (1611) Crown Employees (NSW Department of Justice) - Museum of Applied Arts and Sciences Electrical Preparators Award
7. (1511) Crown Employees Conservation Field Officers (Department of Industry, Skills, and Regional Development and NSW Office of Environment and Heritage) Reviewed Award 2018
8. (1298) Crown Employees (Office of Environment and Heritage - Royal Botanic Gardens and Domain Trust, Building and Mechanical Trades Employees) Award 2018

## PART B

### MONETARY RATES

#### SCHEDULE B - RATES OF PAY

##### Crown Employees (Security and General Services) Award - Rates of Pay

Clause 7 Rates of Pay Classification	Per week as at 1.7.17 \$	Per week as at 1.7.18 \$
<b>Security Officer</b>		
Grade 1	889.90	912.10
Grade 2	921.10	944.10
Grade 3	963.20	987.30
<b>General Services Officer</b>		
Grade 1	794.10	814.00
Grade 2	862.50	884.10
Grade 3	889.90	912.10
<b>Part-time Employees (Per hour) -</b>		
General Services Officer Grade 2 (Cleaners)	24.54	25.15

## Application to school based employees of the Department of Education

Clause 7 Rates of Pay Classification	Per week as at 1.7.17 \$	Per week as at 1.7.18 \$
Security Officer		
Grade 1	959.20	983.20
Grade 2	992.60	1017.40

**Crown Employees (Skilled Trades) Award - Rates of Pay**

Classification - Clause 3. All up Rate - includes Industry Allowance, Special loading, Trade Allowance Classification	Per week as at 1.7.17 \$	Per week as at 1.7.18 \$
Bespoke Bootmaker	938.30	961.80
Blacksmith	1026.40	1052.10
Body Maker, First Class	1016.20	1041.60
Boilermaker and/or Structural Steel Tradesperson	1016.20	1041.60
Boot or Shoe Repairer	921.10	944.10
Bricklayer	1016.20	1041.60
Bridge and Wharf Carpenter	1016.20	1041.60
Cabinet Maker	1054.60	1081.00
Carpenter and/or Joiner	1016.20	1041.60
Coach and/or Spray Painter	1016.20	1041.60
Drainer	1026.40	1052.10
Electrical Fitter	1083.60	1110.70
Electrical Instrument Fitter	1134.80	1163.20
Electrical Mechanic	1083.60	1110.70
Electrician in Charge of Plant having a capacity of 75 Kilowatts or more	1155.40	1184.30
Electrician in Charge of Plant having a capacity of less than 75 Kilowatts	1103.50	1131.10
Electronics Tradesperson	1245.00	1276.10
Farrier	1026.40	1052.10
Fitter	1016.20	1041.60
Forger and/or Faggoter	1016.20	1041.60
French Polisher	1054.60	1081.00
Machinist, A Grade (Woodworking)	1016.20	1041.60
Machinist, First Class (Metal Trades)	1034.30	1060.20
Marker-off	1026.40	1052.10
Mechanical Tradesperson - Special Class (as defined)	1072.80	1099.60
Motor Mechanic	1016.20	1041.60
Painter	1016.20	1041.60
Panel Beater	1016.20	1041.60
Patternmaker	1046.70	1072.90
Plant Electrician	1143.90	1172.50
Plant Mechanic	1016.20	1041.60
Plasterer	1016.20	1041.60
Plumber and/or Gasfitter	1026.40	1052.10
Radio Mechanic or Fitter	1083.60	1110.70
Refrigeration and/or Air Conditioning	1083.60	1110.70
Saw Doctor	1083.60	1110.70
Sawyer, No. 1 Benchperson	1034.30	1060.20
Scalemaker and/or Adjuster	1016.20	1041.60
Scientific Instrument Maker	1046.70	1072.90
Sewing Machine Mechanic	1016.20	1041.60
Sheetmetal Worker, First Class	1016.20	1041.60
Shipwright and/or Boatbuilder	1016.20	1041.60
Signwriter	1046.70	1072.90

Slater and Tiler	1016.20	1041.60
Stonemason	1016.20	1041.60
Stonemason-Carver	1083.60	1110.70
Tilelayer	1016.20	1041.60
Toolmaker	1046.70	1072.90
Toolsmith	1026.40	1052.10
Trimmer (Motor)	1016.20	1041.60
Turner	1016.20	1041.60
Watchmaker	997.75	1022.70
Welder, Special Class	1026.40	1052.10
Welder, First Class	1016.20	1041.60

Wages for Apprentices - Apprentices shall receive as minimum weekly rates of pay, the following:

(i)

Four Year Term	Per week as at 1.7.17 \$	Per week as at 1.7.18 \$
1st year	439.30	450.30
2nd year	578.00	592.40
3rd year	740.30	758.80
4th year	853.90	875.20

Wages for apprentices employed by the Department of Education

Four Year Term	Per week as at 1.7.17 \$	Per week as at 1.7.18 \$
1st year	473.80	485.60
2nd year	623.20	638.80
3rd year	798.30	818.30
4th year	921.10	944.10

- (ii) An apprentice who has passed the prescribed annual technical college examinations for the preceding year shall be paid an additional weekly allowance of \$1.17. Payment of this allowance is subject to a satisfactory report as to conduct, punctuality and workshop progress by his/her supervisor. Such additional allowance shall be payable from the beginning of the first pay period commencing in January following the examinations.
- (iii) An apprentice who, in any year fails to complete a subject or subjects but completes them concurrently with passing the succeeding year's examinations, shall be deemed to qualify for payment of the allowance specified in this subclause for the succeeding year as if he had not initially failed to complete the subject or subjects.
- (iv) All wages shall be paid on a weekly basis: It shall be an implied term of any contract of apprenticeship that the employing Authority may deduct from the weekly wage of an apprentice an amount proportionate to the time lost by an apprentice for any reason not considered satisfactory to the employing Authority.
- (v) Apprentice patternmakers shall be paid the sum of \$1.17 per week in addition to the wage rates prescribed for apprentices in subclause (i).

**Crown Employees (Transport Drivers, &c.) Award - Rates of Pay**

Clause 2 Wages	Classification	Per week as at 1.7.17 \$	Per week as at 1.7.18 \$
<b>1. Drivers of motor wagons - having a manufacturer's gross vehicle mass in kilograms</b>			
(a)	Up to 295 -	913.30	936.10
(b)	Over 2950 and up to 4650	921.10	944.10
(c)	Over 4650 and up to 6250	928.50	951.70
(d)	Over 6250 and up to 7700	928.50	951.70
(e)	Over 7700 and up to 9200	938.30	961.80
(f)	Over 9200 and up to 10800	938.30	961.80
(g)	Over 10800 and up to 12350	946.50	970.20
(h)	Over 12350 and up to 13950	946.50	970.20
(i)	Over 13950 and up to 15500	954.00	977.80
(j)	Over 15500 and up to 16950	963.20	987.30
(k)	Over 16950 and up to 18400	963.20	987.30
(l)	Over 18400 and up to 19750	963.20	987.30
(m)	Over 19750 and up to 21100	963.20	987.30
(n)	Over 21100 and up to 22450	970.60	994.90
(o)	Over 22450 and up to 23850	970.60	994.90
(p)	Over 23850 and up to 25200	970.60	994.90
(q)	Over 25200 and up to 26550	980.20	1004.70
(r)	Over 26550 and up to 27900	980.20	1004.70
(s)	Over 27900 and up to 29300	980.20	1004.70
(t)	Over 29300 and up to 30650	980.20	1004.70
(u)	Over 30650 and up to 32000	872.50	894.30
(v)	Over 32000 and up to 33350	872.50	894.30
(w)	Over 33350 and up to 34750	997.70	1022.60
(x)	Over 34750 and up to 36100	997.70	1022.60
(y)	Over 36100 and up to 37450	997.70	1022.60
(z)	Over 37450 and up to 38800	997.70	1022.60
(aa)	Over 38800 and up to 40200	1007.60	1032.80
(ab)	Over 40200 and up to 41550	1007.60	1032.80
(ac)	Over 41550 and up to 42900	1007.60	1032.80
(ad)	Over 42900 and up to 44250	1015.90	1041.30
(ae)	Over 44250 and up to 45650	1015.90	1041.30

<b>2. Drivers of mobile cranes</b>			
- employed in connection with the carriage and delivery of goods, merchandise and the like and/or in the performance of work incidental to the loading, unloading, handling and/or placement of goods			
- where the mobile crane has a lifting capacity in kilograms			
(a)	Up to and not exceeding 3050	928.50	951.70
(b)	Over 3050 and not exceeding 5100	938.30	961.80
(c)	Over 5100 and not exceeding 6100	946.50	970.20
(d)	Over 6100 and not exceeding 7100	946.50	970.20
(e)	Over 7100 and not exceeding 8100	946.50	970.20
(f)	Over 8100 and not exceeding 9150	946.50	970.20
(g)	Over 9150 and not exceeding 10150	954.00	977.80
(h)	Over 10150 and not exceeding 11200	954.00	977.80
(i)	Over 11200 and not exceeding 12200	954.00	977.80
(j)	Over 12200 and not exceeding 13200	963.20	987.30
(k)	Over 13200 and not exceeding 14200	963.20	987.30
(l)	Over 14200 and not exceeding 15250	963.20	987.30
(m)	Over 15250 and not exceeding 16250	963.20	987.30
(n)	Over 16250 and not exceeding 17250	970.60	994.90

(o)	Over 17250 and not exceeding 18300	970.60	994.90
(p)	Over 18300 and not exceeding 19300	970.60	994.90
(q)	Over 19300 and not exceeding 20300	970.60	994.90
(r)	Over 20300 and not exceeding 21350	980.20	1004.70
(s)	Over 21350 and not exceeding 22350	980.20	1004.70
(t)	Over 22350 and not exceeding 23350	980.20	1004.70
(u)	Over 23350 and not exceeding 24400	980.20	1004.70
(v)	Over 24400 and not exceeding 25500	980.20	1004.70
(w)	Over 25500 and not exceeding 26400	980.20	1004.70
(x)	Over 26400 and not exceeding 27450	980.20	1004.70
(y)	Over 27450 and not exceeding 28450	987.90	1012.60
(z)	Over 28450 and not exceeding 29450	987.90	1012.60
(aa)	Over 29450 and not exceeding 30500	980.20	1004.70
And for each additional 1000 kg or part thereof over		0.36	0.37
3. Drivers of fork lifts - of a capacity			
(a)	Up to 4500 kg	928.50	951.70
(b)	Over 4500 to 9100	946.50	970.20
(c)	Over 9100 kg	954.00	977.80
4. Drivers of prime movers - where the crane has a lifting capacity of			
(a)	Up to 20350 kg	938.30	961.80
(b)	Over 20350 kg	963.20	987.30
5. Extra Hands		893.10	915.40

**Farm Assistants (Department of Education and Communities) Wages and Conditions Award - Rates of Pay**

Clause 9 - Wages	From 1.7.17 \$	From 1.7.18 \$
*Including Industry Allowance, Disability Allowance and Inclement Weather allowance		
Farm Assistant - Class I	938.30	961.80
Farm Assistant - Class II	1078.80	1105.80
Flower Gardener	969.20	993.40

**Crown Employees (Household Staff - Department of Education) Wages and Conditions Award - Rates of Pay**

Clause 4 - Wages	From 1.7.17 \$	From 1.7.18 \$
Household Staff Grade 1		
Kitchen Hand or Useful Cleaner	793.60	813.40
Room Attendant	793.60	813.40
Dining Room Attendant	793.60	813.40
Laundry Attendant	793.60	813.40
Stores Steward	793.60	813.40
Household Staff Grade 2		
Butcher (casual)	802.40	822.50
Cook (unqualified)	802.40	822.50
Household Staff Grade 3		
Laundry Supervisor	826.60	847.30
Cook (qualified)	826.60	847.30
Dining Room Supervisor	826.60	847.30
Housekeeper/Cleaning Supervisor	826.60	847.30
Household Staff Grade 4		
First Cook (qualified)	869.60	891.30
Household Staff Grade 5		
Catering Supervisor	908.40	931.10

**Crown Employees (NSW Department of Justice) - Museum of Applied Arts and Sciences Electrical Preparators Award - Rates of Pay**

Clause 6 - Wage Rates	From 1.7.17 (per year) \$	From 1.7.18 (per year) \$
<b>Electrical Preparator - Grade 1</b>		
Year 1	61,141.00	62,670.00
Year 2	62,822.00	64,393.00
Year 3	64,582.00	66,197.00
<b>Electrical Preparator - Grade 2</b>		
Year 1	67,030.00	68,706.00
Year 2	69,650.00	71,391.00
<b>Senior Electrical Preparator - Grade 1</b>		
Year 1	72,520.00	74,333.00
Year 2	73,840.00	75,686.00

**Crown Employees Conservation Field Officers (NSW Department of Industry, Skills, and Regional Development and NSW Office of Environment and Heritage) Reviewed Award 2018 - Rates of Pay**

Schedule 1 - Wage Rates	From 1.7.17 \$	From 1.7.18 \$
Trainee	888.10	910.30
Grade I	925.70	948.80
Grade II	975.80	1000.20
Grade III	1027.90	1053.60
Grade IV	1056.40	1082.80
Grade V	1116.00	1143.90
Grade VI	1189.60	1219.30
Grade VII	1248.90	1280.10

**Crown Employees (Office of Environment and Heritage - Royal Botanic Gardens and Domain Trust, Building and Mechanical Trades Employees) Award 2018 - Rates of Pay**

Classification	As at 1.7.17 \$	As at 1.7.18 \$
<b>Apprentice</b>		
Year 1 38 hpw	27533.60	28,222.00
Year 2 38 hpw	36712.40	37,630.00
Year 3 38 hpw	45889.30	47,037.00
Year 4 38 hpw	52008.50	53,309.00
<b>Trades Level 5/6</b>		
Yr 1 38 hpw	61185.30	62,715.00
Yr 2 38 hpw	62824.30	64,395.00
Yr 3 38 hpw	64584.20	66,199.00
Yr 4 38 hpw	66373.90	68,033.00
<b>Trades Level 7/8</b>		
Yr 1 38 hpw	68257.80	69,964.00
Yr 2 38 hpw	70296.60	72,054.00
Yr 3 38 hpw	72520.80	74,334.00
Yr 4 38 hpw	75475.90	77,363.00



**SCHEDULE C****WORK RELATED ALLOWANCES****Crown Employees (Security and General Services) Award - Work Related Allowances**

Clause 9 - Additional Rates		As at 1.7.17 \$	As at 1.7.18 \$
Clause 9 - Additional Rates			
(i)	Leading Hands Allowance: (per week)		
	1 - 5 employees	38.10	39.10
	6 - 10 employees	43.40	44.50
	11-15 employees	56.60	58.00
	16-20 employees	65.30	66.90
	Over 20 employees - for each employee over 20 an additional amount is paid	65.30 0.50	66.90 0.50
(ii)	Qualification allowance (per week)	25.60	26.20
(iii)	First Aid Allowance (per week)	19.70	20.20
(iv)	Boiler Attendants Certificate (per week)	16.70	17.10
(v)	Refrigeration Drivers Certificate (per week)	16.70	17.10
(iv)	Contingency Allowance (per week)		
	1-10 Hours per week	10.50	10.80
	11 to 25 hours per week	16.30	16.70
	26 to 38 hours per week	21.90	22.40
(vii)	Toilet allowance (per week)	13.10	13.40
(viii)	Multi-Purpose Machines Allowance - per shift	3.20	3.30
(ix)	Furniture removal allowance - per shift	3.20	3.30
(x)	Torches - per shift	1.04	1.05
(xi)	Laundry allowance - per shift	2.19	2.25
(xii)	Locomotion allowance - per shift	34.91	35.80
(xiii)	Bicycle allowance - per shift	2.76	2.85
Clause 10. Shift Allowances			
(ii) (a)	Broken Shifts allowance (per day)	16.002	16.40
(ii) (b)	Excess Fares allowance (per week)	10.10	10.40
Clause 13 - General Conditions			
(iii)	Accommodation deduction (per week)	20.00	20.50

Application to school based employees of the Department of Education

Clause 8 - Additional Rates		As at 1.7.17 \$	As at 1.7.18 \$
(i)	Leading Hands Allowance (per week)		
	1 - 5 employees	41.20	42.20
	6 - 10 employees	46.50	47.70
	11-15 employees	61.00	62.50
	16-20 employees	70.50	72.30
	Over 20 employees - for each employee over 20 an additional amount is paid	70.50 0.51	72.30 0.52
(v)	Contingency Allowance (per week)		
	1-10 Hours per week	11.30	11.60
	11 to 25 Hours per week	17.50	17.90
	26 to 38 Hours per week	23.60	24.20

**Crown Employees (Skilled Trades) Award - Work Related Allowances**

Clause No.	Brief Description	As at 1.7.17 \$	As at 1.7.18 \$
4.2	Carpenter Diver (p.w)	296.50	303.90
4.4	Electrician who is holder of a NSW electrician's licence: A Grade Licence (p.w.) B Grade Licence (p.w.)	49.30 26.50	50.50 27.20
4.5	Lead Burner (p.h.)	1.01	1.04
4.6	Plumber and Drainer when required to act on: plumbers licence (p.h.) gasfitters licence (p.h.) drainers licence (p.h.) plumbers and gasfitters licence (p.h.) plumbers and drainers licence (p.h.) gasfitters and drainers licence (p.h.) plumbers, gasfitters and drainers licence (p.h.)	1.29 1.29 1.06 1.72 1.72 1.72 2.37	1.32 1.32 1.09 1.76 1.76 1.76 2.43
4.7	Holder of Electric Welding [DIRE Certificate] (p.h.)	0.75	0.77
4.8	Boot or Shoe Repairer required to repair anatomical, surgical or orthopaedic boots or shoes (p.w.)	26.70	27.40
4.9	Shipwright-Boatbuilder, for: Liner Off, Loftsperson and Model Maker (p.h.)	1.37	1.40
4.1	Computing quantities (p.d.)	5.80	5.95
4.11	Joiner, Public Works and Education Departments: when working at regular place of employment (p.w.) when working away from regular place of employment (p.d.)	45.90 9.23	47.00 9.45
4.12	Registration allowance (p.h.)	0.98	1.00
4.13	Building tradesperson - Marking off/Setting out (p.w.)	1.23	1.30
4.14	Cold places: below 0 degree Celsius (p.h.) below minus 7 degrees Celsius (p.h.)	0.80 0.93	0.82 0.95
4.15	Confined spaces (p.h.)	0.99	1.01
4.16	Dirty work (p.h.) For Bridge and wharf carpenter who: uses material or liquid that is injurious to clothes or damages his/her tools (p.h.) is engaged in work where dirt or dust or other foreign matter or refuse has accumulated to become damaging to the clothes or tools or objectionable or injurious to the person. (p.h.) Shipwright Boat builder engaged in work as set out in subclause 5.16.2 (v) (p.h.)	0.80 0.81 0.80 0.80	0.82 0.83 0.82 0.82
4.17	Height money: 7.5 metres from ground, deck, floor or water (p.h.) for every additional 3 metres (p.h.)	0.80 0.16	0.82 0.16
4.18	Hot places: between 46 degrees Celsius and 54 degrees Celsius (p.h.) exceeds 54 degrees Celsius (p.h.)	0.80 0.99	0.82 1.01
4.19	Handling insulation material (p.h.)	0.97	0.99
4.20	Smoke boxes: repairs to smoke-boxes furnace or flues of boilers (p.h.) repairs to and while inside oil fired boilers (p.h.)	0.51 1.97	0.52 2.02
4.21	Wet places: - where water other than rain is falling and required to work in wet clothing or boots (p.h.) - when required to work in the rain (p.h.) - called upon to work on a raft, open board, punt or pontoon having a freeboard of 305m.m or less (p.d.) - called upon to work knee-deep in mud or water (p.d.)	0.80 0.80 3.02 6.28	0.82 0.82 3.10 6.45

4.22	Acid furnaces, Stills, etc.: Construction or repairs to acid furnaces, stills, towers and all other acid resisting brickwork (p.h.) Construction or alteration or repairs to boilers, flues, furnaces, retorts, kilns, ovens, ladles and similar refractory work (p.h.)	4.06 4.06	4.16 4.16
4.23	Towers allowances: construction exceeding 15 metres in height, and (p.h.) for each additional 15 metres (p.h.)	0.80 0.80	0.82 0.82
4.24	Depth exceeding 3 metres (p.h.)	0.80	0.82
4.25	Swing scaffolds: for the first four hours or any portion thereof, and (p.h.) for each hour thereafter (p.h.) Solid plasterers when working off a swing scaffold (p.h.)	5.85 1.20 0.16	6.00 1.23 0.16
4.26	Spray application (p.h.)	0.78	0.80
4.27	Soil pipes (p.h.)	0.99	1.01
4.28	Working on second-hand timber (p.d.)	3.13	3.20
4.29	Roof work: work in excess of 12 metres from the nearest floor level (p.h.) minimum payment (p.h.)	0.99 0.99	1.01 1.01
4.30	Electric welding (p.h.)	0.31	0.32
4.31	Explosive powered tools: employee required to use explosive powered tools (p.d.) bridge and wharf carpenter when required to use these tools (p.d.)	1.92 1.92	1.95 1.95
4.32	Scaffolding rigging (p.h.)	0.80	0.82
4.33	Corrective establishments (p.h.) Mental institutions (p.h.) Geriatric hospitals: Allandale, Garrawarra and Strickland Hospitals (p.h.) Geriatric hospitals:- Lidcombe Hospital (p.h.) Work in hot/cold water tanks for the purpose of the control of Legionella Pneumophilia (p.h.)	1.99 1.53 0.56 0.51 3.71	2.04 1.57 0.57 0.52 3.80
4.34	Distant places: - in districts as set out in subclause 5.3 (p.d.) - in western division of the state (p.d.) - within the area as set out in subclause 5.36.3 (p.d.) - Bridge and road construction within the area as set out in subclause 4.34.4 (p.d.)	1.53 2.50 2.50 1.42	1.55 2.55 2.55 1.45
4.36	Morgues (p.h.)	0.93	0.95
4.37	Application of epoxy based materials or materials of a like nature (p.h.) Application of such material in buildings which are normally air conditioned (p.h.) Working in close proximity to employees so engaged (p.h.)	0.99 0.68 0.80	1.01 0.70 0.82
4.38	Bricklayers laying other than standard bricks where block weighs: - over 5.5 kg and under 9 kg (p.h.) - 9 kg or over and up to 18 kg (p.h.) - over 18 kg (p.h.)	0.80 1.39 2.20	0.82 1.42 2.25
4.39	Bagging bricks or concrete structures (p.h.)	0.73	0.75
4.40	Cleaning down brickwork using acids or other corrosive substances (p.h.)	0.73	0.75
4.41	Materials containing asbestos (p.h.)	0.99	1.01
4.42	Operation of pneumatic tools of 2.75 kg or over (p.d.)	4.30	4.40
4.43	Operation of brick cutting machine (p.h.)	0.99	1.01
4.44	Asbestos eradication (p.h.)	2.65	2.72
4.45	Employee required to work in an Animal House (p.h.)	0.49	0.50

