



NEW SOUTH WALES
INDUSTRIAL GAZETTE

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NEW SOUTH WALES

INDUSTRIAL GAZETTE

Printed by the authority of the Industrial Registrar

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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**CROWN EMPLOYEES (EDUCATION EMPLOYEES DEPARTMENT
OF JUSTICE - CORRECTIVE SERVICES NSW) AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Corrective Services NSW.

(Case No. 382287 of 2018)

Before Chief Commissioner Kite

18 December 2019

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

Clause No. Subject Matter

PART A

1. Arrangement
2. Definitions
3. Conditions Fixed by other Instruments of Employment
4. Qualifications
5. Salaries
6. Salary Packaging Arrangements, including Salary Sacrifice to Superannuation
7. Incremental Progression and Calculation of Service
8. Working Hours
9. Shift Work
10. Recreation Leave
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PART B

MONETARY RATES

Table 1 - Salaries

2. Definitions

- 2.1 "Act" means the *Government Sector Employment Act 2013* or its replacement.
- 2.2 "AEVTI" means the Adult Education and Vocational Training Institute, which is the registered provider of adult education and vocational training for inmates within Corrective Services NSW.
- 2.3 "Conditions Award" means the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 as varied from time to time, or any replacement Award.
- 2.4 "Correctional Centre" means a centre administered by Corrective Services NSW to accommodate persons committed by a court of law.
- 2.5 "Correctional Education Officer" means an employee assigned as such and who is qualified as provided in subclause 4.3 of this Award and who is required to undertake the duties specified in clause 12 of this Award.
- 2.6 "Corrective Services NSW (CSNSW)" means a division within the Department of Justice.
- 2.7 "Day Worker" means an employee, other than a shift worker, whose ordinary hours of work are from Monday to Friday with hours as specified for the particular classification.
- 2.8 "Employee" means a member of staff in employment defined under section 43 of the Act.
- 2.9 "Federation" means the Australian Education Union New South Wales Teachers Federation Branch
- 2.10 "Industrial Relations Secretary" means the Secretary of Treasury.
- 2.11 "Personnel Handbook" means the NSW Public Service Personnel Handbook, published by the Public Service Commission, or any replacement publication.
- 2.12 "Regulation" means the Government Sector Employment Regulation 2014 or its replacement.
- 2.13 "Rules" mean the Government Sector Employment Rules 2014 or its replacement.
- 2.14 "Secretary" means the head of the Department of Justice.
- 2.15 "Senior Correctional Education Officer" means an employee assigned as such and who is qualified as provided in sub clause 4.4 of this Award.
- 2.16 "Shift Worker" is a staff member who works outside the ordinary working hours of a Day Worker as defined in clause 3 of the Conditions Award.
- 2.17 "Teacher" means an employee assigned as such and who is qualified as provided in subclause 4.2 of this Award and who is required to undertake duties as specified in clause 13 of this Award. A permanent part-time Teacher means a Teacher who is assigned under the Act for set and regular hours that are less than the full contract hours of this Award.
- 2.18 "Through care" means the philosophy and practice of CSNSW by which inmates are managed from the start of their sentence with a view to maximizing reintegration into the community and achieving a reduction in recidivism.

3. Conditions Fixed By Other Instruments of Employment

- 3.1 The following Awards as varied from time to time, or any replacement Awards, in so far as they fix conditions of employment applying to employees covered by this Award, which are not fixed by this Award, shall continue to apply:
- 3.1.1 Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009

- 3.1.2 Crown Employees (Transferred Employees Compensation) Award.
- 3.2 The provisions of CSNSW's Flexible Working Hours Agreement dated 3 November 1998, or any replacement Agreement, shall apply except where modified by this Award.
- 3.3 Except as expressly modified by this Award, and except where conditions are determined by the Awards and Agreement referred to in subclauses 3.1 and 3.2 of this clause, the conditions of service of employees shall be determined by the provisions of the Act, the Regulation, the Rules and the Personnel Handbook.

4. Qualifications

- 4.1 The following qualifications shall apply except where specific exception is approved by the Secretary or delegate and where detailed in clause 16, Recruitment - Exceptional Circumstances, of this Award.
- 4.2 Teachers - shall hold a:
- 4.2.1 Bachelors degree in Education from a recognised university, incorporating subjects studied which qualifies the employee to teach in the learning area required by AEVTI; or
- 4.2.2 Graduate Diploma (or higher) in Education, from a recognised university; and qualification (degree, diploma or certificate) from a recognised university (or other recognised tertiary education institution) in a discipline other than education, incorporating subjects studied which qualifies the employee to teach in the learning area required by AEVTI;
- 4.2.3 current certificate in training and assessment as determined by the National Skills Standards Council (NSSC) or replacement body and as required by the national VET Regulator, Australian Skills Quality Authority (ASQA) or replacement body, to meet the national standards for training organisations;
- together with relevant related employment experience, as approved by the Secretary or delegate.
- 4.3 Correctional Education Officers - shall hold a:
- 4.3.1 Bachelors degree in Education from a recognised university, incorporating subjects studied which qualifies the employee to teach in the learning area required by AEVTI; or
- 4.3.2 Graduate Diploma (or higher) in Education, from a recognised university; and qualification (degree, diploma or certificate) from a recognised university (or other recognised tertiary education institution) in a discipline other than education, incorporating subjects studied which qualifies the employee to teach in the learning area required by AEVTI;
- 4.3.3 current certificate in training and assessment as determined by the National Skills Standards Council (NSSC) or replacement body and as required by the national VET Regulator, Australian Skills Quality Authority (ASQA) or replacement body, to meet the national standards for training organisations;
- together with relevant related employment experience, as approved by the Secretary or delegate.
- 4.4 Senior Correctional Education Officers - shall hold a:
- 4.4.1 Bachelors degree in Education from a recognised university; or
- 4.4.2 Graduate Diploma (or higher) in Education, from a recognised university; and qualification (degree, diploma or certificate) from a recognised university (or other recognised tertiary education institution) in a discipline other than education; together with experience in adult education, as approved by the Secretary or delegate.

5. Salaries

- 5.1 Salaries for Senior Correctional Education Officers, Correctional Education Officers and Teachers are set out at Table 1 of Part B, Monetary Rates, of this Award.
- 5.2 These rates continue to be inclusive of the previously paid environmental allowance.
- 5.3 Commencing salaries for all employees to a role under this Award shall be consistent with the relevant provisions of the Personnel Handbook.

6. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation

- 6.1 The entitlement to salary package in accordance with this clause is available to:
 - 6.1.1 Full-time and part-time employees;
 - 6.1.2 Temporary employees, subject to CSNSW's convenience; and
 - 6.1.3 Casual employees, subject to CSNSW's convenience, and limited to salary sacrifice to superannuation in accordance with subclause 6.7.
- 6.2 For the purposes of this clause:
 - 6.2.1 "Salary" means the salary or rate of pay prescribed for the employee's classification by clause 5, Salaries and Table 1 of Part B, Monetary Rates, of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.
 - 6.2.2 "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.
- 6.3 By mutual agreement with the Industrial Relations Secretary, an employee may elect to package a part or all of their post compulsory deduction salary in order to obtain:
 - 6.3.1 a benefit or benefits selected from those approved by the Industrial Relations Secretary and
 - 6.3.2 an amount equal to the difference between the employee's salary, and the amount specified by the Industrial Relations Secretary for the benefit provided to or in respect of the employee in accordance with such agreement.
- 6.4 An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.
- 6.5 The agreement shall be known as a Salary Packaging Agreement.
- 6.6 Except in accordance with subclause 6.7, a Salary Packaging Agreement shall be recorded in writing and shall be for a period of time as mutually agreed between the employee and the Industrial Relations Secretary at the time of signing the Salary Packaging Agreement.
- 6.7 Where an employee makes an election to sacrifice a part or all of their post compulsory deduction salary as additional employer superannuation contributions, the employee may elect to have the amount sacrificed:
 - 6.7.1 paid into the superannuation fund established under the *First State Superannuation Act 1992*; or
 - 6.7.2 where the employer is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or

- 6.7.3 subject to CSNSW's agreement, paid into another complying superannuation fund.
- 6.8 Where the employee makes an election to salary sacrifice, CSNSW shall pay the amount of post compulsory deduction salary, the subject of election, to the relevant superannuation fund.
- 6.9 Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:
- 6.9.1 *Police Regulation (Superannuation) Act 1906*;
- 6.9.2 *Superannuation Act 1916*;
- 6.9.3 *State Authorities Superannuation Act 1987*; or
- 6.9.4 *State Authorities Non-Contributory Superannuation Act 1987*,
- CSNSW must ensure that the employee's superable salary for the purposes of the above Acts, as notified to the SAS Trustee Corporation, is calculated as if the Salary Packaging Agreement had not been entered into.
- 6.10 Where the employee makes an election to salary package, and where the employee is a member of a superannuation fund other than a fund established under legislation listed in sub clause 6.9 of this clause, CSNSW 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 CSNSW may be in excess of superannuation guarantee requirements after the salary packaging is implemented.
- 6.11 Where the employee makes an election to salary package:
- 6.11.1 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
- 6.11.2 any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this Award or any applicable Award, Act or statute which is expressed to be determined by reference to the employee's rate of pay, shall be calculated by reference to the rate of pay which would have applied to the employee under clause 5, Salaries and or Table 1 of Part B, Monetary Rates, of this Award if the Salary Packaging Agreement had not been entered into.
- 6.12 The Industrial Relations Secretary may vary the range and type of benefits available from time to time following discussion with the Federation. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.
- 6.13 The Industrial Relations Secretary will determine from time to time the value of the benefits provided following discussion with the Federation. Such variations shall apply to any existing or future Salary Packaging Agreement from the date of such variation. In this circumstance, the employee may elect to terminate the Salary Packaging Agreement.

7. Incremental Progression and Calculation of Service

- 7.1 Incremental progression and calculation of service shall be determined in accordance with the Regulation and the chapter dealing with Managing the Workplace of the Personnel Handbook, except where varied by clause 16, Recruitment - Exceptional Circumstances, of this Award.

8. Working Hours

- 8.1 Ordinary hours of work shall be 35 hours per week, Monday to Friday.

- 8.2 An employee shall not be directed to work longer than five continuous hours without a meal break.
- 8.3 Senior Correctional Education Officers and Correctional Education Officers
- 8.3.1 The provisions of CSNSW's Flexible Working Hours Agreement dated 3 November 1998, or any replacement Agreement, shall apply to Senior Correctional Education Officers and Correctional Education Officers, including access to two days flex leave per flex period and five days banked hours.
- 8.3.2 The bandwidth shall be 7.30am - 9.00pm.
- 8.3.3 The core time shall be 10.00am - 3.00pm.
- 8.3.4 Flexible working hours including the taking of flex leave and banked hours shall remain at CSNSW's discretion, to be negotiated at the local level provided that the delivery of teaching programs is maintained.
- 8.4 Teachers
- 8.4.1 The standard attendance hours of full time Teachers shall be 35 hours per week, Monday to Friday inclusive, in recognition of the particular environment in CSNSW.
- 8.4.2 The daily span of working hours in correctional centres for Teachers shall be between 7.30am and 5.30pm on Monday to Friday, inclusive. Direct teaching activities and duties related to teaching worked by Teachers should, unless otherwise unavoidable or by agreement between a Teacher and the supervising Senior Correctional Education Officer, be continuous.
- 8.4.3 Teachers classified as Day Workers, who are directed to perform direct teaching activities between:
- (i) 5.30pm and 9.00pm Monday to Friday and who are required to teach two separate sessions during these hours or one session which commences later than 5.30pm; or
- (ii) 7.30am and 9.00pm Saturday and who are required to teach two separate sessions during these hours;
- shall be paid at the rate of time and one quarter or may elect to take time in lieu which shall be calculated at the same rate as would have applied to the payment of teaching activities performed in terms of this clause.
- 8.4.4 Teachers shall not be entitled to flex time arrangements and shall be required to attend for rostered direct teaching activities as required by the Senior Correctional Education Officer.
- 8.4.5 The hours of attendance for duties related to teaching may be arranged by Teachers in consultation with the Senior Correctional Education Officer provided the requirements of CSNSW are met at all times. This will facilitate flexible start and finish times for Teachers.

9. Shift Work

- 9.1 Senior Correctional Education Officers, Correctional Education Officers and Teachers, who because of operational requirements are classified as Shift Workers shall be paid a shift allowance of 15 per cent where rostered to work Monday to Friday outside the ordinary working hours of a Day Worker.
- 9.2 Shift workers who are regularly required to perform rostered duty on Saturdays, Sundays and public holidays shall receive the following compensation and be subject to the following conditions:
- 9.2.1 For ordinary rostered time worked on a Saturday - additional payment at the rate of half time extra.

- 9.2.2 For ordinary rostered time worked on a Sunday - additional payment at the rate of three-quarter time extra.
- 9.2.3 When rostered off on a public holiday - an additional day's pay.
- 9.2.4 For ordinary rostered time worked on a public holiday - additional payment at the rate of time and a half extra.
- 9.2.5 Recreation leave at the rate of four weeks a year, that is, 20 working days plus eight rest days.
- 9.2.6 Additional leave on the following basis:

Number of ordinary shifts worked on Sundays and/or Public Holidays during a qualifying period of 12 months from 1 December one year to 30 November the next year.

	Additional Leave
4 -10	1 additional day's leave
11 -17	2 additional days' leave
18 - 24	3 additional days' leave
25 - 31	4 additional days' leave
32 or more	5 additional days' leave

10. Recreation Leave

- 10.1 Recreation leave for Day Workers shall be granted and administered as follows:
 - 10.1.1 in accordance with the recreation leave provisions of the Regulation, the Conditions Award and the Personnel Handbook.
 - 10.1.2 At least two consecutive weeks of recreation leave shall be taken by employees every twelve months as described in the Conditions Award.

11. Non Attendance Time

- 11.1 Correctional Education Officers
 - 11.1.1 In return for undertaking a maximum of 400 hours per annum of direct teaching activities, as provided at subclause 12.4, all Correctional Education Officers shall receive 10 working days non-attendance time.
- 11.2 Teachers
 - 11.2.1 In return for the hours as described in clause 13 of this Award, Teachers shall be entitled to 7 weeks of agreed non-attendance time if employed for a full calendar year.
 - 11.2.2 Where a Teacher commences or ceases employment part way through a calendar year, the entitlement to non-attendance time shall be calculated on a pro rata basis.
 - 11.2.3 The pro rata calculation mentioned in paragraph 11.2.2 shall be as negotiated and agreed between CSNSW and Federation.
 - 11.2.4 Where public holidays fall during a period of non-attendance time, those days shall be counted as non-attendance time.
- 11.3 For Correctional Education Officers and Teachers, non-attendance time shall be taken at CSNSW's convenience.
- 11.4 For Correctional Education Officers and Teachers, non-attendance time shall be non-accumulative.

- 11.5 For Correctional Education Officers and Teachers, may be required to attend some staff development activities during non-attendance time.
- 11.6 An annual calendar detailing the dates for non-attendance time to be taken shall be developed by the Senior Correctional Education Officer in consultation with senior management of the Correctional Centre and education employees, for approval by the Secretary or delegate.

12. Duties of Correctional Education Officers

- 12.1 Subject to subclauses 12.2 and 12.3 of this Award and following consultation with the supervising Senior Correctional Education Officer, Correctional Education Officers shall be required to undertake:
 - 12.1.1 Direct teaching activities for up to 10 hours per week; and
 - 12.1.2 Duties related to teaching and through care initiatives as specified at subclause 12.4, will be undertaken for the balance of hours consistent with the provisions of CSNSW’s Flexible Working Hours Agreement, or any replacement Agreement, with the ordinary hours of duty for the week being 35 hours.
- 12.2 To accommodate the educational delivery needs of a correctional centre, the direct teaching activities may be varied by plus or minus 5 hours in any one week.
- 12.3 There may be a need from time to time for a Correctional Education Officer not to undertake any direct teaching activities for a specified period of time (as determined by CSNSW) in order to meet the needs of the correctional centre. In these circumstances:
 - 12.3.1 Duties related to teaching/through care initiatives as provided by sub clause 12.4 shall be substituted for direct teaching activities; and
 - 12.3.2 Non-attendance time as provided for in clause 11 of this Award, shall continue to apply as if direct teaching activities were being undertaken.
- 12.4 Direct teaching activities and duties related to teaching/through care initiatives to be undertaken by Correctional Education Officers shall be as specified in the following table:

Direct Teaching Activities Correctional Education Officer	Duties Related to Teaching/Through Care Initiatives
Face-to-face teaching in any environment or setting, including but not limited to: - classrooms - workshops - industry - in the field Application of assessment and diagnostic instruments for inmates. Vocational assessment and counselling. Tutorial support for distance education enrolments and individual learners with difficulties.	Duties related to teaching, including but not limited to: - preparation, for example, of course outlines and lesson plans - marking - support and advice to inmates - motivational interactions with inmates - enrolment and associated administration including maintenance of education and case management files, preparation of case reports and running sheets - attendance at staff meetings - attendance at case management meetings - attendance at moderation meetings - participation in case planning and case management activities - leading approved staff development activities - engaging in approved staff development activities research

<p>Workplace training & assessment including Core Skills Assessment</p>	<ul style="list-style-type: none"> - recognition of prior learning processes - selection and purchase of resources - maintenance of inmate libraries in liaison with the Manager Library Services - course, curriculum and materials development and review - course co-ordination as specified in curriculum documents - end of course evaluation - entering student data on DCS systems <p>Duties related to facilitation of CSNSW’s through care initiatives linking internal and external stakeholders, including but not limited to:</p> <ul style="list-style-type: none"> - industry and community liaison and promotion - co-ordination of traineeships and workplace training programs - workplace consultancy and advisory services - work placement co-ordination, supervision and pre and post release planning - inmate selection for education & vocational training programs & other program readiness - development of education case plan (includes CSNSW’s Education Profile Interviews) - review of education plans
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12.5 The specific range of duties as described in the table at subclause 12.4 of this Award to be undertaken by a Correctional Education Officer must meet the needs of the particular correctional centre. Duties required of a Correctional Education Officer shall be planned following consultation between the Correctional Education Officer and the supervising Senior Correctional Education Officer.

13. Duties of Teachers

13.1 Teachers shall be required to undertake direct teaching activities for 20 hours per week and duties related to teaching for 15 hours per week as provided by sub clause 13.2 of this Award.

13.2 Direct teaching activities and duties related to teaching for Teachers shall be as specified in the following table:

Direct Teaching Activities Teacher	Duties Related to Teaching
<p>Face-to-face teaching in any environment or setting, including but not limited to:</p> <ul style="list-style-type: none"> -classrooms - workshops - industry - in the field 	<p>Duties related to teaching, including but not limited to:</p> <ul style="list-style-type: none"> - preparation, for example, of course outlines and lesson plans - marking - support and advice to inmates - motivational interactions with inmates - enrolment and associated administration including maintenance of education and case management files, preparation of case reports and running sheets - attendance at staff meetings

<p>Application of assessment and diagnostic instruments for inmates. Vocational assessment and counselling.</p>	<ul style="list-style-type: none"> - attendance at case management team meetings - attendance at moderation meetings - participation in case planning and case management activities - course, curriculum and materials development and review
<p>Tutorial support for distance education enrolments and individual learners with difficulties.</p>	<ul style="list-style-type: none"> - development of learning materials
<p>Workplace training & assessment including Core Skills Assessment.</p>	<ul style="list-style-type: none"> - research - recognition of prior learning processes - engaging in approved staff development activities - leading approved staff development activities - inmate selection for education & vocational training programs & other program readiness - development of education case plan (includes CSNSW's Education Profile Interviews) - review of education plans - end of course evaluation - entering student data on DCS systems

13.3 The parties agree that the duties undertaken by Teachers shall support the work of Correctional Education Officers in relation to through care outcomes.

13.4 The specific range of duties as described in the table at subclause 13.2 of this Award to be undertaken by a Teacher must meet the needs of the particular correctional centre. Duties required of a Teacher shall be planned following consultation between the Teacher and the supervising Senior Correctional Education Officer.

13.5 From time to time a Teacher's Direct Teaching Activities i.e. teaching hours, may be lost due to restricted correctional centre routines and other centre activities. In order to maintain a reasonable level of teaching hours:

13.5.1 There may be occasions where teaching hours previously lost may be made up during the following six week period, and

13.5.2 A Teacher may be required by the supervising Senior Correctional Education Officer to make up a maximum of 5 hours over a period of one week such that the number of teaching hours taught by that Teacher shall not exceed 6 hours in any one day and 25 hours in any one week.

13.5.3 These hours may only be made up on the days a Teacher is usually engaged to work and shall replace the hours usually spent on Duties Related to Teaching.

13.5.4 The development of education plans and review of education plans, as provided in subclause 13.2, may be substituted for direct teaching activities under subclause 13.5.2 to make up for lost teaching hours.

14. Leave Entitlements

14.1 Sick leave, maternity leave, parental leave, adoption leave, family and community service leave, and all other leave except for extended leave shall be granted and administered to employees in accordance with the provisions of the Conditions Award and the Personnel Handbook.

14.2 Extended leave entitlements shall be granted and administered to employees in accordance with the Regulation and the Personnel Handbook.

15. Part-Time Work

- 15.1 CSNSW is committed to providing part-time work opportunities where practicable. Such arrangements should provide flexibility for effective use of resources and be of benefit to employees.
- 15.2 Part-time arrangements must be acceptable to both CSNSW and the employee and shall be in accordance with the provisions of the *Industrial Relations Act 1996* and the Flexible Work Practices Policy and Guidelines issued by the then Public Employment Office in October 1995, or any replacement Policy and/or Guidelines, including the requirement that entitlements are generally on a pro-rata basis.

16. Recruitment - Exceptional Circumstances

- 16.1 Exceptional circumstances shall be advertised as such and shall be limited to Teacher and/or Correctional Education Officer roles in rural locations that have been previously widely advertised with a resultant field of applicants who meet all selection criteria except for teaching qualifications. The applicant must hold qualifications in the core subject area of the advertised role and may have already commenced a course of study or have extensive employment related experience.
- 16.2 The decision, as to whether an exceptional circumstance exists, rests with the Secretary or delegate following consultation with local management.
- 16.3 In exceptional circumstances only, applicants for newly advertised role who do not possess the required teaching qualifications shall not be excluded from the selection process (subject to subclause 16.1 and 16.2 being met), and may be appointed on probation subject to the following provisions:
- 16.3.1 The employee shall remain on step one and shall not progress until evidence that the qualification has been completed is provided to CSNSW.
- 16.3.2 The employee shall commence and complete a course of study agreed to by the employee and the Secretary or delegate with no cost or burden to CSNSW.
- 16.3.3 Employees who have not commenced or completed their agreed course of study within the agreed and accepted timeframe shall have their circumstances reviewed by the Secretary or delegate and a representative of Federation. Where:
- (i) Special circumstances exist, an extension of time shall be granted to commence or complete the course of study and the probationary period is extended for 12 months (the probationary period may be extended for up to 2 years with extensions beyond 2 years at the discretion of the Secretary or delegate);
 - (ii) No special circumstances exist, the employee's appointment shall be annulled.
- 16.3.4 Employees who have not commenced or completed the agreed course of study shall not have their appointment confirmed.
- 16.3.5 Once the required qualifications are gained the employee's salary entitlements shall be adjusted to the appropriate step commensurate to the qualifications gained including years of relevant experience and adjusted at the date at which those qualifications were attained.

17. Professional Development

- 17.1 CSNSW is committed to the development of highly skilled, motivated and professional employees.
- 17.2 Access to professional development opportunities shall be based on the:
- 17.2.1 CSNSW's needs; and

- 17.2.2 Needs of individual employees as determined in consultation with their supervisors both at the local level and with the Secretary or delegate.
- 17.3 Subject to subclause 17.2 of this Award, the professional development of Senior Correctional Education Officers, Correctional Education Officers and Teachers shall be provided by:
- 17.3.1 Access to relevant courses provided by the Corrective Services Academy; and
- 17.3.2 Provision for study assistance as described in the study assistance provisions of the Conditions Award and the Personnel Handbook.
- 17.3.3 Access to retraining across disciplines in accordance with the needs of CSNSW to facilitate multi-skilling and career path development.
- 17.4 Senior Correctional Education Officers, Correctional Education Officers and Teachers are encouraged to share their professional development experiences with other Senior Correctional Education Officers, Correctional Education Officers and Teachers.

18. Education Quality

- 18.1 In line with CSNSW's commitment to reducing re-offending, AEVTI is committed to providing adult education and vocational training programs to inmates and to identified disadvantaged groups within the inmate population.
- 18.2 AEVTI is committed to maintaining its status as a Registered Training Organisation by complying with appropriate Vocational Education Training Accreditation Board requirements including Australian Quality Training Framework Standards.
- 18.3 The provision of educational programs shall be in the form of nationally accredited curricula and delivery and assessment equivalent to that available in the community. Standards of delivery and assessment will be maintained by the employment of professional educators.
- 18.4 Education programs aim to contribute to the good order of correctional centres and to the overall wellbeing of inmates.
- 18.5 Education programs aim to assist inmates to develop knowledge, skills and aptitudes to improve their prospects for post release reintegration into the wider community.
- 18.6 These programs will include classroom subjects, vocational education, creative and cultural activities, social education and library facilities.

19. Consultation

- 19.1 The parties agree to consult on any matter relating to the introduction of major, system wide, educational initiatives by CSNSW.
- 19.2 A consultative committee shall be established for this purpose.

20. Anti-Discrimination

- 20.1 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.
- 20.2 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 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.

20.3 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.

20.4 Nothing in this clause is to be taken to affect:

20.4.1 Any conduct or act which is specifically exempted from anti-discrimination legislation;

20.4.2 Offering or providing junior rates of pay to persons under 21 years of age;

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

20.4.4 A party to this Award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.

20.5 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.

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

20.5.2 Section 56(d) of the *Anti-Discrimination Act 1977* provides:

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

21. Harassment Free Workplace

21.1 CSNSW is committed to ensuring that employees work in an environment free of harassment. Harassment is any repeated uninvited or unwelcome behaviour directed at another person. The effect of harassment is to offend, annoy or intimidate another person and to make the workplace uncomfortable and unpleasant. Harassing behaviour is unacceptable and disruptive to the well-being of individuals and workplace productivity.

21.2 Harassment on any grounds including, but not limited to, sex, race, marital status, physical impairment, sexual preference, HIV/AIDS or age shall not be condoned by CSNSW or the Federation.

21.3 Senior Correctional Education Officers shall exercise their best endeavours to prevent all forms of harassment by setting personal examples, by ensuring proper standards of conduct are maintained in the workplace and by taking immediate and appropriate measures to stop any form of harassment of which they may be aware.

21.4 All employees are required to refrain from perpetuating, or being party to, any form of harassment.

21.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation.

22. Deduction of Federation Membership Fees

22.1 The Federation shall provide CSNSW with a schedule setting out Federation's fortnightly membership fees payable by members of the Federation in accordance with Federation's rules.

22.2 The Federation shall advise CSNSW of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of Federation fortnightly membership fees payable shall be provided to CSNSW at least four weeks in advance of the variation taking effect.