4.46	Employee of Roads and Traffic Authority, Illawarra region working in areas where coal wash is being unloaded, handled or spread (p.h.)	0.80	0.82
5.	Tool Allowance		
	Electrical Fitter	19.95	20.40
	Electrical Fitter/Mechanic	19.95	20.40
	Electrical Instrument Fitter	19.95	20.40
	Electrical Mechanic	19.95	20.40
	Electrician in charge of plant having a capacity of less than 75 kilowatts	19.95	20.40
	Electronic Tradesperson	19.95	20.40
	Electrical Instrument Fitter	19.95	20.40
	Plant Electrician	19.95	20.40
	Radio Mechanic and Fitter	19.95	20.40
	Refrigeration and/or Air Conditioning Mechanic	19.95	20.40
6.1	Employee appointed to be in charge of up to and including five employees (p.w)	50.40	51.70
6.2	Employee appointed to be in charge of more than five and up to and including ten employees (p.w.)	64.60	66.20
6.3	Employee appointed to be in charge of more than ten employees (p.w.)	84.40	86.50
15.1	Chokages pipe or pump (p.d.)	9.30	9.55
15.2	Fouled equipment (p.d.)	9.30	9.55
17.4	First Aid qualifications (p.d.)	3.47	3.55

Application to employees of the Department of Education

Clause No.	Brief Description	As at 1.7.17 \$	As at 1.7.18 \$
5	Tool Allowances - Electrical		
	Radio Mechanic and Fitter	21.80	22.30

**Farm Assistants (Department of Education and Communities) Wages and Conditions Award - Work Related Allowances**

Clause No.	Allowance	From 1.7.17 \$	From 1.7.18 \$
6. Special Rates			
6.6.1	Tractor operation (per day)	4.76	4.90
6.6.2	Truck driving (per day)	4.76	4.90
6.6.3	Headers, etc. (per day)	4.76	4.90
6.7	Broken Shift (per day)	14.4	14.75
6.9	Protective Clothing (per hour)	0.78	0.80
6.1	First Aid (per day)	3.62	3.70

**Crown Employees Conservation Field Officers (NSW Department of Industry, Skills, and Regional Development and NSW Office of Environment and Heritage) Reviewed Award 2018 - Work Related Allowances**

Clause No.	Description and Authority Allowance effective first pay period on or after	As at 1.7.17 \$	As at 1.7.18 \$
9.6	Supervision Allowance	46.05	47.20
16.	First Aid Allowance	3.39	3.45

**Crown Employees (Household Staff - Department of Education) Wages and Conditions Award - Work Related Allowances**

Allowance	From 1.7.17 \$	From 1.7.18 \$
Broken Shift Allowance	11.93	12.25

**Crown Employees (Office of Environment and Heritage - Royal Botanic Gardens and Domain Trust, Building and Mechanical Trades Employees) Award 2018 - Work Related Allowances**

Clause No.	Allowance effective first pay period on or after	From 1.7.2017 \$	From 1.7.2018 \$
	Brief Description		
7.3.1	Chokage (per hour)	1.24	1.27
7.3.2	Asbestos (per hour)	0.99	1.01
7.3.3	Plumbers Licence (per hour)	1.72	1.76
7.3.4	Plumbers Registration (per hour)	0.98	1.00

**SCHEDULE D**

**EXPENSE RELATED ALLOWANCES**

**Crown Employees (Security and General Services) Award - Expense Related Allowances**

Clause 8 - (xiii) Motor Vehicle allowance - Use of private motor vehicle during work related duties	As at 1.7.2017 \$	As at 1.7.2018 \$
Vehicles under 1600cc (Official business Rate - Engine rate per km)	0.66	0.66
Vehicles 1600cc-2600cc (Official business Rate - Engine rate per km)	0.66	0.66
Vehicles over 2601 cc (Official business Rate - Engine rate per km)	0.66	0.66

Clause 18 (ii) -Overtime	As at 1.7.2016 \$	As at 1.7.2018 \$
Overtime meal allowance	13.27	Per ATO determination

**Crown Employees (Skilled Trades) Award - Expense Related Allowances**

Clause No.		As at 1.7.2017 \$	As at 1.7.2018 \$
5.	Tool Allowances		
	Blacksmith	31.60	32.40
	Bodymaker, First Class	31.60	32.40
	Boilermaker and/or Structural Steel	31.60	32.40
	Bricklayer	22.60	23.20
	Bridge and Wharf Carpenter and/or Civil Engineering Construction Carpenter	31.60	32.40
	Cabinet Maker	12.80	13.10
	Carpenter	31.60	32.40
	Drainer	31.60	32.40
	Farrier	31.60	32.40
	Fitter	31.60	32.40
	Forger and/or Faggoter	31.60	32.40
	Machinist, First Class (Metal Trades)	31.60	32.40

	Machinist (Metal Trades) Special Class	31.60	32.40
	Marker Off	31.60	32.40
	Motor Mechanic	31.60	32.40
	Painter	7.70	7.90
	Panel Beater	31.60	32.40
	Patternmaker	31.60	32.40
	Plant Mechanic	31.60	32.40
	Plasterer	31.60	32.40
	Plumber	31.60	32.40
	Plumber and Gasfitter	31.60	32.40
	Plumber, Gasfitter and Drainer	31.60	32.40
	Sewing Machine Mechanic	31.60	32.40
	Sheetmetal Worker, First Class	31.60	32.40
	Shipwright/Boatbuilder	31.60	32.40
	Signwriter	7.70	7.90
	Slater and Tiler	16.50	16.90
	Stonemason	31.60	32.40
	Stonemason-Carver	31.60	32.40
	Tilelayer	22.60	23.20
	Toolmaker	31.60	32.40
	Toolsmith	31.60	32.40
	Trimmer (Motor)	31.60	32.40
	Turner	31.60	32.40
	Vehicle Builder	31.60	32.40
	Watchmaker	10.35	10.60
	Welder, Special Class	31.60	32.40
	Welder, First Class	31.60	32.40
8.1	Excess fares and travelling time to and from place of work	24.60	25.20
8.1.1	If employer provides or offers to provide transport free of charge	9.80	10.00
8.2	Excess fares and travelling to and from work:		
	- first year apprentices (or probationers)	20.70	21.20
	- to all other apprentices	24.00	24.60
8.2.1	If employer provides or offers to provide transport free of charge		
	- to first year apprentices	8.20	8.40
	- to all other apprentices	9.70	9.90
9.3.3	Meal allowance:		
	- after working in excess of four hours	15.30	15.70
	- for each subsequent meal	13.10	13.40
9.8	Tea Money:		
	- required to work overtime for one and a half hours or more without being notified on the previous day or earlier, for a meal	15.30	15.70
	- after each four hours on continuous overtime, for each meal	13.40	13.70
14.4	Expenses of reaching home and of transporting tools from distant work	23.80	24.40
14.5.1	Allowance for board and lodging:		
	- while on distant work	515.80	528.70
	- for broken parts of week	73.70	75.50
14.6	Camping allowance	29.60	30.20
14.7	Returning home for the weekend from distant work	40.80	41.80
22.6.2	Supply of boots	38.10	39.10
	Accrual of credit	4.50	4.60
23.2	Reimbursement for loss of tools	1834.90	1880.80

**Crown Employees Conservation Field Officers (NSW Department of Industry, Skills, and Regional Development and NSW Office of Environment and Heritage) Reviewed Award 2018 - Expense Related Allowances**

(Subject to variations to Table 1 - Allowances of Part B Monetary Rates of the Crown Employees (Public Service Conditions of Employment) Award.

Clause No.	Description and Authority	As at 1.7.17 \$	As at 1.7.18 \$
11.7	Meal Allowance (Overtime) Breakfast: where required to start work before 6.00 am Lunch: for overtime required to be worked after 1.30 pm on Saturdays, Sundays and public holidays Dinner: when required to work after 6.00 pm	Per ATO 29.40 29.40 29.40	Per ATO
14.1	Reimbursement of meal allowances - no overnight stay (Part day travel) Breakfast: when travel starts before 6.00 am Lunch: when employee unable to have lunch at normal workplace Dinner: when employee works and travels after 6.30 pm	Per ATO 25.90 29.15 49.65	Per ATO
14.2	Incidental Expenses Allowance when claiming actual expenses for overnight accommodation and meals or where accommodations provided by employer.	18.75	
14.4(i)	Camping Allowance  Established Camp Non established Camp Additional allowance in excess of 40 nights per annum	As at 1.7.17 (i.e. 2.4% March 2017 Sydney CPI) 32.30 42.70 10.20	As at 1.7.18 (i.e. 2.1% March 2018 Sydney CPI) 33.00 43.60 10.40
14.4(ii)	Camping equipment allowance Bedding and/or sleeping bag allowance	32.00 5.40	32.70 5.50

P. M. KITE, Chief Commissioner.

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**SERIAL C8857**

**PUBLIC HOSPITAL CAREER MEDICAL OFFICERS (STATE)  
AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 2018/199470)

Before Chief Commissioner Kite

2 July 2018

**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
7A.	Multiple Assignments
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:

$$\frac{\text{Annual Salary}}{52.17857} \quad \times \quad \frac{1}{38}$$

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.

#### **Clause 7A. Multiple Assignments**

- (i) Multiple assignments under this Award exist when an employee has more than one position under this Award within the NSW Health Service. Each of these positions are referred to in this clause as "assignments".
- (ii) An employee can only enter into a multiple assignment arrangement within this Award.
- (iii) Where an employee has multiple assignments, the employee will progress in accordance with clause 3 and clause 4.
- (iv) With the exception of subclause (iii) above, 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 Public Health Organisation

- (v) The following provisions apply to employees with two or more assignments within a single Public Health Organisation.
- (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 subclause 7 (i), Hours of Work.
- (c) Where the combined total number of ordinary hours worked under an employee's multiple assignments is equivalent to those set out in subclause 7 (i), Hours of Work, they will be considered as a full time employee for the purposes of the Award and:
1. that employee is entitled to additional days off in accordance with subclause (ii) of clause 7, Hours of Work

2. Subclause 7 (v) 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 paragraph (b) of this subclause, the Provisions of Part C - Permanent Part Time Career Medical Officers, of clause 3, Salaries shall apply.
- (e) 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 paragraphs (c) or (d) of this subclause.

#### Leave

- (f) All ordinary hours worked by an employee in multiple assignments shall count towards determining the employee's leave entitlements.
- (g) 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. Service in all assignments will be recognised for the purposes of paragraph (b) in subclause (i) of clause 14, Sick Leave.
- (h) Where an employee's combined total number of ordinary hours worked in their multiple assignments is equivalent to those set out in subclause (c) of this subclause, the additional leave shall accrue from both assignments in accordance with subclause (ii) of clause 12, Annual Leave.
- (i) Service in all assignments will be recognised for the purposes of entitlements under clause 21, Maternity, Adoption and Parental Leave.
- (j) 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

- (k) 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
- (l) 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.
- (m) 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.
- (n) 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 Public Health Organisations

- (vi) Assignments in different Public Health Organisations will be regarded as entirely separate for all purposes under the Award, including the accrual and taking of leave. The only exceptions are the provisions of subclause (iii) of this clause (regarding incremental progression) and:
- (a) At the time an employee commences an assignment in another Public Health Organisation the employee's accrued leave will be apportioned across their assignments (for example, a 0.6 full time equivalent Career Medical Officer who commences another 0.4 full time equivalent assignment in another Public Health Organisation 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 Public Health Organisations at the time this clause was inserted into 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 long service leave entitlements under the Award.
  - (d) Service in all assignments will be recognised for the purposes of entitlements under clause 21, 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/Carer's Leave as provided in clause 15.
  - (f) Service in all assignments will be recognised for the purposes of entitlements of Continuing Medical Education as provided in clause 17.
  - (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 clause 7, Hours of Work 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 Public Health Organisations, subclause (m) of this clause shall apply to those assignments which are within a single Public Health Organisation.

#### Changes to the composition of Public Health Organisations

- (vii) The employer and the Association agree to review this clause in the event that the boundaries of any Public Health Organisation change.
- (viii) Where any change to the boundaries of any Public Health Organisation 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.

### 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 subclause (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 sub clause (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 paragraph (i) of Part B, Personal/Carer's Leave, 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 subparagraph (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 paragraph (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 subparagraph (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 subparagraph (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 subparagraphs (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 subparagraph (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, Right to Request, 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* (NSW) 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 subparagraph (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 subparagraphs (i)(b) and (c) must be recorded in writing.

(iv) Where an employee wishes to make a request under subparagraph (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 paragraph (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 2019 by a party to this Award.

### 31. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2018 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 2017 made on 14 December 2018 (383 I.G. 1321 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 01/07/2018 \$
1	6	In Charge Allowance	35.10
2	11(iii)	On-call Allowance per on-call period which coincides with a day rostered on duty	38.40
		On-call allowance per on-call period which coincides with a rostered day off	76.90
		per week	269.10
3	16(ii)(a)	Uniform and Laundry Allowance	
		- Full uniform including special shoes	
		- if required (per week)	2.46
		- Other cases (per week)	1.81

P. M. KITE, Chief Commissioner.

Printed by the authority of the Industrial Registrar.

(564)

**SERIAL C8856****PUBLIC HOSPITAL MEDICAL OFFICERS (STATE) AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 2018/199448)

Before Chief Commissioner Kite

2 July 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 and Other Rates, 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 and Other Rates, 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 and Other Rates, 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 paragraph (i) of subclause 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 subparagraph (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 subparagraphs (ii)(e) - (h) of subclause 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 paragraph (i) of subclause 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 2019 by a party to this Award.

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

- (i) This Award takes effect from 1 July 2018 and shall remain in force for a period of one year.
- (ii) This Award rescinds and replaces the Public Hospital Medical Officers (State) Award made on 26 October 2017 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 01/07/2018 \$
1	5	In charge Allowance	20.40
2	11(ii)	Meal Allowance for overtime	30.10
		(a) Breakfast at or before 6.00 a.m.	30.10
		(b) Evening at least 1 hour after normal ceasing time and extends beyond or is worked wholly after 7.00 p.m.	30.10
		(c) Lunch beyond 2.00 p.m. Saturdays, Sundays or Holidays	30.10
3	12(iii)	On-call Allowance per on-call period which coincides with a day rostered on duty	15.90
		On-call allowance per on-call period which coincides with a rostered day off	31.80
		per week	111.00
4	21(ii)	Uniform and Laundry Allowance	
		- Full uniform including special shoes if required	2.46
		- Other cases	1.81

## PART C

Albury Base Hospital

Armidale and New England Hospital

Bathurst Base Hospital

South East Regional 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.

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(19190)

**SERIAL C8851****SERVICE NSW (SALARIES AND CONDITIONS) EMPLOYEES  
AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Service NSW.

(Case No. 2018/150804)

Before Chief Commissioner Kite

8 June 2018

**AWARD**

Clause No.      Subject Matter

**SECTION 1 - APPLICATION AND OPERATION**

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2. Definitions
3. Parties to the Award
4. Area, Incidence and Duration
5. Reward & Recognition Management
6. Consultative Mechanism

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ARRANGMENTS**

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10. Termination of Employment
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13. Additional Leave for Employees Working Extended  
Operating Hours
14. Meal Break
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Hours
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SCHEDULE A - Service NSW Salaries

SCHEDULE B - Service NSW Rates and Allowances

## **SECTION 1 - APPLICATION AND OPERATION**

### **1. Title**

- 1.1 This award shall be known as the Service NSW (Salaries and Conditions) Employees Award 2018.

### **2. Definitions**

- 2.1 "Association" means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales (PSA).
- 2.2 Award means the Service NSW (Salaries and Conditions) Employees Award 2018.
- 2.3 Daily rate or rate per day means the rate payable for 24 hours, unless otherwise specified.
- 2.4 Division Head means the Chief Executive Officer of Service NSW and includes the delegate of the Chief Executive Officer as appropriate.
- 2.5 "Employee" shall mean a person employed by Service NSW.



- 2.6 "Employer" shall mean Service NSW under delegation by the Industrial Relations Secretary pursuant to s50 of the *Government Sector Employment Act 2013*.
- 2.7 Extended leave means extended (long service) leave to which an employee is entitled under the provisions of Schedule 1 to the Government Sector Employment Regulation 2014, as amended from time to time.
- 2.8 Headquarters means the centre(s) to which an employee is attached, or from which an employee is required to operate on a long-term basis.
- 2.9 Overtime means all time worked, whether before or after the ordinary daily hours of duty, at the direction of the Division Head, which, due to its character or special circumstances, cannot be performed during the employees ordinary hours of duty.
- 2.10 "Parties" shall mean Service NSW and the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales (PSA).
- 2.11 Part-time entitlement, unless specified otherwise in this award, means pro rata of the full-time entitlements calculated according to the number of hours a staff member works in a part-time role or under a part-time arrangement.
- 2.12 Public holiday means a day proclaimed under Part 2 of the Public Holidays Act 2010, as a public holiday.
- 2.13 Service NSW, means the Public Service executive agency known as Service NSW, related to Department of Finance, Services and Innovation, or subsequent Department, established under Schedule 1 Part 2 of the *Government Sector Employment Act 2013* (NSW).
- 2.14 Public Service senior executive (PSSE) means the Chief and Public Service senior executives, employed pursuant to Division 4 of Part 4 of the *Government Sector Employment Act 2013*.
- 2.15 Temporary work location means the place at or from which an employee temporarily performs official duty if required to work away from headquarters.

### **3. Parties to the Award**

- 3.1 This Award has been made between Service NSW and the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales (PSA).

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

- 4.1 This Award applies to all employees of Service NSW.
- 4.2 The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) and rescinds and replaces the Service NSW (Salaries and Conditions) Employees Award 2016, published 24 June 2016 (379 I.G. 890).
- 4.3 This Award will come into effect on and from 1 July 2018 and will remain in force for 24 months.

### **5. Reward & Recognition Management**

- 5.1 Service NSW recognises the value to the organisation of rewarding staff commitment and outstanding performance. Service NSW will commit to the development of a reward and recognition system during the term of this Award. This process will be facilitated through the establishment of a reward and recognition working party and agreed terms of reference.

- 5.2 The aims of the Service NSW Reward & Recognition Management system are (consistent with the NSW Government Wages Policy):
- a) to establish a climate of continuous improvement within Service NSW.
  - b) to match individual objectives with Service NSW objectives and Corporate and Strategic Plans.
  - c) to provide a process that ensures open communication between staff and supervisors about the work they do, how it is done and how contribution is managed, recognised and rewarded.

## **6. Consultative Mechanism**

- 6.1 Service NSW will consult with its employees and the Association where the implementation of significant change is being considered. There shall be effective means of consultation on matters of interest and concern, both formal and informal, at all levels of the organisation, between the parties to this Award and employees. The consultative provisions are directed toward the development of a relationship of inclusion, involvement and mutual trust between the parties.

### Joint Consultative Committee (JCC)

- 6.2 Service NSW, delegates and Association representatives, will meet at least four (4) times per year, via a joint consultative committee process. The Joint Consultative Committee (JCC) will consist of senior Service NSW management representatives, Association representatives and site delegates, as appropriate. This Committee will meet to consult on matters which have organisational wide impact or implications and matters that have been escalated from local consultative committees.

### Local Consultative Committees

- 6.3 Local site Consultative Committees will be established at Service NSW workplaces to discuss local issues. The Committees will consist of representatives of local management and employees as well as an Association representative. These Committees will meet to consider local matters.
- 6.4 Local site Consultative Committees will meet where practical and provide updates to and/or refer unresolved matters to the Service NSW JCC.

### General Consultative Arrangements

- 6.5 When a change is proposed that will have an impact on the working arrangements of employees, including the introduction of technological change, Service NSW will consult with employees and the Association. Service NSW will provide relevant information about:
- a) The proposed change;
  - b) Effects on the employees;
  - c) The rationale for the proposed changes based on business needs; and
  - d) The proposed time frame and plan for managing the change.
- 6.6 Service NSW will meet with the affected employees and the Association and discuss the effects of the changes on the employee(s) concerned and measures proposed to avoid or otherwise minimise any possible adverse impact on affected employees.
- 6.7 The employees(s) will be given an opportunity and reasonable time to provide input and discuss the proposed change with the Association, to consider the change and respond to any proposed changes.
- 6.8 Service NSW will genuinely consider all input provided by employees and the Association and provide timely responses to matters raised.

When assessing strategies for managing change, Service NSW may consider a range of options to mitigate the impact on employees including, attrition, voluntary redundancy programs, job redesign, redeployment, training and development, use of leave by agreement and conversion to part-time employment.

- 6.9 Where matters cannot be resolved through the consultative process, any party may utilise the Grievance and Dispute Settling Procedure at Clause 45.

## SECTION 2 - EMPLOYMENT CONDITIONS AND ARRANGEMENTS

### 7. Service NSW - Classifications and Salaries

Salary rates for the following classifications shall be paid in accordance with Schedule A - Service NSW Salaries.

#### 7.1 Contact Centre

Classification	Minimum Starting Salary		Maximum Salary	
	Grade	Increment	Grade	Increment
Customer Concierge Operator	Grade 2	Year 1	Grade 2	Year 3
Customer Service Representative	Grade 3	Year 1	Grade 4	Year 3
Service Quality Coach	Grade 6	Year 1	Grade 7	Year 3
Team Leader	Grade 6	Year 1	Grade 7	Year 3
Call & Resource Planning Analyst	Grade 6	Year 1	Grade 7	Year 3
Assistant Manager	Grade 8	Year 1	Grade 9	Year 3
Contact Centre Manager				
Small	Grade 9	Year 1	Grade 10	Year 3
Medium	Grade 10	Year 1	Grade 11	Year 3
Large	Grade 11	Year 1	Grade 12	Year 3

#### 7.2 Service Centre

Classification	Minimum Starting Salary		Maximum Salary	
	Grade	Increment	Grade	Increment
Digital Service Representative	Grade 2	Year 1	Grade 3	Year 3
Customer Service Representative	Grade 3	Year 1	Grade 4	Year 3
Concierge	Grade 5	Year 1	Grade 6	Year 3
Service Co-ordinator	Grade 6	Year 1	Grade 6	Year 3
Customer Service Representative Driver Tester - Level 1*	Grade 5	Year 1	Grade 5	Year 1
Customer Service Representative Driver Tester - Level 2*	Grade 5	Year 2	Grade 5	Year 2
Customer Service Representative Driver Tester - Level 3*	Grade 5	Year 3	Grade 5	Year 3
Service Centre Manager				
Level 1	Grade 6	Year 1	Grade 7	Year 3
Level 2	Grade 7	Year 1	Grade 8	Year 3
Level 3	Grade 8	Year 1	Grade 9	Year 3
Level 4	Grade 9	Year 1	Grade 10	Year 3
Level 5	Grade 11	Year 1	Grade 11	Year 3
Customer Service Representative Driver Testers:				
*Appointment to Year 1 is based on the successful completion of Type 1 Driving Instructor Knowledge Test and Type 1 Driving Instructor Driving Test in a manual vehicle.				

Progression to Year 2 is subject to the successful completion of relevant training and assessment program/s and Service NSW business requirements.

Progression to Year 3 is subject to the successful completion of relevant training and assessment program/s and application of Heavy Vehicle Knowledge Test and Service NSW business requirements.

Progression within the levels for Driver Tester shall be based on the successful completion of relevant training and application, subject to Service NSW business requirements, of designated Driver Tester skills specified in the progression table below.

**Progression Criteria for Customer Service Representative Driver Tester classification**

Grade 5 Level 1	Grade 5 Level 2	Grade 5 Level 3
Car Class C	Car Aged Class C	
Car Driving Instructor Driving Test Class C	Heavy Vehicle LR to MR	Heavy Vehicle HR to HC
	Heavy Vehicle Aged LR to MR	Heavy Vehicle Aged HR to HC
	Heavy Vehicle Driving Instructor Driving Test LR to MR	Heavy Vehicle Driving Instructor Driving Test HR to HC
	Short Manual Truck Test (to remove condition B) LR to MR	Short Manual Truck Test (to remove condition B) HR to HC
	Disability Driving Test Class C to MR	Disability Driving Test HR to HC
	Test Course Design C to MR	Test Court Design HR to HC
	Motor Cycle	Heavy Vehicle Aged HR to HC
	Heavy Vehicle LR to MR	
Explanation of terms: <ul style="list-style-type: none"> <li>• MC - Multi Combination - road train or B-Double</li> <li>• HC - Heavy Combination - heavy articulated vehicle</li> <li>• HR - Heavy Rigid - heavy rigid truck or bus</li> <li>• MR - Medium Rigid - medium rigid truck or bus</li> <li>• LR - Light Rigid - small bus or truck</li> <li>• C - Car</li> </ul>		

**8. Forms of Employment**

- 8.1 Employees may be engaged as ongoing, temporary or casual, on either a full-time or part-time basis. Ongoing employment is to be the preferred form of employment for Service NSW.
- 8.2 Standard Hours - Full-Time
- A full-time employee is engaged as such, to work seventy (70) hours per fortnight.
- 8.3 Standard Hours - Part-Time
- A part-time employee is engaged as such, to work at least eight (8) hours per fortnight and less than seventy (70) hours per fortnight.
- 8.4 Temporary Service NSW Employee
- A temporary employee is a person engaged for a limited duration, on a full-time or part-time basis.
- 8.5 A person may be employed as a temporary employee in Service NSW:
- a) for the duration of a specified task or project, or
  - b) to carry out the duties of a role that is temporarily vacant, or

- c) to provide additional temporary assistance in a particular work area, or
  - d) in connection with the secondment or exchange of staff, or
  - e) to undertake a traineeship or cadetship, or
  - f) for any other temporary purpose.
- 8.6 The maximum period for which a temporary employee may be engaged is up to four (4) years. The maximum total period of 4 years may, with the approval of the Public Service Commissioner, be extended for an additional period of up to 12 months to a total of five (5) years.
- 8.7 The commencing and finishing times for each day are determined by local management.
- 8.8 The services of a temporary employee will be terminated:
- a) at the end of the period of employment; or
  - b) at any time by local management or the employee giving two (2) weeks' notice, or pay in lieu thereof.
- 8.9 The re-engagement of a temporary employee is subject to approval by the Chief Executive Officer of Service NSW, or their approved delegate.

#### Appointment of long term temporary employees

- 8.10 A long term temporary employee may, with the approval of the Division Head, be appointed to an ongoing role in Service NSW, if the Division Head has made a recommendation in accordance with this clause, for the appointment of the employee to the role, subject to the following requirements having been satisfied:
- a) Employment as a Service NSW temporary employee falls within a continuous employment period of at least 12 months.
  - b) The temporary employee must, at some stage of the temporary employment period, have been selected to perform duties at a grade that is the same as (or similar to) the grade of the role concerned (whether or not the duties of the role are substantially the same as the duties performed during the temporary employment), and
  - c) The temporary employee was performing duties at that grade following some form of open competition that involved the merit selection of the employee as the person who, in the opinion of the Division Head, had the greatest merit among the candidates concerned,
  - d) The rate of salary or wages proposed to be payable to the holder of the role concerned at the time of appointment must not exceed the maximum rate payable for Service NSW Grade 11.
  - e) The Division Head must be satisfied that ongoing work is available in respect of the employee and the role in Service NSW,
  - f) The Division Head must be satisfied that the employee has the qualifications, experience, standard of work performance and capabilities to enable the employee to perform the duties of the role concerned,
  - g) Appointment under this clause is not subject to probation, unless the Division Head otherwise directs.
- 8.11 Casual Employee
- A casual employee is any employee who works on an hourly basis as required, and is paid as such.

### 9. Service NSW Probation Period

- 9.1 All new ongoing employees, other than an employee who immediately prior to their employment in Service NSW was employed in the NSW Public Service in an ongoing role, will be subject to a minimum six (6) month probationary period.
- 9.2 Service NSW may extend the probationary period once, by up to three (3) months, to a maximum of nine (9) months.

### 10. Termination of Employment

- 10.1 Subject to clause 8.8 above, the services of an employee may be terminated by:
- a) resignation, i.e. voluntarily leaving the service of Service NSW
  - b) retirement
  - c) dismissal, or
  - d) redundancy
- 10.2 Period of notice
- a) With the exception of casual employees, two (2) weeks' notice of termination of employment by an employee or the employer shall be given and paid, or such further period as agreed by the employee and employer. Service NSW may require the employee to work for all or part of the notice period, with any remainder of the notice period to be paid out.
  - b) Employees over forty-five (45) years of age will be provided with an additional one (1) weeks' notice.
  - c) Notwithstanding anything contained in this clause, Service NSW may dismiss any staff member without notice for serious and wilful misconduct or neglect of duty. In such cases, salary and entitlements will only be paid up to the time of dismissal.
  - d) On termination, employees are required to return all property belonging to Service NSW. Employees may be required to compensate Service NSW for property which is not returned.

### 11. Spread of Operating Hours

The standard hours of work shall be worked within the spread of operating hours as follows:

- 11.1 Service NSW Service Centres
- a) Monday to Friday 6:30am to 7:30pm
  - b) Saturday 7:30am to 3:30pm
- 11.2 Service NSW Contact Centres
- a) Monday to Saturday 6:30am to 7:30pm
- 11.3 Service NSW Corporate Office
- a) Monday to Friday 6:30am to 7:30pm
- 11.4 In the event that Service NSW employs staff outside of the prescribed spread of operating hours, both parties agree to negotiate new provisions in respect of affected employees.

- 11.5 Local arrangements may be negotiated between the Division Head and the Association, and approved by the Secretary of Treasury, in respect of the whole of Service NSW, or part of Service NSW in respect of matters contained within the Award.

## 12. Extended Operating Hours

- 12.1 During the term of this Award Service NSW may introduce extended operating hours within Contact Centres.
- 12.2 Extended operating hours where introduced will be worked on the following basis:
- a) Contact centre employees already employed as at the date this Award commences to operate may only undertake extended hours by consent of the employee;
  - b) Contact centre employees commencing employment after the commencement of this Award, may be rostered to undertake extended operating hours on a rotational basis.
  - c) Extended operating hours will attract the following shift loading from Monday to Friday:
    - (i) commencing at or after 2.00pm and no later than 3.30pm 12.5%
  - d) Extended operating hours will attract the following shift loadings for work performed on weekends:
    - (ii) Saturday shifts, which are not a public holiday, at the rate of ordinary time and one half;
    - (iii) Sunday shifts, which are not a public holiday, at the rate of ordinary time and three quarters;

provided that extended operating hours on weekends will not extend beyond a finishing time of 11.00pm.
  - e) Where a contact centre employee works on a public holiday the employee will be paid at two and a half times the ordinary rate for all time worked. Such payment shall be in lieu of any shift loadings, including shift loadings for extended operating hours and weekend work.

## 13. Additional Leave for Employees Working Extended Operating Hours

- 13.1 Additional leave will be granted to employees working extended operating hours in accordance with clause 12 of this Award, on the following basis:

Number of ordinary shifts worked on Sunday and/or public holiday during a qualifying period of 12 months from 1 December to 30 November the following year	Additional Leave
4-10	1 additional day
11-17	2 additional days
18-24	3 additional days
25-31	4 additional days
32 or more	5 additional days

## 14. Meal Break

- 14.1 Meal breaks must be given to and taken by employees. No employee shall be required to work more than five (5) consecutive hours without a meal break.
- 14.2 A meal break shall be for a minimum of thirty (30) minutes duration. Local management has discretion to approve meals breaks up to one (1) hour duration.
- 14.3 Meal breaks are unpaid.

#### 14.4 Tea Breaks

- a) Employees may take a tea break of up to ten (10) minutes duration at a time convenient to the business needs of Service NSW.
- b) Time taken for such breaks shall be without interruption to service.

### **15. Change of Operating Hours Within the Spread of Hours**

15.1 Any change to the operating hours of a Service Centre or Contact Centre within the spread of hours as set out in clause 11 shall be subject to the General Consultative Arrangements as per clause 6, inclusive of the following consultative process:

- a) Service NSW shall notify employees in writing of any change to operating hours at least six (6) weeks in advance of the date on which the change is proposed to take place.

### **16. Ordinary Hours of Work**

#### 16.1 Full Time Employees

- a) The ordinary hours of work for full-time employees of Service NSW are seventy (70) hours per fortnight (Monday to Saturday), which are to be worked over a two (2) week roster cycle, within the spread of hours in clause 11.
- b) Full-time employees, in a Service Centre or Contact Centre shall be rostered to work their seventy (70) hours per fortnight in either nine (9) days or ten (10) days, Monday to Saturday in the two (2) week roster cycle, based on the operational needs of Service NSW.
- c) Full-time Service Centre and Contact Centre employees shall not be required to work more than five (5) consecutive days during the roster cycle.
- c) Subject to rostering arrangements of this Award, any other change to the days worked or the span of hours will be by agreement between Service NSW and the employee.
- d) Work undertaken on a Saturday will comprise part of an employee's standard hours of work over a two (2) week roster cycle. Employees shall not be required to work more than one (1) Saturday in two (2) except by way of mutual agreement.
- e) Work undertaken on a Saturday will be subject to the payment of a 50% loading, under subclause 18.2.
- f) The minimum hours to be rostered for work by employees on a Saturday shall be four (4).

#### 16.2 Part Time Employees

- a) Part-time work may be undertaken with the agreement of Service NSW.
- b) Unless otherwise specified in the award, part-time employees receive full time entitlements on a pro rata basis calculated according to the number of hours an employee works.
- c) A part-time employee is to work agreed contract hours, less than full-time hours. The part time contract hours are to reflect the regular and systematic hours worked by the part-time employee.
- d) Before commencing part-time work, Service NSW and the employee must agree upon:
  - (i) the hours to be worked by the employee, the days upon which they will be worked, commencing and ceasing times for the work unless rostered to work as part of a rotating roster, and whether hours may be rostered flexibly;



- (ii) whether flexible working hours provisions or standard hours provisions will apply to the part-time employee; and
  - (iii) the classification applying to the work to be performed.
- e) Part-time employees can agree to work additional ordinary hours of duty, at ordinary rates of pay up to thirty-five (35) hours per week. For the time worked in excess of the employee's usual hours and up to the normal full-time hours for the classification, part-time employees will:
- be paid for additional hours at their hourly rate plus a loading of 1/12th in lieu of recreation leave; or
- (i) if working under the Service NSW Flexible Working Hours Agreement, have the time worked credited as flex time.
  - f) Part-time work may be undertaken within the spread of hours, as set out in clause 11 - Spread of Operating Hours.
  - g) The hours of work shall be recorded in writing between the employee and Service NSW and advised to the employee in advance in accordance with clause 11 - Spread of Operating Hours.
  - h) The minimum hours to be worked by part-time employees on any rostered days, including Saturdays shall be four (4), however a part-time employee retains the right to elect a minimum of three (3) hours.
  - i) Part-time employees shall not be required to work more than five (5) consecutive days in any fortnight roster cycle, except by way of mutual agreement.
  - j) Part-time employees shall not be required to work more than one (1) Saturday in two (2) except by way of mutual agreement.
  - k) Service NSW can change the hours rostered within the specified span by giving four (4) weeks' notice and consulting with affected employees, taking into consideration any direct impact on personal responsibilities and/or individual circumstances. For the purposes of this paragraph, the specified spread of hours shall mean the band of ordinary hours of work that the part-time employee has agreed to work.
  - l) Subject to clause 17 - Rosters, any other change to the days worked or the spread of hours will be subject to prior agreement with and written approval by Service NSW.

### 16.3 Casual Employees

- a) Casual employees shall be engaged as such and work on an hourly basis for a minimum of four (4) hours per engagement, within the spread of hours as set out in clause 11. However a casual employee retains the right to elect a minimum of three (3) hours.
- b) Casual employees shall not be required to work more than five (5) consecutive days under any contract of employment, except by way of mutual agreement.
- c) Casual employees shall be paid the Monday to Friday ordinary hourly rate of pay for the classification in which they are employed, multiplied by 1.17, subject to subclause 18.3.
- d) The loading specified above recognises the casual nature of the employment and compensates the employee for all leave (other than Long Service Leave), and all other incidence of employment, except overtime.

## 17. Rosters

- 17.1 Rosters will be based on fortnightly periods and published four (4) weeks in advance. Rosters will be made accessible to employees.

- 17.2 In the event of an emergency, the hours of work and/or rostered starting and/or finishing times on any one day may be changed by way of mutual agreement.
- 17.3 Where less than seven (7) days' notice is given by Service NSW of a change to a roster by deleting or reducing the hours of a rostered day, any loading applicable to the original roster shall be paid in addition to the payment applicable to the work performed.
- 17.4 Mutual exchanges of rostered days between employees shall be subject to prior agreement of Service NSW.
- 17.5 Where employees are rostered in such a way that the days on which they are rostered to work fluctuates from week to week, an employee rostered off work on a public holiday being a day on which the employee usually works, may elect to be paid by one of the following methods, subject to mutual agreement from Service NSW:
- a) payment of an additional day's salary; or
  - b) addition of one day to the employee's annual holidays; or
  - c) an alternate day off with pay within 28 days after the public holiday falls, or during the week prior to the public holiday.
- Provided that for this clause "day" is the number of hours the employee would have worked were the employee rostered on that day.
- 17.6 Service NSW can, on up to three (3) Saturdays each calendar year, require employees to attend a training session within the spread of hours as set out in clause 11. The time spent on training will be adjusted as part of the employee's ordinary hours. The employee will be rostered off for one equivalent block of hours during that roster cycle or during either of the next two roster cycles.
- 17.7 Service NSW employees who are rostered free of duty on a public holiday due to working 9 days, Monday to Saturday in the two (2) week roster cycle under paragraph 16.1 (b) of the Award, are entitled to the provisions of clause 17.5 above.

### **18. Loadings for Certain Ordinary Hours**

- 18.1 Payment for all hours worked within the spread of operating hours Monday to Friday, shall be at the ordinary hourly salary rate.
- 18.2 For full-time and part-time employees, in Contact Centres and Service Centres, payment for all hours of duty on Saturday shall be at the ordinary hourly salary rate plus fifty (50) per cent.
- 18.3 For casual employees, the payment for all hours of duty on Saturday shall be 1.66 times the Monday to Friday ordinary hourly rate for the first level of the classification in which they are employed.
- 18.4 Where part-time employees work in excess of the rostered hours for a day and within the spread of operating hours of duty as set out in clause 11, Monday to Friday, payment for time worked in excess of the rostered hours shall be made at the ordinary hourly rate.
- 18.5 Where part-time employees are required to work in excess of the rostered hours on a Saturday, but within the spread of operating hours of duty for Saturday as set out in clause 11, a loading of fifty (50) per cent as prescribed in subclause 18.2 of this Part shall apply.

### **19. Overtime**

- 19.1 Full-time employees shall be paid overtime for all time worked:

- a) outside the spread of operating hours of duty as set out in clause 11 - Spread of Operating Hours, for which they are rostered.
  - b) before or after the daily ordinary hours of duty set out in the roster described in the provisions of clause 17 - Rosters, and worked within the spread of hours of duty as set out in clause 11 - Spread of Operating Hours.
- 19.2 Part-time employees and casual employees shall be paid for time worked in excess of the full-time hours of the classification, or outside the spread of operating hours of duty as set out in clause 11, at the appropriate overtime rate.
- 19.3 Where employees are rostered on six (6) consecutive days, work within the spread of operating hours of duty on the sixth day shall be paid at the overtime rate, and does not include loading in accordance with clause 18 - Loadings for Certain Ordinary Hours.

#### Overtime in General

- 19.4 Service NSW may require an employee to work reasonable overtime, payable at overtime rates.
- 19.5 An employee may refuse to work overtime in circumstances where the working of overtime would result in the employee working hours which are unreasonable. For the purposes of this paragraph, what is unreasonable or otherwise will be determined by having regard to:
- a) any risk to the employee's 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 Service NSW regarding the working of overtime, and by the employee of their intention to refuse the working of overtime; or
  - e) any other relevant matter.

#### Payment for Overtime

- 19.6 Payment for overtime shall be made only where the employee works directed overtime.
- 19.7 Overtime is not payable for time spent travelling.
- 19.8 Payment for overtime to employees shall be made at the following rates:
- a) For all time worked before the usual commencing time and after the usual ceasing time, Monday to Friday, at the rate of time and one-half for the first two (2) hours and double time thereafter;
  - b) Saturday - All overtime worked on a Saturday, at the rate of time and one-half for the first two (2) hours and double time thereafter;
  - c) Sunday - All overtime worked on a Sunday at the rate of double time;
  - d) Public Holiday - All time worked on a public holiday at the rate of double time and one-half.
  - e) An employee who works overtime on a Saturday, Sunday or public holiday shall be paid a minimum payment for three (3) hours work at the appropriate overtime rates.
  - f) An employee who is called out for emergency duty other than on days provided in paragraph (d) of this clause, shall be paid a minimum payment of three (3) hours work at overtime rates, provided that the hours paid for do not overlap with the employee's normal hours of duty.

- g) An employee whose salary exceeds the maximum rate for Service NSW Grade 9, as varied from time to time, shall be paid for working directed overtime at the maximum rate for Service NSW Grade 9, unless the Division Head approves payment for directed overtime at the employees appointed grade.

#### Calculation of Hourly Rate for Overtime

19.9 For the purpose of calculating the hourly rate, the following formula shall be used:

$$\text{Annual Salary} \quad \times \quad \frac{7}{365.25} \quad \times \quad \frac{1}{35}$$

#### Election to Take Leave in Lieu of Overtime

19.10 An employee who works overtime may within two (2) working days following such work, elect to take leave in lieu of payment for all or part of the employee's entitlement in respect of the overtime worked, as calculated in accordance with subclauses 19.8 and 19.9 of this clause. Provided that:

- a) Leave in lieu of payment shall be taken at a convenient time, by way of mutual agreement.
- b) Such leave in lieu shall accrue and be taken in rostered shift lengths only.
- c) The maximum period of leave in lieu that may be allowed in respect of any one period of overtime worked shall be one (1) seven (7) hour day.
- d) Leave in lieu shall be taken within three (3) months of the date of election, except in the case of leave in lieu in respect of work performed on a public holiday, in which case an employee may elect to have such leave in lieu added to annual leave credits.
- e) An employee shall be entitled to payment for the balance of any entitlements not taken as leave in lieu.

#### Meal Allowance - Overtime

19.11 Employees directed to work overtime for an hour and a half or more immediately after their finishing time, without being given twenty-four (24) hours notice beforehand of the requirement to work overtime, will either be supplied with a meal by Service NSW, or be paid the amount as set out at Item 4 of Schedule B for the first and for each subsequent meal occurring every four (4) hours thereafter.

19.12 Where the allowance payable under subclause 19.11 above is insufficient to reimburse the employee the cost of a meal, properly and reasonably incurred, Service NSW shall approve payment of actual expenses incurred by the employee.

### **20. On-Call (Stand-By) and On-Call Allowance**

20.1 An employee shall be:

- a) Entitled to be paid the on call allowance set out in Item 8 of Schedule B - Service NSW Rates and Allowances when directed by the Division Head to be on call or on standby for a possible recall to duty outside the employee's working hours;
- b) If an employee who is on call and is called out by the Division Head, the overtime provisions as set out in clause 19, Overtime of this award, shall apply to the time worked;
- c) Where work problems are resolved without travel to the place of work whether on a weekday, weekend or public holiday, work performed shall be compensated at ordinary time for the time actually worked, calculated to the next 15 minutes.

## 21. Public Holidays

- 21.1 Unless directed to attend for duty by Service NSW, an employee is entitled to be absent from duty without loss of pay on any day which is:
- a) A day proclaimed under Part 2 of the *Public Holidays Act 2010*, as a public holiday; and
  - b) A day between Boxing Day and New Year's Day, determined by the appropriate Division Head as a Public Service Holiday.

## 22. Flexible Work Practices

- 22.1 Nothing in this award shall affect the hours of duty of an employee who is covered by a written flexible working agreement negotiated under the Service NSW Flexible Working Guidelines, as amended from time to time.
- 22.2 Flexible working agreements negotiated in terms of the Service NSW Flexible Working Guidelines shall be subject to the conditions specified in this award.

## SECTION 3 - TRAVEL ARRANGEMENTS

### 23. Travelling Compensation

- 23.1 Any authorised official travel and associated expenses, properly and reasonably incurred by an employee required to perform duty at a location other than their normal headquarters shall be met by Service NSW.
- 23.2 This clause applies to employees who:
- a) are required to proceed on duty away from their normal headquarters;
  - b) cannot return to their normal headquarters on the day of departure; and
  - c) do not permanently change their headquarters.
- This clause does not apply to employees who are on an employee initiated secondment, for the initial travel to and from the new location.
- 23.3 The Division Head shall require employees to obtain an authorisation for all official travel prior to incurring any travel expense.
- 23.4 Service NSW will apply the rates as set at Schedule B - Rates and Allowances, for the following allowances:
- a) Travel allowances (involving overnight stay).
  - b) Meal allowances (not requiring overnight accommodation).
- 23.5 Payment of any actual expenses shall be subject to the production of receipts.