- 22.3 Subject to subclauses 22.1 and 22.2 above, CSNSW shall deduct Federation's fortnightly membership fees from the pay of any employee who is a member of Federation in accordance with the Federation's rules, provided that the employee has authorised CSNSW to make such deductions.
- 22.4 Monies so deducted from the employee's pay shall be forwarded regularly to the Federation together with all necessary information to enable the Federation to reconcile and credit subscriptions to employees' membership accounts.
- 22.5 Unless other arrangements are agreed to by CSNSW and Federation, all membership fees shall be deducted on a fortnightly basis.
- 22.6 Where an employee has already authorised the deduction of membership fees from his/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.

23. Dispute Resolution Procedures

- 23.1 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:
- 23.1.1 Should any dispute, question or difficulty arise as to matters occurring in a particular workplace, then the employee and/or Federation workplace representative shall raise the dispute, question or difficulty with the supervisor as soon as practicable.
- 23.1.2 The supervisor shall discuss the matter with the employee and/or Federation representative within two working days with a view to resolving the dispute, question or difficulty or by negotiating an agreed method and time frame for proceeding.
- 23.1.3 Should the above procedure be unsuccessful in producing a resolution of the dispute, question or difficulty or should the matter be of a nature which involves multiple workplaces, then the individual employee or the Federation may raise the matter with an appropriate CSNSW manager with a view to resolving the dispute, question or difficulty or negotiating an agreed method and time frame for proceeding.
- 23.1.4 Where the procedures in paragraph 23.1.3 do not lead to resolution of the dispute, question or difficulty, the matter shall be referred to the Secretary or delegate and the Branch Secretary of the Federation. They or their nominees shall discuss the dispute, question or difficulty with a view to resolving the matter or by negotiating an agreed method and time frame for proceeding.
- 23.1.5 Should the above procedure not lead to a resolution, then either party may make application to the Industrial Relations Commission of New South Wales.
- 23.1.6 While the dispute resolution procedure is being followed, the status quo shall remain unless an work health and safety issue precludes such work. The status quo is the situation which prevailed before the cause of the dispute.

24. Duties as Directed

- 24.1 CSNSW may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the classification structure of this Award and provided that such duties are not designed to promote deskilling.
- 24.2 CSNSW 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 in the use of such tools and equipment.

25. No Further Claims

- 25.1 Except as provided by the *Industrial Relations Act* 1996, prior to 31 December 2019, there shall be no further claims by the parties to this Award for changes to salaries, rates of pay, allowances, or conditions of employment in relation to matters expressly contained in this award.

26. Area, Incidence and Duration

- 26.1 This Award shall apply to all employees as defined in clause 2, Definitions, of this Award.
- 26.2 This award rescinds and replaces the Crown Employees (Education Employees Department of Justice - Corrective Services NSW) Award 2018 published 6 April 2018 (382 I.G. 779).
- 26.3 This Award shall take effect from the first full pay period to commence on or after 1 January 2019 and shall remain in force until 31 December 2019.

PART B**MONETARY RATES****Table 1 - Salaries**

	2.5 % from the first pay period commencing on or after 1 January 2019 \$
Teacher and Correctional Education Officer	
Step 1	87,437
Step 2	89,903
Step 3	93,414
Step 4	98,020
Senior Correctional Education Officer	
Step 1	111,364
Step 2	114,807

P. M. KITE, *Chief Commissioner*

CROWN EMPLOYEES (LAW ENFORCEMENT CONDUCT COMMISSION) AWARD 2018

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Law Enforcement Conduct Commission.

(Case No. 266856 of 2018)

Before Chief Commissioner Kite

19 September 2018

AWARD

Clause No. Subject Matter

PART A

- | | |
|-----|---|
| 1. | Title of the Award |
| 2. | Definitions |
| 3. | Statement of Intent |
| 4. | Salaries |
| 5. | Savings of Rights |
| 6. | Conditions of Employment |
| 7. | Flexible Working Hours Scheme (FWHS) |
| 8. | Flexible Work Arrangements (FWA) |
| 9. | Hours of work |
| 10. | Overtime |
| 11. | Recall to Duty |
| 12. | On-Call (Stand-By) and On-Call Allowance |
| 13. | Overtime Meal Breaks |
| 14. | Provision of Transport in conjunction with Working Overtime |
| 15. | Above-level Allowance |
| 16. | Other Allowances |
| 17. | Grievance and Dispute Settling Procedures |
| 18. | Anti-Discrimination |
| 19. | Area, Incidence and Duration |
| 20. | No Extra Claims |

PART A

1. Title of the Award

This Award shall be known as the Crown Employees (Law Enforcement Conduct Commission) Award 2018.

2. Definitions

- 2.1 "Act" means the *Government Sector Employment Act 2013*.
- 2.2 "Association/Union" means the Public Service Association and the Professional Officers' Association Amalgamated Union of New South Wales.
- 2.3 "Chief Executive Officer" means the Chief Executive Officer of the Law Enforcement Conduct Commission.

- 2.4 "LECC" means the Law Enforcement Conduct Commission.

3. Statement of Intent

- 3.1 This Award documents the conditions of employment and the rights and obligations of management and staff that will help to achieve this objective.
- 3.2 The parties agree to progress the interests of the organisation and its staff through consultation, in line with the Premier's Consultative Guidelines of July 1997.

4. Salaries

- 4.1 Salaries payable to employees covered by this Award shall be in accordance with the Crown Employees (Public Sector - Salaries 2018) Award or any award replacing it.
- 4.2 Salaries will be paid in accordance with the following classification structures in the Crown Employees (Public Sector - Salaries 2018) Award:
- (a) Crown Employees (Administrative and Clerical Officers - Salaries) Award 2007 for employees engaged in non-legal roles;
 - (b) Crown Employees - Legal Officers (Crown Solicitors Office, Office of Legal Aid Commission, Office of Director of Public Prosecutions and Parliamentary Counsel's Office) Reviewed Award 2012 for employees engaged in legal roles.
- 4.3 Wage increases granted to public service employees under the Crown Employees (Public Sector - Salaries 2018) Award and its successor/s will apply to non-executive employees of the Law Enforcement Conduct Commission.

5. Savings of Rights

- 5.1 At the time of the establishment of the LECC, no member of staff previously employed by the Police Integrity Commission or in the Police and Compliance Branch of the Ombudsman's Office will suffer a reduction in their "rate of pay" as a consequence of commencing employment at the LECC in a role with an equivalent classification level and with a substantially similar pattern of work.
- 5.2 Where such an employee receives a higher salary than provided for by this Award, that salary will be preserved and not increased until such time as the "salary payable pursuant to clause 4" of this Award reaches parity with the preserved salary.
- 5.3 For the purpose of clauses 5.1 and 5.2 above:
- (a) The term "rate of pay" for Police Integrity Commission employees is that established in Part 5 of the Police Integrity Commission, Conditions of Employment Section 52 (1) Determination NO 1/2015 (as at 1 January 2017), being a composite salary absorbing the matters set out in clause 3.3 of that Determination.
 - (b) The term "salary payable pursuant to clause 4" means the salaries paid pursuant to clause 4 of this Award plus any allowance provided by Table 1 of this Award.

6. Conditions of Employment

- 6.1 The conditions of employment as set out in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any award replacing it shall apply to employees covered by this Award.

- 6.2 In the case of any inconsistency the terms of this Award shall prevail over the terms of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

7. Flexible Working Hours Scheme (FWHS)

The LECC operates under a Flexible Working Hours Scheme as follows

- 7.1 Purpose - to improve organisational performance and to provide the Executive and employees with flexibility in arranging working hours. Flexible working arrangements recognise the importance of a work/life balance for employees and their needs and responsibilities outside of work.
- 7.2 Principles - In order that staffing levels are sufficient to meet operational requirements and performance standards, Executive and staff are committed to ensuring that:
- (a) Decisions regarding working hours will be made taking into account the requirements of the particular Division, section or team and the LECC.
 - (b) Decisions regarding working hours will be made between an employee and their direct supervisor based on consultation and negotiation.
 - (c) Supervisors will notify staff of the need to change hours as soon as practicable.
 - (d) Staff will give reasonable notice of request for flex leave or ADO.
 - (e) The employer will give due consideration to a request by an employee to access flexibility and flexible working arrangements, and where reasonably practicable, will grant such request.
- 7.3 The provisions of this clause shall apply to part-time staff on a pro rata basis except for in respect of the accrual and use of credit hours. For example, part-time workers will accrue an hour of flex credit for each hour worked in excess of their ordinary hours.
- 7.4 Surveillance operatives including technical surveillance operatives and Electronic Surveillance monitoring staff, in lieu of flexible working hours, are provided with ten (10) accrued days off (ADOs) per annum. ADOs accrue on a monthly basis at the rate of 0.833 of a day per month. In the case of Electronic Surveillance monitoring staff ADOs will accrue on the basis of the standard 10 hour working day in the shift arrangement outlined in clause 9.2 of this Award. Where ADOs accrue to 5 days, the supervisor and staff member shall develop a strategy to ensure the number of days accrued is reduced within 3 months. Accrued ADOs are paid out on termination of employment.
- 7.5 Ordinary hours of work - 7 hours/day, 35 hours/week, Monday to Friday.
- 7.6 Commission's daily hours of business - 8.30 am to 5.00 pm.
- 7.7 Daily period in which work is to be performed (bandwidth):
- (a) For employees employed in the Electronic Collections Unit as Monitor 3/4 and Operations Systems Officer 9/10 (including employees acting in the role of Operations Systems Officer 9/10 on a temporary basis) - 7.00 am to 7.00 pm;
 - (b) Surveillance operatives, including technical surveillance operatives will have a nominal bandwidth of 7.00 am to 7.00 pm, however, the hours and bandwidth worked must necessarily be flexible due to the specialist nature of these roles;
 - (c) For all other employees - 7.30 am to 7.00 pm. Employees will not be rostered to finish their shifts later than 6pm.

The bandwidth may be varied with the agreement of staff and their supervisor to meet LECC or staff needs.

- 7.8 Minimum hours to be worked each day - 5 hours. Minimum hours may be varied temporarily by agreement of the staff member and their Divisional Senior Executive in exceptional circumstances.
- 7.9 Maximum hours to be worked each day - 10 hours, unless agreed otherwise.
- 7.10 Meal break - The standard lunch period shall be 1 hour. With the approval of the supervisor, the lunch period may be extended by the employee up to 2 and 1/2 hours or reduced to not less than 30 minutes.
- 7.11 Flex Period - 140 hours (4 weeks), which are the contract hours for full-time employees.
- 7.12 Maximum Flex Leave that can be taken in any financial year - 26 days (182 hours).
- 7.13 Carry over debit at end of Flex Period - up to 10.5 hours. Debits in excess of 10.5 hours must be offset by an application for Annual Leave.
- 7.14 Maximum Flex Leave that can be taken in a Flex Period - 28 hours. Staff are expected to take Flex Leave either as a half day (3.5) hours or a full day (7 hours). Part time employees may take a pro rata amount equivalent to the hours worked on a specific day. Flex leave may be taken at the beginning and/or end of a period of other leave.
- 7.15 Where working hours in excess of 14 hours of credit are accrued, the supervisor and staff member shall develop a strategy to ensure the excess is reduced to 14 hours in the current and/or next settlement period.
- 7.16 Flex Record - staff must maintain current and accurate records of their working hours on the LECC's flex sheet system. Data from the flex sheet records will be analysed from time to time.
- 7.17 Where a staff member has accrued 8 weeks recreation leave (that is, 40 days or more), unless otherwise authorised by their Divisional Senior Executive, flex leave can only be taken in situations where at least one day of annual leave has been applied for and approved within the flex period. If, however, recreation leave has been applied for and declined or not actioned by the manager, access to flex leave is available.

8. Flexible Work Arrangements (FWA)

- 8.1 This Award aims to provide assistance to staff in balancing their personal and work commitments. This enables the LECC to be more flexible in the delivery of its services and to improve the satisfaction of staff. FWA will only be available with the agreement of management. The employer will give due consideration to a request by an employee to access flexibility and flexible working arrangements, and where reasonably practicable, will grant such request.
- 8.2 The following FWA are available:
- (a) Permanent Part-time Employment - enables staff to permanently work hours which are less than the full-time weekly hours of their position.
 - (b) Part-time Leave Without Pay - enables staff to work on a part-time basis for a period of time, either by reducing hours in their current position or by doing other duties. At the end of the period they return to full-time work.
 - (c) Part Year Employment - enables staff to work for an agreed number of weeks per year, with an agreed number of unpaid weeks.
 - (d) Job Sharing - enables a job to be shared by two or more staff. They may be employed on a part-time basis or may be full-time employees taking part-time leave without pay.
 - (e) Working at home - Staff may work at home from time to time if it is an efficient and effective way of working and the outcomes to be achieved are agreed to by their manager. The

documented security policies and procedures relating to this provision must be adhered to at all times.

- 8.3 A permanent member of staff originally employed on a full-time basis and currently working in a FWA has the right to return to full-time employment.

9. Hours of Work

- 9.1 Part time employees work the pro rata equivalent of the minimum standard hours attached to their respective roles.
- 9.2 Electronic surveillance monitor staff work 280 hours per 8 week cycle on a 365 day per year rotating shift arrangement consisting of 4 x 10 hour days on shift followed by 4 days off shift.

10. Overtime

- 10.1 Staff listed below shall be paid an allowance in lieu of overtime payments for overtime worked on weekdays, weekends and public holidays:
- (a) Manager Investigations (Integrity Division)
 - (b) Investigations Officer (Integrity Division)
 - (c) Investigator (Integrity Division)
 - (d) Financial Investigator (Integrity Division)
 - (e) Senior Investigator (Integrity Division)
 - (f) Senior Technical Operative (Integrity Division)
 - (g) Technical Operative (Integrity Division)
 - (h) Surveillance Operative (Integrity Division)
 - (i) Surveillance Team Leader (Integrity Division)
 - (j) Critical Incidents Operatives (Oversight Division)

The allowance forms part of the overall remuneration and is set out in Table 1 of this Award.

- 10.2 All other non-executive staff shall be paid overtime in accordance with the provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award or its replacement.

11. Recall to Duty

- 11.1 This clause does not apply to employees paid an overtime allowance in lieu of overtime payments. For all other employees:
- (a) An employee recalled to duty after leaving the LECC premises shall be paid for a minimum of three (3) hours work at the appropriate overtime rates.
 - (b) The employee shall not be required to work the full three (3) hours if the job can be completed within a shorter period.
 - (c) When an employee returns to the place of work on a number of occasions in the same day and the first or subsequent minimum pay period overlap into the next call out period, payment shall be calculated from the commencement of the first recall until either the end of duty or three (3)

hours from the commencement of the last recall, whichever is the greater. Such time shall be calculated as one continuous period.

- (d) When an employee returns to the place of work on a second or subsequent occasion and a period of three (3) hours has elapsed since the employee was last recalled, overtime shall only be paid for the actual time worked in the first and subsequent periods with the minimum payment provision only being applied to the last recall on the day.
- (e) A recall to duty commences when the employee starts the additional period of work and terminates when the work is completed. A recall to duty does not include time spent travelling to and from the place at which work is to be undertaken.
- (f) An employee recalled to duty within three (3) hours of the commencement of usual hours of duty shall be paid at the appropriate overtime rate from the time of recall to the time of commencement of such normal work.
- (g) This clause shall not apply in cases where it is customary for an employee to return to the LECC's premises to perform a specific job outside the employee's ordinary hours of duty, or where overtime is continuous with the completion or commencement of ordinary hours of duty. Overtime worked in these circumstances shall not attract the minimum payment of three (3) hours unless the actual time worked is three (3) or more hours.

12. On-Call (Stand-By) and On-Call Allowance

This clause does not apply to employees paid a composite allowance. For all other employees:

A LECC employee shall be entitled to be paid the on-call allowance set out in Table 1 of this Award when directed by the LECC to be on call or on stand-by for a possible recall to duty outside the employee's working hours.

- (a) if an employee who is on call and is called out by the LECC, the overtime provisions as set out at clause 10, Overtime, shall apply to the time worked,
- (b) 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.

13. Overtime Meal Breaks

- 13.1 Employee working flexible hours - an employee required to work overtime on weekdays beyond the end of their bandwidth as defined at subclause 7.7 above and until or beyond eight and a half hours after commencing duty plus the time taken for lunch, shall be allowed 30 minutes for a meal break and thereafter, 30 minutes for a meal break after every five hours of overtime worked. Overtime is not paid in respect of the time taken for a meal break, however, employees will receive a meal allowance in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, where that Award so provides.
- 13.2 Employees generally - an employee required to work overtime on a Saturday, Sunday or Public Holiday, shall be allowed 30 minutes for a meal after every five hours of overtime worked. An employee who is unable to take a meal break and who works for more than five hours shall be given a meal break at the earliest opportunity. Overtime is not paid in respect of the time taken for a meal break, however, employees will receive a meal allowance in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, where that Award so provides.

14. Provision of Transport in Conjunction with Working Overtime

- 14.1 For the purpose of this clause, departure or arrival after 8.00 p.m. will determine whether the provisions of this clause apply. Departure or arrival after 8.00 p.m. of an employee on overtime does not in itself warrant the provision of transport. It needs to be demonstrated that the normal means of transport, public

or otherwise, is not reasonably available and/or that travel by such means of transport places the safety of the employee at risk.

- 14.2 The responsibility of deciding whether the provision of assistance with transport is warranted in the circumstances set out above rests with the relevant LECC Unit manager.
- 14.3 Where overtime is required to be performed, it should be arranged, as far as is reasonably possible, so that the employee can use public transport or other normal means of transport to and from work.
- 14.4 Where an employee ceases overtime duty after 8.00 p.m. and public transport or other normal means of transport is not reasonably available, arrangements may be made for transport home or to be provided by way of taxi.

15. Above-Level Allowance

- 15.1 Where employees are temporarily assigned or seconded to a higher grade position for a period of at least 5 days, in addition to the experience gained performing those duties, an above-level allowance will be paid.
- 15.2 The allowance will be calculated as the difference between the employee's current salary and the nearest salary point of the classification of the position temporarily assigned to.

16. Other Allowances

- 16.1 Composite allowance

A Composite Allowance is paid to staff in compensation for shift work; changes in shift; alteration of bandwidth; on-call allowances for days rostered off; on-call allowances for days rostered on; and public holidays.

Where specified in Table 1 the composite allowance includes overtime worked on weekdays and weekends.

The composite allowance is set out in Table 1 of Part B of this Award.

- 16.2 On-Call allowance

An on-call allowance is paid to staff in compensation for being on-call for days rostered off; and on-call for days rostered on.

The on-call allowance is set out in Table 1 of Part B of this Award. This allowance will increase in line with increases in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

- 16.3 Community language allowance scheme

Staff appointed as language aides under the Community Language Allowance Scheme (CLAS) will be paid the allowance referred to in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009. The allowance will be increased in line with the salary increases prescribed in that Award. The rate set out in Table 2 of Part B will apply from the first full pay period commencing after 1 July 2018.

An annual review of whether the payment of the allowance is still applicable will occur on the anniversary of receiving the allowance.

- 16.4 First Aid allowance

Staff appointed as First Aid Officers will be paid the allowances referred to in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009. The allowance will be increased in

line with the salary increases prescribed in that Award. The rate set out in Table 2 will apply from the first full pay period commencing after 1 July 2018.

The First Aid Allowance shall not be paid during extended leave or any other continuous period of leave which exceeds one week. When the First Aid Officer is absent on leave for more than one week and another qualified staff member is selected to relieve in the First Aid Officer's position, such staff members shall be paid a pro rata first aid allowance for assuming the duties of a First Aid Officer.

16.5 Operational Safety Trainer Allowance

The Operational Safety Trainer Allowance is payable to a nominated Operational Safety Trained officer who is trained and/or qualified to provide operational safety training to other officers of the LECC.

17. Grievance and Dispute Settling Procedures

- 17.1 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 Agency, if required.
- 17.2 An employee is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- 17.3 Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti-Discrimination Act 1977*) that makes it impractical for the employee to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Chief Commissioner or delegate.
- 17.4 The immediate manager, or other appropriate employee, 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.
- 17.5 If the matter remains unresolved with the immediate manager, the employee may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager 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 Chief Executive Officer.
- 17.6 The Chief Executive Officer may refer the matter to the Chief Commissioner for consideration.
- 17.7 If the matter remains unresolved, the Chief Executive Officer 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.
- 17.8 An employee, at any stage, may request to be represented by the Association.
- 17.9 The employee or the Association on their behalf or the Chief Commissioner may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 17.10 The employee, Association, Agency and Chief Commissioner shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- 17.11 Whilst the procedures outlined in 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 employee or member of the public.

18. Anti-Discrimination

- 18.1 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 of the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- 18.2 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 the obligations for the parties to make application to vary any provision of the Award which, by its terms or operation, has a direct or indirect discriminatory effect.
- 18.3 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.
- 18.4 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,
- 18.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.
- (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".

19. Area, Incidence and Duration

- 19.1 The provisions of this award shall apply to all non-executive public service employees as defined in the *Government Sector Employment Act 2013* employed in the Law Enforcement Conduct Commission.
- 19.2 This award will be operative from 1 July 2018 and will remain in force until 30 June 2019.

20. No Extra Claims

- 20.1 The No Extra Claims clause (clause 8) contained in the Crown Employees (Public Sector - Salaries 2018) Award shall apply to employees covered by this award.

PART B**Table of Associates****Table 1**

Allowance	Classification entitled to allowance	FFP 1.7.18
Composite allowance (does not cover public holiday shift loadings or overtime)	Electronic surveillance monitoring staff	22%
Composite allowance (includes overtime)	Critical Incident Operative, Surveillance Team Leader, Surveillance Operative, Senior Technical Surveillance Operative, Technical Surveillance Operative	22%
Composite allowance (includes overtime) (Integrity Division only)	Manager Investigations, Senior Investigator, Investigator, Investigations Officer, Senior Financial Investigator	12.0%
Composite allowance (includes overtime)	Systems Administrator ECU, Senior Technical Operative ECU, Technical Operative ECU	9.0%
On-call allowance	Security staff, ICT staff	\$1.10 per hour
On-call allowance (stand by)	Other staff as required	\$0.98 per hour

Table 2

Allowance	FFP 1.7.18
Operational Safety Trainer	\$5,000 pa
Community language - base level rate	\$1,413 pa
Community language - higher level rate	\$2,124 pa
First aid - holders of basic qualifications	\$910.01 pa
First aid - holders of current occupational first aid certificate	\$1,367.35 pa

P. M. KITE, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

**OFFICE OF SPORT WIN SPORTS AND ENTERTAINMENT
CENTRES AUSTRALIAN WORKERS UNION (STATE) AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Office of Sport.

(Case No. 35006 of 2019)

Before Chief Commissioner Kite

13 February 2019

AWARD

AWARD ARRANGEMENT

The conditions of employment contained in Part A of this award apply to all employees.

The conditions of employment contained in Part B of this award apply only to all non-managerial employees.

The conditions of employment contained in Part C of this award apply only to all managerial employees.

PART A - ALL EMPLOYEES

Clause No.	Subject Matter
1.	Title
2.	Definitions
3.	Parties
4.	Intention
5.	No Extra Claims
6.	Application
7.	Period of Operation
8.	Terms of Engagement
9.	Rates of Pay
10.	Payment of Wages
11.	Superannuation and Salary Sacrificing
12.	Income Protection
13.	Training
14.	Meal Breaks and Allowances
15.	Annual Leave and Annual Leave Loading
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PART A - ALL EMPLOYEES**1. Title**

- 1.1 This award shall be known as the Office of Sport WIN Sports and Entertainment Centres Australian Workers Union (State) Award 2018.

2. Definitions

"Employee" means a person employed by the Office of Sport at the WIN Sports and Entertainment Centres on an ongoing full-time, ongoing part-time, temporary or casual basis.

"General Employee" means an employee engaged in a classifications contained in Tables 1, 2 or 3 of Part D - Monetary Rates, of the award.

"Management Employee" means an employee engaged in a classification contained in Table 4 of Part D - Monetary Rates, of the award.

"Union" means the Australian Workers Union, New South Wales.

"WSEC" means the WIN Sports and Entertainment Centres.

3. Parties

3.1 The parties to this award are:

- a. The Office of Sport;
- b. The Industrial Relations Secretary; and
- c. The Australian Workers' Union, New South Wales (the Union).

4. Intention

4.1 The parties to this Award acknowledge that good industrial relations are central to the effective and efficient operation of facilities controlled by the WIN Sports and Entertainment Centres and thereby providing the workforce with fair and equitable rates of pay, stability of income and employment, whilst providing the community of the Illawarra with first class sporting, entertainment and recreation facilities.

5. No Extra Claims

- 5.1 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 22 January 2020 by a party to this Award.
- 5.2 The terms of the preceding paragraph do not prevent the parties from taking any proceedings with respect to the interpretation, application or enforcement of existing award provisions.

6. Application

6.1 This Award is binding on the Office of Sport, WSEC, employees of the Office of Sport working for the WSEC, and the Australian Workers Union (New South Wales Branch) representing their members employed at the WSEC, in respect of the employment conditions and rates of pay for the Office of Sport employees engaged in the operation, maintenance and administration of grounds and facilities operated and/or controlled by the WIN Sports and Entertainment Centres.

7. Period of Operation

- 7.1 This award will operate from the first pay period commencing on or after 22 January 2019 and will remain in force for a period of one year, and rescinds and replaces the Office of Sport WIN Sports and Entertainment Centres Australian Workers Union (State) Award 2017 published 6 April 2018 (382 I.G. 912), and any variation thereof.
- 7.2 The award stands alone. All other agreements and awards are excluded from having any application to employees of the Office of Sport working for the WSEC while performing the work covered by the award.

8. Terms of Engagement

- 8.1 Employees under this Award shall be engaged as Ongoing (full-time or part-time), Temporary or Casual employees as defined in Section 43 of the *Government Sector Employment Act 2013*.
- 8.2 Ongoing and temporary non-annualised full-time employees, will be paid the rate of pay for the appropriate skill level as set out in of Table 1 of Part D - Monetary Rates.
- 8.3 Ongoing and temporary annualised full-time employees will be paid the rate of pay for the appropriate skill level as set out in Table 3 of Part D - Monetary Rates. Ongoing and temporary annualised part-time employees will be paid pro-rata the rate for the appropriate skill level as set out in Table 3 of Part D -

Monetary Rates. Further terms of engagement for annualised salaried employees are set out in clause 33, Overtime and Time Off in Lieu, of Part B - General Employees.

- 8.4 Ongoing and temporary non-annualised part-time employees will be engaged to work flexible hours and rosters to meet the needs of the business as agreed in advance between the WSEC and the employee concerned, provided that such lesser hours are no fewer than 80 hours per month or 4 hours per shift.
- 8.5 Part-time non-annualised employees will be paid pro-rata the rate for the appropriate skills level as set out in Table 1 of Part D - Monetary Rates. The provisions of subclause (b) of this clause will apply to part-time employees in addition to the other provisions of this award, with the exception that sick leave, annual leave loading and family leave will be allowed on a pro-rata basis.
- 8.6 Casual employees will be employees employed by the hour and will be employed for a minimum of three (3) hours per engagement.
- 8.7 The WSEC may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training, provided that such duties are not designed to promote de-skilling.
- 8.8 Despite any other provision of this Award, the WSEC is not required to pay wages to any employee for any day on which that employee cannot be usefully employed because of any strike.