#### Accommodation Arrangements

- 23.6 An employee, required by Service NSW to work from a temporary location shall be paid the appropriate rate of allowance for accommodation and meal expenses (if not provided by Service NSW) and incidental expenses, as per Schedule B - Rates and Allowances.
- 23.7 Service NSW will elect whether to pay the accommodation directly or whether an employee should pay the accommodation and be compensated in accordance with this clause.

- 23.8 Employees shall obtain prior approval before making their own arrangements for overnight accommodation.
- 23.9 Where available at a particular centre or location, the overnight accommodation to be occupied by employees who travel on official business shall be the middle of the range standard, referred to generally as three (3) star or three (3) diamond standard of accommodation.
- 23.10 The need to obtain overnight accommodation shall be determined by Service NSW, having regard to the safety of the employee travelling on official business and local conditions applicable in the area.
- 23.11 Where employees are required to attend conferences or seminars which involve evening sessions, or employees are required to make an early start at work in a location away from their normal workplace, overnight accommodation shall be appropriately granted by Service NSW.
- 23.12 Employees who are required to stay in overnight accommodation will receive the rates for that region as set at Schedule B - Rates and Allowances.
- 23.13 For the first thirty-five (35) days, the payment shall be:
- a) Where Service NSW elects to pay the accommodation provider, the employee shall receive:
    - (i) The appropriate meal allowance as set at Item 1 of Schedule B - Rates and Allowances, and
    - (ii) Incidentals as set at Item 3 of Schedule B - Rates and Allowances, and
    - (iii) Actual meal expenses properly and reasonably incurred, for any residual part day travel.
  - b) Where Service NSW elects not to pay the accommodation provider, the employee shall receive either:
    - (i) The appropriate rate of allowance as set at Item 2 of Schedule B - Rates and Allowances, and actual meal expenses properly and reasonably incurred, for any residual part day travel, or
    - (ii) In lieu of subparagraph (i) of this paragraph, payment of the actual expenses properly and reasonably incurred for the whole trip on official business, together with an incidentals expenses allowance set out in Item 3 of Schedule B - Rates and Allowances.
- 23.14 The allowance will be reduced to 50% of the relevant rate for employees who remain in a region for more than 35 days and up to a period of six (6) months.

#### Excess Travelling Time

- 23.15 An employee directed to travel on official business outside the usual hours of duty to perform duty at a location other than normal headquarters will, at the Division Heads discretion, be compensated for such time either by:
- a) Payment for travelling time, at the employee's ordinary rate of pay on an hourly basis, shall be calculated as follows:
 
$$\text{Annual Salary} \quad \times \quad \frac{5}{260.89} \quad \times \quad \frac{1}{\text{Normal Hours of Work}}$$
  - b) If it is operationally convenient, by taking equivalent time off in lieu to be granted for excess time spent in travelling on official business.
  - c) Such time in lieu must be taken within 1 month of accrual unless otherwise authorised by the employee's manager.

23.16 Provided that the period for which excess travelling time compensation is being sought is more than half an hour on any one day, compensation in respect of excess travelling time payable, is subject to the following conditions:

Travel on a Non-Working day

23.17 Where travel is on a non-working day, excess travelling time is payable for all time spent travelling on official business, after 7:30 am and before 11.00 pm.

Travel on a Working day

23.18 Where travel is on a working day, excess travelling time is payable for all time spent in travelling on official business, before the normal commencing time or after the normal ceasing time, subject to the following conditions:

- a) the time normally taken for the periodic journey from home to headquarters and return is deducted from the employee's travelling time (except on a non-working day);
- b) periods of less than a quarter of an hour on any day shall be disregarded;
- c) travelling time shall not include any period of travel between 11.00 pm on any one day and 7.30am on the following day, where Employees have travelled overnight and accommodation has been provided for them;
- d) travelling time shall be calculated by reference to the time that might reasonably have been taken by the use of the most practical and economic means of transport and the most practical available route;
- e) travelling time shall not include time spent in travelling on permanent transfer where the transfer involves promotion, which carries increased salary or where the transfer is for disciplinary reasons, or where the transfer is made at the employee's request;
- f) travelling time shall not include any overseas travel.

Waiting Time

23.19 When an employee travelling on official business is required to wait for transport in order to commence a journey to another location or to return home or to headquarters and such time is outside the normal hours of duty, the waiting time shall be treated and compensated for in the same manner as excess travelling time.

Excess Travelling Time - General

23.20 The rate of payment for excess travel or waiting time on a non-working day, shall be the same as that applying to a working day.

23.21 The hours of excess travel shall not be regarded as work time for the purposes of leave and other entitlements found in this Award.

23.22 No payment shall be made under this clause, unless Service NSW is satisfied that excess travel or waiting time was directed or approved.

23.23 Employees that are in receipt of a salary in excess of the rate applicable to the maximum rate for Service NSW Grade 7, shall be paid travelling time calculated at the maximum rate for Service NSW Grade 7, as adjusted from time to time.

23.24 When an employee stops on a journey to take a meal, the time spent in taking the meal does not count for travelling compensation.

- 23.25 The maximum amount of compensatory leave or ordinary time payment which shall be granted in any period of twenty-four (24) consecutive hours is eight (8) hours.
- 23.26 The decision as to whether an employee is to receive leave or payment for travel time is the prerogative of the functional manager.

## **SECTION 4 - ALLOWANCES AND OTHER MATTERS**

### **24. Community Language Allowance Scheme "CLAS"**

- 24.1 Employees who possess a basic level of competence in a community language and who work in locations where their community language is utilised at work to assist clients, and such staff members are not:
- a) Employed as interpreters and translators; but are
  - b) Employed in those roles as acknowledged in writing by the Division Head of Service NSW, shall be paid an allowance as specified in Schedule B, Rates and Allowances, subject to subclauses 24.2 and 24.3 of this clause.
- 24.2 The base level of the CLAS is paid to employees who:
- a) are required to meet occasional demands for language assistance (there is no regular pattern of demand for their skill); and
  - b) have passed an examination administered by Multicultural NSW, or who have a National Accreditation Authority for Translators and Interpreters (NAATI) language Recognition award.
- 24.3 The higher level of CLAS is paid to employees who meet the requirements for the base level of payment and:
- a) are regularly required to meet high levels of customer demand involving a regular pattern of usage of the employees language skills, as determined by the Division Head; or
  - b) have achieved qualifications of NAATI interpreter level or above. This recognises that staff with higher levels of language skill will communicate with an enhanced degree of efficiency and effectiveness.

### **25. First Aid Allowance**

- 25.1 Where Service NSW designates an employee who is qualified, as specified in item 7 of Schedule B, to be available to provide First Aid duties and responsibilities, they shall be paid a First Aid Allowance appropriate to the qualifications held during any period they are so designated.
- 25.2 The First Aid Allowance shall not be paid during leave of one (1) week or more
- 25.3 When the First Aid Officer is absent on leave for one (1) week or more and another qualified employee is selected to relieve in the First Aid Officer's role, such employee shall be paid a pro rata first aid allowance for assuming the duties of a First Aid Officer.
- 25.4 First Aid Officers may be permitted to attend training and retraining courses conducted during normal hours of duty. The cost of training employees who do not already possess qualifications and who need to be trained to meet the needs of Service NSW, as well as the cost of retraining First Aid Officers, are to be met by Service NSW.



## **26. Allowance for Living in a Remote Area**

- 26.1 Employees stationed and living in a remote area, will be paid applicable allowances, as provided by the Crown Employees (Public Service Conditions of Employment) Award 2009.
- 26.2 This includes Allowance(s) for Living in a Remote Area and Assistance to Staff Members Stationed in a Remote Area When Travelling on Recreation Leave.

## **27. Allowances and Compensation for Transferred Employees**

- 27.1 Service NSW will provide reimbursement towards expenses and allowances of employees assigned to work in a new location which, by necessity of that assignment, requires the employee to leave their existing residence and seek or take up a new residence.
- 27.2 Eligible employees of Service NSW who satisfy the definition of transferred employee under the Crown Employees (Transferred Employees Compensation) Award 2009, will be paid applicable allowances and compensation, as provided by the Award.

### Transferred Employee

- 27.3 A transferred employee means an ongoing employee of Service NSW who has been transferred at the initiative of Service NSW to a new location and who, as a consequence, finds it necessary to leave their existing residence and seek, or take up a new residence.
- 27.4 A transferred employee does not include a staff member of Service NSW transferred:
- a) at their own request; or
  - b) who has applied for a role and obtained it through a merit selection process; or
  - c) under an arrangement between employees to exchange role; or
  - d) who can reasonably commute to the new location; or
  - e) where the old location and the new location are part of the Metropolitan area, i.e. the Central Coast on the Northern Line as far as Gosford, the area on the Western Line as far as Mt Victoria and on the Illawarra Line as far as Wollongong; or
  - f) on account of any misconduct
- unless the Division Head otherwise approves.

## **28. Association Delegates, Access and Activities**

- 28.1 Service NSW acknowledges that Association delegates represent and speak on behalf of members in the workplace. See subclause 31.4 of clause 31, Special Leave, with respect to Association (Trade Union) Activities regarded as Special Leave.

### Activities Regarded as on Duty

- 28.2 Accordingly, Service NSW will allow Association delegates reasonable time during the delegate's working hours to perform the duties listed below, and such time will be regarded as being on duty:
- a) represent members in bargaining;
  - b) represent the interests of members to Service NSW;
  - c) consult with members and other Employees for whom the delegate is a representative; and

- d) Communicate and place Association information on a workplace noticeboard in a readily accessible and visible location.

28.3 Association delegates will be provided with reasonable access to relevant information and reasonable preparation time before meetings with management or disciplinary or grievance meetings where an Association member requires the presence of a delegate, where operational requirements allow the taking of such time.

#### Travelling and Other Costs of Association Delegates

28.4 Where a workplace meeting is called by and with management, including joint consultative committee meetings or meetings under the Grievance and Dispute Settling Procedure, Association delegates that attend will be paid by Service NSW any travel and/or accommodation costs necessarily and reasonably incurred, as per clause 23 - Travelling Compensation.

28.5 All other travel and other costs incurred by accredited Association delegates in the course of Association activities will be paid by the Association.

#### Notice in respect of Delegate and/or Association Activities

28.6 Service NSW must be notified in writing by the Association or, where appropriate, by the Association delegate as soon as the date and/or time of conferences or meetings for Association activities regarded as on duty, Association activities regarded as special leave and accredited Association training courses, is known.

28.7 Delegates must give reasonable notice to their manager of the requirement to attend a meeting arising as a result of the operation of the Dispute Settlement Procedure.

28.8 Any payment to an employee as a result of performing duties or taking leave in accordance with this clause will be paid at ordinary time rates.

28.9 If a delegate undertakes duties in accordance with this clause while on leave, Service NSW will credit the time for the attendance following the production by the delegate of satisfactory evidence of attendance.

#### Union Delegates' access to the Employer's facilities

28.10 Service NSW will allow reasonable access to telephone, computers and accessories, meeting rooms, facsimile, postal, photocopying, e-mail and intranet/internet facilities for the purpose of carrying out work as an Association delegate and consulting/meeting and communicating with workplace colleagues in accordance with this provision.

28.11 Service NSW shall provide a notice board for the display of authorised material in each workplace in a readily accessible and visible location.

#### Deduction of Association Membership Fees

28.12 At the employee's election, Service NSW shall provide for the employee's Association membership fees to be deducted from the employee's pay and ensure that such fees are transmitted to the Association at regular intervals.

## **SECTION 5 - LEAVE**

### **29. Leave Provisions**

#### 29.1 General Provisions:

- a) All leave shall be debited on the basis of the number of contract hours rostered on the day(s) on which the leave is taken.

- b) When an employee has been granted leave without pay covering a total period of absence from duty of not more than two (2) weeks, payment shall be made at ordinary rates for public holidays occurring during such absence, provided that such public holidays fall on days which would normally be working days.
- c) Where an employee who is eligible for sick leave produces a satisfactory medical certificate to the effect that they have been incapacitated for any period whilst on recreation leave, or five (5) consecutive working days or more whilst on extended leave, they may be re-credited with an equivalent period of recreation leave or extended leave, as the case may be, to the extent of the sick leave taken. Provided that the foregoing provision may be applied to extended leave taken prior to retirement but not to such leave taken prior to resignation or termination of services or to recreation leave taken prior to retirement, resignation or termination of services.
- d) For the purposes of this clause, periods of absence other than leave of absence approved by Service NSW shall not be regarded as service.
- e) Except for leave without pay taken as part of leave for maternity purposes, the leave of absence expressed in these clauses shall be on the basis of a five-day working week.

### 30. Notification of Absence from Duty

- 30.1 An employee must not be absent from work unless reasonable cause is shown.
- 30.2 If an employee is to be absent from duty because of illness or other emergency, the employee shall notify the supervisor as soon as possible of the employee's absence and the reason for the absence.
- 30.3 If an employee is to be absent from duty, other than on authorised leave, the employee must notify their supervisor, or must arrange for the supervisor to be notified, as soon as possible, of the reason for the absence.
- 30.4 In circumstances where either:
- a) An employee is absent from duty without authorised leave; or
  - b) Is deemed to be absent from duty without authorised leave because such an employee failed to provide a satisfactory explanation to management:
- The employee shall be regarded as absent from duty without authorised leave and the Division Head shall deduct from the pay of the employee the amount equivalent to the period of the absence.
- 30.5 Leave can be debited in hours and shall be rounded to the nearest quarter hour.
- 30.6 Nothing in this clause affects any proceedings for a breach of discipline against an employee who is absent from duty without authorised leave.

### 31. Special Leave

Payment for special leave is at the ordinary rate of pay, exclusive of allowances, penalty rates or overtime.

#### 31.1 Special Leave - Jury Duty

- a) An employee shall, as soon as possible, notify Service NSW of any jury summons served on the Employee.
- b) An employee who, during any period when required to be on duty, attends a court in answer to a jury summons shall, upon return to duty, provide Service NSW with a certificate of attendance issued by the Sheriff or by the Registrar of the court giving particulars of attendances by the

employee and the details of any payments made to the staff member under section 72 of the *Jury Act 1977* in respect of any such period.

- c) When a certificate of attendance is received in respect of any period during which a staff member was required to be on duty, Service NSW shall grant, in respect of any such period for which the staff member has been paid out-of-pocket expenses only, special leave on full pay. In any other case, Service NSW shall grant, at the election of the employee, available recreation leave on full pay, flex leave or leave without pay.

#### 31.2 Witness at Court - Official Capacity

- a) When an employee is subpoenaed or called as a witness in an official capacity, the employee shall be regarded as being on duty. Salary and any expenses properly and reasonably incurred by the employee in connection with the employee's appearance at court as a witness in an official capacity shall be paid by Service NSW.

#### 31.3 Witness at Court - Other than in an Official Capacity - Crown Witness

- a) An employee who is subpoenaed or called as a witness by the Crown (Commonwealth or State) will be granted special leave for the time they attend Court, provided the employee provides proof of allowable fees and out of pocket expenses associated with the court attendance when submitting their leave application. If the employee chooses to retain the fees paid, leave such as leave without pay, or annual leave must be taken.
- b) An employee subpoenaed or called as a witness in a private capacity other than by the Crown (Commonwealth or State) is not eligible for special leave and must apply for other forms of leave such as leave without pay or annual leave.
- c) Association Witness - An employee called by the Association to give evidence before an Industrial Tribunal or in another jurisdiction shall be granted special leave by Service NSW for the required period.

#### 31.4 Association (Trade Union) Activities regarded as Special Leave

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

- a) Annual or biennial conferences of the Association;
- b) Meetings of the Associations Executive, Committee of Management or Councils;
- c) Annual conference of Unions NSW and the biennial Congress of the Australian Council of Trade Unions;
- d) Attendance at meetings called by the Unions NSW involving the Association which requires attendance of a delegate;
- e) Attendance at meetings called by the Secretary, as the employer for industrial purposes, as and when required;
- f) Giving evidence before an Industrial Tribunal as a witness for the Association;
- g) Reasonable travelling time to and from conferences or meetings for Association activities regarded as on duty, Association activities regarded as special leave and accredited Association training courses.

### Training Courses

- h) Employees who are members of the Association will be granted special leave with pay up to twelve (12) working days in any period of two (2) years to attend training courses endorsed by the Association, Unions NSW or the Australian Council of Trade Unions (ACTU), subject to:
  - (i) the operating requirements of the workplace permitting the grant of leave and the absence not requiring employment of relief staff;
  - (ii) all travelling expenses being met by the Employee or the Association; and
  - (iii) attendance being confirmed in writing by the Association or a nominated training provider.

### 31.5 NAIDOC Day

- a) Aboriginal and Torres Strait Islander Employees shall be granted up to one (1) day special leave per year to observe National Aboriginal and Islander Day of Commemoration celebrations.
- b) Leave can be taken at any time during NAIDOC week, or in the weeks leading up to and after NAIDOC week, provided the Employee provides their supervisor with reasonable notice.

### 31.6 Emergency Services

- a) Employees may be granted leave to attend emergencies declared in accordance with the relevant legislation or announced by the Governor. Employees must notify their managers of the request for State Emergency leave as soon as possible supported by evidence in writing of the emergency.
- b) For any other emergency other than a declared emergency, employees are entitled to a maximum of five (5) days Special Leave per year. Proof of attendance at the emergency is required.
- c) Where an employee is required to attend a course approved by the Rural Fire Service, the employee will be granted up to ten (10) days Special Leave per year, subject to operational convenience. Proof of course attendance is required.
- d) Where an employee is required to attend a course required by the State Emergency Services (SES), the employee will be granted Special Leave for the duration of the course, provided the SES advises Service NSW that the staff member is required to attend.
- e) Employees are entitled to take an additional one (1) day of Special Leave for rest per incident when they attend a declared emergency for several days as an SES or RFS volunteer.

### 31.7 Special Leave - Other Purposes

Special leave on full pay may be granted to employees for such other purposes, subject to the conditions specified in clause 6-18 the Personnel Handbook at the time the leave is taken.

## **32. Recreation Leave**

- 32.1 Paid recreation leave for full time employees and recreation leave for employees working part time accrues at the rate of twenty (20) working days per annum. Employees working part time shall accrue paid recreation leave on a pro rata basis, which will be determined on the average weekly hours worked per leave year.
- 32.2 Additional recreation leave, at the rate of 5 days per year, accrues to an employee, employed in terms of the Act, who is stationed indefinitely in a remote area of the State, being the Western and Central Division of the State described as such in the Second Schedule to the *Crown Lands Consolidation Act 1913* before its repeal.

32.3 Recreation leave accrues from day to day.

#### Limits on Accumulation and Direction to Take Leave

32.4 At least two (2) consecutive weeks of recreation leave shall be taken by an employee every twelve (12) months, except by agreement with the Division Head in special circumstances.

32.5 Where the operational requirements permit, the application for leave shall be dealt with by the Division Head according to the wishes of the employee.

32.6 The Division Head shall notify the employee in writing when accrued recreation leave reaches twenty-five (25) days or its hourly equivalent and at the same time may direct an employee to take at least ten (10) days recreation leave within three (3) months of the notification, at a time convenient to Service NSW.

32.7 The Division Head shall notify the employee in writing when accrued recreation leave reaches thirty (30) days or its hourly equivalent and direct the employee to take at least ten (10) days recreation leave within six (6) weeks (or any other such mutually convenient time) of the notification.

32.8 Consistent with Treasury Circular NSWTC14-11 and NSWTC 16-03 accrued recreation leave balances are a maximum of thirty (30) days.

#### Miscellaneous

32.9 Recreation leave for which an employee is eligible on cessation of employment is to be calculated to a quarter day (fractions less than a quarter being rounded up).

32.10 Recreation leave accrues at half its normal accrual rate during periods of extended leave on half pay, recreation leave taken on half pay, or maternity leave taken on half pay.

32.11 Recreation leave does not accrue during leave without pay other than:

- a) military leave taken without pay when paid military leave entitlements are exhausted;
- b) absences due to natural emergencies or major transport disruptions, when all other paid leave is exhausted;
- c) any continuous period of sick leave taken without pay when paid sick leave is exhausted;
- d) incapacity for which compensation has been authorised under the *Workplace Injury Management and Workers Compensation Act 1998*; or
- e) periods which, when aggregated, do not exceed 5 working days in any period of 12 months.

32.12 An employee entitled to additional recreation leave under paragraph 32.2 of this clause, and/or additional leave under clause 13 can elect at any time to cash out the additional recreation leave.

#### Recreation Leave Loading

32.13 An employee employed by Service NSW, is entitled to be paid recreation leave loading of 17½% on the monetary value of up to four (4) weeks recreation leave accrued in a leave year, capped at the maximum salary of SNSW 11.

32.14 For the calculation of the recreation leave loading, the leave year shall commence on 1 December each year and shall end on 30 November of the following year.

32.15 Payment of the recreation leave loading shall be made on the recreation leave accrued during the previous leave year and shall be subject to the following conditions:

- a) The full entitlement to the loading on recreation leave that an Employee has accrued over the previous leave year will be paid on the first occasion after 1 December in any year an employee takes sufficient leave to permit them to be absent from duty for at least two consecutive weeks, of which at least one week is recreation leave.
- b) The loading will apply only to leave accrued in the year ending on the preceding 30 November, up to a maximum of four weeks.
- c) In the event of no such absence occurring by 30 November of the following year, an employee will be paid the monetary value of the recreation leave loading payable on leave accrued as at 30 November of the previous leave year in a pay following 30 November.
- d) On cessation of employment, other than termination by the employer for misconduct, an employee who has not taken recreation leave qualifying them for payment of the recreation leave loading since the preceding 1 December shall be paid the loading, which would have been payable had such leave been taken.

#### Maximum Loading

32.16 The recreation leave loading payable shall not exceed the amount which would have been payable to an employee in receipt of salary equivalent to the maximum salary of SNSW 11.

### **33. Family and Community Service Leave**

33.1 Employees will be granted paid FACS Leave for unplanned or emergency family responsibility reasons, in accordance with this clause.

33.2 FACS Leave will be granted:

- a) for reasons related to responsibilities for a Family Member ;
- b) for reasons related to the death of a Family Member or relative;
- c) for reasons related to performance of community service; or
- d) in case of pressing necessity, natural disaster or major transport disruption.

33.3 FACS Leave shall accrue as follows:

- a) two and a half days in the first twelve (12) months of service;
- b) two and a half days in the second year of service; and
- c) one day for each completed year of service thereafter, less the total amount of any FACS already taken by the employee,

33.4 The definition of "family" or "relative" in this clause is the same as that provided in paragraph 37.8 of this Award - Carer's Leave.

33.5 Employees who have exhausted their entitlements to FACS Leave may be granted additional FACS Leave up to two (2) days to cover the period necessary to arrange or attend the funeral of a family member or relative as contained in subclause 33.4. Additional FACS Leave will be granted on a discrete 'per occasion' basis.