9. Rates of Pay

- 9.1 The rates of pay in this Award take into account structural efficiency changes and safety net wage increases available up to the date of its making; and include a loading in lieu of penalty rates on Saturday and Sundays.
- 9.2 The ordinary hourly rates of pay relating to persons employed under this award are those applying in Tables 1, 2, 3 and 4 of Part D attached hereto.
- 9.3 An employee will only be classified and paid at a higher level of skill if the WSEC has a vacancy at that level and the employee has attained the necessary skills and has been accredited and appointed to a higher level. The employee will be paid the rate for that classification regardless of the actual task carried out in the enterprise.
- 9.4 An employee who is required to perform work, for a temporary period, at a higher skill level than that which is normally performed will be paid at the appropriate higher wage rate whilst performing such duties, provided that the work so performed extends beyond four hours.
- 9.5 A non-annualised or annualised salaried employee who, during a single period of relief of 5 working days or greater, is required to perform the duties of a Manager and, in the opinion of the appropriate Department Head, satisfactorily performs the whole of the duties and assumes the whole of the responsibilities of that role will be paid by allowance any difference between the employee's present salary and the salary to which the employee would have been entitled if appointed to that Management role.
- 9.6 When the employee undertakes a proportion of the duties and responsibilities of the relief role an allowance will be paid to reflect the percentage of duties undertaken, for example if an employee undertakes 50% of the duties and responsibilities of the substantive occupant during the relevant period a 50% allowance would be payable.

10. Payment of Wages

- 10.1 All moneys payable to employees will be paid fortnightly by electronic funds transfer.
- 10.2 For each pay period the employee will be supplied with a written statement showing how the pay has been made up and including details of any deductions.

11. Superannuation and Salary Sacrificing

- 11.1 The subject of superannuation is dealt with extensively by federal legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993*, the *Superannuation (Resolution of Complaints) Act 1993* and Section 124 of the *Industrial Relations Act 1996* (NSW). This legislation, as varied from time to time, governs the Superannuation rights and obligations of the parties.
- 11.2 Subject to the requirements of this legislation, superannuation contributions may be made to either ASSET (Australian Superannuation Savings Employment Trust), Australian Super, or HESTA (Health & Community Services Industry Fund) on a monthly basis on behalf of employees engaged under the provisions of this award.

SALARY SACRIFICE TO SUPERANNUATION

- 11.3 Notwithstanding the salaries as varied by clause 9, Rates of Pay, of this award an employee may elect, subject to the agreement of the WSEC, to sacrifice a portion of the salary payable under clause 9, Rates of Pay, of this award to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. The amount sacrificed may be up to one hundred (100) percent of the salary payable under clause 9, Rates of Pay, of this award.
- 11.4 Where the employee has elected to salary sacrifice a portion of their salary to additional employer superannuation contributions:
- i. Subject to Australian Taxation law, the sacrificed portion of salary will reduce the salary subject to appropriate PAYG taxation deductions by the amount of that sacrificed portion; and
 - ii. Any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this Award or any applicable Award, Act or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under clause 9, Rates of Pay, of this award in the absence of any salary sacrifice to superannuation made under this award.
- 11.5 Where an employee elects to salary sacrifice in terms of subclause 11.3 above, the WSEC will pay the sacrificed amount into the relevant superannuation fund.

12. Income Protection

- 12.1 All ongoing and temporary weekly employees and regularly employed casuals (being casuals rostered for more than 20 hours in any 28 day period) shall be covered by a Sickness and Accident Income Protection Plan approved and endorsed by the union.
- 12.2 It is a term of this award that the WSEC will bear the costs of one percent of gross weekly award rate of pay per member towards providing income protection with a minimum of \$4.00 up to a maximum of \$8.00 per month, for regularly employed casuals (as defined).

13. Training

- 13.1 The WSEC acknowledges its commitment to provide its employees with career paths and access to more varied, fulfilling and better paid jobs through training.
- 13.2 No employee will be required to perform work at a level of skill for which that employee has not been suitably trained. In accordance with the needs of the enterprise, training will be provided to enable employees to qualify for classification to, and to make a contribution at, higher levels of skill, by the application of a Training Program.

- 13.3 The WSEC will accept responsibility for the organisation of ‘on-the-job’ training but employees will assist as required in the training of other employees. For training ‘off-the-job’ the WSEC will accept responsibility for arranging the training in all cases where the WSEC requests such training to meet staffing requirements.
- 13.4 The WSEC will pay at the classified level of skill during all training undertaken in normal working hours. For training undertaken ‘off-the-job’ and outside normal working hours, and approved by the WSEC as being in accordance with the need of the enterprise, the company will pay all necessary fees and the cost of essential textbooks, literature and stationery.
- 13.5 An employee who undertakes one or more tasks, but not all the tasks, at a higher level of skill than that to which the employee is accredited, as part of their training for qualification to that higher level, will continue to be paid at the classification level rate for which the employee has been accredited.

14. Meal Breaks and Allowances

- 14.1 Full-time and part-time employees
- i. All employees will be allowed an unpaid meal break of 45 minutes duration, to be taken between four to six hours after the commencement of work (depending on the need of the enterprise). Each subsequent unpaid meal break of similar duration will be taken between four to six hours after the time of the previous meal.
- 14.2 Casual Employees
- i. All casual employees who work for more than four consecutive hours will be entitled to an unpaid meal break of 45 minutes duration, to be taken according to the needs of the operation before six hours have elapsed. After each subsequent four-hour period from the time of the first entitlement the employee will be given a further meal break under similar conditions.
 - ii. Casual employees who work at least four hours will be entitled to a paid refreshment break of ten minutes duration during that shift, to be taken at the place of work and at a time to suit the needs of the enterprise.

15. Annual Leave and Annual Leave Loading

- 15.1 The annual leave provisions will be governed by the *Annual Holidays Act 1944* (NSW) as amended.
- 15.2 All ongoing and temporary employees shall be entitled to four weeks annual leave for each completed year of service, less the period of annual leave taken.
- Note: For part-time employees the entitlement under this subclause, expressed in hours, is pro-rata the entitlement of fulltime employees.
- 15.3 Ongoing and temporary employees engaged as General Employees under Tables 1 or 3 of Part D of this award shall accrue at the anniversary of their employment a loading equal to seventeen and a half percent of their ordinary pay for four weeks.
- 15.4 Annual leave loading shall be paid on a pro-rata basis on each occasion an employee takes annual leave in the leave loading year, except as provided for in subclause 15.9 of this clause, up to the maximum amount specified in subclause 15.3.
- 15.5 The taking of annual leave shall as far as practicable be taken at a mutually agreed time and for a mutually agreed duration up to the maximum entitlement contained herein.
- 15.6 Under no circumstances shall annual leave be allowed to accrue above the entitlement for a period of two years.

- 15.7 No employee shall be recalled from annual leave once they have commenced such leave, without the re-crediting of that proportion of the leave already used and the re-imburement of any additional expenses incurred by the employee as a consequence of such recall.
- 15.8 An employee may elect, with the consent of the employer, subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.
- 15.9 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.

16. Long Service Leave

- 16.1 Prior to 1st September 2005, employees are entitled to long service leave in accordance with the provisions of the *Long Service Leave Act 1955*.
- 16.2 For continuous service post 1st September 2005, employees shall accrue long service leave as follows:
- a. Ten weeks paid leave after ten years' service, and thereafter,
 - b. Five weeks paid leave on the completion of each additional five years' service.

Note: For part-time employees the entitlement under this subclause, expressed in hours, is pro-rata the entitlement of fulltime employees.

- 16.3 Such leave accrual shall not apply to any long service leave that has accrued prior to 1st September 2005.

17. Sick Leave

- 17.1 A full time employee shall be entitled to 10 days sick leave per year. Part-time employees shall be entitled to a proportionate amount of sick leave.
- 17.2 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. Such accumulation shall be limited to benefits up to a maximum of 100 days paid leave.
- 17.3 An employee shall not be entitled to sick leave for any period in respect of which such employee is entitled to worker's compensation.
- 17.4 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.
- 17.5 Where an employee is absent for more than one consecutive day, or more than three single days in a year, the employee shall provide the employer with a doctor's certificate.
- 17.6 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, state the nature of the injury or illness, and the estimated duration of the absence.

18. Personal Carers Leave

Use of Sick Leave

- 18.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in paragraph 18.3.2 of subclause 18.3, who need the employee's care and support, shall be entitled to use, in accordance with the subclause, any current or accrued sick leave entitlement provided for in

clause 17, Sick Leave, of this Part, 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.

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

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

18.3.1 The employee being responsible for the care and support of the person concerned; and

18.3.2 The person concerned being:

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

"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.

18.4 An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and 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 of such absence at the first opportunity on the day of absence.

Unpaid Leave for Family Purpose

18.5 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 paragraph 18.3.2 above who is ill.

19. Bereavement Leave

19.1 A full-time or part-time employee shall be entitled to a maximum of three (3) days leave without loss of pay on each occasion and on the production of satisfactory evidence of the death within Australia of a parent (including foster parent and parent-in-law), grandmother, grandfather, wife, husband, de facto wife, de facto husband, sister, brother, child, stepchild or grandchild.

20. Time Off in Lieu / Make Up Time / Roster Days

20.1 Time Off in Lieu of Payment of Overtime

- 20.1.1 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 twelve (12) months of the said election.
- 20.1.2 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.
- 20.1.3 If, having elected to take time as leave in accordance with paragraph 20.1.1 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 twelve (12) month period or on termination.
- 20.1.4 Where no election is made in accordance with the said paragraph 20.1.1, the employee shall be paid overtime rates in accordance with the award.
- 20.2 Make-up Time
- 20.2.1 An employee 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 a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
- 20.3 Rostered days off
- 20.3.1 An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- 20.3.2 An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
- 20.3.3 An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employer or employee.
- 20.3.4 Where a dispute may arise in respect of this subclause, the disputes procedure as provided for in clause 25, Disputes Procedure, of this award will be followed.

21. Parental Leave

- 21.1 An ongoing or temporary full-time and part-time employee shall be entitled to parental leave pursuant to the provisions of the NSW *Industrial Relations Act 1996*.
- 21.2 Concurrent with the above unpaid leave provisions, all employees shall be entitled to the following employer paid parental leave provisions:
- a. Paid Maternity Leave - fourteen (14) weeks paid maternity leave to all female ongoing and temporary full-time and part-time employees
 - b. Paid Paternity Leave - two (2) weeks paid paternity leave to all male ongoing and temporary full-time and part-time employees

22. Jury Service

- 22.1 An ongoing or temporary employee required to attend for jury service will be reimbursed by the WSEC the difference between the amount received for the service and the amount the employee would have earned for ordinary hours, on production of evidence of payment received for the service.

23. Introduction of Change

- 23.1 Where the WSEC has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the WSEC

will notify the employees who may be affected by the proposed changes, and the union, if the employees are members.

- 23.2 "Significant effects" include termination of employment, major changes in the composition of the WSEC workforce or in the skills required; the elimination or diminution of job opportunities, promotions opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. However, where this award makes provision for alteration of any of the matters referred to herein, an alteration will be deemed not to have a significant effect.
- 23.3 The WSEC will discuss with the employees affected and, if they are members of the union, the union, inter alia, the introduction of the changes referred to in subclause 23.1 of this clause, the effects the changes are likely to have on employees and will give prompt consideration to matters raised by employees and, if they are members of the union, by their union, in relation to the changes.
- 23.4 The discussions will commence as early as practicable after a definite decision has been made by the WSEC to make the changes referred to in subclause 23.1 of this clause.
- 23.5 For the purpose of such discussion, the WSEC will provide in writing to the employees concerned and, if they are members of the union, to their union, 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. However, the WSEC will not be required to disclose confidential information, the disclosure of which would be contrary to the WSEC's interests.

24. Classification Level and Salary Point

- 24.1 The WSEC shall provide in writing to each employee, a brief job description and the level upon which they are being employed and whether they will be remunerated as either a non-annualised or annualised employee.
- 24.2 An employee may request on an annual basis a performance and skills review if they believe their work, level of responsibility or skill have changed significantly enough to warrant an upgrade to a new salary point or level.
- 24.3 Employees may be appointed to their classification level and salary point on the wages structure according to the level of job performance, responsibility, skills, experience and work to be carried out.

25. Disputes Procedure

- 25.1 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 Agency, if required.
- 25.2 An employee is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- 25.3 Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti-Discrimination Act 1977*) that makes it impractical for the employee to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Department Head or delegate.
- 25.4 The immediate manager, or other appropriate employee, 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.
- 25.5 If the matter remains unresolved with the immediate manager, the employee may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager 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 Agency Head.

- 25.6 The Agency Head may refer the matter to the Industrial Relations Secretary for consideration.
- 25.7 If the matter remains unresolved, the Agency 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.
- 25.8 An employee, at any stage, may request to be represented by the Union.
- 25.9 The employee or the Union on their behalf or the Agency Head may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 25.10 The employee, Association, Union and the 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.
- 25.11 Whilst the procedures outlined in subclauses 25.1 to 25.10 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 employee or member of the public.

26. Role of the Union

26.1 Union Commitment

The union commits itself to promote a harmonious and productive workplace environment in which employees are committed to the organisation. Every effort will be made to ensure that the dispute settlement procedures are followed and industrial disruption is avoided.

In recognition of this, the following procedure will be implemented:

26.1.1 Attendance at the work site.

Properly accredited officials of the union shall have the right, subject to security arrangements, to enter the work site to observe the performance of work and to talk to employees, after notifying his presence on the worksite to managements. The union shall be provided with appropriate access to employees to promote the benefits of union membership.

26.1.2 Union/Employer Co-operation.

To facilitate union membership, the WSEC will:

- a. Provide payroll deduction services for union fees. Such fees shall be remitted to the union on a monthly/fortnightly basis with enough information supplied to enable the union to carry out a reconciliation;
- b. Supply all employees with an application form to join the union at the same time as employees are provided with their taxation declaration form;
- c. Provide the union with access to talk to all new employees at all induction training. In this regard the WSEC will organise such access for the union in a way which is conducive to the union being able to give a presentation to as small a group as practicable;
- d. Ensure that all supervisors are trained in the provisions of the award and the employer's policy on union membership.

26.1.3 Role of the union delegate

- a. For the purpose of the union conducting their business on a day to day basis, the WSEC will recognise duly elected/appointed union delegates.
- b. Union delegates will be allowed reasonable time during work hours to interview the WSEC or the WSEC's representatives on matters affecting employees.
- c. Union delegates will be allowed reasonable time during working hours to discuss with individual union members any matters pertaining to their work.
- d. Union delegates will be allowed to meet with their union official(s) to discuss issues, which may need to be progressed either in the consultative committee or via the dispute settling procedure. Such meetings whilst in paid time will be determined following consultation with the employer.

26.14 Investigating Complaints

For the purpose of investigating complaints concerning the application of this Award, a duly accredited union representative shall be afforded reasonable facilities for entering an employer's worksite during working hours, subject to the following conditions:

- a. The representative discloses to the WSEC nominee the complaint which is to be investigated;
- b. The representative conducts such investigations in the presence of the WSEC's Nominee;
- c. The representative does not interfere with work proceeding in the workshop or plant;
- d. The representative conducts themselves properly.

27. Consultative Committee

- 27.1 A consultative committee made up of management and the workplace union representatives shall meet on a bi-monthly or an as-required basis for the purpose of reviewing the implementation of this award and other workplace issues which might arise from time to time.
- 27.2 Minutes of each meeting will be kept and made available to the WSEC or the union if required.

28. Anti-Discrimination

- 28.1 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.
- 28.2 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.
- 28.3 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.
- 28.4 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.
- 28.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

29. Secure Employment

29.1 Work Health and Safety

29.1.1 For the purposes of this subclause, the following definitions shall apply:

- (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

29.1.2 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 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.

29.1.3 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 and Safety Act 2011* or the *Workplace Injury Management and Workers Compensation Act 1998*.

29.2 Disputes Regarding the Application of this Clause

29.2.1 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.

29.3 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.

PART B - GENERAL EMPLOYEES

30. Classifications

30.1 Employees shall perform all duties required by the WSEC within their skill and competence, to ensure the elimination of demarcation barriers preventing an employee from performing the whole job. At times, these duties may require an employee to perform tasks incidental to their normal activities in order to ensure events are staged in the most cost-efficient manner possible.

30.2 Subject to subclause 30.1 of this clause, general employees shall be advised in writing of their employment relating to the following classification structure:

30.3 LEVEL 1

30.3.1 Shall be an employee with no qualifications or relevant industry experience, who performs duties of a routine nature, requiring the use of minimal judgement and direct supervision.

Such an employee shall be undertaking either on-the-job or off-the-job structured training relevant to the enterprises' needs.

30.3.2 A Level 1 employee will perform the work of a Level 2 but under direct supervision. The maximum period of employment for an employee as a Level 1 employee shall be 380 hours.

30.3.3 Provided that an employee who hasn't demonstrably reached the standard of performance required by the WSEC justifying progression to Level 2, shall be counselled and provided the appropriate additional training and be allowed the opportunity to achieve the standard required for a period of a maximum of four (4) additional weeks, prior to a further review of their performance. After such additional period the employment of the individual shall either be terminated or they shall be reclassified to a higher level or offered an alternative role.

30.4 LEVEL 2

30.4.1 Shall be an employee who has completed some structured training relevant and/or experience to the operational needs of the WSEC, and who is continuing such training, or has recognised industry experience appropriate to the WSEC's needs.

30.4.2 A Level 2 employee shall, in addition to the skills of a Level 1 operative be able to perform a majority of the following:

- i. Assist with the on-the-job training of Level 1 employees, to a limited degree;
- ii. Exercise intermediate keyboard skills with instructions;
- iii. Demonstrated ability to work from instructions or procedures;
- iv. Have a demonstrated understanding of general office, or box office, or cash control or staging or stadium procedures;
- v. Demonstrated customer service skills;
- vi. Able to work effectively as a member of a small team under general technical, trade or administrative supervision;
- vii. Demonstrated knowledge of occupational health and safety requirements relating to the operation of Public Venues
- viii. Knowledge of safe handling procedures in regards to tools and chemicals

30.4.3 Indicative tasks for Level 2 shall include but not be limited to:

Events Employees	Grounds Building and Technical Employees	Administration & Client Support
Usher Crowd control, which does not require a security licence. General Attendant Ticket Seller Customer Service Assistant Sales Assistant	Labourer Cleaner General Grounds Assistant Trades Assistant Stage Hand Driver	General Receptionist Basic Clerical duties Maintenance of simple records Basic Client Liaison

30.5 LEVEL 3

30.5.1 Shall be an employee who has completed structured training and/or experience recognised by the WSEC as relevant and appropriate to perform within the scope of this Level or has industrial experience appropriate to the WSEC’s needs.

30.5.2 An employee at this Level shall assist with the training and development of employees at Levels 1 and 2.

30.5.3 An employee at this Level shall exercise discretion within one’s own level of skill and training, whilst taking responsibility for the quality of one’s own work (subject to routine supervision). A person at this level shall also be a person who typically holds a trade or equivalent qualification and/or experience.

30.5.4 Indicative tasks at this level would include:

Events Employees	Grounds Building Technical Employees	Administration & Client Support
Can perform function of Level 2 but in addition includes: Supervisors of Ushers/crowd control	Can perform function of Level 2 but in addition includes: Trades - Groundsmen Trades - Technicians Cleaner	Can perform function of Level 2 but in addition includes: Client Services Officer Non-qualified Bookkeeper Bookings Clerk Personal Assistant

30.6 LEVEL 4

30.6.1 Shall be an employee who is engaged in supervising, training and co-ordinating employees and who is responsible for the maintenance of service and operational standards across a mixed trade team.

30.6.2 Indicative tasks and competencies for a Level 4 employee would include:

Events Employees	Grounds Building Technical Employees	Administration & Client Support
	Typical work at this Level includes: Maintenance Supervisor Operations Supervisor Technical Supervisor Grounds Keeper	Typical work at this Level includes: Bookkeeper

30.7 Level 5

30.7.1 Shall be an employee who is a holder of a post trade qualification or technical qualification relevant to the WSEC's operations or will have worked or studied in a relevant field and/or have specialist knowledge, qualifications and experience.

30.7.2 A Level 5 employee will be directly responsible to the Executive Management for the operation and policy development relating to a discreet workforce or site.

30.7.3 Indicative tasks and competencies for a Level 5 employee would include:

Events Employees	Grounds Building Technical Employees	Administration & Client Support
	Typical work at this Level includes: Operations Coordinator	Typical work at this Level includes: IT/Systems Coordinator Accounts Officer

30.8 Progression to succeeding levels within the above structure will be dependent on a demonstrated capacity to perform the functions required and availability of a vacant role.

31. Termination of Employment

31.1 Employment may be terminated by either the WSEC or the employee at any time during the week by the giving of the following notice (except as provided by subclause 8.3 of clause 8, Terms of Engagement of Part A, and subclause 31.6 of this clause:

Period of Continuous Service	Period of Notice
Over 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years	4 weeks

Plus one extra week for employees over 45 years of age with not less than two years continuous service (except in the case of an employee giving notice).

31.2 An employee who fails to give the appropriate notice may have moneys withheld to the equivalent of the notice period required, and not given.

31.3 The WSEC will not terminate an employee's employment for reasons related to the employee's conduct, performance, malingering or inefficiency, unless the employee has been given the opportunity to defend himself or herself against the allegations made or the WSEC could not reasonably be expected to give the employee that opportunity.

31.4 An employee who has been given notice will be allowed up to one day as time off without loss of pay (at a time convenient to the WSEC) for the purpose of seeking another job.

31.5 Following a request from the terminated employee, the WSEC will provide a written statement of the period of employment and the type of work performed.

31.6 The WSEC may dismiss any employee without notice for neglect of duty or misconduct. In such case the employee will be paid only up to the time of dismissal.

31.7 The employment of a casual employee may be terminated by either the WSEC or the employee without the giving of notice. However, the WSEC will pay wages for the minimum period as set out in subclause 8.4 of clause 8, Terms of Engagement of Part A, providing the employee works for the remainder of the minimum period if required to do so.

32. Hours of Work

The ordinary hours of work can be rostered Monday to Sunday, inclusive, subject to the following:

32.1 Hours of Work (Ongoing and Temporary Employees)

32.1.1 To suit the needs of the enterprise, ordinary hours will be worked on a rostered basis over a fortnightly period with the following limitations;

- a. A maximum of 76 ordinary hours will be worked in any one fortnightly period.
- b. A maximum of 10 ordinary hours will be worked in any 24 hours period.

32.2 The ordinary hours will be rostered to give employees four clear days off in 14, and, at least two lots of consecutive days off in 28.

32.3 Rosters (Ongoing and Temporary Employees)

32.3.1 Rosters will be provided at least seven days in advance, unless such changes are mutually agreed. Roster changes given with less than seven days' notice will incur a penalty of 50 per cent of the appropriate skill level rate to be applied to any shifts worked for which less than seven days' notice has been given.

32.3.2 If a changed roster is advised with less than seven days but more than 48 hours' notice, it will be obligatory for employees to work the roster. If notice is less than 48 hours it will be optional for the employees to work the roster.

32.4 Rosters (Casual Employees)

32.4.1 Casuals will be rostered to meet the requirement of the enterprise. Should a casual be advised of a cancellation or shortening of roster with less than four (4) hours' notice they shall be paid for half of the number of hours rostered originally.

33. Overtime and Time Off in Lieu

33.1 Overtime based on the payment of time and one half for the first two hours and double time thereafter for work on other than Public Holiday shall be paid to a non-annualised full-time or part-time employee, in the following circumstances:

- a. For all hours worked in excess of 10 per shift
- b. For all hours worked in excess of 76 in a fourteen day cycle

33.2 Overtime based on the payment of time and one half for the first two hours and double time thereafter for work on other than Public Holiday shall be paid to a casual employee engaged under the provisions of Section B of Part D, for all hours worked in excess of 10 per shift.

33.3 An employee who has worked between midnight and 6:00am (and has commenced work before 5:00 am), will be provided with a meal by the WSEC or be paid the amount as set out in Item 2 of Table 5 - Other Rates and Allowances, of Part D - Monetary Rates, for each meal break occurring before finishing time.

33.4 Non-annualised employees may take time off in lieu of overtime payments as agreed between the employee and employer. Such time off shall be taken at the ordinary time rate, that is an hour for each hour worked.

33.5 Notwithstanding subclauses 33.1, 33.2 and 33.3 of this clause, employees engaged as annualised salaried employees shall work hours and rosters to meet the needs of the business subject to the following:

- a. Employees can work up to 20 hours per twenty eight (28) day cycle in excess of 152 hours without the payment of overtime or time off in lieu. The number of hours worked by part-time annualised employees without the payment of overtime or time off in lieu will be based on their normal working week hours e.g. an employee working 3/5 of a normal 38 hour working week can work up to 3/5 of 20 hours per twenty eight (28) day cycle without the payment of overtime or time off in lieu.
 - b. All hours worked in excess of 172 hours per twenty eight (28) day cycle (or pro-rata hours for part-time annualised employees) shall be accrued as time off in lieu, at overtime rates, and taken at a time and date agreed between the employer and the employee.
 - c. 'Overtime rates' in above paragraph 33.5 (b) are defined as time and one half (1½) for the first two hours worked, and double (2) time thereafter, during each shift worked.
 - d. The calculation of time 'worked' during each twenty eight (28) day cycle includes hours away from the work place on public holidays, annual leave and sick leave.
 - e. It is agreed by the parties that the annualised salaried employees shall receive a 10 hour break between shifts wherever possible.
- 33.6 The employer shall monitor the hours of work of employees so that no employee works excessive hours which might contribute to an occupational health and safety problem for the employee concerned, other employees or patrons of the WSEC.

34. Meal Breaks and Allowances

- 34.1 Employees who are required to work through a meal break will be paid at the rate of double time for the period when the meal break would have been taken.
- 34.2 All employees will be allowed a paid refreshment break of ten minutes, to be taken at the place of work and at a time to suit the needs of the enterprise.

35. First Aid Allowance

- 35.1 An employee who holds an appropriate first-aid certificate and who is appointed by the WSEC to perform first-aid duties, in addition to ordinary work, will be paid an allowance per day as set out in Item 3 of Table 5 - Other Rates and Allowances, of Part D - Monetary Rates, in addition to the wage rate as set out in Table 1 or Table 3 - Rates of Pay, of the said Part D.

36. Public Holidays

- 36.1 The days on which New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Anzac Day, Queens Birthday, Labour Day, Christmas Day, Boxing Day, Union Picnic Day (being the first Tuesday after Easter) or any proclaimed days in lieu thereof throughout the State shall be holidays without deduction from the wages due to any employee for the week in which such holiday or holidays occur.
 - 36.1.1 Provided that the above mentioned holidays may be substituted for another day/s off by agreement between the employer and employee(s) to be taken within one (1) month of the said holiday/s or adjacent to a period of annual leave.
 - 36.1.2 Part-time employees are entitled to paid absence on a public holiday only when the public holiday falls on a day that is regularly worked by the employee (working days as defined in the part-time employee's employment agreement). When a public holiday falls on a non-working day, the part-time employee is not entitled to paid absence.
- 36.2 Entitlement to paid absence on the Union Picnic Day shall only apply to non-annualised and annualised employees who are members of the Union.

- 36.3 Any full-time or part-time 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 shall receive double time and a half based on the ordinary hourly rate for the appropriate non-annualised classification.
- 36.4 Where the Picnic Day referred to in subclause 36.2 of this clause falls on a bump-in, bump-out or an event day, the employer shall organise an alternative union picnic day at a time agreeable between management and the workplace union representatives.

37. Uniforms and Protective Clothing

- 37.1 Where employees are required to wear a branded uniform they will provided free of charge.
- 37.2 Where items of clothing referred to in subclause 37.1 are required to be cleaned and maintained by the employee the provisions of Table 5 of Part D, herein, shall apply.
- 37.3 The WSEC commits to providing appropriate protective clothing for employees as is deemed necessary to provide a safe working environment for Trust employees.
- 37.4 The WSEC shall have the right to determine a dress or uniform code for all employees covered by this award, which may include a particular style and colour of dress, which is practical to the working environment, such items shall be provided by the employee.
- 37.5 All uniform items, protective clothing and other tools provided by the WSEC shall remain the property of the WSEC and shall, upon demand be returned to the WSEC in reasonable conditions. Upon termination, monies owed to the employee may be withheld until such time as this subclause is complied with by the employee.

38. Multi-Hiring

- 38.1 Employees may be separately engaged as casual employees (whether they hold non-annualised roles or not) for duties in a separate section of the WSEC's operations covered by this award from that in which the employee engages in their ordinary employment. For the purpose of this clause a "section" shall mean a discrete work location other than the employee's usual work location, or alternatively, may mean a discrete set of duties other than the employee's usual duties, provided such duties are not wholly or substantially performed in the employee's usual work location, and shall not apply to work where overtime would normally be performed.
- 38.2 An Operator engaged for stage productions will be remunerated at the appropriate tech rate for the duration of such engagement.
- 38.3 The arrangements entered into under this clause shall be mutually agreed and recorded in writing at the time.

PART C - MANAGEMENT EMPLOYEES

39. Duties and Responsibilities

- 39.1 The employee shall:
- 39.1.1 Satisfactorily carry out the duties and responsibilities set out in the role description as provided to the employee upon commencement in that role;
- 39.1.2 take all necessary steps to meet the Performance Management Plan that will;
- a. promote the best interests of the WSEC; and
 - b. perform all duties imposed by law.

- 39.2 The employee will assist in the implementation of decisions and policies of the WSEC.
- 39.3 It is accepted that the duties and responsibilities set out in the position description may vary from time to time, by agreement, in writing, between the WSEC and the employee.
- 39.4 In addition, notwithstanding subclause 39.3 of this clause, if one of the Management Team leaves, or the business of the WSEC changes significantly, the WSEC reserves the right to vary the duties and responsibilities set out in the role description following consultation with the employee.
- 39.5 Employees agree that employment is subject to a Code of Conduct that is based on a need for accountable, honest and responsible behaviour.

40. Remuneration

- 40.1 The employee shall be paid a salary in accordance with the employee's relevant level, as detailed in the letter of appointment and the role description, and within the salary range as set out in Table 4 of Part D - Monetary Rates.
- 40.2 The salary paid under subclause 40.1 of this clause is compensation for all hours worked, including work on public holidays and weekends.
- 40.3 Superannuation shall be based on the employee's salary, excluding the provision of a motor vehicle.

41. Provision of a Vehicle

- 41.1 An employee may be provided with a vehicle as part of their employment.
- 41.2 Where a vehicle is supplied in accordance with this clause it shall be a fully maintained vehicle for private use and business use (to a standard agreed and approved by the WSEC), with fuel supplied, except when the employee uses the vehicle when on leave.
- 41.3 The WSEC agrees to pay any liabilities involved in Fringe Benefits Tax through the provision of the motor vehicle.

42. Termination

- 42.1 Where an employee is to be terminated, the following notice period shall apply.
- a. By the employee giving two (2) months' notice, with the Venue Manager authorised to approve a shorter period (of up to a minimum of one (1) month) with the employee, if considered essential.
 - b. By the WSEC with one (1) month notice in writing or by the payment of one (1) month's pay in lieu of notice by the WSEC, where the employee does not meet the duties and responsibilities as specified in clause 39, Duties and Responsibilities, of this Part.
 - c. By the WSEC, without notice, if the employee commits any act that could entitle the WSEC to summarily dismiss the employee including:
 - i. any serious or persistent breach of any conditions of employment
 - ii. grave misconduct including dishonesty or fraud in the discharge of the employee's duties to the WSEC
 - iii. wilful neglect or disobedience in the discharge of the employee's duties to the WSEC
 - iv. conviction of an offence precluding or inhibiting the further performance of duties under the employee's contract.

- d. By the WSEC if satisfied that the employee is permanently incapacitated as a consequence of injury or illness and is unable to continue to perform the duties of the position. A termination under this clause shall constitute a medical retirement and the WSEC may consider appropriate financial retirement arrangements.
- 42.2 Upon termination of employment, the employee shall immediately return all property of the WSEC to the WSEC.
- 42.3 The provisions of clause 23, Introduction of Change apply, notwithstanding the provisions of this clause.

43. Hours of Work

- 43.1 The employee acknowledges that this is a senior managerial role and that the hours of work performed will be such as to meet the needs of the organisation, the duties and responsibilities and may include evening and weekend activity.
- 43.2 Employees agree to devote the whole of their time and attention during working hours, and such other time as may be deemed reasonably necessary, to the business of the WSEC.

44. Confidentially

- 44.1 Confidentiality in respect to the WSEC's affairs must be appropriately maintained at all times. The employee must not use any property, information or knowledge of the WSEC in a manner that would not be in the best interest of the WSEC.
- 44.2 Any intellectual property invented or created by the employee as a result of his/her employment under this contract shall remain the property of the WSEC, unless agreed in writing with Venues NSW.

45. Professional Indemnity

- 45.1 The WSEC will indemnify the employee against any loss or claim made by a third party or cause of action of any kind arising out of their employment, provided the employee acted honestly, diligently and in good faith.

46. Resources

- 46.1 The WSEC shall ensure that resources and personnel as identified at the time of appointment or as varied by agreement between the WSEC and the employee, are available to the employee to enable him/her to adequately perform the duties and responsibilities outlined in the role description.
- 46.2 These resources may include the provision of a mobile phone.

47. Professional Development

- 47.1 It is agreed that it is the responsibility of the employee to keep informed of developments in the profession and to develop professional knowledge and ability in accordance with current management theories.
- 47.2 Where in pursuance of these aims, the employee is granted permission by the WSEC to attend a conference, seminar, short term study course or the like, the WSEC shall meet all associated costs and shall continue payment of full salary and benefits to the employee.

48. Expenses

- 48.1 The employee is entitled to be reimbursed those expenses legitimately and reasonably incurred in conducting and managing the arrangements of the Venues and a part of the duties outlined in the employee's role description.

PART D**MONETARY RATES****Table 1 - General Employees Non-annualised Rates of Pay**

Non-annualised rate of pay for a week not exceeding 38 ordinary hours.

Increases are effective from the beginning of the first pay period to commence on or after the dates in the column headings

Classification	Step	Ordinary Non-annualised Rate 22 January 2019 \$ Per Annum
Level 1	1	42,946
Level 2	1	44,689
	2	45,232
	3	46,706
Level 3	1	48,071
	2	49,349
	3	51,633
Level 4	1	52,452
	2	54,376
	3	56,657
	4	62,851
	5	69,035
Level 5	1	74,934
	2	82,247
	3	88,644
	4	97,508
	5	107,261

Employees engaged under Table 1, above shall be paid 1.125 times the appropriate ordinary hourly rate for each hour, or part thereof, worked between the hours of midnight and 6am on all days, excepting Public Holidays as described in clause 36 of Part B, herein.

Table 2 - Casual Employees Rates of Pay

Casual Hourly Rates for Employees engaged on all occasions except for Public Holidays.

Increases are effective from the beginning of the first pay period to commence on or after the dates in the column headings.

Classification	Step	Ordinary Hourly Rate 22 January 2019 \$
Level 1	1	27.08
Level 2	1	28.17
	2	28.53
	3	29.6
Level 3	1	30.31
	2	31.1
	3	32.55
Level 4	1	33.09
	2	34.3
	3	35.71

Casual employees shall be paid the hourly rate at the Steps in each Level upon the accumulation of ordinary hours worked over time at the site. The maximum period of employment at Level 1 shall be 380 hours. In the succeeding Levels 2 through 3; progression to each Step will occur at the accumulation of 800 hours per Step for all employees, except ushers. Ushers shall progress to each Step after working 380 hours per Step.

Employees engaged under Table 2, above shall be paid 1.125 times the appropriate ordinary hourly rate for each hour, or part thereof, worked between the hours of midnight and 6am on all days, excepting Public Holidays as described in clause 36 of Part B, herein.

JUNIOR RATES

Employees engaged as non-annualised employees or as casuals under the provisions of Table 1 or Table 2, above, who are less than 18 years of age shall be paid according to the following scale:

Under 17 years of age - 80% of the appropriate rate.

Under 18 years but more than 17 years - 90% in the appropriate rate.

18 years and older - 100% of the appropriate rate.

Provided that the scale contained above relates to employees engaged at Levels 1 and 2, performing functions other than cleaning and labouring as defined in clause 2 of Part B, here-in.

Table 3 - Annualised Salary Employees Rates of Pay

Employees engaged under annualised salary packages for all incidents or work under this award.

Increases are effective from the beginning of the first pay period to commence on or after the dates in the column headings

Classification	Step	Salary per Annum 22 January 2019 \$
Level 1		N/A
Level 2	1	56,230
	2	56,920
	3	59,106
Level 3	1	60,485
	2	62,097
	3	64,971
Level 4	1	66,006
	2	68,420
	3	71,296
	4	79,083
	5	86,871
Level 5	1	94,294
	2	103,493
	3	111,542

Table 4 - Management Employees Rates of Pay

Increases are effective from the beginning of the first pay period to commence on or after the dates in the column headings.

Level	Pay Point	Salary per Annum 22 January 2019 \$
2	Maximum	146,598
	Minimum	129,160
1	Maximum	124,771
	Minimum	116,246

Table 5 - Other Rates and Allowances

	Allowance	(Date of Effect)	
		Ongoing/temporary employee \$	Casual employee \$
1	Laundry Allowance	17.27 Per week	1.59 Per shift
2	Meal Allowance	12.57	12.57
3	First Aid Allowance	3.24 Per shift	3.24 Per shift
4	Offensive Matter Cleaning Allowance	4.03 Per day	4.03 Per shift
5	Leading Hand Allowance		
	3 to 10 employees	42.99 Per week	1.36 Per hour
	11 to 20 employees	51.05 Per week	1.68 Per hour
	More than 20 employees	61.25 Per week	2.02 Per hour

P. M. KITE, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

PUBLIC HEALTH SERVICE EMPLOYEES SKILLED TRADES (STATE) AWARD 2019

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Ministry of Health.

(Case No. 390664 of 2018)

Before Chief Commissioner Kite

14 February 2019

AWARD

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MONETARY RATES

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2. Definitions

"Local Health District" means a Local Health District as specified in Schedule 1 of the *Health Services Act 1997*, and, for the purposes of this Award, will also include the Ambulance Service of NSW as described in section 76A of the said Act and also "Statutory Health Corporations" as specified in Schedule 2 of the said Act.

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

"Hospital" means any facility operated by a "Local Health District" as defined in this Award.

"Test case decision" means a decision made under Part 3 - National and State Decisions of Chapter 2 of the *Industrial Relations Act 1996* or any other decision which the Industrial Relations Commission of New South Wales determines to be a test case having general application to awards in the State.

"Union" means any or all of the following organisations as the case may be:

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

New South Wales Plumbers and Gasfitters Employees' Union;

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

Electrical Trades Union of Australia, New South Wales Branch.

3. Classifications

"Bricklayer" means a person appointed as such who is employed on bricklaying or tuck-pointing work.

"Carpenter" means a person appointed as such who is employed on carpentry work.

"Electrical Tradesperson" means a tradesperson, including an Electrician, in an electrical trade, which includes the following electrical trades:

"Electrical Fitter" means a tradesperson who is mainly engaged in making, fitting or repairing electrical machines, instruments or appliances, and who in the course of his/her work applies electrical knowledge including the welding, fabrication, and erection of brackets and equipment associated with electrical installation work.

"Electrical Mechanic" means a tradesperson who is mainly engaged on electrical installation, repair and maintenance work including the welding, fabrication, and erection of brackets, and equipment associated with electrical installation work.

"Electrical Fitter and Assistant to Chief Engineer - Sydney Hospital" means a person appointed as such, who in addition to undertaking the duties of an Electrical Fitter, assists the Chief Engineer at Sydney Hospital.

"Electrical Fitter and Assistant to Chief Engineer - Other Hospitals" means a person appointed as such, who in addition to undertaking the duties of an Electrical Fitter, assists the Chief Engineer.

"Electrician in Charge of Generating Plant" means an electrician who has complete charge of the whole plant, including the prime mover and generator and is required to run the plant and maintain and attend to the installation generally.

"Plant Electrician" means a tradesperson who is an electrical mechanic or electrical fitter who has practically complete charge of the general maintenance, alteration and repair work of an installation and carries out the orders of an employer having no knowledge of the electrical trade and not carrying on any business in the trade as a partner or otherwise or carries out the orders of an employer's engineer or other officer who is not a practical electrician.

"Refrigeration and/or Air Conditioning Mechanic or Fitter" means a tradesperson who in the course of his/her work applies electrical trade experience and is mainly engaged on the installation, repair, and maintenance work in connection with electrically operated refrigeration and/or air conditioning units.

"Electrical Instrument Fitter" means a tradesperson, not necessarily an electrical fitter, who is required to design, test and/or repair and maintain electrical and/or electro-pneumatic measuring and/or scientific electrical instruments.

"Fitter" means a person appointed as such who is a tradesperson of one or more of the following classes: mechanical fitter, pipe fitter on refrigeration work and/or high pressure work which includes live steam and hydraulic press work.

"Floor/Wall Tiler" means a person appointed as such and without limiting the meaning of the expression "floor/wall tiler", a person employed in the laying or fixing of tiles, faience, mosaic, ceramic, opalite and the like not exceeding in measurement 930 square centimetres when such opalite and the like is fixed with cement composition.

"Motor Mechanic" means a person appointed as such who is a tradesperson engaged in repairing, altering, overhauling, assembling or testing metal and/or electrical parts of the engine or chassis of motor cars, motor cycles or other motor vehicles.

"Mechanical Tradesperson - Special Class" means a fitter or mechanic who satisfies the requirements for appointment to Level 2 in the classification structure, and who did so, fully or in part, by virtue of having obtained skills and/or knowledge beyond the base trade in hydraulics and/or pneumatics.

"Painter" means a person appointed as such who is engaged in any manner whatsoever in the painting and/or decorating of or in connection with all buildings and structures, plant, machinery, and equipment, fences and posts.

"Plasterer" means a person appointed as such who is employed on internal and/or external plastering and/or cement, including without limiting the generality of the foregoing, fibrous plaster fixing, gypsum plaster board fixing and floor laying.

"Plumber" means a person appointed as such and without limiting the ordinary meaning of "plumbing", who is engaged on work including lead burning, chemical plumbing, oxy-welding, electric welding and brazing applicable to plumbing work, gas fitting, maintenance, installations and repair of hot and cold water services and hot water and/or steam heating services, air conditioning plants, the making up, fitting and installation of sewage and sewerage systems in sheet lead, galvanised iron, cast iron or any other material which supersedes the materials usually used by plumbers, the fixing of roofing, curtain walling, spouting, downpipes, gutters, valleys, ridging and flashings in any metal or any material, and the fixing, maintenance and repair of metal drain pipes and vent pipes to any building.

"Scientific Instrument Maker" means a person appointed as such who is a tradesperson engaged on the work of manufacturing, repairing, adjusting, and/or testing of optical and scientific instruments, but does not include an employee working exclusively as a tradesperson.

"Signwriter" means a person appointed as such and who in addition to having a knowledge of painting does any of the following work:

Signwriting, designing and/or lettering of tickets and show cards.

Pictorial and scenic paintings, or production of signs or posters by means of stencils, screens or like methods or any other work incidental thereto including cut-out displays of all description, pictorial, scenic or lettering and without limiting the generality of the foregoing shall include:

- (a) lettering of every description, size or shape applied by brush on any surface or material which, without limiting its meaning, shall include stone, wood, iron, metal, brick, cement, glass (plain and fancy), canvas, paper, calico, sheeting, bunting, silk, satin, wire blinds;
- (b) designing for windows, poster, show window and theatre displays, honour rolls, illuminated addresses, neon signs, stencils, display banners;
- (c) gilding, i.e., the application of gold, silver, aluminium, or any metal leaf to any surface;
- (d) designing and laying out of cut-out displays of all descriptions, either pictorial, scenic or lettering;
- (e) screen process work, i.e., the designing, setting up and the operation for duplication of signs on any material whether of paper, fabric, metal, wood, glass, or any similar material.

Without limiting the general meaning signwriting work shall include making of stencils and stencilling by screen or any other method, and the making and/or fixing of transfers.

"Spray Painter" means a tradesperson who is required to prepare all types of surfaces, colour match and apply paint to vehicle panels, vehicle components and whole vehicles with the use of general trade experience.

"Toolmaker" means a person appointed as such who is a tradesperson making and/or repairing any precision tool, gauge, die or mould to be affixed to any machine who designs or lays out his/her work and is responsible for its proper completion and includes any tradesperson engaged in or in connection with the making of any tool, gauge, die or mould as aforesaid who by agreement with the employer is classified as a toolmaker.

"Tradesperson" means any employee who has completed an apprenticeship or holds a relevant trade certificate or equivalent or, is otherwise appointed to any classification under this Award as at 1 September 1997.

"Welder 1st Class" means a person appointed as such who is a tradesperson using electric arc and/or oxy-acetylene blow pipe and/or coal gas cutting plant who is required to apply general trade experience as a welder.

"Welder Special Class" means a welder who, in addition to satisfying the requirements of a Welder 1st Class, is required to and is competent to apply general trade experience in welding all the following classes of metals: mild steel, stainless steel, cast iron, aluminium, copper, brass, die cast metal and magnesium.

3A. Classification Structure and Labour Flexibility

Tradespersons in the NSW public Health system perform, both on a planned and emergency basis, a variety of manual and technical tasks related to preventative and corrective maintenance and the installation, renovation and construction of buildings, plant and equipment. Those tasks include the performance of peripheral and incidental tasks and assisting other staff so as to complete the whole job.

In recognition of the skills and knowledge brought to the performance of tasks by tradespersons, the following classification structure is to be applied from the first full pay period to commence on or after the 1 September 1997.

Trade Classification	% of Weekly Wage	Definition
Level 1	100%	Complete Apprenticeship and/or holds relevant trade certificate or equivalent.
Level 2	105%	120 hours of approved course/s and is regularly required to use the skills/knowledge acquired in such courses.
Level 3	110%	240 hours of approved course/s and is regularly required to use the skills/knowledge acquired in such courses.
Level 4	115%	360 hours of approved course/s and is regularly required to use the skills/knowledge acquired in such courses.

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

Approved Courses - are TAFE courses and any others that the Employer approves. Ministry of Health Study Leave provisions apply. Courses approved however must relate to the acquisition of new skills (performing additional functions) and not simply the modernisation or updating of current work practices or methods (performing the same functions better/differently - for example, personal OH&S related courses, updated inventory or programmed maintenance systems, new computer software etc.).

Placement - The relevant Chief Executive will determine where each tradesperson should be placed within the classification structure.

This must be done firstly by determining which skills/knowledge, above classification level 1 skills, are regularly required of the tradesperson and secondly, in relation to each of those, determining whether the relevant approved course has been successfully completed or, alternatively, in respect of tradespersons in employment as at 1 September 1997, determining whether the skills/knowledge possessed by the tradesperson is equivalent to skills/knowledge acquired from successfully undertaking the approved course.

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

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

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

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

Equivalent Skills - For the purposes of progression under the foregoing clause, the Chief Executive may determine that the skills/knowledge possessed by and regularly required of a tradesperson who was in employment as at 1 September 1997, should be considered equivalent to skills/knowledge acquired from successfully undertaking an approved course/s. Any such decision requires that the tradesperson in question be credited with hours equivalent to that of the relevant approved course/s.

No Double Counting - There will be no credit toward progression to a higher classification level in relation to the performance of any function for which payment of an allowance is already made, for example,

Thermostatic Mixing Valve Allowance and, any functions for which Additional Wage Rates are paid, for example, to Plumbers, Electrical Tradespersons and Welders.

Leading Hand Allowances - Leading hand allowances, where applicable, will be paid in addition to the skills based increment of the tradesperson in question.

Disputes - The Issue Resolution procedures should be utilised if any disputes arise concerning implementation of this clause.

4. Hours and Contract of Employment

- (i) Employment under this Award will be full-time, part-time or casual. Any employee not specifically engaged as a casual employee shall be deemed to be employed by the week.
- (ii) Full-time employees - Hours:
 - (a) "Day Worker" means a worker who works his/her ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6:00 am and at or before 10:00 am otherwise than as part of a shift system.

"Shift Worker" means a worker who is not a day worker as defined.
 - (b) Except as provided elsewhere in this Award the ordinary working hours excluding meal times shall be thirty-eight per week and shall be worked in accordance with the following provisions for a four week cycle. The ordinary hours of work for day workers shall be 8 hours per day worked between 6:00 am and 6:00 pm Monday to Friday inclusive and arranged in a four weekly cycle such that an employee shall be credited with 0.4 of one hour for each day worked with such time accruing as an entitlement to take one day off duty, on pay, in each four weekly cycle of twenty working days.
 - (c) Each day of paid sick or recreational leave taken and any public holiday/s occurring during any cycle of four weeks shall be regarded as a day worked for accrual purposes.
 - (d) An employee who has not worked a complete four week cycle shall receive pro rata accrued entitlements for each day worked (or each fraction of a day worked) or regarded as having been worked in such cycle, payable for the allocated day off. Such payment shall also be made to an employee on termination of employment.
 - (e) The accrued allocated day off prescribed in paragraph (b) of this subclause shall be taken as a paid day off unless the employee is required to work that day by the employer to cover unforeseen or emergency circumstances which would impair the productivity of other employees, delay the completion of a project or section thereof or prevent other employees from carrying out maintenance work outside ordinary working hours.
 - (f) Where an employee has been absent on workers' compensation during a 20 day cycle and returns to work prior to his/her next allocated day off duty, in normal sequence, he/she shall be given and shall take such day as though he/she had worked the whole of the 20 day cycle.
 - (g) Where an employee is required to work on his/her accrued allocated day off, other than a call back, he/she shall be paid at the rate of time and one-half for the time worked in ordinary hours and at double time for all time worked outside the ordinary hours on that day and the employer and employee shall confer with the view of substituting another day off, in lieu thereof, in the current 20 day cycle. Should it be impractical for such a day to be substituted in the current 20 day cycle, it shall be given and taken as soon as practicable after the commencement of the next 20 day cycle in sequence.
 - (h) Where an employee requests, and the employer agrees to a temporary change of the allocated day off in the four weekly cycle, no penalty payments shall be payable to an employee in respect of the change of the allocated day off. Similarly, no penalty payments shall be payable to the

employee where he/she and the employer agree to change the allocated day off, in the four weekly cycle, on a permanent basis.

- (i) When an employee's allocated day off duty, on pay; as prescribed by paragraph (b) of this subclause, falls on a public holiday as prescribed by clause 22, Public Holidays, and clause 23, Picnic Day, the next working day shall be taken in lieu of the allocated day, unless an alternative day in that four weekly cycle (or the next four weekly cycle) is agreed to between the employer and the employee.
 - (j) The ordinary hours of work of shift workers exclusive of meal times shall be 8 hours per shift with 0.4 of one hour at ordinary rates for each shift worked accruing as an entitlement to take one shift off duty, on pay, in each cycle of four weeks such that 19 shifts of eight hours (152 hours in total) are worked in each cycle.
 - (k) Each shift worker shall be free from duty for not less than two full days in each week or where this is not practicable, four full days in each period of two weeks and where practicable such days shall be consecutive.
 - (l) Except at regular changeover of shifts an employee shall not be required to work more than one shift in each period of twenty-four hours.
 - (m) Shift rosters shall specify the commencing and finishing times of the ordinary working hours of the respective shifts.
 - (n) The method of working shifts may be varied by agreement between the employer and the accredited representative of the union to suit the circumstances of the establishment or in the absence of agreement by seven days notice of alteration given by the employer to the employee.
 - (o) Before shift work is introduced into any hospital or section thereof, the proposals relating thereto shall be conveyed to the Health Administration Corporation for its approval and to afford it an opportunity to discuss such proposals with representatives of the employer and the union or unions concerned.
 - (p) There shall be allowed, without deduction of pay, a tea break of twenty minutes between 9:00 am and 11:00 am, or at such other time as may be mutually agreed upon, provided however that employees shall not necessarily take it at the same time or in the same location. Where practicable such tea break shall be taken at the nearest facility to the workplace and at the convenience of the employer.
- (iii) Part Time Employment:
- (a) A part-time employee is one who is permanently appointed by the employer to work a specified number of hours in a roster cycle. The specified hours must be less than those prescribed for a full-time employee.
 - (b) Employees engaged under this clause shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate relevant to their classification and shall be entitled to all other benefits not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.

This includes pro rata of appropriate weekly allowances and pro rata of appropriate daily allowances in the same proportion as actual hours on a day bears to eight. A part-time employee shall not be entitled to an additional day off or part thereof as prescribed by this Award and shall not be entitled to Public Holidays where the employee would not have worked that day pursuant to his/her usual roster.
 - (c) The minimum number of hours per shift worked is four hours. The maximum ordinary hours which may be worked within a 7 day period (coincidental with the pay period) is thirty two. Days

of work and starting and finishing times may be varied at any time by agreement, or by the employer with notice having regard to the employee's circumstances.

- (d) All time worked by part-time employees in excess of eight hours on any shift, or beyond the rostered finishing time of the majority of full-time employees employed on that shift in the section concerned, shall be overtime and paid for at the rate of time and one half for the first two hours and double time thereafter, except that on Sunday such overtime shall be paid for at the rate of double time and on public holidays at the rate of double time and one half.

Extensions to the time worked on any shift, up to and including eight hours, or up to and including the rostered finishing time of the majority of full-time employees employed on that shift in the section concerned, whichever occurs first, 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.