33.6 Employees working part time shall accrue FACS Leave on a pro rata basis, which will be determined on the average weekly hours worked.

- 33.7 Employees appointed to Service NSW who have had immediate previous employment in the NSW Government Service may transfer their FACS Leave from their previous employer.

### **34. Leave Without Pay**

- 34.1 The Division Head may grant leave without pay to an employee if good and sufficient reason is shown.
- 34.2 Leave Without Pay may be granted on a full-time or a part-time basis.
- 34.3 Where an employee is granted leave without pay for a period not exceeding ten (10) consecutive working days, the employee shall be paid for any proclaimed public holidays falling during such leave without pay.
- 34.4 Where an employee is granted leave without pay which, when aggregated, does not exceed five (5) working days in a period of twelve (12) months, such leave shall count as service for incremental progression and accrual of recreation leave.
- 34.5 An employee who has been granted leave without pay shall not engage in employment of any kind during the period of leave without pay, unless prior approval has been obtained from the Division Head.
- 34.6 An employee shall not be required to exhaust accrued paid leave before proceeding on leave without pay but, if the employee elects to combine all or part of accrued paid leave with leave without pay, the paid leave shall be taken before leave without pay.
- 34.7 No paid leave shall be granted during a period of leave without pay.
- 34.8 An ongoing assignment may be made to the employee's role if:
- a) the leave without pay has continued or is likely to continue beyond the original period of approval and is for a total period of more than twelve (12) months; and
  - b) the employee is advised of the agency's proposal to permanently backfill their assigned role; and
  - c) the employee is given a reasonable opportunity to end the leave without pay and return to their role; and
  - d) the agency advised the employee at the time of the subsequent approval that the role will be filled on an ongoing basis during the period of leave without pay.
- 34.9 The role cannot be filled permanently unless the above criteria are satisfied.
- 34.10 The employee does not cease to be employed by Service NSW if their role is permanently backfilled.
- 34.11 Subclause 34.8 of this clause does not apply to full-time unpaid parental leave granted in accordance with subparagraph 36.15 (a) (i) of clause 36, Parental Leave or to Military leave.

### **35. Military Leave**

- 35.1 During the period of 12 months commencing on 1 July each year, the Division Head may grant to an employee who is a volunteer part-time member of the Defence Forces, military leave on full pay to undertake compulsory annual training and to attend schools, classes or courses of instruction or compulsory parades conducted by the employee's unit.
- 35.2 In accordance with the *Defence Reserve Service (Protection) Act 2001 (Cth)*, it is unlawful to prevent an employee from rendering or volunteering to render, ordinary Defence Reserve Service.
- 35.3 Up to 24 working days military leave per financial year may be granted by the Division head to members of the Naval and Military Reserves and up to 28 working days per financial year to members of the Air Force Reserve for the activities specified in subclause 35.1 of this clause.



- 35.4 The Division Head may grant an employee special leave of up to 1 day to attend medical examinations and tests required for acceptance as volunteer part time members of the Australian Defence Forces.
- 35.5 An employee who is requested by the Australian Defence Forces to provide additional military services requiring leave in excess of the entitlement specified in subclause 35.3 of this clause may be granted Military Leave Top up Pay by the Division head.
- 35.6 Military Leave Top up Pay is calculated as the difference between an employee's ordinary pay as if they had been at work, and the Reservist's pay which they receive from the Commonwealth Department of Defence.
- 35.7 During a period of Military Leave Top up Pay, an employee will continue to accrue sick leave, recreation and extended leave entitlements, and agencies are to continue to make superannuation contributions at the normal rate.
- 35.8 At the expiration of military leave in accordance with subclause 35.3 or 35.4 of this clause, the employee shall furnish to the Division Head a certificate of attendance and details of the employee's reservist pay signed by the commanding officer or other responsible officer.

### **36. Parental Leave**

Parental leave includes maternity, adoption and "other parent" leave.

#### **36.1 Maternity Leave (General)**

- a) Maternity leave is available to all female employees (including casual employees who have worked on a regular and systematic basis with Service NSW for at least twelve (12) months), to enable them to take care of their new born child and retain their role and return to work within a reasonable period of time after they have given birth.
- b) An employee who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- c) An employee who has applied for or been granted maternity leave and whose pregnancy terminates, must, as soon as practicable, notify Service NSW of the termination and the date on which it occurred.
- d) Where an employee is on other leave and her child is born before the expected date of birth, maternity leave commences from the date of birth of the child.

#### **36.2 Paid Maternity Leave**

Ongoing and temporary employees who have completed not less than forty (40) weeks' continuous service prior to the expected date of birth are entitled to paid maternity leave at their ordinary rate of pay for:

- a) up to fourteen (14) weeks, or
  - b) the period of maternity leave taken,
- whichever is the lesser period.

Leave may be taken at full pay, half pay or as a lump sum.

#### **36.3 Unpaid Maternity Leave**

- a) Pregnant employees are entitled to maternity leave:
  - (i) on a full-time basis for a period of not more than nine (9) weeks prior to giving birth; and

- (ii) for a further period ending not more than twelve (12) months after the date of giving birth.
- b) Employees who have been granted maternity leave may, with the permission of Service NSW, take leave after the date of birth:
  - (i) full-time for a period not exceeding twelve (12) months; or
  - (ii) part-time for a period not exceeding two (2) years; or
  - (iii) partly full-time and partly part-time over a proportionate period of up to two (2) years.
- c) Service NSW shall not fail to re-engage a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996*) because:
  - (i) the employee or employee's spouse is pregnant; or
  - (ii) the employee is or has been immediately absent on maternity leave.

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

#### 36.4 Adoption Leave (General)

- a) Employees are entitled to adoption leave (including casual employees who have worked on a regular and systematic basis with Service NSW for at least twelve (12) months) when they are to be the primary care giver of an adopted child.
- b) Adoption leave commences on the date that the employee 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.
- c) Adoption leave may be granted as either paid or unpaid.

#### 36.5 Paid Adoption Leave

Ongoing and temporary employees who have completed not less than forty (40) weeks' continuous service prior to the commencement of adoption leave are entitled to be paid at their ordinary rate of pay for:

- a) up to fourteen (14) weeks, or
- b) the period of adoption leave taken,  
whichever is the lesser period.

Leave may be taken at full pay, half pay or as a lump sum.

#### 36.6 Unpaid Adoption Leave

- a) Employees are entitled to adoption leave for:
  - (i) a maximum period of twelve (12) months where the child has not commenced school; or
  - (ii) a period as Service NSW determines, up to a maximum of twelve (12) months if the child has commenced school.
- b) Employees who have been granted adoption leave may also, with the permission of Service NSW, take leave:

- (i) part-time for a period not exceeding two (2) years; or
- (ii) partly full-time and partly part-time over a proportionate period of up to two (2) years.

Service NSW shall not fail to re-engage a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996*) because the employee is or has been immediately absent on adoption leave. The rights of Service NSW in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

#### 36.7 Other Parent Leave - General

Where maternity or adoption leave does not apply, "other parent" leave is available to male and female employees who apply for leave to look after his/her child or children. Other parent leave applies as follows:

- a) Short other parent leave - an unbroken period of up to eight (8) weeks at the time of the birth of the child or other termination of the spouse's or partner's pregnancy or, in the case of adoption, from the date of taking custody of the child or children;
- b) Extended other parent leave - for a period not exceeding twelve (12) months, less any short other parental leave already taken by the staff member. Extended other parental leave may commence at any time up to 2 years from the date of birth of the child or the taking of custody of the child.
- c) Other Parent Leave is granted without pay, except as provided in clause 36.8 of this Award.

#### 36.8 Paid Other Parental Leave

- a) Ongoing and temporary employees who have completed not less than forty (40) weeks' continuous service prior to the commencement of parental leave are entitled to be paid at their ordinary rate of pay for:
  - (i) One (1) week on full pay, or
  - (ii) Two (2) weeks on half pay.
- b) The period of paid leave does not extend the current entitlement of up to twelve (12) months leave, but is part of it.

#### 36.9 Taking of Parental Leave

Employees who have been granted parental leave may, with the permission of Service NSW, also take leave:

- a) part-time over a period not exceeding two (2) years; or
- b) partly full-time and partly part-time over a proportionate period of up to two (2) years.

#### 36.10 Casual Employees

Service NSW shall not fail to re-engage a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996*) because the employee is or has been immediately absent on parental leave. The rights of Service NSW in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

#### 36.11 Payment for parental leave is at the rate applicable when the leave is taken. An employee holding a full time role who is on part time leave without pay when they start parental leave is paid:

- a) at the full time rate if they began part time leave 40 weeks or less before starting parental leave;

- b) at the part time rate if they began part time leave more than 40 weeks before starting parental leave and have not changed their part time work arrangements for the 40 weeks;
- c) at the rate based on the average number of weekly hours worked during the 40 week period if they have been on part time leave for more than 40 weeks but have changed their part time work arrangements during that period.

36.12 An employee who commences a subsequent period of maternity or adoption leave for another child within 24 months of commencing an initial period of maternity or adoption leave will be paid:

- a) at the rate (full time or part time) they were paid before commencing the initial leave if they have not returned to work; or
- b) at a rate based on the hours worked before the initial leave was taken, where the employee has returned to work and reduced their hours during the 24 month period; or
- c) at a rate based on the hours worked prior to the subsequent period of leave where the employee has not reduced their hours.

36.13 Except as provided in subclauses 36.2, 36.5 and 36.8 of this clause parental leave shall be granted without pay.

36.14 Communication During Maternity, Adoption and Other Parent Leave

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

36.15 Rights of Request During Maternity, Adoption or Other Parent Leave

- a) An employee entitled to maternity, adoption or other parent leave may request that Service NSW allow the employee:
  - (i) To extend the period of unpaid maternity, adoption or other parent leave for a further continuous period of leave not exceeding twelve (12) months;
  - (ii) To return from a period of maternity, adoption or other parent leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

- b) Service NSW 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 Service NSW business. Such grounds might include cost, lack of adequate replacement employees, loss of efficiency and the impact on customer service.

- c) The employee's request and Service NSW's decision is to be in writing.

The employee's request and Service NSW's decision made under subclause (a) of this Part must be recorded in writing.

Request to return to work part-time.

Where an employee wishes to make a request under paragraph (ii) of subclause (a) of this Part, such a request must be made as soon as possible but no less than seven (7) weeks prior to the date upon which the employee is due to return to work from maternity, adoption or parental leave.

### 36.16 Resumption of Duty After Maternity, Adoption Or Other Parent Leave

Employees who return to work immediately after the expiration of maternity, adoption or other parent leave, are entitled to be placed in:

- a) The role they held immediately prior to the taking of leave, if the role still exists; or
- b) Another role for which they are qualified and meet the capability requirements for the role, subject to availability, if the role they held immediately prior to the taking of leave no longer exists.

## 37. Carer's Leave

### General

37.1 Employees may be able to elect to use available paid sick leave, subject to the conditions specified in this clause, to provide care and support when a family member is ill.

37.2 Employees will be entitled to Carer's Leave when:

- a) their entitlements to FACS Leave are exhausted; and
- b) they are responsible for the care and support of a category of person set in clause 37.8 of this clause.

37.3 Carer's leave is only available for employees to provide such care and support for people mentioned in clause 37.8 of this Part, where such a family member is ill.

### Taking Of Carer's Leave

37.4 Sick leave will initially be taken from the current year's entitlement, followed by the sick leave accumulated over the previous three (3) years.

37.5 In special circumstances, Service NSW may grant additional sick leave from the sick leave accumulated during the employee's eligible service.

37.6 If required by Service NSW, employees must establish by production of a medical certificate or statutory declaration, the illness of the person concerned.

### Categories of People for Which Carer's Leave can be obtained

37.8 Employees will be entitled to Carer's Leave to provide care and support of their ill:

- a) spouse;

- b) de facto spouse, being a person of the opposite sex who lives in the same house as their husband or wife on a bona fide basis, although they are not legally married;
- c) child or adult child (including an adopted child, step child, foster child or ex-nuptial child);
- d) parent (including a foster parent or legal guardian);
- e) grandparent or grandchild;
- f) sibling (including the sibling of a spouse or de facto spouse);
- g) same sex partner who they live with as a de facto partner on a bona fide domestic basis; or
- h) relative who is a member of the same household where, for the purposes of this definition -
- i) 'relative' means a person related by blood, marriage, affinity or Aboriginal kinship structures;
- j) 'affinity' means a relationship that one spouse or partner has to the relatives of another; and
- k) 'household' means a family group living in the same domestic dwelling.

#### Other forms of leave and carer's responsibilities

- 37.9 An employee may elect, with the agreement of Service NSW, to take recreation leave, or other paid leave to credit, for the purpose of assisting with Carer's Responsibilities, at any time within a period of twenty-four (24) months from the date at which it falls due.

### 38. Extended Leave

- 38.1 Employees are entitled to extended leave in accordance with extended leave entitlements contained in Schedule 1 of the Government Sector Employment Regulation 2014.
- 38.2 Previous government service will be recognised by Service NSW in accordance with provisions of Schedule 2 of the Government Sector Employment Regulation 2014.
- 38.3 Nothing in paragraph 38.2 entitles an employee to payment for previous service recognised where the accrual for that service has previously been taken as leave or paid out on termination.

### 39. Sick Leave

- 39.1 An Employee is entitled to take paid accrued sick leave in accordance with this clause.
- 39.2 Sick leave on full pay accrues day by day to an employee at the rate of fifteen (15) days per annum, and any such accrued leave, which is not taken, is cumulative. Employees working part time shall accrue Sick Leave on a pro rata basis, which will be determined on the average weekly hours worked.
- 39.3 During the first four (4) months of employment, an employee can access up to five (5) days paid sick leave even though that leave has not yet accrued.
- 39.4 Employees are required to provide medical certificates or other evidence when sick leave exceeds two (2) consecutive days.
- 39.5 Subject to any restrictions imposed as a result of unsatisfactory attendance, employees are entitled to take five (5) single days of total sick leave per annum as uncertified absences, after which all leave requires a medical certificate or other evidence supporting a sick leave absence.
- 39.6 Sick leave without pay shall count as service for the accrual of paid sick leave and recreation leave. In all other respects sick leave without pay shall be treated in the same manner as leave without pay.

- 39.7 All continuous service as an employee in the NSW Government Service shall be taken into account for the purpose of calculating sick leave due. Where the service in the NSW Government Service is not continuous, previous periods of Government Service shall be taken into account for the purpose of calculating sick leave due if the previous sick leave records are available.

#### Additional Special Sick Leave

- 39.8 An additional period of sick leave may be granted in accordance with provisions contained in clause 6-17.12.1 'Special Sick Leave' of the NSW Government Personnel Handbook.

### **40. Leave for Matters Arising from Domestic Violence**

- 40.1 Domestic Violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*.
- 40.2 Leave entitlements provided for in clauses related to Sick Leave and Carer's Leave and FACS Leave, may be used by Employees experiencing Domestic Violence.
- 40.3 Where the leave entitlements referred to in paragraph (a) above are exhausted, Service NSW shall grant Special Leave of up to five (5) days per calendar year to this effect.
- 40.4 Service NSW will need to be satisfied, on reasonable grounds that Domestic Violence has occurred and may require proof presented in the form of an agreed document issued by the Police Force, a Court, a Doctor, a Domestic Violence Support Service or Lawyer.
- 40.5 Personal information concerning Domestic Violence will be kept confidential by Service NSW.
- 40.6 Service NSW, where appropriate, may facilitate alternative working arrangements subject to operational requirements, including changes to working time and changes to work location, telephone number and email address.

### **41. Purchased Leave**

- 41.1 An employee may apply to enter into a Purchased Leave Agreement with Service NSW to purchase either 10 days (2 weeks) or 20 days (4 weeks) additional leave in a twelve-month (12) month period.
- 41.2 Each application will be considered subject to operational requirements and personal needs and will take into account business needs and work demands.
- 41.3 The leave must be taken in the twelve-month (12) month period specified in the Purchased Leave Agreement and will not attract any leave loading.
- 41.4 The leave will count as service for all purposes.
- 41.5 The purchased leave will be funded through the reduction in the employee's ordinary rate of pay for the twelve-month (12) period of the Purchased Leave Agreement.
- 41.6 The reduced rate of pay for the period of the Purchased Leave Agreement (purchased leave rate of pay) will be the employee's ordinary annual salary rate less the number of weeks of purchased leave multiplied by the employee's ordinary weekly rate of pay, annualised at a pro rata rate over the twelve-month (12) period.
- 41.7 Purchased leave is subject to the following provisions:
- a) The purchased leave cannot be accrued and the dollar value of unused leave will be refunded where it has not been taken in the twelve-month (12) Purchased Leave Agreement period.

- b) All other leave taken during the twelve-month (12) Purchased Leave Agreement period i.e. including sick leave, recreation leave, extended leave or leave in lieu, will be paid at the purchased leave rate of pay.
- c) Sick leave cannot be taken during a time when purchased leave is being taken.
- d) The purchased leave rate of pay will be the salary for all purposes including superannuation.
- e) Overtime and salary related allowances not paid during periods of recreation leave will be calculated using the employee's hourly rate based on the ordinary rate of pay.
- f) A higher duties payment will not be paid when purchased leave is being taken.
- g) Specific conditions governing purchased leave may be amended from time to time by the Division Head in consultation with the Association.
- h) Service NSW may make adjustments relating to their salary administration arrangements.

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

- 42.1 Provided adequate notice as to the need for the leave is given by the employee to Service NSW and it is operationally convenient to release the employee from duty, an employee of:
- a) any religious faith who seeks leave for the purpose of observing essential religious obligations of that faith; or
  - b) any ethnic or cultural background who seeks leave for the purpose of observing any essential cultural obligations,
- may be granted recreation or extended leave to credit, or leave without pay, to observe their obligations.
- 42.2 An employee of any religious faith who seeks time off during daily working hours to attend to essential religious obligations of that faith, shall be granted such time off by Service NSW, subject to:
- a) Adequate notice being given by the employee;
  - b) Prior approval being obtained by the employee; and
  - c) The time off being made up in the manner approved by Service NSW.

#### **43. Lactation Breaks**

- 43.1 A lactation break is provided to lactating mothers for the purposes of 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 in this Award.
- 43.2 A full time employee or a part time employee working more than four (4) hours per day is entitled to a maximum of two (2) paid lactation breaks of up to thirty (30) minutes each per day.
- 43.3 A part time employee working four (4) hours or less per day is entitled to only one paid lactation break of up to thirty (30) minutes on any day so worked
- 43.4 A flexible approach to the timing and general management of lactation breaks must be taken by the 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.



- 43.5 Service NSW will 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, will be provided where practicable.
- 43.6 Where it is not practicable to provide the appropriate space or facilities, discussions between the manager and the employee will take place to attempt to identify reasonable alternative arrangements for the employee's lactating needs.
- 43.7 The manager and the employee may be guided by the following considerations in determining the reasonableness and practicality of any proposed alternate arrangement:
- 43.8 Whether the employee is required to work at a site that is not operated or controlled by Service NSW;
- a) whether the employee is regularly required to travel in the course of performing their duties;
  - b) whether the employee performs field-based work where access to the facilities in subclause 43.5 are not available or cannot reasonably be made available; and
  - c) the effect that the arrangements will have on the employee's lactating needs.
- 43.9 Employees experiencing difficulties in effecting the transition from home-based breast feeding to the workplace will have reasonable telephone access to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System. Access to the service.
- a) shall be granted during paid time;
  - b) is limited to a reasonable period of time (i.e. if the employee requires extended periods of consultation, the employee may utilise the provisions of subclause 43.10; and
  - c) must be at a time that is mutually convenient to both the employee and Service NSW.
- 43.10 Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breast feeding and the transition to the workplace may utilise sick leave in accordance with clause 39 - Sick Leave of this Award, or access to local flexible arrangements where applicable.

## **SECTION 6 - TRAINING AND PROFESSIONAL DEVELOPMENT**

### **44. Study Assistance**

- 44.1 Eligible employees may be granted leave to undertake study and enable them to attend examinations. The terms and conditions on which study leave and examination leave may be granted are set out in the Service NSW Study Time and Examination Leave Fact Sheet, as amended from time to time.

## **SECTION 7 - MISCELLANEOUS**

### **45. Grievance and Dispute Settling Procedures**

- 45.1 This Award recognises that employees' grievances should be resolved speedily and effectively without recourse to industrial action. It is intended that most issues will be resolved informally between employees and their supervisors.
- 45.2 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 Service NSW, if required.

- 45.3 An employee is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- 45.4 Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti-Discrimination Act 1977*) that makes it impractical for the employee to advise their immediate supervisor or manager, the notification may occur to the next appropriate level of management, including where required, to the Division Head or delegate.
- 45.5 The immediate supervisor, manager, or other appropriate officer, shall convene a meeting in order to resolve the grievance, dispute or difficulty as soon as practicable, following the matter being brought to their attention.
- 45.6 If the matter remains unresolved with the immediate manager, the employee may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager should respond as soon as practicable. The employee may pursue the sequence of reference to successive levels of management until the matter is referred to the Division Head.
- 45.7 If the matter remains unresolved, the Division Head shall provide a written response to the employee and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- 45.8 An employee, at any stage, may request to be represented by the Association.
- 45.9 The employee or the Association on their behalf or the Division Head may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 45.10 Whilst the procedures outlined in subclauses 45.1 to 45.9 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 employee or member of the public.

#### **46. Anti-Discrimination**

- 46.1 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.
- 46.2 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 the effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provisions of the award, which by its terms or operation, has a direct or indirect discriminatory effect.
- 46.3 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.
- 46.4 Nothing in this clause is to be taken to affect:
- a) Any conduct or act which is specifically exempted from anti-discrimination legislation;
  - b) Offering or providing junior rates of pay to persons under 21 years of age;
  - c) Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;

- d) A party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- 46.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.
- a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:
- "Nothing in the Act affects any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

#### **47. Secure Employment**

##### 47.1 Work Health and Safety

For the purposes of this subclause, the following definitions shall apply:

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

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

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

#### 48. No Extra Claims

- 48.1 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 NSW Industrial Relations Commission 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 2020 by a party to this Award.

### SCHEDULE A - SERVICE NSW SALARIES

Salary rates shall be paid in accordance with the rates set out below.