- (e) Part-time employees shall have their pro-rata entitlements calculated by the average of ordinary hours worked per annum. In this respect ordinary hours worked means their contracted hours and any additional hours worked at ordinary rates of pay. In other words, hours which include extensions to shifts referred to in (d) above.

- (iv) Termination of Weekly Employment - One week's notice of termination of employment shall be given by the hospital or the employee, respectively, but when the conduct of an employee justifies instant dismissal such notice of termination of employment shall not apply; provided that should an employee fail to give the prescribed notice such employee shall be liable to the forfeiture of one week's wages. Where the services of an employee are terminated without due notice he/she shall be paid one week's salary in lieu thereof.

- (v) Casual Employment:

- (a) A casual employee shall mean a person engaged for a period of less than the hours prescribed for full-time employees in clause 4, Hours and Contract of Employment, but shall not include any person employed under an unemployment relief scheme.
- (b) A casual employee shall be paid 15 per centum in addition to the rate calculated by adding the weekly wage and tool allowance for the class of work which he/she performs.
- (c) A casual employee who is requested to report for work shall be paid a minimum of 2 hours pay for each start.

- (vi) All employees:

- (a) Except for meal breaks, at the discretion of the employer, the ordinary hours of work shall be worked continuously provided that no employee shall be required to work for more than 5 hours without a meal break.
- (b) Painters shall be allowed five minutes before lunch and before the cessation of the day's work or shift to clean and put away their brushes, tools, etc.

- (vii) Locally negotiated hours of work patterns which are in place as at 1 September 1997 are preserved. Such work patterns are known to exist at Northern Sydney Area Health Service (12 hour shifts), Central Sydney Local Health District (12 hour shifts) and Western Sydney Local Health District Area Health Service (9 day fortnight). The preservation of those work patterns includes the preservation of other conditions and administrative arrangements altered/adopted locally to supplement and or accommodate the existence of those work patterns.

4A. On Call

- (i) The employer shall advise all employees and the Union(s) of any proposal to introduce an on call roster, including the proposed details of the roster.

- (ii) An employee required by his or her employer to be on call, otherwise than as provided in (iii) hereof shall be paid the allowance as set out at Table 2 for each period of 24 hours or part thereof, provided that only one allowance shall be payable in any period of 24 hours.
- (iii) An employee required to be on call on rostered days off shall be paid the allowance set out at Table 2 for each period of 24 hours or part thereof, provided that only one allowance shall be payable in any period of 24 hours.
- (iv) On call rostering arrangements shall be determined in consultation with affected employees and having regard to the availability and training of employees placed on the on call roster. Such arrangements should also have regard to particular local geographical concerns and travelling distances involved.
- (v) Wherever possible the employer shall supply a mobile telephone to an employee rostered on call.
- (vi) Where provided with a mobile telephone, a rostered employee must remain near the mobile telephone which must remain switched on unless a pager has been provided. Alternatively an employee not provided with a mobile telephone or pager must remain available via their home telephone. A rostered employee shall be available to answer calls personally and must not utilise an answering machine.
- (vii) An employee rostered on call must contact the employer/hospital immediately it becomes known that the employee shall be unavailable for rostered duty.
- (viii) The employee must be able to respond appropriately within a reasonable time frame as determined by the employer.
- (ix) Where appropriate an employee rostered on call may be provided with a motor vehicle.
- (x) The employer shall ensure that all employees who participate in the after hours service are provided with any training necessary to respond effectively to calls received.
- (xi) When an employee is recalled to work, payment is in accordance with subclause 5(v).

4B. Secure Employment

- (a) 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.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not

unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
 - (1) whether the employee will convert to full-time or part-time employment; and
 - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5, of the *Industrial Relations Act 1996* (NSW);

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

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
 - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
 - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) 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 occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Workplace Health and Safety Act 2011* or the *Workplace Injury Management and Workers Compensation Act 1998*.

(d) 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.

- (e) 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.

5. Overtime

- (i) For all work done outside ordinary hours, (inclusive of time worked for accrual purposes as prescribed in clause 4, Hours and Contract of Employment and clause 17, Shift Work) the rates of pay shall be time and one 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 (ii) of this clause, in computing overtime each day's work shall stand alone, except where overtime is continuous from the previous day.

- (ii) Rest period after overtime - when overtime work is necessary it shall wherever reasonably practicable be so arranged that employees have at least ten consecutive hours off duty between the work of successive days.

An employee who works so much overtime between the termination of his/her ordinary work on one day and the commencement of his/her ordinary work on the next day that he/she has not had at least ten consecutive hours off duty between these times shall, subject to this subclause, be released after completion of such overtime until he/she has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

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

The provisions of this subclause shall apply in the case of shift workers as if eight hours were substituted for ten hours when overtime is worked:

- (a) For the purpose of changing shift rosters; or
 - (b) Where a shift worker does not report for duty and a day worker or a shift worker is required to replace the absent shift worker; or
 - (c) Where a rostered shift is altered by arrangement between the employees themselves.
- (iii) Overtime worked on a Saturday or Sunday not being a public holiday shall be paid for as follows:
- (a) Saturday - time and one half for the first two hours and double time thereafter with a minimum payment of four hours except where such overtime is continuous with overtime commenced on the previous day.

All overtime work after twelve noon on a Saturday shall be paid for at double time.
 - (b) Sunday - double time for all time worked with a minimum payment for four hours. Payment of double time for overtime worked on a Sunday shall continue until the employee is relieved from duty.
- (iv) Overtime worked on Public Holidays:
- (a) Overtime worked on a public holiday as prescribed by clause 18, Public Holidays, shall be paid at the rate of double time and one half for all time worked with a minimum payment of four hours at such rate.
 - (b) Overtime worked on a public holiday and which continues beyond twelve midnight into the next day not being a public holiday shall be paid for at the same rate for a public holiday until such time as the employee is relieved from duty.
- (v) Call back:
- (a) An employee recalled to work after leaving the premises (including the allocated day off, on pay) shall be paid for a minimum of four hours work at the appropriate rate for each time he/she is so recalled; provided that, except in unforeseen circumstances arising, the employee shall not be required to work the full minimum number of hours prescribed above if the work he/she was recalled to perform is completed within a shorter period.
 - (b) An employee recalled to work overtime as prescribed by paragraph (a) of this subclause shall be paid all fares and expenses reasonable incurred in travelling to and from his/her place of work.

Provided further that where an employee elects to use his/her own mode of transport, the employee shall be paid a Transport Allowance as provided by Determination made under the *Health Services Act 1997*, as varied from time to time. .
 - (c) The provisions of this subclause shall apply in the case of employees on call back as if eight hours were substituted for ten hours in subclause (ii) of this clause, unless such call back occurs after an employee has worked continuing overtime from the normal shift immediately preceding the call back.
- (vi) Temporary night work - Wherever it may be necessary for a "day worker" to work temporary night work in the course of alteration or renovations of a building.
- (a) No employee who is employed during ordinary hours shall be employed on temporary night work except at overtime rates or vice versa.
 - (b) A meal break of not less than 20 minutes shall be allowed during such shift.

- (c) An employee employed for less than five continuous shifts (inclusive of the allocated day off, on pay, as prescribed in clause 4, Hours and Contract of Employment) in any working week shall be paid at the rate of double time and one half for all time worked with a minimum payment of four hours at such rate.
 - (d) The rate of pay for temporary night work shall be time and one half.
 - (e) Start and finishing times for temporary night work shall be agreed upon mutually between the employer and the employees concerned.
- (vii) Meal hours - Work done during meal hours and 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 five hours without a break for a meal.
- (viii) Meal money - An employee required to work overtime in excess of one and one half hours after working ordinary hours shall be paid by his/her employer an amount set out at Table 3 to meet the cost of a meal. During the term of this Award, expense related allowances will be adjusted in accordance with movements in the expense related allowances in the Crown Employees Wages Staff (Rates of Pay) Award.

After the completion of each four hours on continuous overtime shall be paid an amount set out at Table 3 for each subsequent meal in addition to his/her overtime payment, but such payment need not be made to employees living in the same locality as their places of work who can reasonably return home for meals.

- (ix) Transport of employees - When an employee after having worked overtime or a shift for which he/she has not been regularly rostered finishes work at a time when reasonable means of transport are not available the employer shall provide him with a conveyance to his/her home, or pay him his/her current wage for the time reasonably occupied in reaching his/her home (provided that this subclause shall not apply to an employee who uses his/her own vehicle to travel to and from his/her place of work).
- (x) Reasonable overtime:
- (a) Subject to paragraph (b) below, an employer may require an employee to work reasonable overtime at overtime rates or as otherwise provided for in this award.
 - (b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours, which are unreasonable.
 - (c) For the purposes of paragraph (b) what is unreasonable or otherwise will be determined having regard to:
 - (i) any risk to employee health and safety;
 - (ii) the employee's personal circumstances including any family and carer responsibilities;
 - (iii) the needs of the workplace or enterprise;
 - (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.
- (xi) Cribs:
- (a) An employee who is required to work overtime for one and one half hours or more after the normal creasing time inclusive of time worked for accrual purposes as prescribed in clause 4, Hours and Contract of Employment, and clause 17, Shift Work, shall be allowed, at the expiration of the said one and one half 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.

- (b) When 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 which meal break shall be taken without loss of pay.

6. Wages

- (i) The weekly wages of full-time employees shall be as set out in Table 1.
- (ii) The weekly wages referred to in subclause (i) and (iv) of this clause are inclusive of the Industry Allowance, paid in consideration for:
 - (a) working in the open and there being subjected to climatic conditions, i.e., dust blowing in the wind, brick dust, drippings from concrete, etc.;
 - (b) sloppy conditions;
 - (c) lack of usual amenities associated with factory work e.g., meal rooms, change rooms, lockers, etc.
- (iii) The weekly wages referred to in subclause (i) and (iv) of this clause are inclusive of the Hospital Trades Staff Allowance, paid in recognition of the responsibility, specialised skills, flexibility and discretion exercised by such tradespersons and the environment in which they work.
- (iv) The weekly wages and allowances for Apprentices shall be as set out in Table 4. The conditions of employment within this Award which specifically refer to Apprentices will be applied to Apprentices.

6A. Salary Sacrifice to Superannuation

- (i) Notwithstanding the salaries prescribed in clause 6, Wages, as varied from time to time, an employee may elect, subject to the agreement of the employee's employer, to sacrifice a part or all of the salary payable under clause 6 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 6B, 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 PAYG withholding 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 wages 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 (vi) above, the employer will continue to base contributions to that fund on the salary payable under Clause 6 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.

6B. Salary Packaging

- (i) By agreement with their employer, employees may elect to package part or all of their salary in accordance with this clause, to obtain a range of benefits as set out in PD2016_009 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 subclause (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 6, Wages, 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, HELP repayments, 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 PD2016_009 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 PD2016_009 Salary Packaging Policy and Procedure Manual as amended from time to time.

7. Additional Rates, Special Rates and Allowances

- (i) Additional Wage Rates
 - (a) Electrician - An electrician who is the holder of a Qualified Supervisors Certificate or Contractors licence shall be paid an amount per week set out at Grade A of Table 2 of Part B, Monetary Rates. An electrician who is the holder of a Certificate of Registration shall be paid an amount per week set out at Grade B of Table 2.

- (b) Plumber - The ordinary rates for plumbers are increased by the weekly amounts (or pro rata hourly for Part-time/Casual) set out in Table 2 for all purposes for acting on various licences or combinations thereof as set out:
- (1) when required to act on plumber's licence;
 - (2) when required to act on gasfitter's licence;
 - (3) when required to act on drainer's licence;
 - (4) when required to act on plumber's and gasfitter's licence;
 - (5) when required to act on plumber's and drainer's licence;
 - (6) when required to act on gasfitter's and drainer's licence;
 - (7) when required to act on plumber's, gasfitter's and drainer's licence.

A plumber who may be required by his/her employer to act on his/her licence or licences during the course of his/her employment shall be paid at the rate per hour mentioned in this Award for every hour of his/her employment whether he/she had in any hour in fact acted on such licence or not.

Gasfitting licence shall be deemed to include coal gas, natural gas, liquid petroleum gas or any other gas where it is required by any State Act of Parliament or regulation that the holder of a licence be responsible for the installation of any such service or services.

- (c) A plumber and/or gasfitter and/or drainer who is or will be required to be the holder of a Certificate of Registration shall be paid the amount per hour set out at Table 2 in addition to his/her ordinary rate of pay. This allowance shall be paid for all purposes of the Award with the exception of clause 17, Shift Work, and clause 5, Overtime, in which cases it shall be paid as a flat rate and not be subject to penalty addition.
- (d) Electric Welding - An employee being the holder of a Department of Industrial Relations oxy-acetylene or electric welding certificate who may be required by his/her employer to act on either of his/her certificates during the course of his/her employment shall be entitled to be paid for every hour of his/her employment on work the nature of which is such that it is done by or under the supervision of the holder of a certificate or while not performing but supervising such work the sum per hour set out at Table 2 with a minimum payment of one hour per day for each certificate in addition to the rates of a journeyman plumber in this Award.
- (e) Computing Quantities - Employees who are regularly required to compute or estimate quantities of materials in respect to the work performed shall be paid an additional amount per day or part thereof set out at Table 2.
- (f) An employee being the possessor of a boiler attendant's certificate who is required to supervise or operate a boiler shall for each week he/she is so required to be paid in addition to the rates prescribed an amount set out at Table 2.
- (g) BMC Operators:
- (1) Tradespersons employed on rotational shiftwork in building maintenance centres attending computerised systems monitoring the status and functions of plant and equipment connected thereto and attending to alarms recorded thereon shall be paid an allowance per week as set out at Table 2 above the Award margin prescribed for their respective trade classifications. Such allowance shall be paid for all purposes of the Award and subject to wage indexation increases.

- (2) In addition to the foregoing such tradesperson/s shall also be paid the tool allowance prescribed for their respective trade classification under this Award.
- (3) Tradespersons attending the computerised system shall hold their work station for a period of one quarter of an hour at shift change over to acquaint the oncoming shift with the status of the plant and equipment or maintenance work in hand. Such time shall be counted as time worked and paid for at overtime rates.
- (h) Motor mechanics who are required to inspect and issue certificates of inspection in respect of the road worthiness of motor vehicles shall be paid an amount set out at Table 2 for each vehicle inspected plus an amount per day set out at Table 2 whilst actually at work.
- (i) In addition to the ordinary rate paid to an Electrical Tradesperson (Electrical Fitter/Mechanic and Refrigeration and/or Air Conditioning Mechanic or Fitter), the following types of Electrical Tradespersons (see Definitions) shall be paid the weekly amounts (or pro rata hourly for Part-time/Casual) set out at Table 2 for all purposes:
 - Electrical Fitter & Assistant to Chief Engineer - Sydney Hospital;
 - Electrical Fitter & Assistant to Chief Engineer - Other Hospitals;
 - Electrician in Charge of Generating Plant less than 75 Kilowatts;
 - Electrician in Charge of Generating Plant 75 Kilowatts or more;
 - Plant Electrician.
- (j) In addition to the ordinary rate paid to a Welder 1st Class, a Welder Special Class as defined shall be paid the weekly amount (or pro rata hourly for Part-time/Casual) set out at Table 2 for all purposes.
- (ii) Special Rates

In addition to the wages, additional wage rates and allowances of this Award, the following special rates and allowances shall be paid to employees:

- (a) Cold Places - Employees working in places where the temperature is reduced by artificial means below 0 degrees Celsius shall be paid an amount per hour extra as set out at Table 2. Where the work continues for more than two hours, employees shall be entitled to a rest period of twenty minutes every two hours without loss of pay.
- (b) Confined Spaces - Employees working in a place the dimensions or nature of which necessitate working in a stooped or cramped position or without sufficient ventilation shall be paid an amount per hour extra as set out at Table 2.
- (c) Dirty Work - Work which a supervisor and employee agree is of a dirty or offensive nature by comparison with the work normally encountered in the trade concerned and for which no other special rates are prescribed shall be an amount per hour extra as set out at Table 2.
- (d) Height Money - Employees working at a height of 7.5 metres from the ground, deck, floor or water shall be paid an amount per hour extra as set out at Table 2 and the same amount again extra for every additional 3 metres. Height shall be calculated from where it is necessary for the employee to place his/her hands or tools in order to carry out the work to such ground, floor, deck or water. For the purpose of this subclause deck or floor means a substantial structure which, even though temporary, is sufficient to protect an employee from falling any further distance. Water level means in tidal waters mean water level. This subclause shall not apply to employees working on a suitable scaffold erected in accordance with the *Work Health and Safety Act 2011 (NSW)*.

- (e) Hot Places - Employees working in the shade in places where the temperature is raised by artificial means to between 46 degrees Celsius and 54 degrees Celsius shall be paid an amount per hour extra as set out at Table 2; in places where the temperature exceeds 54 degrees Celsius, such employees shall be paid an additional amount per hour as set out at Table 2. 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 temperature shall be decided by the foreman of the work after consultation with the employees who claim the extra rate.
- (f)
- (1) Insulation Material - An employee who is called upon to handle charcoal, pumice, granulated cork, silicate of cotton, insulwool, slagwool, fibreglass or mineral wool or other recognised insulating material of a like nature or an employee in the vicinity of such work shall be paid an amount per hour extra as set out at Table 2 or part thereof whilst so engaged.
- (2) Asbestos - An employee required to work with any materials containing asbestos or to work in close proximity to employees using such materials shall be provided with and shall use all necessary safeguards as required by the appropriate occupational health authority and where such safeguards include the mandatory wearing of protective equipment such employees shall be paid an amount per hour extra as set out at Table 2 whilst so engaged.
- (g) Smoke-boxes, etc. - Employees working on repairs to smoke-boxes, furnace or flues of boilers shall be paid an amount per hour extra as set out at Table 2; provided that an employee engaged on repairs to oil fired boilers, including the casings, uptakes and funnels, or flues and smoke stacks, shall, while working inside such boiler, be paid an amount per hour extra as set out at Table 2.
- (h) Wet Places:
- (1) An employee working in a place where water other than rain is falling so that his/her clothing shall be appreciably wet and/or water, oil or mud underfoot is sufficient to saturate his/her boots shall be paid an amount per hour extra as set out at Table 2; provided that his/her extra rate shall not be payable in respect to an employee who is provided with suitable and effective protective clothing and/or footwear. An employee who becomes entitled to this extra rate shall be paid such rate for such part of the day or shift as he/she is required to work in wet clothing or boots.
- Where an employee is required to work in the rain he/she shall be paid an amount per hour extra as set out at Table 2 for the time so worked.
- (2) An employee called upon to work knee-deep in mud or water, shall be paid an amount per day extra as set out at Table 2 in addition to ordinary rates of pay prescribed for each day or portion thereof so worked; provided that this subclause shall not apply to an employee who is provided with suitable protective clothing and/or footwear.
- (i) Acid Furnaces, Stills, etc.:
- (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 an amount per hour extra as set out at Table 2. This additional rate shall be regarded as part of the wage rate for all purposes of the Award.
- (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 an amount per hour extra as set out at Table 2. This additional rate shall be regarded as part of the wage rate for all purposes.

- (j) Depth Money - An employee engaged in tunnels, cylinders, caissons, coffer dams and sewer work and in underground shafts exceeding 3 metres in depth shall be paid an amount per hour extra as set out at Table 2.
- (k) Swing Scaffolds:
 - (1) An employee other than a plasterer, working in a bosun's chair or on a swing scaffold shall be paid an amount as set out at Table 2 for the first four hours whilst so engaged thence an amount per hour as set out at Table 2.
 - (2) Plasterers working in a bosun's chair or on a swing scaffold shall be paid an amount per hour extra as set out at Table 2 more than that rate applicable to other employees, in paragraph (a) above.
 - (3) An employee shall not raise or lower a bosun's chair or swing scaffold alone and an employer shall not require an employee to raise or lower a bosun's chair or swing scaffold alone.
- (l) Spray Application - An employee engaged on all spray applications carried out in other than a properly constructed booth, approved by the Department of Industrial Relations shall be paid an amount per hour extra as set out at Table 2.
- (m) Working Second Hand Timber - Where, whilst working second hand timber, a Carpenter's tools are damaged by nails, dumps or other foreign matter in the timber he/she shall be entitled to an allowance per day extra as set out at Table 2 on each day upon which his/her tools are so damaged; provided that no allowance shall be so payable under this clause unless it is reported immediately to the employer's representative on the job in order that he/she can prove his/her claim.
- (n) Roof Work - Employees engaged in the fixing or repairing of a roof or any other work in excess of 12 metres from the nearest floor level shall be paid an amount per hour extra as set out at Table 2 with a minimum payment of one hour.
- (o) Explosive Powered Tools - Employees required to use explosive powered tools shall be paid an amount per day extra as set out at Table 2.
- (p) Morgues - An employee required to work in a morgue shall be paid an amount per hour extra as set out at Table 2 whilst so employed.
- (q) Toxic and Obnoxious Substances:
 - (1) An employee engaged in either the preparation and/or the application of toxic or epoxy based materials or material of a like nature shall be paid an amount per hour extra as set out at Table 2.
 - (2) In addition, employees applying such material in buildings which are normally air-conditioned shall be paid an amount per hour extra as set out at Table 2 for any time worked when the air conditioning plant is not operating.
 - (3) Where there is an absence of adequate natural ventilation, the employer shall provide ventilation by artificial means and/or supply an approved type of respirator and in addition protective clothing shall be supplied where recommended by the Ministry of Health, New South Wales.
 - (4) Employees working in close proximity to employees so engaged shall be paid an amount per hour extra as set out at Table 2.

- (5) For the purpose of this clause, all materials which are toxic or which include, or require the addition of a catalyst hardener and reactive additives or two pack catalyst system shall be deemed to be materials of a like nature.
- (r) Employees working in areas accommodating psychiatric patients shall be paid an amount per hour extra as set out at Table 2 whilst so engaged.
- (s) Animal House - An employee required to work in an animal house shall be paid an amount per hour extra as set out at Table 2 whilst so employed.
- (t) 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.
- (u) Asbestos Eradication - Application: This subclause shall apply to employees engaged in the process of asbestos eradication on the performance of work within the scope of this Award.

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

Control: All aspects of asbestos eradication work shall be conducted in accordance with the *Work Health and Safety Act 2011 (NSW)* and the *Work Health and Safety Regulation 2017 (NSW)*.

Rate of Pay: In addition to the rates prescribed in this Award an employee engaged in asbestos eradication (as defined) shall receive an amount per hour extra as set out at Table 2 in lieu of special rates as prescribed in clause 7(ii), Special Rates, with the exception of subclauses (a) Cold Places; (e) Hot Places; (k) Swing Scaffold; (l) Spray Application; and (m) 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.

- (v) 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.
- (x)
 - (1) Tradespersons who are employed to work in psychiatric hospitals (i.e., formerly 5th Schedule Hospitals) shall be paid an amount per hour extra as set out at Table 2.

Provided that the allowance prescribed by this paragraph shall not be taken into consideration in the calculation of overtime or other penalty rates. Provided further that the allowance shall not be paid for work carried out in such areas as may be agreed upon between the respondent unions and the Secretary of the NSW Ministry of Health.

- (2) Geriatric Hospitals - Employees working or required to work in Allandale and Garrawarra hospitals shall be paid an amount per hour extra as set out at Table 2. Employees working or required to work in Lidcombe Hospital shall be paid an amount per hour extra as set out at Table 2.

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

(iii) Thermostatic Mixing Valve

An allowance per week as set out at Table 2 shall be paid to licensed plumbers who hold a Thermostatic Mixing Valve Certificate from a College of Technical and Further Education and who are required to service thermostatic mixing valves.

(iv) Chokages

Subject to subclause 7(ii), Special Rates, if an employee is employed upon any chokage and is required to open up any soil pipe, waste pipe, drain pipe or pump conveying offensive material or a scupper containing sewage or if he/she is required to work in a septic tank in operation he/she shall be paid an amount as set out at Table 2 per day or part thereof.

(v) Fouled Equipment

An employee who in working on any equipment containing body fluids or body waste encounters such matter shall be paid an amount set out at Table 2 per day or part thereof: Provided that this allowance shall not apply in circumstances where the allowance prescribed in subclause 7(iv), Chokages, would otherwise be payable.

8. Tool Allowances

Employees shall be paid tool allowances for all purposes as for Table 1, except Electrical Trades classifications (Electrical Tradesperson and Electrical Instrument Fitter), who shall be paid tool allowances for all purposes as for Table 2. During the term of this Award, expense related allowances will be adjusted in accordance with movements in the expense related allowances in the Crown Employees Wages Staff (Rates of Pay) Award.

9. Leading Hands

(i) Leading Hand Electrician:

(a) For the purposes of this subclause, Leading Hand means any electrical worker who is placed in charge of work on which 4 or more employees or 2 or more electrical mechanics or fitters in addition to him/herself are engaged. Any worker who receives orders from an officer, and is placed in charge as herein set out in the absence of such officer, shall be deemed to be a leading hand whilst so placed in charge of the work carrying out such orders.

(b) A leading hand electrician as defined herein shall be paid an additional amount per week set out at Table 2.

(ii) Leading Hand, other than Electrician:

(a) An employee appointed to be in charge of up to and including 5 employees shall be paid an amount per week extra as set out at Table 2.

(b) An employee appointed to be in charge of more than 5 and up to and including 10 employees shall be paid an amount per week extra as set out at Table 2.

(c) An employee appointed to be in charge of 11 or more employees shall be paid an amount per week extra as set out at Table 2.

10. Excess Fares and Travelling Time

(i) An employee who on any day or from day to day is required to work at a job away from his/her accustomed place of work shall, at the direction of his/her employer present him/herself for work at such job at the usual starting time and shall be paid an amount set out at Table 3 for each such day. During the term of this Award, expense related allowances will be adjusted in accordance with movements in the expense related allowances in the Crown Employees Wages Staff (Rates of Pay) Award. Where the travelling time and fares are in excess of those normally incurred in travelling to his/her accustomed

place of work the employee shall also be paid that amount of such excess which exceeds that above amount.

- (ii) An employee who, with the approval of the employer, uses his/her own means of transport for travelling to or from outside jobs, shall be paid a Transport Allowance as provided by Determination made under the *Health Services Act 1997*, as varied from time to time.
- (iii) Where the 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. Such discussions should include consideration of the impact of the change on affected employees.

The employer shall give the employee one calendar month's notice of the requirement to report to a new accustomed place of work.

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.

Where a change to the accustomed place of work would impose unreasonable hardship on the employee, the employer may agree to apply the entitlements of PD2012_021 Managing Excess Staff of the NSW Health Service, as amended or superseded from time to time, provided that such amendments or successors will not have force under this Award if they have the effect of providing a set of entitlements on this subject which are overall less beneficial than any relevant 'test case' decision as defined.

Do not have the effect of providing a set of entitlements which are overall less beneficial than any relevant 'test case' decision as defined.

If there is disagreement about such decision after such discussion or if a significant number of employees are involved, the matter may be referred to the Ministry of Health, Workplace Relations Branch, and/or, the Industrial Relations Commission consistent with the Issues Resolution Procedure.