SNSW Salary Scale Grades	Payable from first full pay period on or after 1/7/2017 \$ per annum	Payable from first full pay period on or after 1/7/2018 \$ per annum	Payable from first full pay period on or after 1/7/2019 \$ per annum
<b>Grade 1</b>			
Year 1	38,480	39,442	40,428
Year 2	42,205	43,260	44,342
Year 3	48,251	49,457	50,693
<b>Grade 2</b>			
Year 1	50,888	52,160	53,464
Year 2	53,198	54,528	55,891
Year 3	55,177	56,556	57,970
<b>Grade 3</b>			
Year 1	58,588	60,053	61,554
Year 2	61,332	62,865	64,437
Year 3	64,190	65,795	67,440
<b>Grade 4</b>			
Year 1	66,147	67,801	69,496
Year 2	68,742	70,461	72,223
Year 3	71,447	73,233	75,064
<b>Grade 5</b>			
Year 1	73,901	75,749	77,643
Year 2	76,291	78,198	80,153
Year 3	77,665	79,607	81,597
<b>Grade 6</b>			
Year 1	79,371	81,355	83,389
Year 2	81,780	83,825	85,921
Year 3	84,456	86,567	88,731
<b>Grade 7</b>			
Year 1	86,293	88,450	90,661
Year 2	89,339	91,572	93,861
Year 3	91,071	93,348	95,682
<b>Grade 8</b>			
Year 1	94,808	97,178	99,607
Year 2	98,657	101,123	103,651
Year 3	101,738	104,281	106,888
<b>Grade 9</b>			
Year 1	106,419	109,079	111,806
Year 2	109,475	112,212	115,017
Year 3	114,402	117,262	120,194

Grade 10			
Year 1	117,291	120,223	123,229
Year 2	121,917	124,965	128,089
Year 3	128,178	131,382	134,667
Grade 11			
Year 1	132,140	135,444	138,830
Year 2	137,891	141,338	144,871
Year 3	140,996	144,521	148,134
Grade 12			
Year 1	149,247	152,978	156,802
Year 2	153,603	157,443	161,379
Year 3	158,969	162,943	167,017

### SCHEDULE B - SERVICE NSW RATES AND ALLOWANCES

The following rates and allowance amounts for Service NSW are effective from 1 July 2017. These will be adjusted in accordance with NSW Treasury Circular - Rates in relation to annual Review of Meal, Travelling and other allowances, as amended on an annual basis.

Meal and travelling allowances listed in Items 1, 2, 3, 4 and 5 have been adjusted from 1 July 2017 in line with NSWTC17-10. Work related allowances in Items 6 and 7 are increased by 2.5 per cent on and from the first fully pay period on or after 1 July 2018 and 1 July 2019, being the same increase as applied to salaries under the Service NSW (Salaries and Conditions) Employees Award 2018.

Item No.	Clause No.	Description	Amount
1	19.4 (b)	Meal expenses on one day journeys	Per day
		Capital cities and high cost country centres	
		Breakfast (no overnight stay)	\$27.05
		Lunch (no overnight stay)	\$30.45
		Dinner (no overnight stay)	\$49.65
		Tier 2 and other country centres	
		Breakfast (no overnight stay)	\$24.25
		Lunch (no overnight stay)	\$27.65
		Dinner (no overnight stay)	\$47.70
2	19.4 (a)	Travelling allowances	
		Capital cities	Per day
		Adelaide	\$285.70
		Brisbane	\$333.70
		Canberra	\$296.70
		Darwin	\$344.70
		Hobart	\$266.70
		Melbourne	\$301.70
		Perth	\$331.70
		Sydney	\$313.70
		High cost country centres (NSW)	Per day
		Bourke	\$293.70
		Gosford	\$268.70
		Maitland	\$280.70
		Mudgee	\$263.70
		Newcastle	\$293.70
		Norfolk Island	\$368.70
		Orange	\$283.70
		Port Macquarie	\$280.70

		Wagga Wagga	\$272.70
		Wollongong	\$277.70

Item No	Clause No	Description	Amount
		Tier 2 country centres (NSW)	Per day
		Albury	\$252.95
		Armidale	\$252.95
		Bathurst	\$252.95
		Bega	\$252.95
		Broken Hill	\$252.95
		Coffs Harbour	\$252.95
		Cooma	\$252.95
		Dubbo	\$252.95
		Goulburn	\$252.95
		Griffith	\$252.95
		Gunnedah	\$252.95
		Lismore	\$252.95
		Muswellbrook	\$252.95
		Nowra	\$252.95
		Queanbeyan	\$252.95
		Tamworth	\$252.95
		Tumut	\$252.95
		All Other country centres (NSW)	\$228.95
3	19	Incidental expenses when claiming actual expenses - all locations	\$19.35
		Daily allowance payable after 35 days and up to 6 months in the same location - all locations	50% of the appropriate location rate
4	17.11	Overtime meal allowances	
		Breakfast	\$30.05
		Lunch	\$30.05
		Dinner	\$30.05
		Supper	\$11.15

Item No	Clause No	Description	Amount	Amount
5	22	Remote areas allowance	Per annum	
		With dependants		
		- Grade A	\$2044 pa	
		- Grade B	\$2711 pa	
		- Grade C	\$3620 pa	
		Without dependants		
		- Grade A	\$1426 pa	
		- Grade B	\$1901 pa	
		- Grade C	\$2536 pa	
6		Community language allowance scheme	Per annum (effective ffpp on or after 1 July 2018)	Per annum (effective ffpp on or after 1 July 2019)
		- Base Level Rate	\$1413	\$1448
		- Higher Level Rate	\$2124	\$2177

7		First aid allowance	Per annum (effective ffpp on or after 1 July 2018)	Per annum (effective ffpp on or after 1 July 2019)
		- Holders of basic qualifications	\$910	\$933
		- Holders of current occupational first aid certificate	\$1367	\$1401
8		On-call (stand-by) and on-call allowance	(effective ffpp on or after 1 July 2018) \$0.98 per hour	(effective ffpp on or after 1 July 2019) \$1.00 per hour

P. M. KITE, Chief Commissioner.

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Printed by the authority of the Industrial Registrar.

**STAFF SPECIALISTS (STATE) AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 2018/199495)

Before Commissioner Murphy

3 July 2018

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

Clause No.	Subject Matter
1.	Title
2.	Definitions
3.	Issue Resolution
4.	Normal Duties
4A.	Multiple Assignments
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
20A.	Family Violence Leave
21.	Personal/Carer's Leave
22.	Maternity, Adoption and Parental Leave
22A.	Lactation Breaks
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.	Consultation Regarding Change
31.	No Extra Claims
32.	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 2018.

**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.

#### **4A. Multiple Assignments**

- (a) Multiple assignments exist when an employee has more than one position under this Award within the NSW Health Service. Each of these positions are referred to in this clause as "assignments".
- (b) The employee can only enter into a multiple assignment where the subsequent assignment is at the same grade and level within the Award.
- (c) Where an employee has multiple assignments, the employee will progress from one increment (year step) to the next increment in accordance with clause 5(c) and (d) and clause 13(f).

#### **Multiple Assignments within a single Public Health Organisation**

- (d) The following provisions apply to employees with two or more assignments within a single Public Health Organisation:
  - (i) 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 of Duty

- (ii) The combined total number of ordinary hours worked under an employee's multiple assignments will be in accordance with the provisions of clause 4, Normal Duties, Part A - (General).
- (iii) Where the combined total number of ordinary hours worked under an employee's multiple assignments is equivalent to those set out in clause 4, Normal Duties Part A - (General) they will be considered as a full time employee for the purposes of the Award and:
- (iv) Where the combined total number of ordinary hours worked under an employee's multiple assignments is less than those set out in (d) (ii) of this subclause, the provisions of clause 13, Part Time Employment and Arrangements shall apply.

#### Leave

- (v) All ordinary hours worked by an employee in multiple assignments shall count towards determining the employee's leave entitlements.
- (vi) 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. Service in all assignments will be recognised for the purposes of subclause (b) of clause 19, Sick Leave.
- (vii) Where an employee's combined total number of ordinary hours worked in their multiple assignments is equivalent to those set out in (d)(ii) of this subclause, the additional leave shall accrue from both assignments in accordance with the provisions of subclause 17A, Annual Leave.
- (viii) Service in all assignments will be recognised for the purposes of entitlements under clause 22, Maternity, Adoption and Parental Leave.
- (ix) 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

- (x) 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 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
- (xi) 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.
- (xii) 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.
- (xiii) Before accepting any change in roster or undertaking additional hours 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 where these will impact on the employee's roster in the other assignment 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 Public Health Organisations

- (e) Assignments in different Public Health Organisations will be regarded as entirely separate for all purposes under the Award, including the accrual and taking of leave. The only exceptions are the provisions of subclause (c) of this clause (regarding incremental progression) and:
- (i) At the time an employee commences an assignment in another Public Health Organisation the employee's accrued leave will be apportioned across their assignments (for example, a 0.6 full time equivalent Staff Specialist who commences another 0.4 full time equivalent assignment in another Public Health Organisation 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.
  - (ii) Employees who have multiple assignments across different Public Health Organisations at the time this clause was inserted into this award may elect to apportion their accrued leave across their assignments.
  - (iii) Service in all assignments will be aggregated for the purposes of calculating long service leave entitlements under the Award.
  - (iv) Service in all assignments will be recognised for the purposes of entitlements under clause 22, Maternity, Adoption and Parental Leave.
  - (v) Service in all assignments will be recognised for the purposes of entitlements of Family and Community Services Leave as provided in clause 20.
  - (vi) Where an employee terminates an assignment, any leave credits that are held against that assignment will be transferred to the remaining assignment/s.
  - (vii) Where an employee has three or more assignments, one or more of which are in different Public Health Organisations, subclause (d) of this clause shall apply to those assignments which are within a single Public Health Organisation.

## Changes to the composition of Public Health Organisations

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

**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.

### 20A. Family Violence Leave

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) The employer will co-operate with all legal orders protecting an employee experiencing domestic violence.

### 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 anytime within the 52 week period and shall be paid:

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

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

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

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

(d) Applications

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

- (i) In the case of extended parental leave, the Staff Specialist should give written notice of the intention to take the leave.
- (ii) The Staff Specialist must, at least four weeks before proceeding on leave, give written notice of the dates on which they propose to start and end the period of leave, although it is recognised in situations of taking custody of a child, little or no notice may be provided to the Staff Specialist. In such an instance, the Staff Specialist should notify the employer as early as practicable.
- (iii) The Staff Specialist must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.
- (iv) In the case of extended parental leave, the Staff Specialist must, before the start of leave, provide a statutory declaration by the Staff Specialist stating:
  - (1) if applicable, the period of any maternity leave sought or taken by his spouse, and
  - (2) that they are seeking the period of extended parental leave to become the primary care giver of the child.
- (e) Variation after Commencement of Leave -
 

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

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

As per maternity leave conditions.

#### D. Right to Request

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

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

- (c) The Staff Specialist's request and the Employer's decision made under subclauses (a)(ii) and (iii) must be recorded in writing.
- (d) Where a Staff Specialist wishes to make a request under subclause (a)(iii):
  - (i) the Staff Specialist is to make an application for leave without pay to reduce their full-time weekly hours of work
  - (ii) such application must be made as early as possible to enable the Employer to make suitable staffing arrangements. At least four weeks notice must be given;
  - (iii) salary and other conditions of employment are to be adjusted on a basis proportionate to the Staff Specialist's full-time hours of work i.e. for long service leave the period of service is to be converted to the full-time equivalent and credited accordingly.
  - (iv) Staff Specialists who return from leave under this arrangement remain full-time Staff Specialists.

#### E. Communication During Leave

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

#### NOTE:

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

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

the Staff Specialist or Staff Specialist's spouse is pregnant; or

the Staff Specialist is or has been immediately absent on parental leave.

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

- (b) Liability for Superannuation Contributions

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



### **22A. Lactation Breaks**

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.

### **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. Consultation Regarding Change

- (a) Where an employer has made a definite decision to introduce changes in organisation, structure, health service delivery, or technology that are likely to have significant effects on employees covered by this Award, the employer shall notify the Union and employees who may be affected by the proposed changes. Discussions shall commence as soon as practicable after such decision has been taken.
- (b) "Significant effects" includes:
  - i. termination of employment;
  - ii. major changes in the composition, operation or size of the employer's workforce or in the skills required;

- iii. changes in employment and/or promotional opportunities or job tenure for a class or group of employees;
  - iv. the alteration of hours of work for a class or group of employees; or
  - v. the need for training or transfer of a class or group of employees to other work or location, and the restructuring of jobs.
- (c) The employer shall discuss with the employees affected and the Union, inter alia, the introduction of the changes referred to in paragraph (a) above, the effects the changes are likely to have on employees and any measures proposed by the employer to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the Union in relation to the changes.
- (d) For the purpose of such discussion, the employer shall provide to the employees concerned and the Union all relevant information about the changes including the nature of the changes proposed and the expected significant effects of the changes on employees. Provided that the employer shall not be required to disclose confidential information, the disclosure of which would adversely affect the employer, the Ministry of Health or the Secretary of the Ministry of Health ; or is an exempt matter under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- (e) The provision of communication during maternity, adoption or parental leave is in accordance with subclause 22 E of this Award.
- (f) With respect to occupational health safety matters as referred to in the *Work Health and Safety Act 2011*, the provisions of that Act apply, and specifically the provisions under Section 47, "Duty to consult workers", as varied from time to time.

### 31. 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.

### 32. Area, Incidence and Duration

- (a) This Award takes effect from 1 July 2018 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 2018.
- (b) This Award rescinds and replaces the Staff Specialists (State) Award made on 26 October 2017 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 01/07/2018 \$ per annum
1	166,493
2	176,229
3	185,959
4	195,718
5	205,456

Senior	224,937
Postgraduate fellow	193,399

**SCHEDULE 2 - ALLOWANCES**

Managerial allowances	Rates from first pay period on or after 01/07/2018 \$ per annum
Level 1	23,093
Level 2	40,414
Level 3	57,733

**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 William Saul

Dr Adarsh Gill  
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:

<p>Quality improvement:</p> <p>Other:</p>
<p>Part-time Working Arrangement (Yes/No): attach approval if applicable</p>
<p>Outside practice (Yes/No): attach approval if applicable</p>
<p>Anticipated on call frequency and roster:</p>
<p>Any specific call-back requirements:</p>
<p>Agreed College or other professional association activities (include estimate of time spent):</p>
<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>



Research:
Health outcomes:
Twelve month review: Evaluation of level of achievement by supervisor:
Signature:
Comments by Staff Specialist:
Signature:
Signature of Chief Executive of the relevant public health organisation (or his/her nominee)
Signature:

J. V. MURPHY, Commissioner.

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Printed by the authority of the Industrial Registrar.

(1148)

**SERIAL C8846**

## **SYDNEY OLYMPIC PARK AUTHORITY MANAGED SPORTS VENUES AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Sydney Olympic Park Authority.

(Case No. 2018/176811)

Before Chief Commissioner Kite

22 June 2018

### **AWARD**

#### **1. Arrangement**

Clause No.	Subject Matter
1.	Arrangement
2.	Parties and Definitions
3.	Intention
4.	Rates of Pay
5.	Classification Levels
6.	Income Protection Plan
7.	Hours of Work
8.	Full-Time, Part-Time, Fixed Term and Casual Employees
9.	Higher Duties
10.	Meal Breaks
11.	Overtime
12.	Public Holidays
13.	Sick Leave
14.	Personal Carer's Leave
15.	Bereavement Leave
16.	Parental Leave
17.	Leave for Matters Arising From Domestic Violence
18.	Terms of Engagement
19.	Training Wage
20.	Payment of Wages
21.	Annual Leave and Annual Leave Loading
22.	Long Service Leave
23.	Consultation and Union Access
24.	Labour Flexibility
25.	Uniforms and Protective Clothing
26.	Tools and Equipment
27.	Change Rooms
28.	Redundancy
29.	Major Interruption to Operations
30.	Grievance and Dispute Resolution Procedures
31.	Secure Employment
32.	Work Health and Safety
33.	No Extra Claims
34.	Anti-Discrimination
35.	Area, Incidence and Duration

**PART B**

Table 1 - Rates of Pay for Full Time Classifications under Clause 5.1

Table 2 - Hourly Rates of Pay for Casual Employees under Clause 5.2

Table 3 - Hourly Rates of Pay for Sports Centre Casual Event Staff Employees under Clause 5.3

Table 4 - Rates of Pay for full time classifications under Clause 5.4

Table 5 - Other rates and allowances for classifications under Clause 5.4

**2. Parties and Definitions**

2.1 This award has been made between the following parties:

Industrial Relations Secretary

Office of Sport

The Australian Workers' Union, New South Wales ("the AWU").

2.2 Industrial Relations Secretary means the person within the meaning of the *Government Sector Employment Act 2013*, who is for the purposes of any proceedings relating to Public Service employees held before a competent tribunal having jurisdiction to deal with industrial matters, taken to be the employer of public service employees.

2.3 Employee means a person employed by the Government of NSW in the service of the Crown under Division 1, Part 4 of the *Government Sector Employment Act 2013* in the Sydney Olympic Park Authority Branch of the Office of Sport, at the Aquatic, Athletic and Archery Centres or Satellite Sports Venues, or as a casual event staff employee or gymnastics program employee at the Sports Centre, in the classifications prescribed by this Award.

**3. Intention**

3.1 The principal intentions of this award are:

- (i) To promote harmonious industrial relations for the Sydney Olympic Park Aquatic, Athletics, and Archery Centres, Satellite Sports Venues and Sports Centre;
- (ii) To maximise standards of service to the public and centres users, measured against those applying in the leisure and recreation industry nationally and internationally; and
- (iii) To provide a multi-skilled workforce.

**4. Rates of Pay**

4.1 The minimum rates of pay for full time employees at the Aquatic, Athletics and Archery Centres and Satellite Sports Venues, employed in the classifications set out in subclause 5.1 of this award are contained in Table 1 of Part B of this award.

4.2 A casual employee at the Aquatic, Athletics, and Archery Centres or Satellite Sports Venues, employed in the classifications set out in subclause 5.2, shall be paid the appropriate hourly rate as set out in Table 2 of Part B

4.3 A casual event staff employee at the Sports Centre, employed in the classifications set out in subclause 5.3, shall be paid the appropriate hourly rate as set out in Table 3 of Part B

4.4 The minimum rates of pay for full time gymnastics program employees employed in the classifications set out in subclause 5.4 are set out in Table 4 of Part B.

4.4.1. Junior Rates A junior employee engaged at level 1, 2 or 3 in the classifications set out in subclause 5.4 shall be paid at the following for that level:

Percentage of Appropriate Adult Rate	%
At sixteen years and under	55
At seventeen years	65
At eighteen years	75
At nineteen years	85
At twenty years	100

Provided that employees who hold recognised industry-wide qualifications and are required to act upon them at 18 years or older with at least 12 months experience shall be paid the full adult rate of pay.

4.5 A casual employed in the classifications set out in subclause 5.4 shall be paid either on an ordinary or 'all-up' basis as detailed below

(i) Ordinary Casual - An ordinary casual shall be paid 1/38 of the appropriate weekly rate provided for in Table 4 of Part B plus:

- (a) a 15 per cent loading (except when Saturday, Sunday, public holiday or night work penalties are paid); and
- (b) the equivalent of one-twelfth of the ordinary hourly rate of pay for a full-time employee for each hour worked.

An ordinary casual employee shall be paid for a minimum engagement of three hours.

(ii) All-up Casual - An all-up casual shall be paid 1/38 of the appropriate weekly rate provided for in Table 4 of Part B plus a loading of 30 per cent for each hour worked.

This 30 per cent loading includes loadings applicable under this award for work on Saturdays, Sundays, public holidays and at night.

An all up casual employee shall be paid for a minimum engagement of one hour.

4.6. Supervisory Loadings - an employee employed in the classifications set out in clause 5.4 who is appointed by an employer to supervise other employees shall be paid, in addition to the rates of pay prescribed in subclause 4.4 and 4.5 of this clause, the following amount per week specified in Table 5 - Other Rates and Allowances, of Part B as follows:

- (a) In charge of up to 5 employees - Item 1;
- (b) In charge of 6 and up to 10 employees - Item 2;
- (c) In charge of 11 or more employees - Item 3;
- (d) or pro rata amount per engagement for part-time and casual employees

4.7. An employee employed in the classifications set out in subclause 5.4 who is appointed by an employer to perform first aid duties and who holds a first aid certificate shall be paid, an additional amount per week, or per shift, as set out in Item 4 of Table 5 - Other Rates and Allowances, of Part B.

4.8. A part-time or full-time employee employed in the classifications set out in subclause 5.4 who is required to work more than one shift on any day shall be paid the additional allowance per day, as set out in Item 5 of Table 5 - Other Rates and Allowances, of Part B.

## 5. Classification Levels

### 5.1 Classifications (Skill/Definitions) for full-time and part-time employees at the Aquatic, Athletic and Archery Centres and Satellite Sports Venues:

#### 5.1.1 Level 1

Means an employee with no qualifications and who performs duties of a routine nature, requiring the use of minimum judgement and supervision.

Employees at this level may include the initial recruit who may have limited relevant experience.

(a) An employee at this level will be able to:

Communicate with the public in a courteous and tactful manner.

(b) Indicative of some of the tasks which an employee at this level may perform are:

Exercises basic keyboard skills;

General Attendant/Cashier duties which includes basic clerical, office assistance, kiosk duties involving customer turnover and cash handling, taking of bookings and tickets and general assistance in the day-to-day activities of the operation;

Maintains simple records;

Assists with administration of the Swim School Program;

Is directly employed as Car Park Attendant, Usher or Door Attendant who is engaged in a non-security capacity;

Receives, despatches, distributes, sorts, checks, documents, orders and records of goods and/or materials;

Is employed as a General Hand;

Assists in basic food preparation. Assists in taking orders, and maintaining cleanliness of customer space and service areas. Serves basic foods and beverages; and

Undertakes duties peripheral and ancillary to the above as required.

(c) Progression to Level II will be dependent upon availability of position and successful application.

#### 5.1.2 Level 2

Means an employee who has undertaken structured training recognised by the industry as relevant and appropriate to perform work within the scope of this level.

(a) An employee at this level:

Assists with the provision of on-the-job training to a limited degree;

Conducts individual or group activities/programs/sessions/tours, under supervision, only after commencing a recognised course or undergoing accredited training;

Exercises intermediate keyboard skills with instructions;

Works in a team environment under routine supervision;

Where appropriate, holds and maintains life saving and first aid qualifications recognised as being appropriate for the safe and effective conduct of duties involving public and employee health and safety;

Works from instructions or procedures;

Has an understanding of general office procedures;

Co-ordinates duties under the direction of a Level III employee;

Provides general supervision of and assistance to Level I employees; and

Is capable of and may perform Level 1 duties.

(b) Indicative of some of the tasks which an employee at this level may perform:

Takes classes and directs leisure activities;

Supervises public swimming;

Attends to health and safety of the public;

Sells programs/tickets and gives change;

Co-ordinates events and bookings;

Undertakes receptionist duties;

Undertakes office administrative duties;

Attends to equipment and displays e.g. pool attendant;

Safeguards individuals e.g. child care attendants;

Undertakes cooking duties associated with basic foods e.g. snacks and grills. Takes orders, and maintains cleanliness of customer space and service areas. Serves foods and beverages.

(c) Progression to Level III will be dependent upon availability of position and successful application.

### 5.1.3 Level 3

Means an employee who has completed structured training recognised by the industry as relevant and appropriate to perform work within the scope of this level.

(a) An employee at this level:

Assists in the provision of on-the-job training where applicable;

Exercises discretion within one's own level of skill and training;

Takes responsibility for the quality of one's work (subject to routine supervision);

Exercises good keyboard skills and knowledge of office procedures/equipment/systems;  
and

Is capable of and may perform the Level II and level I duties.

- (b) Indicative of some of the tasks which an employee at this level may perform:
- Is employed as a Gym Exercise Specialist;
  - Co-ordinates Swim School, Customer Services, Tours and Health and Fitness Activities;
  - Maintains machinery, plant and technical equipment;
  - Undertakes secretarial duties;
  - In the absence of line supervisors, acts in an appropriate way to supervise the work areas to ensure delivery of services;
  - Undertakes general cooking duties and assists with specialist cooking duties. Performs higher level waiting and customer service duties.
- (c) Progression to Level IV will be dependent upon availability of position and successful application.

#### 5.1.4 Level 4

Means an employee who is subject to broad guidance or direction and would report to more senior staff as required.

An employee at this level would have worked or studied in a relevant field and/or have specialist knowledge, qualifications and experience sufficient to enable them to advise on a range of activities and features and contribute, as required, to the determination of objectives, within their delegated area of supervision.

- (a) An employee at this level:
- Takes responsibility for ensuring the quality of their own work and exercises initiative, discretion and judgement at times in the performance of their duties;
  - Is directly responsible to the appropriate manager for the section or area of operation;
  - Assists with the management of the section or area of operation;
  - Has the delegated responsibility for the work under their control or supervision in terms of, inter alia, allocation of duties, co-ordinating work flows, checking progress, quality of work and resolving problems, as well as counselling staff for performance and work related problems where required;
  - Trains employees at Level III, II and I as required;
  - Is capable of and may perform the Level III, Level II and Level I duties.
- (b) Indicative of some of the tasks which an employee at this level may perform:
- Supervises Pool Attendants;
  - Supervises Athletic Centre employees;
  - Supervises Aquatic Centre employees;
  - Supervises Archery Centre Employees
  - Supervises Satellite Sports Venues employees

Supervises administrative and accounting operations;

Supervises information technology;

Supervises daily activities and operation of health and fitness activities;

Supervises maintenance employees;

Supervises café and concessions staff and operations

Undertakes specialist and higher level/more complex cooking duties, and provides specialist input and advice into menu content and function operations.

## 5.2 Classifications (Skill/Definitions) for casual employees at the Aquatic, Athletic and Archery Centres:

### 5.2.1 Casual Level A

Means an employee with no qualifications who performs duties of a routine nature, requiring the use of minimum judgement and supervision.

Employees at this level may include the initial recruit who may have limited relevant experience.

(a) An employee at this level will be able to:

Communicate with the public in a courteous and tactful manner.

(b) Indicative of some of the tasks which an employee at this level may perform are:

Is employed as a Car Park Attendant;

Is employed as a Tour Guide;

Undertakes clerical duties including exercising basic keyboard skills, office assistance and maintenance of simple records;

Assists with the administration of the Swim School programme;

Receives, despatches, distributes, sorts, checks, documents, orders and records goods and/or materials;

Is employed as General Hand;

Assists in basic food preparation. Assists in taking orders, and maintaining cleanliness of customer space and service areas. Serves basic foods and beverages.

Duties peripheral and ancillary to the above as required.

### 5.2.2 Casual Level B

Means an employee who has undertaken structured training recognised by the industry as relevant and appropriate to perform work within the scope of this level.

(a) An employee at this level:

Assists with the provision of on-the-job training to a limited degree;

Conducts individual or group activities/programs/sessions under supervision, only after commencing a recognised course or undergoing accredited training;

Exercises intermediate keyboard skills with instructions;



Works in a team environment under routine supervision;

Where appropriate holds and maintains life saving and first aid qualifications recognised as being appropriate for the safe and effective conduct of duties involving public and employee health and safety;

Works from instructions or procedures;

Has an understanding of general office procedures;

Co-ordinates duties under the direction of a Level III employee;

Provides general supervision and assistance of Level A employees; and

Is capable of and may perform duties of a Level A - casual employee.

(b) Indicative of some of the tasks which an employee at this level may perform:

Is employed as a cashier involved in kiosk duties including customer turnover and cash handling, taking of bookings and tickets and assists generally in the day-to-day activities of the operation;

Takes classes and directs leisure activities;

Supervises public swimming;

Attends to health and safety of the public;

Sells programmes/tickets and gives change;

Co-ordinates events and bookings;

Undertakes receptionist duties;

Undertakes office administrative duties;

Attends to equipment and displays e.g., pool attendant, athletic track Attendants; archery attendant.

Safeguards individuals e.g. child care attendants.

Undertakes cooking duties associated with basic foods e.g. snacks and grills. Takes orders, and maintains cleanliness of customer space and service areas. Serves foods and beverages.

### 5.2.3 Casual Level C

Means an employee who has completed structured training recognised by the industry as relevant and appropriate to perform work within the scope of this level.

(a) An employee at this level:

Assists in the provision of on-the-job training where applicable;

Exercises discretion within one's own level of skill and training;

Takes responsibility for the quality of one's work (subject to routine supervision);

Exercises good keyboard skills and knowledge of office procedures/equipment/systems;

Is capable of and may perform Level A and Level B duties.

- (b) Indicative of some of the tasks which an employee at this level may perform:

Is employed as Gym Exercise Specialist;

Is employed as Head Coach;

Undertakes general cooking duties and assists with specialist cooking duties. Performs higher level waiting and customer service duties.

In the Absence of Line Supervisors, Acts in an Appropriate Way to Supervise the Work Areas to Ensure Delivery of Services.

### 5.3 Classifications (Skill/Definitions) for casual event staff employees at the Sports Centre:

#### 5.3.1 Level 1

- (a) An employee at this level:

Has no qualifications and performs duties of a routine nature, requiring the use of minimum judgement and supervision.

Includes the initial recruit who may have limited relevant experience.

Communicates with the public in a courteous and tactful manner.

Works under close supervision and undergoes on-the-job training,

- (b) Indicative of some of the tasks which an employee at this level may perform:

would perform the function of car parking attendant, door attendant, door attendant or usher cashier (including basic clerical and office duties including answering the phone).

Upon completion of 400 hours of employment at Level 1, an employee will be reclassified to Level 2.

#### 5.3.2 Level 2

- a) An employee at this level:

Has undertaken structured training recognised by the Centre's management as being relevant; or

Completed 400 hours employment at the level required of a Level 1 operative or equivalent work within the leisure and recreation or venue management sector.

works in a team environment under routine supervision and assists with the provision of on-the-job training to a limited degree.

Where appropriate, holds and maintain first-aid qualifications recognised as being in accord with the safe and effective conduct of duties involving public and employee health and safety.

- (b) Indicative of some of the tasks which an employee at this level may perform:

Program selling/merchandise selling;

Processing ticket sales and bookings;

Conduct tours of the Centre or associated facilities;

Supervise uniform room.

### 5.3.3 Level 3

- a) An employee at this level:

exercises discretion within one's own level of skill and training and has delegated responsibility for work under their control or supervision in terms of allocation of duties, co-ordinating workflows, checking progress, quality of work and resolving problems, as well as counselling staff for performance and work-related problems where required.

- (b) Indicative of some of the tasks which an employee at this level may perform:

trains new employees at Levels 1 and 2 and supervises a discrete section or group;

acts as an assistant theatre manager or event co-ordinator/client liaison, audio visual technician.

### 5.3.4 Level 4

- a) An employee at this level:

is subject to broad guidance or direction,

reports to more senior staff as required.

would have worked or studied in a relevant field and/or have specialist knowledge, qualifications and experience sufficient to enable them to advise on a range of activities and features and contribute, as required, to the determination of objectives, within their delegated area of supervision, including box office management, theatre craft, event management, publicity and promotion.

## 5.4 Classifications (Skill/Definitions) for gymnastics program employees at the Sports Centre:

### 5.4.1 Level 1

- a) An employee at this level:

is an employee who is undertaking training which may include information on the employer's business, conditions of employment, introduction of supervisors and fellow workers, training and career path opportunities, occupational health and safety, equity, and quality assurance..

An employee at this level performs routine duties essentially to the level of his/her training:

exercises minimal judgement;

works under direct supervision;

- b) whilst undertaking structured training/learning the employee may be engaged in one or more of the following duties:

- undertakes basic safety checks of equipment and the floor area;

- provides gymnastic instruction to classes by following programmed lessons/activities;

- judges gymnastic performance for Industry Levels 1-3;
- undertakes set-ups and pull-downs, under supervision;
- prepares participant injury reports.

#### 5.4.2 Level 2

- a) An employee at this level:

has completed the Industry recognised level of training so as to enable him/her to perform work within the scope of this level. An employee at this level performs work above and beyond the skills of an employee at Level 1 and to the level of his/her training.

works from instructions or procedures and works under direct supervision either individually or in a team environment. .

- (b) is primarily engaged in one or more of the following duties:

- instructs classes up to Industry Level 3 ;
- develops lower level gymnastics programs/lessons;
- judges gymnastic performance for Industry Levels 1-6;
- attends external basic competitions with program participants;
- Undertakes set ups and pull downs;.

#### 5.4.3 Level 3

- a) An employee at this level:

has completed structured training recognised by the industry as relevant and appropriate to perform within the scope of this level.

is responsible for the quality of their own work subject to routine supervision either individually or in a team environment;

exercises discretion within their level of skills and training;

assists in the provision of on-the-job training of employees at Levels 2 and 1 where applicable.

- b) Indicative of some of the tasks which an employee at this level may perform:

- instructs classes up to Industry Level 6;
- judges gymnastic performance for Industry Levels 1-6
- develops gymnastics programs/lessons of an intermediate nature;
- attends external higher level competitions with program participants;
- certifies completion of safety checks for equipment and the floor area;
- Undertakes set ups and pull downs;
- discusses routine participant issues with parents.

## 5.4.4 Level 4

- a) An employee at this level:

shall be capable of performing the indicative skills of a Level 3 employee and shall also be able to work from complex instructions:

- b) Indicative of some of the tasks which an employee at this level may perform:

- instructs classes up to Industry Level 10;
- coordinates activities across the gymnastics floor area.
- supervises set up and pull downs;
- assesses participant ability for progression and competition participation.

## 5.4.5 Level 5

- a) An employee at this level:

has an Advanced Industry qualification and is competent to perform work within the scope of this level.

An employee at this level is responsible for supervision, training and co-ordination of employees within their respective work area to ensure delivery of service.

- b) Indicative of some of the tasks which an employee at this level may perform:

- Instructs advanced and elite program classes;
- organises competition entry;
- develops gymnastics programs/lessons of an advanced and elite nature;
- makes decisions on participants' progression;
- works with Levels 1 to 4 to address/correct participant technique/capability/progression issues;
- discusses program and participant matters with parents;

## 5.4.6 Level 6

- a) An employee at this level:

is engaged in supervising, training and co-ordinating staff and is responsible for the maintenance of service and operational standards, and exercises substantial responsibility and independent initiative and judgement with a requisite knowledge of their specific field and of the employer's business.

would hold formal technical qualifications relevant to the employer which are required by the employer to perform the job, and

would have worked in a relevant field and have specialist knowledge and experience, sufficient for them to give advice and/or guidance to their organisation and/or clients in relation to specific areas of their responsibility.

- b) Indicative of some of the tasks which an employee at this level may perform:
- general supervision of gymnastics centre and program;
  - Instruct elite program classes;
  - develop gymnastics programs/lessons of an elite nature;
  - centre administration involving supervision of staff and systems and co-ordinating competitions;
  - develops in-house training programs for instructors
  - prepares reports for management on program performance and program initiatives,
  - discusses a broad range of program/participant matters with parents.
  - may represent the program or centre in external forums where requested and approved.

#### **6. Income Protection Plan**

- 6.1 All full-time, part-time and casual employees at the Aquatic, Athletic and Archery Centres, and Satellite Sports Venues who are members of the AWU to whom this award applies shall be covered by the Sickness and Accident Income Protection Plan approved and endorsed by the AWU (provided by Chifley Financial Services). It is a term of this award that the employer will bear the costs of 1.55% of gross weekly pay per week per member towards providing income protection with a maximum payment of \$4.55 per week for casuals.
- 6.2 All Sports Centre casual event staff and gymnastic program employees employed in classifications provided in Clause 5 who are members of the union to whom this award applies shall be covered by the Sickness and Accident Income Protection Plan approved and endorsed by The Australian Workers' Union. It is a term of this award that the employer will bear the costs of a daily premium of \$1.00 per employee per day worked to cover employees who are members of the union

#### **7. Hours of Work**

- 7.1 The Hours of Work for Aquatic, Athletic and Archery Centres', Satellite Sports Venues and Gymnastics Program employees at the Sports centre (excepting gymnastic program casual staff) are those outlined at subclauses 7.2 to 7.5 below. Hours of Work for Sports Centre casual event staff employees are outlined at subclause 7.6, Hours of Work for Sports Centre casual gymnastic program employees are outlined at subclause 7.7.
- 7.2 The ordinary hours of work, exclusive of meal times, shall not exceed an average of 38 hours per week, between the hours of 4.30 am and 11.00 pm. The ordinary hours of work may be extended to 2.00 am to cover special events, provided that management gives all employees involved seven clear days' notice of the extension of ordinary hours, or upon agreement between the employer and employee.
- 7.3 The employer shall arrange the working of the thirty eight hour week in one of the following ways:
- 7.2.1 by employees working less than eight hours per day;
  - 7.2.2 by employees working less than eight hours on one or more days in each week; or
  - 7.2.3 by working up to ten hours on one or more days in the week.
- 7.4 Employees other than maintenance employees, pool attendants, and those employees employed in the gym shall be entitled to receive 4 sets of 2 consecutive days off in each 28 day period.

- 7.5 Notwithstanding the provision of subclauses 7.1 & 7.3 the employer and employee may agree to change the rostered time of ordinary hours by one week's notice or with the consent of the employee at any time.
- 7.6 The ordinary hours of work for Sports Centre casual event staff employees shall be rostered, between the hours of 7.00 am and 11.30 pm. The ordinary hours of work may be extended to 2.00 am to cover special events, provided that management gives all employees involved 7 clear days' notice of the extension of ordinary hours, or upon agreement between the employer and employee.
- 7.7 The ordinary hours of work for Sports Centre gymnastics program casual employees shall be up to 8 hours on any shift
- 7.8 All ordinary work by a gymnastics program employee, including an ordinary casual, on a Saturday shall be paid at the ordinary time classification rate of pay plus a penalty equal to 25 per cent of the employee's ordinary time classification rate of pay. All ordinary work by a gymnastics program employee, including an ordinary casual on a Sunday shall be paid at the ordinary time classification rate of pay plus a penalty equal to 50 per cent of the employee's ordinary time classification rate of pay.

### **8. Full-Time, Part-Time, Fixed Term and Casual Employees**

- 8.1 An employee at the Aquatic, Athletic or Archery Centres or the Satellite Sports Venues, or an employee at the Sports Centre engaged in a classification under subclause 5.4 shall be engaged as either a full-time, part-time, fixed term or casual employee. Sports Centre event staff engaged under this Award shall be engaged as casual employees.
- 8.2 A full-time employee is an employee who is engaged to work an average 38 hours per week.
- 8.3 A part-time employee is an employee engaged to work a minimum of 10 hours work per week. A part-time employee shall receive sick leave, annual leave and long service leave on a pro rata basis.
- 8.4 A casual employee is an employee engaged and paid as such. A casual employee at the Aquatic, Athletic and Archery Centres or Satellite Sports Venues shall be paid the appropriate hourly rate as set out in Table 2 of Part B. A casual event staff employee at the Sports Centre shall be paid the hourly rate as set out in Table 3 of Part B. A casual employee at the Sports Centre engaged in a classification under subclause 5.4 shall be paid either on an ordinary or 'all-up' basis as set out in subclause 4.5.
- 8.5 The casual hourly rate contained in this award, contains a component in lieu of any entitlement to sick leave, paid bereavement leave, paid personal carer's leave, and annual leave.
- 8.6 A casual employee, except as provided for in subclauses 8.7 and 4.5 (ii) shall receive a minimum payment of 3 hours for each engagement.
- 8.7 Casual employees involved in the presentation or conducting of sports, games and training e.g. instructors, shall receive a minimum payment of one hour, except those so engaged at the Sydney Athletic Centre, and casual event staff at the Sports Centre engaged in a classification under Clause 5.3, who shall receive a minimum payment of 3 hours.
- 8.8 Casual rosters may be changed by management provided that shifts are not shortened to less than the minimums referred to above.
- 8.9 A fixed term employee is an employee who is employed on a full-time or part-time basis for a fixed period. An employee who is engaged on this basis shall be notified in writing of the dates on which their engagement will commence and cease. The commencing and ceasing dates may be varied by agreement.

### **9. Higher Duties**

- 9.1 An employee required to perform the entire function of a position attracting a higher level under the award shall, on each occasion, be paid the entire difference between their own salary and the salary of the higher position on the fifth and subsequent days of acting up to the higher position.

- 9.2 The parties to the Award agree that employees required to be in charge of the Pool Deck (that is employees who are rostered on to open and close the Aquatic Centre) will at all times be paid at Level 3 or above.

### **10. Meal Breaks**

- 10.1 The provisions of subclauses 10.2 to 10.6 apply to employees of the Aquatic, Athletic and Archery Centres and Satellite Sports Venues
- 10.2 Employees shall be entitled to an unpaid meal break of 30 minutes which shall be taken no more than five hours after commencing duty.
- 10.3 Employees working more than six hours per day (excluding breaks) shall also be entitled to two paid ten minutes rest breaks either side of the unpaid meal break.
- 10.4 The employer and employee shall determine the time at which a rest break shall be taken.
- 10.5 Where an employee is required to work in excess of ten ordinary hours, discussions will occur between the employee and his/her supervisor as to whether an additional unpaid meal break of 30 minutes is warranted and if so, the time at which that meal break should be taken.
- 10.6 Staff engaged as casual pool attendants shall be given a paid break of 10 minutes within three hours of commencing duty, with a further paid break of ten minutes should work be required after six hours, in lieu of the provisions outlined in subclause 10.2 above.
- 10.7 Sports Centre casual event staff employees who are required to work on any shift for more than 5 hours shall be entitled to a paid meal break of 30 minutes which should be taken no more than 5 hours after commencing duty.
- 10.8 Sports Centre gymnastics program employees shall be entitled to an unpaid meal break of not less than 30 minutes and not more than one hour not more than 5 hours after commencing duty.
- 10.9 Notwithstanding the provisions of subclause 10.1 and 10.8 the employer and employee can determine the appropriate time to take a meal break by mutual agreement.

### **11. Overtime**

- 11.1 The provisions of subclauses 11.2 to 11.6 apply to employees of the Aquatic, Athletic and Archery Centres Satellite Sports Venues and Gymnastic Program staff at the Sports Centre, excluding casual gymnastic program employees.
- 11.2 All time worked in excess of an average of thirty-eight hours in any one week outside the spread of hours prescribed in subclause 7.1 of this award or in excess of ten hours in one day shall be paid as overtime or given as time off in lieu.
- 11.3 All excess hours must be authorised by the appropriate supervisor in each section, prior to any overtime being worked.
- 11.4 By mutual agreement, excess hours shall be paid as overtime or taken off, as time off in lieu. Time off in lieu will be at the overtime rate of time and a half for the first two hours and double time thereafter. This means each excess hour worked will entitle an employee to either one and a half or two hours as time off in lieu. All accrued time off in lieu shall be taken two months after it falls due unless there is mutual agreement between the employer and employee to do otherwise. The maximum number of hours to be accrued at any time is 38.
- 11.5 Where it is impracticable for the excess hours to be taken off as time off in lieu, it shall be paid for at the rate of time and one half for the first two hours and double time thereafter.



- 11.6 An employee (other than a casual employee) who works so many excess hours between the termination of ordinary work on one day and the commencement of ordinary work on the next day, that the employee has not had at least ten (10) consecutive hours off duty between those times, shall be released after the completion of such overtime until ten (10) consecutive hours has been allowed without loss of pay for ordinary working time occurring during such absence.
- 11.7 Overtime shall be paid to Sports Centre casual event staff employees where
- (a) the hours of work exceed 10 in any day;
  - (b) the hours of work extend beyond the time limits specified in subclause 7.6,
  - (c) the employee receives less than a 10-hour break between work on consecutive days
- 11.8 Overtime for Sports Centre casual event staff employees shall be paid on the hourly rates contained in Table 3 of Part B, based on time and one half for the first 2 hours and double time for each hour worked thereafter calculated to the nearest quarter hour.
- 11.9 Overtime for casual gymnastic program staff shall be paid on the loaded casual rate (i.e. 15 per cent or 30 per cent) based on time and one half for the first 2 hours and double time for each hour worked in excess of 8 hours, calculated to the nearest quarter hour.

## 12. Public Holidays

- 12.1 The days on which New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day or any additional public holidays or substituted public holidays proclaimed for the State of New South Wales under the *Public Holidays Act 2010*, shall be holidays and no deduction shall be made in respect of such holidays from the wages due to any employee for the week in which such holiday or holidays occur.
- 12.2 Provided that the abovementioned holiday may be substituted for another day off by agreement between the employer and employee(s) to be taken within one (1) month of the said holiday or adjacent to a period of annual leave.
- 12.3 Any full-time or part-time employee, including a fixed term employee, who is required to work on a public holiday shall be entitled to either time and one half hours pay for each hour worked as well as a day off in lieu at a time mutually agreed; or double time and one half for each hour worked on the public holiday. Casual employees (but not including Sports Centre casual event staff employees) who are required to work on a public holiday shall be entitled to double time and one half for each hour work on the public holiday. Sports Centre casual event staff employees who are required to work on a public holiday shall be paid at the hourly rate applicable in Table 3
- 12.4 Full time, part time and fixed term employees who are absent from work on the day before or the day after a public holiday shall provide the employer with proof of sickness (by way of a medical certificate) prior to receiving payment for those days.
- 12.5 An employee whose day or days off duty coincides with a public holiday shall not be entitled to receive an additional day in lieu.
- 12.6 A full-time, part-time or fixed term employee, who presents proof of purchase of a ticket to the Union's Picnic Day function, at least ten calendar days in advance of the event, shall be entitled to paid leave to attend the function. The Union shall advise management at least three months prior to the event of any change of date to the Picnic, which shall otherwise be held on the first Monday in December.

## 13. Sick Leave

- 13.1 A full-time employee shall be entitled to ten days sick leave per year of service. Part-time employees shall be entitled to a proportionate amount of sick leave.