- (iv) Some Provisions of Former Enterprise Agreements Preserved. The provisions of clauses 16 and 17 of the former Central Sydney Area Health Service Skilled Trades Wages Agreement 1994 and clause 20 of the former Southern Sydney Area Health Service Engineering & Maintenance Services Enterprise Agreement 1994 are preserved as if those clauses continue to apply to those Area Health Services (and successors) under this Award.

11. Payment and Particulars of Wages

- (i) Wages shall be paid weekly or fortnightly; provided that, for the purpose of adjustments of wages, from time to time effective, the pay period shall be deemed to be weekly. On each pay day the pay shall be made up to a day not more than three days prior to the day of payment.
- (ii) Wages shall be paid into a nominated bank or other accounts, except in isolated areas where payment will be made by cheque to a given address.
- (iii) Notwithstanding the provision of subclause (ii) of this clause, an employee who has been given one week's notice of termination of employment, in accordance with clause 4, Hours and Contract of Employment, shall be paid all moneys due to him/her prior to ceasing duty on the last day of employment. Where an employee is dismissed or his/her services are terminated without due notice, in accordance with the said clause, any moneys due to him/her shall be paid as soon as possible after such dismissal or termination but in any case not more than 48 hours thereafter.
- (iv) On each pay day an employee, in respect of the payment then due shall be furnished with a statement, in writing, containing the following particulars, namely, name, the amount of ordinary salary, the total number of hours of overtime worked, if any, the amount of any overtime payment, the amount of any other moneys paid, and the purpose of which they are paid and the amount of the deductions made from total earnings and the nature thereof.

- (v) Where retrospective adjustments of wages are paid to employees, such payments where practical shall be paid as a separate payment to ordinary wages with a separate statement containing particulars as set out in subclause (iv) of this clause.

12. Higher Duties Allowance

- (i) Where a Leading Hand is on his/her allocated day/s off, on pay, and another employee relieves in the position for that day only, no higher duty allowance shall be paid.
- (ii) Except as provided for in subclause (i) of this clause an employee engaged for more than two hours on any day or shift on duties carrying a higher rate than his/her ordinary classification or entitling him/her to a leading hand allowance shall be paid the higher rate or allowance as the case may be for such day or shift. Where the period of relief, on any day, is for two hours or less the employee acting in the higher classification shall only be paid the higher duty allowance for the time so worked.
- (iii) Except as provided for in subclause (i) of this clause where an employee is required to act as a leading hand at the commencement of a day or shift he/she shall be paid the appropriate allowance for the whole of such day or shift.

13. Accumulation of Additional Days Off

Full-time employees may accumulate up to five ADOs (as measured at any one point in time), subject to the mutual agreement of the employee and local management. The limit on the accumulation right means that any employee who has already accumulated five ADOs must take the sixth ADO accruing to him/her as and when it falls due in accordance with roster.

Any ADOs accumulated but not taken as at the date of termination, shall be paid out at ordinary rates as part of the usual termination entitlement.

The parties recognise that accrual of ADOs may not be possible in all settings and circumstances.

Records of all time accrued owing to and taken by employees must be maintained by management.

14. Special Conditions

- (i) Employees engaged in installing brine or ammonia pipes or repairs to same or who work on other destructive materials, who have their clothing or boots destroyed or damaged, shall be reimbursed the amount of damage sustained.
- (ii) 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, acid or acid fumes. At all times, the regulation under the *Workplace Health and Safety Act 2011* shall be complied with.
- (iii) Each employee 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 to be periodically disinfected in accordance with the requirements of the Ministry of Health for disinfecting clothing while in use.
- (iv) The employer shall provide to each employee a suitable gas mask at the place of work when the employee is required to work on a live gas service.
- (v) X-ray - An employee working in an infectious area shall be x-rayed at the employer's expense and in the employer's time after each six months or at the termination of his/her employment, whichever is the sooner.
- (vi) Sufficient, suitable and serviceable ear muffs and face masks shall be made available for the use of employees required to work in areas where noise levels are excessive and in proximity to dust or fumes. Suitable protective garb shall also be made available for employees required to work in proximity to dust or fumes. Suitable protective garb shall also be made available for employees required to work in proximity to radioactive material.

- (vii) No employee shall be required to use a paint brush exceeding five inches in width or eight ounces in weight (or their metric equivalents) or a kalsomine brush exceeding eight inches (or its metric equivalent) in width.
- (viii) An employee shall not be required to use a roller in excess of twelve inches in width on the painting of ceilings or walls.

15. First-Aid Equipment

The employer shall provide and continuously maintain at a place or places reasonably accessible to all employees an efficient first-aid outfit including a stretcher.

16. Amenities

The provisions contained in the "Accommodation and Amenities" clause of the Health Employees Conditions of Employment (State) Award shall apply to employees covered by this Award.

17. Shift Work

- (i) Definitions - for the purpose of this clause:

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

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

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

- (ii) 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 (including the allocated day off on pay) shall be paid at the rate of time and one-half for the first three hours and double time thereafter.
- (iii) 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 rates shall be in substitution for and not cumulative upon the shift premium prescribed in subclause (ii) of this clause.
- (iv) Sundays and Holidays:
 - (a) Shift workers whose ordinary working hours include work on a Sunday shall be paid at the rate of double time.
 - (b) Shift workers whose ordinary working hours include work on any of the public holidays referred to in clause 18, Public Holidays, shall be paid at the rate of double time and one-half.
 - (c) 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; provided that the time worked by an employee on a shift commencing before midnight on the day preceding a Sunday or holiday and extending into a Sunday or holiday shall be regarded as time worked on such Sunday or holiday.

Where shifts fall partly on a holiday that shift the major portion of which falls on a holiday shall be regarded as the holiday shift.
 - (d) The rates prescribed in paragraphs (a) and (b) of this subclause shall be in substitution for and not cumulative upon the shift premium prescribed in subclause (ii) of this clause.

18. Public Holidays

- (i)
- (a) Public holidays shall be allowed to employees on full pay. Where an employee is required to and does work on any of the holidays set out in this subclause, whether for a full shift or not, the employee shall be paid one and one-half day's pay in addition to the weekly rate, such payment to be in lieu of weekend or shift allowances which would otherwise be payable had the day not been a public holiday: Provided that, if the employee so elects, he/she may be paid one half day's pay in addition to the weekly rate and have one day added to his/her period of annual leave for each public holiday worked in lieu of the provisions of the preceding paragraph.
 - (b) For the purpose of this clause the following shall be deemed public holidays, viz.: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, local Labour Day, Christmas Day and Boxing Day.
 - (c) Day workers are to be paid one day's pay in addition to the weekly rate for each public holiday, other than Easter Saturday, falling on non-working Saturdays.
 - (d) Shift workers rostered off duty (other than on their allocated day off duty on pay) on a public holiday shall:
 - (1) be paid one day's pay in addition to the weekly rate; or if the employee so elects;
 - (2) have one day added to his/her period of annual leave.
 - (e) The election referred to in paragraphs (a) and (d) of this subclause is to be made in writing by the employee at the commencement of each year of employment and is irrevocable during the currency of that year of employment.
- (ii) Transfer of Additional or Local Public Holiday - In addition to those public holidays specified in paragraph (b) of subclause (i) of this clause, employees shall be entitled to one extra public holiday each year. Such public holiday is to be taken in the Christmas/New Year period or other suitable period, on a date determined by the employer, or on another date where agreed by the parties. Such public holiday shall substitute for any day or half day duly proclaimed and observed as a public holiday within the area in which the employer is situated.

19. Picnic Day

- (i) The first Monday in December of each year shall be the Union's Picnic Day.
- (ii) All employees shall as far as practical be given and shall take this day as the Picnic Day and shall be paid therefore as for 7.6 hours work at the rate of pay prescribed in clause 6, Wages, with 0.4 of a hour accruing for the allocated day off, on pay. Any employee required to work on Picnic 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. Provided that an employee who is required to work on Picnic Day and fails to comply with such requirement shall not be entitled to payment for the day.
- (iii) An employer may require from an employee evidence of his/her attendance at the picnic and the production of the butt of a picnic ticket issued for the picnic shall be sufficient evidence of such attendance. Where such evidence is requested by the employer, payment need not be made unless the evidence is produced.

20. Special Tools, Clothing and Sharpening Tools

- (i) The employer shall provide at the place of work a suitable sand grindstone or a carborundum stone for the use of tradespersons.

- (ii) 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.
- (iii) Saw sharpening and tool grinding may be done by the employee during the progress of the work.
- (iv) Where subclauses (i) and (ii) of this clause are not observed by the employer, the employer shall pay for or provide for grinding of the tools.
- (v) The employer shall provide the following tools and protective clothing when they are required for the work to be performed by the employees:
 - (a) Bricklayers - Scutch combs; hammers (excepting mash and brick hammers); rubber mallets and T squares.
 - (b) 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, including dowelling bits; hammers (except claw hammers and tack hammers); glue pots and glue brushes; dowel plates; trammels, hand thumb screws and soldering irons.
 - (c) Plasterers shall be provided with overalls when required to brush on to walls and ceilings bondcrete, plasterweld, or similar substances. The approved grass brush to perform the work prescribed in this subclause shall be provided by the employer.
 - (d) 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.
 - (e) Electricians - An employer shall provide for the use of tradespersons a hacksaw and blades; all power tools; special purpose tools; precision measuring instruments and electrical measuring and/or testing instruments where the use of such equipment is reasonable and necessary.
 - (f) Painters and Signwriters to be supplied with all brushes.
 - (g) All power tools shall be provided where in the opinion of the employer they are necessary.
- (vi)
 - (a) Clause 20(vi) shall not apply to employees of the Ambulance Service.
 - (b) Sufficient, suitable and serviceable protective attire shall be supplied, free of cost to each employee required to wear it, provided that any employee to whom new attire or a part thereof has been supplied by the hospital who, without good reason fails to return the corresponding article last supplied, shall not be entitled to have such article replaced without payment therefore at a reasonable price in the absence of a satisfactory reason for the loss of such article or failure to produce such attire or part thereof.
 - (c) An employee on leaving the service of the employer shall return any uniform or part thereof supplied by the employer which is still in use by that employee immediately prior to leaving.
- (vii)
 - (a) Clause 20 (vii) shall not apply to employees of the Ambulance Service.
 - (b) Sufficient, suitable and serviceable overalls or alternative garments, as may be agreed to between tradespersons and the employer, in lieu of overalls, shall be laundered by the employer.
 - (c) If the overalls or alternative garments of the employee cannot be laundered by or at the expense of the employer, an allowance as set out at Table 3 per week shall be paid to such employee.

During the term of this Award, expense related allowances will be adjusted in accordance with movements in the expense related allowances in the Crown Employees Wages Staff (Rates of Pay) Award.

- (d) Any employee to whom overalls or alternative garments have been supplied by the employer, who, without good reason fails to return the corresponding article last supplied, shall not be entitled to have such article replaced without payment therefore at a reasonable price in the absence of a satisfactory reason for the loss of such article or failure to produce such attire or part thereof.
 - (e) An employee on leaving the service of the employer shall return any uniform or part thereof supplied by the employer which is still in use by that employee immediately prior to leaving.
- (viii) Ambulance Service Uniform and Protective Clothing.
- (a) The Ambulance Service shall provide each new employee with sufficient, suitable and serviceable uniforms as determined by the Ambulance Service.
 - (b) Uniforms shall be issued to all maintenance officers annually on the employee's anniversary date.
 - (c) The issue of uniforms shall be to the value contained in Table 3. During the term of this Award, expense related allowances will be adjusted in accordance with movements in the expense related allowances in the Crown Employees Wages Staff (Rates of Pay) Award.
 - (d) The ambulance service shall provide any other special clothing which the ambulance service requires the employee to wear.
 - (e) Articles of special clothing issued under paragraph (d) shall be replaced by the Ambulance Service on the basis of sufficient, suitable and serviceable clothing when required.
 - (f) Articles of special clothing issues under paragraph (d) shall remain the property of the Ambulance Service and shall be returned upon the request of the Ambulance Service.
 - (g) Any request for uniform replacement by the Ambulance Service or the employee will not be reasonably refused.
 - (h) In the event of any difficulties with the application of the above provisions, the Award 'Issues Resolution Procedures' may be utilised.
 - (i) Where the Ambulance Service elects not to launder, or not to have laundered at its own expense the overall or alternative garments to overalls of maintenance officers, the employee is to be paid the laundry allowance per week as set out in Table 3.
- (ix) In the event that it is necessary for an employee in the course of his/her duties to use tools other than those of his/her own trade, such tools shall be supplied by the employer.

21. Climatic and Isolation Allowance

- (i) Subject to subclause (ii) of this clause, persons employed in places situated upon or to the west of a line drawn as herein specified shall be paid an allowance as set out at Table 2 per week in addition to the salary to which they are otherwise entitled.

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

- (ii) Persons employed in places situated upon or to the west of a line drawn as herein specified shall be paid an allowance as set out at Table 2 per week in addition to the salary to which they are otherwise entitled.

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

- (iii) Except for the computation of overtime the allowances prescribed by this clause shall be regarded as part of the salary for the purposes of this Award.

22. Damage to or Loss of Clothing or Tools

- (i) An employee whose clothing, footwear or tools are spoiled by acids or sulphur, other deleterious substance or fire, due to the circumstances of his/her employment shall be recompensed by his/her employer to the extent of his/her loss.
- (ii) The employer shall insure and keep insured, to the extent of the amount set out at Table 3, clothing and tools of employees against loss, destruction or damage by fire, acid or other deleterious substances or breaking and entering whilst securely stored on the employers' premises. During the term of this Award, expense related allowances will be adjusted in accordance with movements in the expense related allowances in the Crown Employees Wages Staff (Rates of Pay) Award.
- (iii) The employer shall provide at the place of work a suitable and secure weather-proof lock-up solely for the purpose of storing employees tools. Where such lock-up is not provided and tools are stolen by reason of the employers default he/she shall compensate the employee to the extent of his/her loss.
- (iv) The employee shall, if requested to do so, furnish the employer with a list of his/her tools.
- (v) The limit on insurance coverage is described in subclause (ii) and prescribed in Table 3. This limit shall not apply to Motor Mechanics employed in the Ambulance Service provided that an agreed list of tools has been provided by the Motor Mechanic and signed by both the Motor Mechanic and the Fleet Manager for the Ambulance Service.

23. Transport of Employee's Tools

- (i) Where an employee in the course of a normal working day is required to travel from one location to another, or from place to place outside of workplace precincts the employer shall provide transport for the employee and all necessary tools of trade. However, should the employee, with the approval of the employer, use his/her/her own means of transport then they shall be entitled to a Transport Allowance as provided by Determination made under the *Health Services Act 1997*, as varied from time to time.
- (ii) On termination of employment of an employee leaving the employer's premises by public transport, 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.

24. Annual Leave

- (i) All employees: See *Annual Holidays Act 1944*.
- (ii) Where an employee's allocated day off duty, on pay, falls due during a period of annual leave such day shall be taken on the next working day immediately following the period of annual leave.
- (iii)
 - (a) Employees who are rostered to work their ordinary hours on Sundays and/or public holiday during a qualifying period of employment for annual leave purposes shall be entitled to receive additional annual leave as follows:
 - (1) if 35 ordinary shifts on such days have been worked - one week (five working days);

- (2) if less than 35 ordinary shifts on such days have been worked and the employees work 38 hours per week - proportionately calculated on the basis of 38 hours' leave for 35 such shifts worked;
 - (3) if less than 35 ordinary shifts on such days have been worked and the employees work less than 38 hours per week - proportionately calculated on the basis of leave equivalent to the number of hours ordinarily worked per week for 35 such shifts worked. The calculations referred to above shall be made to the nearest one-fifth of the ordinary hours (38 hours) worked, half or more than half of one-fifth being regarded as one-fifth and less than half being disregarded.
- (b) Provided further that on termination of employment shift workers shall be entitled to payment for any untaken annual leave due under this subclause (on the basis of 7.6 hours per day) together with payment for any untaken annual leave in respect of an uncompleted year of employment.
- (iv) The employer shall give to each employee three months' notice where practicable and not less than one month's notice of the date upon which the employee shall enter upon annual leave.
 - (v) A shift worker shall be paid, whilst on annual leave his/her ordinary pay plus shift allowance and weekend penalties relating to ordinary time the shift worker would have worked if he/she had not been on annual leave. Provided that shift allowances and weekend penalties shall not be payable for the allocated day off duty on pay which may fall on the first day off duty in the annual leave period or for public holidays which occur during the period of annual leave or for days which have been added to the annual leave in accordance with the provisions of clause 18, Public Holidays.
 - (vi) Employees shall be entitled to an annual leave loading of 17 per cent, or shift penalties as set out in subclause (v) of this clause, whichever is the greater.

The conditions relating to the grant of leave loading are set out in subclause 2.11.1 of PD2018_046 Leave Matters for the NSW Health Services, as varied or replaced, from time to time.

25. Long Service Leave

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

From 21 November 2005, if an employee has completed seven years of continuous service with the employer, the employee is entitled to access his/her long service leave on a pro-rata basis per completed year of service.

 - (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.
 - (c) Where the services of an employee with at least seven years' service are terminated by the employer, or by the employee, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service.
- (ii) For the purposes of subclause (i) of this clause -
 - (a) service shall mean continuous service in one or more hospitals/Ambulance Service. Service shall be deemed continuous if it meets the provisions as set out in clauses 3 and 4 of Schedule 2 of the Government Sector Employment Regulation 2014;

- (b) broken periods of service in one or more hospitals/Ambulance Service shall count as service subject to the following:
 - (1) where an employee, after ceasing employment in a hospital/Ambulance Service, is re-employed in a hospital/Ambulance Service subsequent to 1st January, 1973, 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.
 - (2) an employee employed in a hospital/Ambulance Service at the 1st January, 1973, but who was not entitled to count broken service under the provisions of the Award in force prior thereto shall not be entitled to count such broken service until he/she has completed at least five years' continuous service from the date upon which he/she commenced his/her current period of employment.
 - (3) an employee employed in a hospital/Ambulance Service at the 1st January, 1973, 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 1st January, 1973.
 - (c) service shall not include any period of leave without pay except in the case of employees who have completed at least ten years' service (any period of absence without pay being excluded there from) in which case service shall include any period of leave without pay not exceeding six months taken after the 1st January, 1973.
- (iii) An employee with an entitlement to long service leave, may elect to access their entitlement:
 - (a) on full pay, or
 - (b) on half pay, or
 - (c) on double pay.
 - (iv) When an employee elects to access their long service leave entitlement the following amounts of long service leave are to be deducted from the employee's long service leave entitlement:
 - (a) for each period of long service leave taken on full pay - the number of days so taken,
 - (b) for each period of long service leave taken on half pay - half the number of days so taken,
 - (c) for each period of long service leave taken on double pay - twice the number of days so taken,
 - (v) If a public holiday occurs while an employee is taking long service leave, and but for the taking of the long service leave the employee would have worked, the amount of long service leave to be deducted is to be reduced by the public holiday.
 - (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; provided that where an employee is transferring between hospitals and or Ambulance Service he/she may, if he/she so desires and by agreement with his/her present employer and his/her proposed employer, be allowed to retain his/her credit to long service leave in lieu of payment of the monetary value under this subclause.

- (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 widower, the children of such employee, or if there is not 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) 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) Except as provided for in subclause (ix) of this clause, rights to long service leave under this clause shall be in replacement of rights to long service leave, if any, which at the date of commencement of this Award may have accrued or may be accruing to an employee and shall apply only to persons in the employ of the employer on or after the date of commencement of this Award. Where an employee has been granted long service leave or has been paid its monetary value prior to the date of commencement of this Award, the employer shall be entitled to debit such leave against any leave to which the employee may be entitled pursuant to this clause.
- (ix) An employee who is employed in a hospital, to which clause 21, Climatic and Isolation Allowance, applies as at the 1st January, 1973, shall be granted long service leave in accordance with the long service leave provisions in force prior to the 1st January, 1973, in lieu of the provisions provided by this Award, where such benefits are more favourable to the employee.

(x)

- (a) Where an employee has accrued the right to an allocated day off duty, on pay, prior to entering on a period of long service leave, such day shall be taken on the next working day immediately following the period of long service leave.
- (b) In all other circumstances the accrued time in credit (accumulated at 0.4 of one hour for each day worked in the 20 day work cycle immediately preceding the leave) shall count towards payment for the next allocated day off duty, on pay, occurring in sequence after the employee's return to duty.
- (c) Provided further that no accrual of 0.4 of an hour shall be attracted to the paid days off during the period of long service leave and such days shall be paid for at the rate of 7.6 hours per day.

Notwithstanding the foregoing the employee on returning to duty from long service leave shall be given his/her next allocated day off duty, on pay, in sequence irrespective of whether sufficient credits have been accumulated or not."

26. Sick Leave

(i)

- (a) A full-time employee shall be entitled to sick leave on full pay calculated by allowing eighty ordinary hours off work for each year of continuous service up to 24 May 1982, and 76 ordinary hours thereafter for each further year of continuous service provided that for the purpose of determining an employee's sick leave credits as at 24 May 1982, sick leave in hand shall be proportioned on the basis of 80:76 and henceforth each day's absence shall be deducted at 7.6 hours.

- (b) Employees of the Ambulance Service who (as at 27 March 2000) were accruing sick leave at the rate of 15 days per annum will continue to do so. This accrual is specific to those employees on a personal basis and will not flow to any other employees.
 - (c) All periods of sickness shall be certified to by the Medical Superintendent, or by a legally qualified Medical Practitioner, provided however, that the employer may dispense with the requirements of a medical certificate where the absence does not exceed two (2) consecutive days or where in the employer's opinion the circumstances are such as not to warrant such requirements.
 - (d) The employer shall not change the rostered hours of work of an employee, fixed by the roster or rosters applicable to the employee, seven days immediately following the commencement of sick leave merely by reason of the fact that the employee is on sick leave.
 - (e) An employee shall not be entitled to sick leave until after three months' continuous service.
 - (f) Service for the purpose of this clause shall mean service in a public hospital/Ambulance Service and shall be deemed to have commenced on the date of engagement by a public hospital/Ambulance Service in respect of any period of employment with that hospital/Ambulance Service.
 - (g) "Continuous Service" for the purposes of this clause, shall be calculated in the same manner as provided under paragraph (a) of subclause (ii) of clause 25, Long Service Leave, excepting that all periods of service in any hospital/Ambulance Service (providing such service is not less than three months' actual service) shall be counted.
 - (h) Each employee shall take all reasonably practicable steps to inform the employer of his/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.
- (ii) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to accident pay, or workers' compensation; provided, however, that where an employee is not in receipt of accident pay, an employer shall pay to an employee, who has sick leave entitlements under this clause, the difference between the amount received as workers' compensation and full pay. The employee's sick leave entitlement under this clause shall, for each week during which such difference is paid, be reduced by the proportion of hours which the difference bears to full pay. On the expiration of available sick leave, weekly compensation payments only shall be payable.

27. Miscellaneous Leave Conditions

- (i) Employees shall be granted Repatriation Leave in accordance with Ministry of Health Policy Directive PD2017_028, as it is amended or superseded from time to time, provided that such amendments or successors will not have force under this Award if they have the effect of providing a set of entitlements on this subject which are overall less beneficial than any relevant 'test case' decision as defined.
- (ii) Employees shall be granted Study Leave in accordance with Ministry of Health Policy Directive PD2017_028, as it is amended or superseded from time to time, provided that such amendments or successors will not have force under this Award if they have the effect of providing a set of entitlements on this subject which are overall less beneficial than any relevant 'test case' decision as defined.
- (iii) Employees shall be granted Defence Leave in accordance with Ministry of Health Policy Directive PD2017_028, as it is amended or superseded from time to time, provided that such amendments or successors will not have force under this Award if they have the effect of providing a set of entitlements on this subject which are overall less beneficial than any relevant 'test case' decision as defined.

28. Family and Community Service Leave and Personal/Carers Leave

- (i) Family and community services (FACS) leave and personal/carer's leave are separate, stand alone entitlements.
- (ii) The provisions outlined in subclauses A and B of this clause are available to all employees covered by this Award, other than casual employees.
- (iii) Casual employees 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 appropriate Chief Executive or authorised delegate may grant FACS leave to an employee:

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

(2) for reasons related to the family responsibilities of the employee (e.g. to arrange and 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 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.

(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 (iv)(a)(1) and (2) above, a working day for employees working 38 hours per week shall be deemed to consist of 8 hours. The rate at which FACS leave is paid out and utilised shall be on actual hours absent from 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 8 hour shift, the employee would be debited 10 hours of FACS leave.

Example B: 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 subparagraph (i)(a) of Part A of this clause.

- (vi) Use of other leave entitlements

The appropriate Chief Executive or authorised delegate may grant an employee other leave entitlements for reasons related to family responsibilities or community service, by the employee.

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

B. Personal/Carer's Leave

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

employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

- (i) In normal circumstances, the employee must not take leave under this 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 subparagraph (iv)(a) above, the employee shall be paid overtime rates in accordance with the provisions of clause 5, Overtime.
 - (v) Use of make-up time
 - (a) An employee may elect, with the consent of the employer, to work "make-up time". "Make-up time" is worked when the employee takes time off during ordinary hours for family or community service responsibilities, and works those hours at another time, during the spread of ordinary hours provided for in clause 4 of this Award, at the ordinary rate of pay.
 - (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off during ordinary hours and works those hours at another time) at the applicable shift work rate which would have been applicable to the hours taken off.

C. Entitlements for Casual Employees

- (i) Bereavement entitlements for casual employees
 - (a) Casual employees are entitled to not be available to attend work or to leave work upon the death in Australia of a relative or member of a household as prescribed in subparagraph (i)(a) of subclause 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 (ie 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.

29. 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 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 commences duty with the new employer on the next working day after ceasing employment with the former employer (there may be a break in service of up to two months before commencing duty with the new employer provided that the new position was secured before ceasing duty with the former employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.)

(iii) Entitlement to Paid Maternity Leave

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 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 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 should indicate the period of leave desired and must include a medical certificate stating the expected date of birth.

(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, sick 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, sick 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 subparagraph (i)(c) of subclause 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 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 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 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 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.

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).

F Casual Employees

- (i) Casual employees are entitled to parental leave in accordance with the provisions of Part 4, Parental Leave, 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).
- (ii) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
 - (a) the employee or employee's spouse is pregnant; or
 - (b) the employee is or has been immediately absent on parental leave.

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

30. Issues Resolution Procedures

The parties agree that every effort will be made to settle any grievance or dispute amicably between the parties as quickly as possible and that they will comply with the following procedures:

- (i) When any dispute develops at a particular work place which cannot be resolved, discussion should firstly take place between the employee/s and the immediate supervisor to try and resolve the matter. If it cannot be resolved at this level then:
- (ii) The matter should be raised with the supervisor by the employee/s or their union representative, if it cannot be resolved then:-
- (iii) Discussions shall include representatives of senior management of the Local Health District and relevant union/s, if it cannot be resolved, then:-
- (iv) When all the above steps have been exhausted, either party may submit the dispute to the Industrial Relations Commission which may exercise its functions under the *Industrial Relations Act 1996*.
- (v) Nothing in these procedures will preclude the Local Health District and any union concerned from entering into direct negotiations in any matter. Nor will these procedures preclude a Local Health District or relevant union from seeking the assistance of the Industrial Relations Commission on any health or safety issue of concern to the employees in question.
- (vi) The parties agree that during these procedures normal work will continue and there will be no stoppages of work, lockouts, or any other bans or limitations on the performance of work. A Local Health District will consult with relevant unions in relation to any proposal that work done in the Health Service by tradespersons covered by this Award be contracted out.

31. Living Away from Home Allowance

- (i) Where an employee is required to work at a place other than his/her/normal place of work and the distance or travelling facilities make it reasonably necessary for the employee to temporarily reside at other than his/her/normal residential accommodation the employer shall provide suitable free accommodation and meals for the employee or pay an allowance as set out at Table 3 per day. Where two or more employees are involved then uniformity of application of this provision shall prevail unless an employee or employees request otherwise. During the term of this Award, expense related allowances will be adjusted in accordance with movements in the expense related allowances in the Crown Employees Wages Staff (Rates of Pay) Award.
- (ii) All fares and travelling expenses involved in conveyance of the employee and his/her/tools of trade to or from such temporary places of residence shall be paid by the employer: Provided no fares or expenses shall be paid where:
 - (a) An employee travels to or from such place of temporary residence without the approval of the employer or
 - (b) the employee terminates his/her/own employment or is dismissed by the employer for gross or wilful misconduct.
- (iii) Time spent in travelling (outside normal working hours) to or from temporary places of residence shall be paid for at ordinary rates of pay provided that no employee shall receive payment for more than eight hours travelling time on any one day irrespective of whether work has been performed on that day or not.

32. Exhibition of Award

See section 361 of the *Industrial Relations Act 1996*, which provides for the exhibition of industrial instruments in the workplace.

33. Consultative Committees

Each Local Health District and the Ambulance Service shall establish a Trades Staff Consultative Committee (the Committee) on the following basis:

The Committee will consist of an equal number of representatives nominated by the employer and representatives of the tradespersons covered by this Award as nominated by the Unions.

The Committee is intended by the parties to advise and assist the statewide Productivity Savings Committee on all productivity savings issues and provide a local forum for information exchange and consultation. To these ends, the Committee will meet during normal working hours as often as is reasonably required.

Union officials and other management employees can be invited to attend meetings on an ad hoc basis where it is considered appropriate by either employee or employer representatives on the Committee. However, such attendance will not constitute membership of the Committee.

The parties intend that the operation of the Committee will in no way diminish the rights and obligations of the parties in relation to Award Issues Resolution Procedures. The Committee may participate in the resolution of industrial issues the subject of Award Issues Resolution Procedures where it is of the view that it is reasonable to do so and provided that such participation shall not prejudice the rights of any party.

34. Union Dues

Subject to an employee's written authorisation, the employer will automatically deduct union dues from the pay of union members, subject to current payroll practice and restrictions.

35. Rights of Union Delegates

An employee appointed as union delegate shall, upon notification to the employer, be recognised as an accredited representative of the union and shall be allowed reasonable time during working hours to interview the employer (or representative) on matters affecting those he/she represents.

36. Anti-Discrimination

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

37. 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 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 31 December 2019 by a party to this Award.
- (ii) 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.

38. Area, Incidence and Duration

- (i) This Award shall apply to employees (and apprentices where specifically referred to) of the classifications mentioned in clause 3, Classifications, who are employed by the Secretary of the NSW Ministry of Health. Such employment being within the state of New South Wales, excluding the County of Yancowinna, within the jurisdiction of the Public Hospitals Skilled Trades Industrial Committee.
- (ii) This Award replaces and rescinds the Public Health Service Employees Skilled Trades (State) Award published 6 April 2018 (382 I.G. 936) and all variations thereof.
- (iii) The Award shall take effect on and from 1 January 2019 and remain in force until 31 December 2019.

PART B

MONETARY RATES

Table 1 - Weekly Wages

Each date referred to in the table is a reference to the first full pay period to commence on or after that date.

Description	Effective Date 01-Jan-2019 \$
Bricklayer	
Level 1	53,685
Level 2 (Level 1 plus 5%)	56,372
Level 3 (Level 1 plus 10%)	59,052
Level 4 (Level 1 plus 15%)	61,739
Carpenter	
Level 1	53,685
Level 2 (Level 1 plus 5%)	56,372
Level 3 (Level 1 plus 10%)	59,052
Level 4 (Level 1 plus 15%)	61,739
Electrical Instrument Fitter	
Level 1	59,513
Level 2 (Level 1 plus 5%)	62,484
Level 3 (Level 1 plus 10%)	65,461
Level 4 (Level 1 plus 15%)	68,443
Elec Fitter & Ass to Chief Eng.-Syd Hosp/Elec Fitter & Ass to Chief Eng - Other Hosp/Plant Elec/Elec in Charge of Generating Plant are paid as Electrical Tradesperson plus Additional Wage Rate plus Tool Allowance.	
Electrical Tradesperson	
Level 1	56,816
Level 2 (Level 1 plus 5%)	59,655

Level 3 (Level 1 plus 10%)	62,498
Level 4 (Level 1 plus 15%)	65,340
Fitter / Motor Mechanic	
Level 1	53,543
Level 2 (Level 1 plus 5%)	56,218
Level 3 (Level 1 plus 10%)	58,899
Level 4 (Level 1 plus 15%)	61,574
Floor / Wall Tiler	
Level 1	53,685
Level 2 (Level 1 plus 5%)	56,372
Level 3 (Level 1 plus 10%)	59,052
Level 4 (Level 1 plus 15%)	61,739
Painter / Spray Painter	
Level 1	53,685
Level 2 (Level 1 plus 5%)	56,372
Level 3 (Level 1 plus 10%)	59,052
Level 4 (Level 1 plus 15%)	61,739
Plasterer	
Level 1	53,685
Level 2 (Level 1 plus 5%)	56,372
Level 3 (Level 1 plus 10%)	59,052
Level 4 (Level 1 plus 15%)	61,739
Plumber	
Level 1	54,059
Level 2 (Level 1 plus 5%)	56,760
Level 3 (Level 1 plus 10%)	59,468
Level 4 (Level 1 plus 15%)	62,166
Plumbers acting alone on Plumbers/Drainers/Gasfitters licences and combinations are paid as Plumber plus Additional Wage Rates plus Tool Allowance	
Scientific Instrument Maker	
Level 1	55,319
Level 2 (Level 1 plus 5%)	58,088
Level 3 (Level 1 plus 10%)	60,856
Level 4 (Level 1 plus 15%)	63,619
Signwriter	
Level 1	54,869
Level 2 (Level 1 plus 5%)	57,616
Level 3 (Level 1 plus 10%)	60,362
Level 4 (Level 1 plus 15%)	63,109
Tool Maker	
Level 1	55,319
Level 2 (Level 1 plus 5%)	58,088
Level 3 (Level 1 plus 10%)	60,856
Level 4 (Level 1 plus 15%)	63,619
Welder 1st Class	
Level 1	53,543
Level 2 (Level 1 plus 5%)	56,218
Level 3 (Level 1 plus 10%)	58,899
Level 4 (Level 1 plus 15%)	61,574
Mechanic Tradesperson Special Class is paid as Fitter/Motor Mechanic Level 2 plus Tool Allowance from 1/7/97 and thereafter. Welder Special Class is paid as Welder 1st Class plus Additional Wage Rates plus Tool Allowance	

**Table 2 - Additional Rates, Special Rates and Allowances
(Including Tool Allowance for Electrical Trades)**

Each date referred to in the table is a reference to the first full pay period to commence on or after that date.

Clause	Allowance Description	Frequency	Effective Date 01-Jan-2019 \$
4A(ii)	On-call - Rostered on duty	Per 24 Hours	24.09
4A(iii)	On-call - Rostered off duty	Per 24 Hours	47.58
7(i)(a)	Electricians Licence Grade A	Per Week	49.59
7(i)(a)	Electricians Licence Grade B	Per Week	27.04
7(i)(b)(1)	Plumbers License	Per Week	49.22
7(i)(b)(2)	Gasfitters License	Per Week	49.22
7(i)(b)(3)	Drainers License	Per Week	40.10
7(i)(b)(4)	Plumbers and Gasfitters License	Per Week	65.00
7(i)(b)(5)	Plumbers and Drainers License	Per Week	65.00
7(i)(b)(6)	Gasfitters and Drainers License	Per Week	65.00
7(i)(b)(7)	Plumbers and Drainers and Gasfitters License	Per Week	90.55
7(i)(c)	Plumbers/Gasfitters/Drainers Reg. Cert	Per Hour	0.97
7(i)(d)	Electric Welding	Per Hour	0.76
7(i)(e)	Computing Quantities	Per Day	6.19
7(i)(f)	Boiler Attendants Certificate	Per Week	7.64
7(i)(g)	BMC Operator	Per Week	39.73
7(i)(h)	Motor Mechanic	Each	0.78
7(i)(h)	Motor Mechanic per day	Per Day	3.14
7(i)	Elec Fitter & Assistant to Chief Eng.-Sydney Hospital	Per Week	70.01
7(i)	Elec Fitter & Assistant to Chief Eng.-Other Hosp.	Per Week	55.84
7(i)	Electrician in Charge of Generating Plant less than 75 kilowatts	Per Week	20.5
7(i)	Electrician in charge of Generating Plant 75 Kilowatts or more	Per Week	71.42
7(i)	Plant Electrician	Per Week	67.16
7(j)	Welder Special Class	Per Week	12.78
8	Tool Allowance - Electrical Trades	Per Week	20.43
9(i)(b)	Leading Hand Electrician	Per Week	67.16
9(ii)(a)	Leading Hand - Other than Electricians I/C up to 5 employees	Per week	51.20
9(ii)(b)	Leading Hand - Other than Electricians I/C 6 up to 10 employees	Per Week	66.92
9(ii)(c)	Leading Hand - Other than Electricians I/C over 10 employees	Per Week	85.75
7(ii)(a)	Cold Place	Per Hour	0.82
7(ii)(b)	Confined Spaces	Per Hour	0.97
7(ii)(c)	Dirty Work	Per Hour	0.82
7(ii)(d)	Height Money - at 7.5 metres	Per Hour	0.82
7(ii)(d)	Height Money - every additional 3 metres	Per Hour	0.82
7(ii)(e)	Hot Places - 46C-54C	Per Hour	0.82
7(ii)(e)	Hot Places - more than 54C	Per Hour	0.97
7(ii)(f)(1)	Insulation Material	Per Hour	0.97
7(ii)(f)(2)	Asbestos	Per Hour	0.97
7(ii)(g)	Boil Repair	Per Hour	0.58
7(ii)(g)	Oil fired Boiler	Per Hour	2.02
7(ii)(g)	Smoke Boxes etc.	Per Hour	0.58
7(h)(1)	Wet Places - other than rain	Per Hour	0.82
7(h)(1)	Rain	Per Hour	0.82

7(h)(2)	Mud Allowance	Per Day	6.28
7(i)	Acid Furnaces etc.	Per Hour	4.13
7(j)	Depth Money	Per Hour	0.82
7(k)(1)	Swing Scaffolds other than plasterers - First four hours	Per Hour	5.84
7(k)(1)	Swing Scaffolds other than plasterers - Thereafter	Per Hour	1.22
7(k)(2)	Swing Scaffolds - plasterers	Per Hour	0.17
7(l)	Spray Application	Per Hour	0.82
7(m)	Working Second-hand timber	Per Day	3.11
7(n)	Roof Work	Per Hour	0.82
7(o)	Explosive Powered Tools	Per Day	1.94
7(p)	Morgues	Per Hour	0.92
7(q)(1)	Toxic Obnox - Epoxy Materials	Per Hour	0.97
7(q)(2)	Toxic Obnox Sub A/C not operating	Per Hour	0.69
7(q)(4)	Close Proximity to Toxic Sub	Per Hour	0.82
7(r)	Psychiatric Patients (PH Ward)	Per Hour	0.69
7(s)	Animal House	Per Hour	0.54
7(u)	Asbestos Eradication	Per Hour	2.72
7(x)(1)	Psychiatric Hospitals	Per Hour	1.59
7(x)(2)	Geriatric Allowance - Allandale/Garrawarra	Per Hour	0.56
7(x)(2)	Geriatric Allowance - Lidcombe	Per Hour	0.51
7(iii)	Thermostatic Mixing Valve	Per Week	26.98
7(iv)	Chokages	Per Day	9.40
7(v)	Fouled Equipment	Per Day	9.40
21(i)	Climatic and Isolation Allowance - Time and Half Zone	Per Week	8.90
21(ii)	Climatic and Isolation Allowance - Double Zone	Per Week	17.91
N/A	Apprentice Passing Exams - 1st Year		1.68
N/A	Apprentice Passing Exams - 2nd Year		5.20
N/A	Apprentice Passing Exams - 3rd Year		6.87

**Table 3 - Expense Related Allowances
(Including Tool Allowances for all Trades other than Electrical)**

Expense related allowances will be adjusted in accordance with movements in the expense related allowances in the Crown Employees Wages Staff (Rates of Pay) Award.

The date referred to in the table is a reference to the first full pay period to commence on or after that date.

Clause	Allowance Description	Frequency	Effective Date 01-July-2018 \$
8	Tool Allowance Bricklayer	Per Week	23.10
8	Tool Allowance Carpenter	Per Week	32.30
8	Tool Allowance Floor/Wall Tiler	Per Week	23.10
8	Tool Allowance Fitter Motor Mechanic	Per Week	32.30
8	Tool Allowance Plasterer	Per Week	32.30
8	Tool Allowance Painter Spray Painter Signwriter	Per Week	7.90
8	Tool Allowance Plumber	Per Week	32.30
8	Tool Allowance Scientific Instrument/Tool Maker	Per Week	32.30
8	Tool Allowance Welder 1st Class	Per Week	32.30
5(viii)	Meal Allowance for meal on overtime	Each	26.60
5(viii)	Subsequent Meal	Each	11.30
10(i)	Employee required to work away from accustomed place of work	Per Day	21.70
20(vii)(c)	Laundry Allowance	Per Week	1.02
31	Living away from home allowance - (W)	Per Week	512.40
31	Living away from home allowance - (D)	Per Day	73.30

22(ii)	Damage to clothing and tools - insurance to the extent of		1,807.00
20 (viii)	Ambulance Service - Uniform provided up to the value of	Per Year	404.40

Table 4 - Apprentices Wages and Allowances

Each date referred to in the table is a reference to the first full pay period to commence on or after that date.

Description	Effective Date 01-Jan-2019 \$
Apprentice Bricklayer	
1st Year	23,354
2nd Year	31,050
3rd Year	40,101
4th Year	46,372
Apprentice Carpenter	
1st Year	23,354
2nd Year	31,050
3rd Year	40,101
4th Year	46,372
Apprentice Electrician	
1st Year	23,354
2nd Year	31,050
3rd Year	40,101
4th Year	46,372
Apprentice Fitter / Motor Mechanic	
1st Year	23,354
2nd Year	31,050
3rd Year	40,101
4th Year	46,372
Apprentice Painter	
1st Year	23,354
2nd Year	31,050
3rd Year	40,101
4th Year	46,372
Apprentice Plumber	
1st Year	23,354
2nd Year	31,050
3rd Year	40,101
4th Year	46,372
Tool Allowances for Apprentices are the same as those of the corresponding Tradesperson at Table 1, except for Apprentice Electricians, who will be paid the Tool Allowance for Electrical Trades at Table 2.	
Other Allowances at Table 2, which are relevant to Apprentices (disability allowances etc.), will also apply. This includes the Allowances for Apprentices passing exams.	

SCHEDULE 1**Table 1 - Award History****Public Health Service Employees Skilled Trades (State) Award
(Incorporating the Ambulance Service of NSW Skilled Trades)**

Date Published	Volume	Publication No.	Description
21 June 2002	334	C1022	Award
27 July 2002	336	C1407	Variation
4 March 2005	348	C3373	Variation
17 March 2006	358	C3872	Variation
17 March 2006	358	C4108	Variation
17 March 2006	358	C4239	Variation
8 September 2006	360	C4864	Variation
6 October 2006	361	C4732	Variation
17 November 2006	361	C5031	Variation
23 February 2007	362	C5223	Variation
9 March 2007	362	C5301	Variation
8 February 2008	364	C6222	Variation
11 April 2008	365	C6338	Award Review
30 January 2009	367	C6866	Variation
26 February 2010	369	C7403	Variation
30 December 2011	371	C7701	Award
10 August 2012	373	C7799	Award Review Variation

Public Health Service Employees Skilled Trades (State) Award

Date Published	Volume	Publication No.	Description
5 October 2012	374	C7979	Award
16 August 2013	375	C8062	Correction
16 August 2013	375	C8065	Award
3 July 2015	377	C8352	Award
15 April 2016	379	C8528	Award

Public Health Service Employees Skilled Trades (State) Award 2018

Date Published	Volume	Publication No.	Description
6 April 2018	382	C8784	Award

P. M. KITE, Chief Commissioner.

(1924)

SERIAL C8919**VENUES NSW AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Office of Sport.

(Case No. 35021 of 2019)

Before Chief Commissioner Kite

13 March 2019

AWARD**Arrangement**

Clause No.	Subject Matter
1.	Title
2.	Definitions
3.	Parties to the Award
4.	No Extra Claims
5.	Application/Coverage/Scope
6.	Period of Operation
7.	Statement of Intent
8.	Terms of Engagement
9.	Casual Employment
10.	Part-Time Employment
11.	Classifications
12.	Apprentices
13.	School Based Apprentices
14.	Rates of Pay
15.	Annualised Salary
16.	Payment of Wages
17.	Allowance for Temporary Assignments to Higher Non-Executive Roles
18.	First Aid Allowance
19.	Allowance Payable for Use of Private Motor Vehicle
20.	Damage to Private Motor Vehicle Used for Work
21.	Overseas Travel
22.	Compensation for Damage to or Loss of Employee's Personal Property
23.	Lactation Breaks
24.	Extended Leave
25.	Absence from Work
26.	Hours of Work
27.	Rosters - Ongoing and Temporary Employees
28.	Rostered Days Off
29.	Meal Breaks and Allowances
30.	Variation of Hours
31.	Natural Emergencies and Major Transport Disruptions
32.	Public Holidays
33.	Overtime - General
34.	Recall to Duty
35.	Overtime Meal Breaks
36.	Overtime Meal Allowances
37.	Payment for Overtime and Time Off in Lieu
38.	On-Call (Stand-By) and On-Call Allowance
39.	Uniforms and Protective Clothing

40. Leave Without Pay
41. Recreation Leave
42. Annual Leave Loading
43. Family and Community Services Leave
44. Military Leave
45. Observance of Essential Religious or Cultural Obligations
46. Parental Leave
47. Sick Leave
48. Sick Leave Requirements for Evidence of Illness
49. Sick Leave to Care for a Family Member
50. Sick Leave - Workers Compensation
51. Sick Leave - Claims other than Workers Compensation
52. Special Leave
53. Leave for matters arising from Domestic Violence
54. Disputes Procedure
55. Anti-Discrimination
56. Trade Union Activities regarded as on Duty
57. Trade Union Activities regarded as Special Leave
58. Trade Union Training Courses
59. Conditions Applying to on Loan Arrangements
60. Period of Notice for Trade Union Activities
61. Access to Facilities by Trade Union Delegates
62. Responsibilities of the Trade Union Delegate
63. Responsibilities of the Trade Union
64. Responsibilities of Workplace Management
65. Right of Entry Provisions
66. Travelling and other Costs of Trade Union Delegates
67. Industrial Action
68. Consultation and Technological Change
69. Deduction of Trade Union Membership Fees
70. Review of Allowances Payable in Terms of this Award

Annexure A - Salaries

Annexure B - Allowances

Annexure C - Classification Standards

1. Title

- 1.1 This award shall be known as the Venues NSW Award2018.

2. Definitions

- 2.1 Agency Head - means the Chief Executive of the Office of Sport as defined in the Act or person authorised by the Agency Head.
- 2.2 Act - means the *Government Sector Employment Act 2013*.
- 2.3 Agency - means the Office of Sport.
- 2.4 Union - means the Public Service Association and Professional Officers' Association Amalgamated Union of NSW.

3. Parties to the Award

The parties to this award are:

- 3.1 The Office of Sport;

- 3.2 The Industrial Relations Secretary; and
- 3.3 The Public Service Association and Professional Officers' Association Amalgamated Union of NSW.

4. No Extra Claims

- 4.1 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 22 January 2020 by a party to this Award.
- 4.2 The terms of the preceding paragraph do not prevent the parties from taking any proceedings with respect to the interpretation, application or enforcement of existing award provisions.

5. Application/Coverage/Scope

- 5.1 The provisions of this award shall apply to ongoing employees, temporary employees and casual employees (as specified in the award) as defined in the *Government Sector Employment Act* 2013, employed to exercise the functions of Venues NSW at all Venues NSW facilities, excluding the WIN Sports and Entertainment Centre.
- 5.2 At the time of making of this Award, no employee will suffer a reduction of their rate of pay or diminution in their conditions of employment as a consequence of the making of this Award.
- 5.3 The award stands alone. All other agreements and awards are excluded from having any application to employees of the Office of Sport working for Venues NSW while performing the work covered by this award.

6. Period of Operation

- 6.1 This instrument shall operate from the first full pay period on or after 22 January 2019 and remain in force for a period of one (1) year, and rescinds and replaces the Venues NSW Award 2017 published 6 April 2018 (382 I.G. 1246), and any variation thereof.

7. Statement of Intent

- 7.1 This award aims to consolidate, in the one document, all common conditions of employment of employees in Venues NSW facilities (excluding the WIN Sports and Entertainment Centre), to encourage the consultative processes at the agency-wide and the various organisational levels, to facilitate, as appropriate, greater flexibility in the workplace.
- 7.2 Venues NSW and employees each recognise that the work practices that were used in the past may not be consistent with the current and future needs of Venues NSW and with work practices across the venue management industry. It is therefore important that change be introduced in a consultative, constructive and managed way in order to secure the future viability of Venues NSW and provide consistent, fair and equitable working conditions to its employees.

8. Terms of Engagement

- 8.1 Employees under this award shall be engaged pursuant to the *Government Sector Employment Act* 2013 as ongoing employees and temporary employees on a full-time or part-time basis, or as casual employees.

9. Casual Employment

- 9.1 This clause applies to casual employees allocated to Venues NSW facilities.

9.2 Hours of Work

A casual employee is engaged and paid on an hourly basis.

9.2.2 A casual employee will be engaged and paid for a minimum of 3 consecutive hours for each day worked.

9.2.3 A casual employee shall not work more than 12 consecutive hours per day (exclusive of meal breaks) without

9.2.1 the payment of overtime for such time in excess of 12 hours, except where longer periods are required by the usual work pattern of the role.

9.3 Rate of Pay

9.3.1 Casual employees shall be paid the ordinary hourly rate of pay calculated by the following formula for the hours worked per day:

Annual salary divided by 52.17857 divided by the ordinary weekly hours of the classification.

9.3.2 Casual employees shall be paid a loading on the appropriate ordinary hourly rate of pay of:

15%

9.3.3 Casual employees shall also receive a 1/12th loading on the appropriate ordinary hourly rate of pay in lieu of annual leave.

9.3.4 The loading specified in paragraph 9.3.2 of this subclause is in recognition of the casual nature of the employment and compensates the employee for all leave, other than annual leave and long service leave, and all incidences of employment, except overtime.

9.4 Overtime

9.4.1 Casual employees shall be paid overtime for work performed:

- (a) In excess of 12 consecutive hours (excluding meal breaks) except where required by the usual work pattern of the role; or
- (b) In excess of the daily roster pattern applicable for the particular class of work; or
- (c) In excess of the standard weekly roster of hours for the particular class of work.

9.4.2 Overtime rates will be paid in accordance with the rates set in clause 37, Payment for Overtime and Time Off in Lieu, of this award.

9.4.3 Overtime payments for casual employees are based on the loaded hourly rate set out in paragraph 9.3.2 of this clause.

9.4.4 The loading in lieu of annual leave as set out in paragraph 9.3.3 of this clause is not included in the hourly rate for the calculation of overtime payments for casual employees.

9.5 Leave

9.5.1 Other than as described under subclauses 9.5, 9.6 and 9.7 of this clause, casual employees are not entitled to any other paid or unpaid leave.

9.5.2 As set out in paragraph 9.3.3 of this clause, casual employees will be paid a 1/12th loading on the appropriate ordinary hourly rate of pay in lieu of annual leave.

9.5.3 Casual employees will be entitled to Long Service Leave in accordance with the provisions of the *Long Service Leave Act 1955*.

9.5.4 Casual employees are entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, section 54, Entitlement to Unpaid Parental Leave, in accordance with the *Industrial Relations Act 1996*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).

(a) The Agency Head must not fail to re-engage a regular casual employee (see section 54(2) of the Act) because:

(i) The employee or employee's spouse is pregnant; or

(ii) The employee is or has been immediately absent on parental leave.

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

9.6 Personal Carers entitlement for casual employees

9.6.1 Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a family member described in paragraph 49.4.2 of clause 49, Sick Leave to Care for a Family Member, of this award who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child. This entitlement is subject to the evidentiary requirements set out in paragraph 9.6.4, and the notice requirements set out in paragraph 9.6.5 of this clause.

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

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

9.6.4 The casual employee shall, if required,

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

(b) Establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

9.6.5 The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.

9.7 Bereavement entitlements for casual employees

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

- 9.7.2 The Agency Head and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- 9.7.3 The Agency Head 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.
- 9.7.4 The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.
- 9.8 Meal Break
- 9.8.1 All casual employees who work for more than five consecutive hours will be entitled to an unpaid meal break of not less than 30 minutes duration. The meal break may be up to one hour in duration with the agreement of the supervisor. The meal break shall be taken according to the needs of the operation. After each subsequent five-hour period from the time of the first entitlement the employee will be given a further meal break under similar conditions.
- 9.9 Application of other clauses of this Award to casual employees
- 9.9.1 The following clauses of this award do not apply to casual employees:
- | | |
|----|---|
| 10 | Part-Time Employment |
| 12 | Apprentices |
| 13 | School based apprentices |
| 15 | Annualised Salary |
| 24 | Extended Leave |
| 26 | Hours of Work |
| 27 | Rosters - Ongoing and Temporary Employees |
| 29 | Meal Breaks and Allowances |
| 30 | Variation of Hours |
| 31 | Natural Emergencies and Major Transport Disruptions |
| 32 | Public Holidays |
| 33 | Overtime - General |
| 34 | Recall to Duty |
| 35 | Overtime Meal Breaks |
| 37 | Payment for Overtime Or Leave In Lieu |
| 38 | On-Call (Stand-by) and On-Call Allowance |
| 40 | Leave Without Pay |
| 41 | Recreation Leave |
| 42 | Annual Leave Loading |
| 43 | Family and Community Services Leave |
| 44 | Military Leave |
| 45 | Observance of Essential Religious Or Cultural Obligations |
| 46 | Parental Leave |
| 47 | Sick Leave |
| 48 | Sick Leave Requirements for Evidence of Illness |
| 49 | Sick Leave to Care for a Family Member |
| 50 | Sick Leave - Workers Compensation |
| 51 | Sick Leave - Claims Other Than Workers Compensation |
| 52 | Special Leave |
| 57 | Leave for Matters Arising from Domestic Violence |
| 56 | Trade Union Activities Regarded as on Duty |
| 57 | Trade Union activities Regarded as Special Leave |
| 58 | Trade Union Training Courses |

59 Conditions Applying to on Loan Arrangements

10. Part-Time Employment

10.1 General

10.1.1 Part-time work may be undertaken with the agreement of the Agency Head. Part-time work may be undertaken in a part-time position or under a part-time arrangement.