- 13.2 If the full period of sick leave is not taken in any one year, the whole or untaken portion shall accumulate from year to year.
- 13.3 An employee shall not be entitled to sick leave for any period in respect of which such employee is entitled to worker's compensation.
- 13.4 Where an employee is ill or incapacitated on a rostered day or shift off he/she shall not be entitled to sick pay on that day nor shall his/her entitlement to sick leave be reduced as a result of such illness or incapacity.
- 13.5 Where an employee is absent for more than one consecutive day, or more than five single days in a year, the employee shall provide the employer with a doctor's certificate.
- 13.6 The employee, wherever possible, shall, prior to the commencement of the absence on sick leave, inform the employer of their inability to attend for duty and as far as practicable, the estimated duration of the absence.

#### **14. Personal Carer's Leave**

- 14.1 Use of Sick Leave:
- 14.1.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subclause 14.1.6 (b), who needs the employee's care and support, shall be entitled to use, in accordance with this clause, any current or accrued sick leave entitlement, provided for in clause 13, Sick Leave, for absences to provide care and support, for such persons, when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
- 14.1.2 Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.
- 14.1.3 Where the parties are unable to reach agreement the disputes procedure at clause 30, Grievance and Dispute Resolution Procedures should be followed.
- 14.1.4 The employee shall, if required
- (a) establish by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
  - (b) establish by production of documentation acceptable to the employer, or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.
- 14.1.5 In normal circumstances, an employee must not take carer's leave under this clause where another person had taken leave to care for the same person.
- 14.1.6 The entitlement to use sick leave in accordance with this subclause is subject to:
- (a) The employee being responsible for the care and support of the person concerned; and
  - (b) The person concerned being:
    - (i) a spouse of the employee, or
    - (ii) a de facto spouse, who is a person of the opposite sex to the employee, who lives with the employee 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), 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
- (iv) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (v) a relative of the employee who is a member of the same household, where for the purpose of this clause:

"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.

14.1.7 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 their relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

#### 14.2 Use of Unpaid Leave:

14.2.1 An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in subclause 14.1.6 (b) who is ill, or who requires care due to an unexpected emergency.

#### 14.3 Use of Annual Leave:

14.3.1 An employee may elect, with the consent of the employer, subject to the *Annual Holidays Act* 1944, 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.

14.3.2 Access to annual leave, as prescribed in subclause 14.3.1, shall be exclusive of any shutdown period provided for elsewhere under this award.

#### 14.4 Use of Time Off in Lieu of Payment of Overtime:

14.4.1 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 2 months of the said election.

14.4.2 Overtime taken as time off during ordinary time hours shall be available at the rate of time and one half for the first two works worked and double time thereafter.

14.4.3 If, having elected to take time in lieu of payment of overtime in accordance with subclause 14.4.1, the time in lieu is not taken, for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the 2 month period or on termination.

14.4.4 Where no election is made in accordance with subclause 14.4.1, the employee shall be paid overtime rates in accordance with the award.

#### 14.5 Use of Make-Up Time:

14.5.1 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.

#### 14.6 Personal Carer's Entitlement for Casual Employees

14.6.1 Subject to the evidentiary and notice requirements in subclause 14.1.4, 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 14.1.6 (b) who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child.

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

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

### 15. Bereavement Leave

15.1 A full-time or part-time employee, including a fixed term employee, shall be entitled to a maximum of three days leave without loss of pay on each occasion and on the production of satisfactory evidence of death within Australia of a member of the employee's family or household (as defined in subclause 14.1.6 (b)).

15.2 An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.

15.3 Bereavement leave may be taken in conjunction with other leave available under subclauses 14.2, 14.3, 14.4 and 14.5. Where such other available leave is to be taken in conjunction with bereavement leave, consideration will be given to the circumstances of the employee and the reasonable operational requirements of the employer.

#### 15.4 Bereavement Leave for casual employees

15.4.1 Subject to the evidentiary and notice requirements in subclause 14.1.4, 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 14.1.6 (b).

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

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

### 16. Parental Leave

16.1 Refer to Part 4 of Chapter 2 of 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).

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

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

### 16.3 Right to request

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

16.3.1 to extend the period of simultaneous unpaid parental leave up to a maximum of eight weeks;

16.3.2 to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;

16.3.3 to return from a period of parental leave on a part-time basis until the child reaches school age;  
to assist the employee in reconciling work and parental responsibilities.

16.4 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.

### 16.5 Employee's request and the employer's decision to be in writing

16.5.1 The employee's request and the employer's decision made under subclause 16.4 and 16.5 must be recorded in writing.

### 16.6 Request to return to work part-time

Where an employee wishes to make a request under subclause 16.3, such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

### 16.7 Communication during parental leave

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

- (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 parental 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 parental leave.

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

16.7.3 The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with subclause 16.7.1.

## **17. Leave for Matters Arising from Domestic Violence**

17.1 For the purposes of this clause Domestic Violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*

17.2 Leave entitlements provided for in clause 13, Sick Leave and clause 14, Personal Carer's Leave, may be used by employees experiencing domestic violence.

- 17.3 Where the entitlements referred to in subclause 17.2 are exhausted, the employer shall grant up to five days paid special leave to be used for absences from the workplace to attend to matters arising from domestic violence situations.
- 17.4 The employer will need to be satisfied, on reasonable grounds, that domestic violence has occurred and may require proof presented in the form of an agreed document issued by the Police Force, a Court, a Doctor, a Domestic Violence Support Service, or a Lawyer.
- 17.5 Personal information concerning domestic violence will be kept confidential by the employer.
- 17.6 The employer, where appropriate, may facilitate flexible working arrangements subject to operational requirements, including changes to working times and changes to work location, telephone number, and email address.

### 18. Terms of Engagement

- 18.1 Full-time and part-time employees at the Aquatic, Athletics and Archery Centres and Satellite Sports Venues employed in classifications under subclause 5.1 shall be engaged by the week and their engagement shall only be terminated by the employer or employee giving the notice prescribed below, or by payment or forfeiture, as the case may be of the appropriate wages in lieu of notice.

Levels 1 & 2	1 week
Level 3	2 weeks
Level 4	4 weeks

- 18.2 A fixed term employee shall be employed for a fixed period. The engagement of a fixed term employee may be varied by agreement between the employer and employee. Notwithstanding the above provisions, a fixed term contract may be terminated by one week's notice on either side or by the payment or forfeiture, as the case may be, of a week's wages in lieu of notice thereof.
- 18.3 Full-time and part-time gymnastics program employees employed in classifications under subclause 5.4 shall be engaged by the week and their engagement may be terminated by the employer or employee giving one week's notice, or by payment or forfeiture, as the case may be of the appropriate wages in lieu of notice.
- 18.4 The provisions outlined in subclauses 18.1 and 18.2 shall not affect the right of an employer to dismiss any employee without notice for misconduct or other neglect of duty.
- 18.5 The employer shall have the right to deduct payment for the time of non-attendance by any employee who fails to attend for duty, or absents himself/herself from duty, without leave.

### 19. Training Wage

- 19.1 See the Theatrical Employees (Training Wage) (State) Award.

### 20. Payment of Wages

- 20.1 Wages will be paid fortnightly by Electronic Funds Transfer.

### 21. Annual Leave and Annual Leave Loading

- 21.1 Full-time and part-time employees employed on or prior to 19 April, 1999 shall receive annual leave of five weeks per annum plus 17.5% Annual Leave Loading, upon the completion of twelve months service.
- 21.2 Part time employees employed after 19 April, 1999 shall be entitled to four (4) weeks paid annual leave per annum plus 17.5% Annual Leave Loading, upon the completion of twelve months service.
- 21.3 Full-time employees employed after 19 April, 1999 shall be entitled to annual leave of five weeks per annum plus 17.5% annual leave loading, upon the completion of twelve months service.

- 21.4 Full-time and part-time gymnastics program employees employed in the classifications under subclause 5.4 shall be entitled to four (4) weeks paid annual leave per annum plus 17.5% Annual Leave Loading, upon the completion of twelve months service.
- 21.5 The loading referred to in subclauses 21.1, 21.2, 21.3 and 21.4 above shall be paid to all weekly employees upon the anniversary of their entitlement, as a lump sum.
- 21.6 Fixed term employees who are engaged on a contract of less than twelve months shall be entitled to annual leave loading, provided that they have been employed as either a casual or weekly employee for a period of longer than twelve months in total, as on aggregate of full-time, part-time or casual employment.
- 21.7 Cashing out of Annual leave
- 21.7.1 Full-time and part-time employees who are entitled to annual leave of 5 weeks per annum under subclause 21.1 or subclause 21.3 shall be able to elect to cash out 1 weeks annual leave, on a single occasion, once in each calendar year. This provision does not apply to employees who accrue 4 weeks annual leave per annum under subclauses 21.2 and 21.4
- 21.7.2 Employees wishing to cash out leave shall indicate their intention in writing, or by email.
- 21.7.3 The cashing out of leave under subclause 21.7 is not available to employees, where the cashing out of leave would result in the employee's leave balance reducing to below 4 weeks at the time of cashing out.

## 22. Long Service Leave

- 22.1 The New South Wales *Long Service Leave Act* 1955 applies.

## 23. Consultation and Union Access

- 23.1 A meeting will be held every two months between employee representatives, the Union Official and the Director of the Sydney Olympic Park Sports Venues for the purpose of discussing matters affecting the employment, productivity and efficiency at the Sydney Olympic Park Sports Venues.
- 23.2 The Employer recognises the rights of employees to elect union delegates as their representative for the purposes of this Award and to enhance the consultative mechanism.
- 23.3 Where operational matters permit, and subject to sufficient notice to management, accredited union delegates will be allowed reasonable time in work hours to prepare for and meet with management, a union official or employees they represent on urgent matters affecting union members. Management agreement will not be unreasonably withheld.
- Collective meetings of employees with a union official or accredited union delegate will be held during a lunch or other work break or outside hours unless otherwise agreed by management.
- 23.4 The Employer shall provide accredited delegates with reasonable access to the following facilities for authorised union activities
- 23.4.1 Computer for word processing and related purposes, email, telephone, photocopier, facsimile machine and a private meeting room, if and when necessary.
- 23.4.2 Access to a notice board for material authorised by the union. The Employer shall have the right to decline the posting of material at its discretion but shall not unreasonably do so.
- 23.5 Union Delegates will be allowed to undertake the following activities without deduction from ordinary time earnings, subject to operational requirements and management agreement. Management will not unreasonably withhold agreement.

23.5.1 Up to 6 days per annum for training courses conducted by the union or a training provider nominated by the union; or to attend union conferences or industry meetings.

23.5.2 Attendance at, and reasonable preparation time for, industrial proceedings that directly affects the area or employee(s) that the union delegate represents.

23.5.3 Presenting information on the union and union's activities at induction sessions for new employees

#### **24. Labour Flexibility**

24.1 Employees covered by this award shall perform all work within their skill and competence including but not limited to work which is incidental but not peripheral to their main tasks and functions.

#### **25. Uniforms and Protective Clothing**

25.1 Where employees are required to wear a uniform they will be provided to the employee free of charge. Employees required to work in the rain shall be provided with oilskins, gumboots or other protective clothing, free of charge.

25.2 Upon termination of employment all uniforms and property belonging to the employer shall be returned by the employee to the employer properly laundered and/or in working order.

#### **26. Tools and Equipment**

26.1 All tools and equipment required by the employees to perform their duties shall be provided by the employer, free of charge. Any other authorised work related expenses will be reimbursed to the employee subject to satisfactory verification of the expense.

#### **27. Change Rooms**

27.1 The employer shall provide a change room for the use of the employees, free of charge. Such change room shall be equipped with hot and cold showers and shall be fitted with individual locker accommodation.

#### **28. Redundancy**

28.1 Application of this Clause.

28.1.1 This clause shall apply in respect of full-time and part-time employees as defined in Clause 8

28.1.2 This clause shall not apply to employees with less than one year's continuous service

28.1.3 This clause shall not apply where employment is terminated as a consequence of conduct that warrants dismissal, or in the case of employees engaged for a specific period of time, or for a specified task or tasks, where employment is terminated due to the ordinary turnover of labour.

28.2 Employer to Notify and Discuss Change

28.2.1 Where the employer has made a definite decision to introduce major changes that are likely to have significant effects on employees, for example in structure, technology and or program/service delivery, the employer shall notify the employees who may be affected by the proposed changes and the union to which they belong

28.2.2 The employer shall discuss with the employees affected and the union to which they belong, among other matters, the introduction of the changes referred to in clause 28.2.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the union in relation to the changes.



28.2.3 The discussion shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in 28.2.1

28.2.4 For the purpose of such discussion, the employer shall provide to the employees concerned, and the union to which they belong, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

28.2.5 Where the employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone, pursuant to clause 28.2.1, and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the union to which they belong as early as practicable.

28.2.6 The discussions referred to in 28.2.5 shall cover, among other matters any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination on the employees concerned, the number and categories of employees likely to be affected, and the number of workers normally employed, and the period over which the terminations are likely to be carried out.

28.3 Notice of Termination of Employment

28.3.1 In order to terminate the employment of an employee for reasons arising from "structure", or "program/service delivery", in accordance with 28.2.1, the employer shall give to the employee the following notice

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

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

28.3.3 Payment in lieu of the notice in 28.3.2 shall be made if the appropriate notice period is not given, provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof

28.4 Notice for Technological Change

28.4.1 In order to terminate the employment of an employee for reasons arising from "technology" in accordance with 28.2.1, the employer shall give to the employee three months’ notice of termination

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

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

28.5 Time Off During the Notice Period

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

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

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

## 28.6 Transfer to Lower Paid Duties

28.6.1 Where an employee is transferred to lower paid duties for reasons set out in 28.2.1 the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated, and the employer may at the employer's option make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new ordinary time rates for the number of weeks of notice still owing.

## 28.7 Severance Pay

28.7.1 Where an employee is to be terminated pursuant to clause 28, subject to further order of the Industrial Relations Commission, the employer shall pay the following severance pay in respect of a continuous period of service:

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

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

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

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

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

28.7.2 Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that

contained in subclause 28.7.1 if the employer obtains acceptable alternative employment for an employee

### **29. Major Interruption to Operations**

- 29.1 Although a rare event, external factors such as acts of God or malicious acts by a third party or parties, or industrial action, breakdown of machinery or any other act or omission for which the employer is not responsible may result in the closure of the Centres.
- 29.2 In the first instance options for staff to work at another location will be investigated.
- 29.3 In instances where this is not possible, staff will be given the opportunity to access available annual and/or long service leave entitlements.
- 29.4 Where staff are not able to be placed in work pursuant to clause 29.2 or do not elect to access leave entitlements pursuant to clause 29.3, either party may make an application to the Industrial Relations Commission pursuant to s.126 of the *Industrial Relations Act 1996* for a stand down order.

### **30. Grievance and Dispute Resolution Procedures**

- 30.1 Procedures relating to grievances of individual employees.
- 30.1.1 The employee is required to notify (in writing or otherwise) the employer as to the substance of the grievance, request a meeting with the employer for bilateral discussions and state the remedy sought.
- 30.1.2 A grievance must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
- 30.1.3 Reasonable time limits must be allowed for discussion at each level of authority.
- 30.1.4 At the conclusion of the discussion, the employer must provide a response to the employee's grievance if the matter has not been resolved, including reasons for not implementing any proposed remedy.
- 30.1.5 While a procedure is being followed, normal work must continue.
- 30.1.6 The employee may be represented by a union party to this award for the purpose of each procedure.
- 30.1.7 The grievance may be referred to the New South Wales Industrial Relations Commission by any party for conciliation or arbitration if the matter is unresolved following the use of the above procedure.
- 30.2 Procedures relating to disputes etc. between the employer and its employees.
- 30.2.1 A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher level of authority.
- 30.2.2 Reasonable time limits must be allowed for discussion at each level of authority.
- 30.2.3 While a procedure is being followed, normal work must continue.
- 30.2.4 The employer may be represented by an industrial organisation of employers and the employees may be represented by a union party to this award for the purpose of each procedure.
- 30.2.5 If the dispute resolution process is exhausted without the dispute being resolved, the parties may jointly or individually refer the matter to the NSW Industrial Relations Commission for conciliation and/or arbitration.

### 31. Secure Employment

#### 31.1 Objective of this Clause

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

#### 31.2 Casual Conversion

31.2.1 A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment, or part-time employment, if the employment is to continue beyond the conversion process prescribed by this clause.

31.2.2 Every employer of such a casual employee shall give the employee notice in writing of the provisions of this clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this clause if the employer fails to comply with this notice requirement.

31.2.3 Any casual employee who has a right to elect under subclause 31.2.1, upon receiving notice under subclause 31.2.2 or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

31.2.4 Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (i) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.

31.2.5 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 subclause 31.2.3, the employer and employee shall, in accordance with this clause, and subject to subclause 31.2.3, discuss and agree upon:

- (a) whether the employee will convert to full-time or part-time employment; and
- (b) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

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

- 31.2.6 Following an agreement being reached pursuant to subclause 31.2.5, 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.
- 31.2.7 An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this clause.
- 31.2.8 The parties recognise the seasonal nature of casual employment at the Centres and acknowledge that regular and systematic work may extend over a number of months on a seasonal basis, but not over the full year. These circumstances will constitute valid grounds for the employer to not unreasonably refuse an employee's election to convert to full time or part time employment (in accordance with subclause 31.2.3) where the seasonal nature of the work can be demonstrated.
- 31.2.9 This clause does not apply to casual event staff employees at the Sports Centre in the classification described in clause 5.3

### **32. Work Health and Safety**

#### **32.1 Work Health and Safety**

32.1.1 For the purposes of this clause, the following definitions shall apply:

- (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

32.1.2 Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (a) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (b) provide employees of the labour hire business and/or contract business with appropriate workplace health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (c) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (d) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

32.1.3 Nothing in clause 32 is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Work Health and Safety Act 2011* or the *Workplace Injury Management and Workers Compensation Act 1998*.

### 32.2 Disputes Regarding the Application of this Clause

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

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

32.4 The parties to this agreement are committed to continuous improvement in work health and safety (WHS) standards through the implementation of an organisational framework, involving all parties in protecting workers' health and safety.

In addition to initial work health and safety training for employee representatives, employee representatives may undertake one day per annum refresher training at a course, conference or seminar, chosen in consultation with the employer.

### 33. No Extra Claims

33. 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.

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.

### 34. Anti-Discrimination

34.1 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.

34.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award, the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.

34.3 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.

34.4 Nothing in this clause is to be taken to affect:

- (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
- (b) offering or providing junior rates of pay to persons under 21 years of age;
- (c) a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

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

34.6 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

### 35. Area, Incidence and Duration

- 35.1 This award shall regulate the terms and conditions of employment of employees:
- (a) of the Government of NSW employed in the Public Service under Division 1, Part 4 of the *Government Sector Employment Act 2013* in the Sydney Olympic Park Authority Branch of the Office of Sport in the classifications prescribed by this Award at the Sydney Olympic Park Aquatic, Athletic and Archery Centres, and Satellite Sports Venues, and
  - (b) not classified as staff members of the management team.
  - (c) of the Government of NSW employed in the Public Service under Division 1, Part 4 of the *Government Sector Employment Act 2013* in the Sydney Olympic Park Authority Branch of the Office of Sport in the classifications prescribed by this Award in connection with (whether indoors or outdoors) any fixture, event, exhibition or performance at the Sydney Olympic Park Sports Centre, or associated facilities.
  - (d) of the Government of NSW employed in the Public Service under Division 1, Part 4 of the *Government Sector Employment Act 2013* in the Sydney Olympic Park Authority Branch of the Office of Sport in the classifications prescribed by this Award, in connection with the gymnastics program, at the Sydney Olympic Park Sports Centre, or associated facilities.
- 35.2 This award shall not apply to employees employed in a security capacity in or in connection with, or in or about (whether indoors or outdoors), the Sydney Olympic Park Aquatic Centre, Sydney Olympic Park Athletic Centre, the Sydney Olympic Park Archery Centre, the Sydney Olympic Park Sports Centre and the Satellite Sports Venues.
- 35.3 This award shall not apply to employees at the Sports Centre who from time to time may perform functions covered by the classification structure in subclause 5.3, who are engaged by the week..
- 35.4 This award is made following an application by the Office of Sport, Sydney Olympic Park Authority Branch under section 10 of the *Industrial Relations Act 1996* and rescinds and replaces the Sydney Olympic Park Authority Managed Sports Venues Award 2016 published on 24 June 2016 (379 I.G. 928) and all variations thereof.
- The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 IG 359) have been included in the award.
- 35.5 The award will operate from 1 July 2018 and remain in force until 30 June 2019.
- 35.6 The parties to this award have agreed to commence discussions for a new award 6 months prior to the nominal expiry date.

## PART B

**Table 1 - Rates of Pay for Full-Time Classifications under Clause 5.1**

Classification Level	Salary from the first pay period on or after 1 July 2018 (2.50%)
	\$
Level 1	42,930
Level 2	48,285
Level 3	53,660
Level 4	64,373

**Table 2 - Hourly Rates of Pay for Casual Employees under Clause 5.2**

Classification Level	Hourly Rates from the first pay period on or after 1 July 2018 (2.50%)
	\$
Level A	25.10
Level B	26.80
Level C	28.50

**Table 3 - Hourly Rates of Pay for Sports Centre Casual Event Staff Employees under clause 5.3**

Classification Level	Monday to Sunday from the first pay period on or after 1 July 2018 (2.50%) \$	Public Holidays from the first pay period on or after 1 July 2018 (2.50%) \$
Level 1	23.90	49.70
Level 2	25.60	53.40
Level 3	28.50	59.20
Level 4	33.90	70.50

**Table 4 - Rates of Pay for Full-Time Classifications under Clause 5.4**

Classification Level	Salary from the first pay period on or after 1 July 2018 (2.50%)
	\$
Level 1	693.20
Level 2	715.20
Level 3	745.00
Level 4	770.50
Level 5	817.10
Level 6	900.70

Junior Rates for Levels 1, 2 and 3	Percentage of Appropriate Adult Rate %
At 16 years and under	55
At 17 years	65
At 18 years	75
At 19 years	85
At 20 years	100

**Table 5 - Other Rates and Allowances for Classifications under Clause 5.4**

Item No.	Clause No.	Brief Description	Amount Per Week Salary from the first pay period on or after 1 July 2018 \$
1	4.6 (a)	Supervisory loadings - up to 5 employees	29.10 per week
2	4.6 (b)	Supervisory loadings - 6 to 10 employees	39.50 per week
3	4.6 (c)	Supervisory loadings - 11 or more employees	53.20 per week



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4	4.7	First-aid allowance	13.60 per week
			2.65 per shift
5	4.8	Broken Shift Allowance	14.60 per day

P. M. KITE, Chief Commissioner.

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