10.1.2 A part-time employee is to work contract hours less than full-time hours.

10.1.3 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 in a part-time position or under a part-time arrangement. Entitlements to paid leave will accrue on the equivalent hourly basis.

10.1.4 Before commencing part-time work, the Agency Head and the employee must agree upon:

- (a) The hours to be worked by the employee, the days upon which they will be worked and the commencing and ceasing times for the work;
- (b) The classification applying to the work to be performed; and
- (c) The number of hours leave to be deducted for each day's absence from duty.

10.1.5 The terms of the agreement must be in writing and may only be varied with the consent of both parties.

10.2 Additional hours - Non-Annualised Employees

10.2.1 An employer may request, but not require, a part-time employee to work additional hours. 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 shall be paid for additional hours at their hourly rate plus a loading of 1/12th in lieu of recreation leave.

10.2.2 Time worked in excess of the full-time hours of the classification; payment shall be made at the appropriate overtime rate or time off in lieu granted in accordance with clause 37, Payment for Overtime and Time Off In Lieu of this award.

11. Classifications

11.1 The classifications are those specified in Annexure A to this award attached hereto.

11.2 Assignment shall be to roles within the classifications specified in Annexure A to this award.

12. Apprentices

12.1 The wage rate for apprentices shall be calculated by applying the following percentages to the Total Salary of a Level 3 Step 1 employee specified in Table 1.1, Ongoing and temporary employees non-annualised salaries of Annexure A, Salaries, of this award:

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

"Equivalent training stage" recognises that credit may be given for training undertaken prior to the commencement of the apprenticeship or that progression through the wage scale may be accelerated or that the provisions of clause 13, School Based Apprentices, apply.

- 12.2 Apprentices who reach the age of 21 years prior to completion of their apprenticeship shall be paid the rate provided in subclause 12.1 of this clause for an Adult at age 21 or over regardless of the year of apprenticeship.

13. School Based Apprentices

- 13.1 A school based apprentice is an employee who is undertaking an apprenticeship under a training contract while also enrolled in the Higher School Certificate.
- 13.2 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.
- 13.3 For the purposes of subclause 13.2 of this clause, where a school based apprentice is a full-time school student, the time spent in off-the-job training for which the school based apprentice is paid is deemed to be 25 per cent of the actual hours worked on the job each week.
- 13.4 The wages paid for training time may be averaged over the school term or year.
- 13.5 School based apprentices progress through the wage scale at the rate of 12 months' progression for each two years of employment as an apprentice.
- 13.6 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.
- 13.7 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.
- 13.8 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. Rates of Pay

- 14.1 The ordinary rates of pay relating to persons employed under this award are those applying in Annexure A to this award attached hereto.

15. Annualised Salary

- 15.1 The Agency Head may determine that an employee occupying a specified ongoing or temporary role will receive an annualised salary for all incidents of work under this Award.
- 15.2 Ongoing annualised full-time employees will be engaged as annualised salaried employees and will be paid the rate of pay for the appropriate skill level and location, as set out in Annexure A.
- 15.3 An employee occupying a role classified at Level 8 or Level 9 as described in Table 3.2 of Schedule 3 of Annexure A to this award shall be paid a salary in accordance with the employee's relevant level, as detailed in the letter of appointment and the role description, and within the salary range as set out in Table 3.2 respectively for Level 8 and Level 9.
- 15.4 Ongoing annualised part-time employees will be paid pro rata the rate for the appropriate skill level and location, as set out in Annexure A.
- 15.5 Annualised salary is paid as compensation for time worked in excess of ordinary hours, up to 20 hours per 28 day roster period.

- 15.6 Annualised salary is paid as compensation for other work related incidents and allowances, including on call allowance, meal break interruptions, shift penalties and travel time.
- 15.7 The calculation of time ‘worked’ during each 28 day cycle includes hours away from the work place on public holidays, recreation leave and sick leave.
- 15.8 Employees in receipt of an annualised salary can be required to work up to 20 hours per 28 day roster period, in excess of 152 hours, without the payment of overtime or time off in lieu. The number of hours worked by part-time annualised employees without the payment of overtime or time off in lieu will be based on their equivalent pro rata normal working week hours.
- 15.9 Hours worked in excess of ordinary hours above 20 hours per 28 day roster period shall be accrued, at the employee’s discretion, as either overtime under clause 37 or as time off in lieu at a rate of one hour worked for one hour time in lieu.
- 15.10 Time off in lieu must be taken within 6 months of the leave accruing at a time and date agreed between the employer and the employee.
- 15.11 Any balance of time off in lieu untaken after 6 months of the leave accruing will be paid at the overtime rate in accordance with subclause 37.5.
- 15.11.1 An employee whose salary, or salary and allowance in the nature of salary, exceeds the maximum rate for Clerk Grade 8 as specified in the Crown Employees (Administrative and Clerical Officers - Salaries) Award 2007 or any successor instrument, as varied from time to time, shall be paid at the maximum rate for Clerk, Grade 8 plus \$1.00, unless the Agency Head approves payment at the employee’s salary or, where applicable, salary and allowance in the nature of salary.

16. Payment of Wages

- 16.1 All monies payable to employees will be paid fortnightly by electronic funds transfer.

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

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

18. First Aid Allowance

- 18.1 An employee appointed as a First Aid Officer shall be paid a first aid allowance at the rate appropriate to the qualifications held by such employee as specified in Annexure B of this award attached hereto.
- 18.2 The First Aid Allowance - Basic Qualifications rate will apply to an employee appointed as a First Aid Officer who holds a St John’s Ambulance Certificate or equivalent qualifications (such as the Civil Defence or the Red Cross Society’s First Aid Certificates) issued within the previous three years.
- 18.3 The Holders of current Occupational First Aid Certificate Allowance rate will apply to an employee appointed as a First Aid Officer who:
- 18.3.1 Is appointed to be in charge of a First-Aid room in a workplace of 200 or more staff members (100 for construction sites); and
- 18.3.2 Holds an Occupational First-Aid Certificate issued within the previous three years.
- 18.4 The First Aid Allowance shall not be paid during leave of one week or more.

- 18.5 When the First Aid Officer is absent on leave for one 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.
- 18.6 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 Agency needs, and the cost of retraining First Aid Officers, are to be met by the Agency.

19. Allowance Payable for Use of Private Motor Vehicle

- 19.1 The Agency Head may authorise an employee to use a private motor vehicle for work where:
- 19.1.1 Such use will result in greater efficiency or involve the Agency in less expense than if travel were undertaken by other means; or
- 19.1.2 Where the employee is unable to use other means of transport due to a disability.
- 19.2 An employee who, with the approval of the Agency Head, uses a private motor vehicle for work shall be paid an appropriate rate of allowance specified in Annexure B of this award attached hereto for the use of such private motor vehicle. A deduction from the allowance payable is to be made for travel as described in subclause 19.4 of this clause.
- 19.3 Different levels of allowance are payable for the use of a private motor vehicle for work depending on the circumstances and the purpose for which the vehicle is used.
- 19.3.1 The casual rate is payable if an employee elects, with the approval of the Agency Head, to use their vehicle for occasional travel for work. This is subject to the allowance paid for the travel not exceeding the cost of travel by public or other available transport.
- 19.3.2 The official business rate is payable if an employee is directed, and agrees, to use the vehicle for official business and there is no other transport available. It is also payable where the employee is unable to use other transport due to a disability. The official business rate includes a component to compensate an employee for owning and maintaining the vehicle.
- 19.4 Deduction from allowance
- 19.4.1 Except as otherwise specified in this award, an employee shall bear the cost of ordinary daily travel by private motor vehicle between the employee's residence and headquarters and for any distance travelled in a private capacity. A deduction will be made from any motor vehicle allowance paid, in respect of such travel.
- 19.4.2 In this subclause "headquarters" means the administrative headquarters to which the employee is attached or from which the employee is required to operate on a long term basis or the designated headquarters per paragraph 19.4.3 of this subclause.
- 19.4.3 Designated headquarters
- (a) Where the administrative headquarters of the employee to which they are attached is not within the typical work area in which the employee is required to use the private vehicle on official business, the distance to and from a point designated within the typical work area is to be adopted as the distance to and from the headquarters for the purpose of calculating the daily deduction.
- (b) An employee's residence may be designated as their headquarters provided that such recognition does not result in a further amount of allowance being incurred than would otherwise be the case.

19.4.4 On days when an employee uses a private vehicle for official business and travels to and from home, whether or not the employee during that day visits headquarters, a deduction is to be made from the total distance travelled on the day. The deduction is to equal the distance from the employee's residence to their headquarters and return or 20 kilometres (whichever is the lesser) and any distance that is travelled in a private capacity.

19.4.5 Where a headquarters has been designated per paragraph 19.4.3 of this subclause and the employee is required to attend the administrative headquarters, the distance for calculating the daily deduction is to be the actual distance to and from the administrative headquarters, or, to and from the designated headquarters, whichever is the lesser.

19.4.6 Deductions are not to be applied in respect of days characterised as follows.

- (a) When staying away from home overnight, including the day of return from any itinerary.
- (b) When the employee uses the vehicle on official business and returns it to home prior to travelling to the headquarters by other means of transport at their own expense.
- (c) When the employee uses the vehicle for official business after normal working hours.
- (d) When the monthly claim voucher shows official use of the vehicle has occurred on one day only in any week. Exemption from the deduction under this subparagraph is exclusive of, and not in addition to, days referred to in subparagraphs (a), (b) and (c) of this paragraph.
- (e) When the employee buys a weekly or other periodical rail or bus ticket, provided the Agency is satisfied that:
 - (i) At the time of purchasing the periodical ticket the employee did not envisage the use of their private motor vehicle on approved official business;
 - (ii) The periodical ticket was in fact purchased; and
 - (iii) In regard to train travellers, no allowance is to be paid in respect of distance between the employee's home and the railway station or other intermediate transport stopping place.

19.5 The employee must have in force, in respect of a motor vehicle used for work, in addition to any policy required to be affected or maintained under the *Motor Vehicles (Third Party Insurance) Act 1942*, a comprehensive motor vehicle insurance policy to an amount and in a form approved by the Agency Head.

19.6 Expenses such as tolls etc. shall be refunded to employees where the charge was incurred during approved work related travel.

19.7 Where an employee tows a trailer or horse-float during travel resulting from approved work activities while using a private vehicle, the employee shall be entitled to an additional allowance as prescribed in Annexure B of this award attached hereto.

20. Damage to Private Motor Vehicle Used for Work

20.1 Where a private vehicle is damaged while being used for work, any normal excess insurance charges prescribed by the insurer shall be reimbursed by the Agency, provided:

20.1.1 The damage is not due to gross negligence by the employee; and

20.1.2 The charges claimed by the employee are not the charges prescribed by the insurer as punitive excess charges.

20.2 Provided the damage is not the fault of the employee, the Agency shall reimburse to an employee the costs of repairs to a broken windscreen, if the employee can demonstrate that:

20.2.1 The damage was sustained on approved work activities; and

20.2.2 The costs cannot be met under the insurance policy due to excess clauses.

21. Overseas Travel

21.1 Unless the Agency Head determines that an employee shall be paid travelling rates especially determined for the occasion, an employee required by the Agency to travel overseas on official business shall be paid the appropriate overseas travelling allowance rates as specified in the relevant Department of Premier and Cabinet Circular as issued from time to time.

22. Compensation for Damage to or Loss of Employee's Personal Property

22.1 Where damage to or loss of the employee's personal property occurs in the course of employment, a claim may be lodged under the *Workers Compensation Act 1987* and/or under any insurance policy of the Agency covering the damage to or loss of the personal property of the employee.

22.2 If a claim under subclause 22.1 of this clause is rejected by the insurer, the Agency Head may compensate an employee for the damage to or loss of personal property, if such damage or loss:

22.2.1 Is due to the negligence of the Agency, another employee, or both, in the performance of their duties; or

22.2.2 Is caused by a defect in an employee's material or equipment; or

22.2.3 Results from an employee's protection of or attempt to protect Agency property from loss or damage.

22.3 Compensation in terms of subclause 22.2 of this clause shall be limited to the amount necessary to repair the damaged item. Where the item cannot be repaired or is lost, the Agency Head may pay the cost of a replacement item, provided the item is identical to or only marginally different from the damaged or lost item and the claim is supported by satisfactory evidence as to the price of the replacement item.

22.4 For the purpose of this clause, personal property means an employee's clothes, spectacles, hearing-aid, tools of trade or similar items which are ordinarily required for the performance of the employee's duties.

22.5 Compensation for the damage sustained shall be made by the Agency where, in the course of work, clothing or items such as spectacles, hearing aids, etc., are damaged or destroyed by natural disasters or by theft or vandalism.

23. Lactation Breaks

23.1 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.

23.2 A full-time employee or a part-time employee working more than 4 hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day.

23.3 A part-time employee working 4 hours or less on any one day is entitled to only one paid lactation break of up to 30 minutes on any day so worked.

23.4 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.

- 23.5 The Agency Head shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk.
- 23.6 Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and employee will take place to attempt to identify reasonable alternative arrangements for the employee's lactation needs.
- 23.7 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.
- 23.8 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 in accordance with clause 47, Sick Leave, of this award.

24. Extended Leave

- 24.1 Extended leave shall accrue and shall be granted to employees in accordance with the provisions of Schedule 1 of the Government Sector Employment Regulation 2014.

25. Absence from Work

- 25.1 An employee must not be absent from work unless reasonable cause is shown.
- 25.2 If an employee is to be absent from duty because of illness or other emergency, the employee shall notify or arrange for another person to notify the supervisor as soon as possible of the employee's absence and the reason for the absence.
- 25.3 If a satisfactory explanation for the absence, is not provided, the employee will be regarded as absent from duty without authorised leave and the Agency Head shall deduct from the pay of the employee the amount equivalent to the period of the absence.
- 25.4 The minimum period of leave available to be granted shall be a quarter day.
- 25.5 Nothing in this clause affects any proceedings for misconduct or unsatisfactory performance against an employee who is absent from duty without authorised leave.

26. Hours of Work

- 26.1 The ordinary hours of work shall be Monday to Sunday inclusive.
- 26.2 Ordinary hours shall be worked on a rostered basis over a 28 day period subject to the following limitations:
- 26.2.1 Except as provided by subclause 28.8 of clause 28, Rostered Days Off, of this award, a maximum of 152 ordinary hours will be worked in any one 28 day period.
- 26.2.2 A maximum of 12 ordinary hours will be worked in any 24 hour period.
- 26.2.3 A minimum engagement of 3 hours to be worked consecutively.
- 26.3 Each employee will be entitled to a minimum of 8 hours break between each full shift. This clause does not apply to broken shifts.

- 26.4 The maximum ordinary hours of work for a full-time or part-time employee in any given week will be 60 hours.
- 26.5 Part-time employees - Hours of Work, refer to clause 10 of this award.
- 26.6 The working hours of employees and the manner of their recording, shall be as determined from time to time by the Agency Head. Such direction will include the definition of full-time contract hours as contained in clause 26, Hours of Work, of this award.
- 26.7 The employee in charge of a division or branch of Venues NSW will be responsible to the Agency Head for the proper observance of hours of work and for the proper recording of such attendance.
- 26.8 The Agency Head may require an employee to perform duty beyond the hours determined under subclause 26.4 of this clause but only if it is reasonable for the employee to be required to do so. An employee may refuse to work additional hours in circumstances where the working of such hours would result in the employee working unreasonable hours. In determining what is unreasonable the following factors shall be taken into account:
- 26.8.1 The employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements;
- 26.8.2 Any risk to the employee's health and safety;
- 26.8.3 The urgency of the work required to be performed during additional hours, the impact on the operational commitments of the organisation and the effect on client services;
- 26.8.4 The notice (if any) given by the Agency Head regarding the working of the additional hours, and by the employee of their intention to refuse the working of additional hours; or
- 26.8.5 Any other relevant matter.
- 26.9 The application of hours of work is subject to the provisions of this clause.
- 26.10 The ordinary hours may be worked on a full-time or part-time basis.
- 26.12 The Agency Head shall ensure that all employees employed in Venues NSW are informed of the hours of duty required to be worked and of their rights and responsibilities in respect of such hours of duty.

27. Rosters - Ongoing and Temporary Employees

- 27.1 Rosters for will be provided at least 7 days in advance.
- 27.2 Rosters may be changed during this period by mutual agreement.
- 27.3 If a change to the roster is advised with more than 24 hours notice, it will be obligatory for employees to work the roster.
- 27.4 If a change to the roster is advised with less than 24 hours notice it will be optional for the employee to work the roster.

28. Rostered Days Off

- 28.1 The following subclauses do not apply to annualised employees. Refer clause 15, Annualised Salary, of this award.
- 28.2 Full-time hours will be worked on the basis of 19 Rostered Days in each 28 day roster cycle.
- 28.3 Part-time employees are entitled to the number of Rostered Days Off specified in their part-time work agreement.

- 28.4 An employee may swap a Rostered Day Off with another employee, subject to the prior approval of the Venue Manager or Supervisor.
- 28.5 An employee who is directed to work ordinary hours on a Rostered Day Off may take that Rostered Day Off at another time, subject to Venues NSW operational needs.
- 28.6 If an employee is unable to take a Rostered Day Off due to exceptional circumstances, the Rostered Day Off can be taken at another time, subject to Venues NSW operational needs. Where practicable, the Rostered Day Off shall be taken during the current roster cycle, or the following roster cycle.
- 28.7 For a full-time employee absent on a working day or days, 7.6 hours leave shall be deducted for each day of absence and counted as ordinary hours of work, regardless of the actual number of ordinary hours rostered to be performed.
- 28.8 For a part-time employee absent on a working day or days, the number of hours leave to be deducted for each day of absence and counted as ordinary hours of work shall be specified in the employee's part-time work agreement.
- 28.9 Where a grant of leave as per subclauses 28.6 or 28.7 of this clause would otherwise lead to the total number of hours worked in the roster cycle to be in debit or excess of the contracted ordinary hours the employee's roster may be amended, subject to the operational needs of Venues NSW, to ensure that the contracted hours are worked within the roster cycle.
- 28.10 If it is not practicable to make an adjustment to the employee's roster in the current roster cycle as per subclause 28.8 of this clause the credit or debit on ordinary hours worked may be carried forward to the next roster cycle and an adjustment to the employee's roster made in the following roster cycle.
- 28.11 Where a full-time employee is absent for an entire roster cycle, 152 hours leave shall be deducted.
- 28.12 Where a part-time employee is absent for an entire roster cycle the contract hours per roster cycle specified in the employee's part-time work agreement shall be deducted.
- 28.13 If an employee or family member of an employee is sick on a Rostered Day Off, the Rostered Day Off will not be re-credited to the staff member.

29. Meal Breaks and Allowances

- 29.1 All employees who work for more than five consecutive hours will be entitled to an unpaid meal break of not less than 30 minutes duration. The meal break may be up to one hour in duration with the agreement of the supervisor. The meal break shall be taken according to the needs of the operation. After each subsequent five-hour period from the time of the first entitlement the employee will be given a further meal break under similar conditions.

30. Variation of Hours

- 30.1 If the Agency Head is satisfied that an employee is unable to comply with the general hours operating in the Agency because of limited transport facilities, urgent personal reasons, community or family reasons, the Agency Head may vary the employee's hours of attendance on a one off, short or long-term basis, subject to the following:
- 30.1.1 The variation does not adversely affect the operational requirements;
- 30.1.2 There is no reduction in the total number of daily hours to be worked;
- 30.1.3 The variation is not more than an hour from the commencement or finish of the span of usual commencing and finishing time;
- 30.1.4 A lunch break of 30 minutes is available to the employee. The meal break may be up to one hour in duration with the agreement of the supervisor;

- 30.1.5 No overtime or meal allowance payments are made to the employee, as a result of an agreement to vary the hours;
- 30.1.6 Ongoing arrangements are documented; and
- 30.1.7 The Union is consulted, as appropriate, on any implications of the proposed variation of hours for the work area.

31. Natural Emergencies and Major Transport Disruptions

- 31.1 An employee prevented from attending work at a normal work location by a natural emergency or by a major transport disruption may:
 - 31.1.1 apply to vary the working hours as provided in clause 30, Variation of Hours of this award; and/or
 - 31.1.2 Negotiate an alternative working location with the Agency; and/or
 - 31.1.3 Take available family and community service leave, recreation or extended leave or leave without pay to cover the period concerned.

32. Public Holidays

- 32.1 Unless directed to attend for duty by the Agency Head, an employee is entitled to be absent from duty without loss of pay on any day which is:
 - 32.1.1 A public holiday throughout the State; or
 - 32.1.2 A local holiday in that part of the State at or from which the employee performs duty; or
 - 32.1.3 a day between Boxing Day and New Year's Day determined by the appropriate Agency Head as a public service holiday.
- 32.2 An employee required by the Agency Head to work on a local holiday may be granted time off in lieu on an hour for hour basis for the time worked on a local holiday.
- 32.3 If a local holiday falls during an employee's absence on leave, the employee is not to be credited with the holiday.

33. Overtime - General

- 33.1 An employee may be directed by the Agency Head to work overtime, provided it is reasonable for the employee to be required to do so. An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
 - 33.1.1 The employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements,
 - 33.1.2 Any risk to employee health and safety,
 - 33.1.3 The urgency of the work required to be performed during overtime, the impact on the operational commitments of the organisation and the effect on client services,
 - 33.1.4 The notice (if any) given by the Agency Head regarding the working of the overtime, and by the employee of their intention to refuse overtime, or
 - 33.1.5 Any other relevant matter.

33.2 Payment for overtime shall be made only where the employee works directed overtime.

34. Recall to Duty

- 34.1 An employee recalled to work overtime after leaving the employer's premises shall be paid for a minimum of three (3) hours work at the appropriate overtime rates.
- 34.2 The employee shall not be required to work the full three (3) hours if the job can be completed within a shorter period.
- 34.3 When an employee returns to the place of work on a number of occasions in the same day and the first or subsequent minimum pay period overlap into the next call out period, payment shall be calculated from the commencement of the first recall until either the end of duty or three (3) hours from the commencement of the last recall, whichever is the greater. Such time shall be calculated as one continuous period.
- 34.4 When an employee returns to the place of work on a second or subsequent occasion and a period of three (3) hours has elapsed since the employee was last recalled, overtime shall only be paid for the actual time worked in the first and subsequent periods with the minimum payment provision only being applied to the last recall on the day.
- 34.5 A recall to duty commences when the employee starts work and terminates when the work is completed. A recall to duty does not include time spent travelling to and from the place at which work is to be undertaken.
- 34.6 An employee recalled to duty within three (3) hours of the commencement of usual hours of duty shall be paid at the appropriate overtime rate from the time of recall to the time of commencement of such normal work.
- 34.7 This clause shall not apply in cases where it is customary for an employee to return to the Agency's premises to perform a specific job outside the employee's ordinary hours of duty, or where overtime is continuous with the completion or commencement of ordinary hours of duty. Overtime worked in these circumstances shall not attract the minimum payment of three (3) hours unless the actual time worked is three (3) or more hours.

35. Overtime Meal Breaks

- 35.1 An employee required to work overtime on weekdays for an hour and a half or more after the employee's ordinary hours of duty on weekdays, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked.
- 35.2 An employee required to work overtime on a Saturday, Sunday or Public Holiday, shall be allowed 30 minutes for a meal after every five hours of overtime worked. An employee who is unable to take a meal break and who works for more than five hours shall be given a meal break at the earliest opportunity.

36. Overtime Meal Allowances

- 36.1 If an adequate meal is not provided by the Agency, a meal allowance shall be paid by the Agency at the appropriate rate specified in Annexure 2 of this award attached hereto, provided the Agency Head is satisfied that:
- 36.1.1 The time worked is directed overtime;
- 36.1.2 The employee properly and reasonably incurred expenditure in obtaining the meal in respect of which the allowance is sought;
- 36.1.3 Where the employee was able to cease duty for at least 30 minutes before or during the working of overtime to take the meal, the employee did so; and

- 36.1.4 Overtime is not being paid in respect of the time taken for a meal break.
- 36.2 Where an allowance payable under this clause is insufficient to reimburse the employee the cost of a meal, properly and reasonably incurred, the Agency Head shall approve payment of actual expenses.
- 36.3 Where a meal was not purchased, payment of a meal allowance shall not be made.
- 36.4 Receipts shall be provided to the Agency Head or his/her delegate in support of any claims for additional expenses or when the employee is required to substantiate the claim.
37. Payment for Overtime and Time Off in Lieu
- 37.1 The following subclauses do not apply to annualised employees unless in accordance with subclause 15.9. Refer clause 15, Annualised Salary, of this award.
- 37.2 The Agency Head shall grant compensation for directed overtime worked either by payment at the appropriate rate or, if the staff member so elects, by the grant of time off in lieu in accordance with subclause 37.7 of this clause.
- 37.3 All time worked by any ongoing or temporary, full-time or part-time employee in excess of the 12 working hours on any one day or in excess of 152 hours in any rostered work cycle will be deemed to be overtime.
- 37.4 All time worked by any casual employee in excess of 12 working hours on any one day will be deemed as overtime.
- 37.5 Overtime shall be based on the payment of time and one half for the first two hours and double time thereafter for work other than that performed on a Public Holiday.
- 37.6 Overtime performed on a public holiday shall be paid at the rate of double time and a half.
- 37.7 An ongoing or temporary employee may elect to take time off in lieu as an alternative to being paid overtime.
- 37.8 Time off in lieu is to be taken on a one for one basis. (i.e. ordinary rate)
- 37.9 Time off in lieu must be taken within 6 months of the leave accruing at the discretion of the manager.
- 37.10 Time off in lieu may be taken as full or half days.
- 37.11 Any balance of time off in lieu untaken after 6 months of the leave accruing will be paid at the overtime rate in accordance with subclause 37.5.
- 37.12 All time accrued must be recorded in a format suitable and approved by the employee's manager.
- 37.13 Make-up Time -An ongoing or temporary employee 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 a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
- 37.14 An employee whose salary, or salary and allowance in the nature of salary, exceeds the maximum rate for Clerk Grade 8 as specified in the Crown Employees (Administrative and Clerical Officers - Salaries) Award 2007 or any successor instrument, as varied from time to time, shall be paid at the maximum rate for Clerk, Grade 8 plus \$1.00, unless the Agency Head approves payment at the employee's salary or, where applicable, salary and allowance in the nature of salary.

38. On-Call (Stand-By) and on-Call Allowance

- 38.1 Unless in receipt of an Annualised Salary in terms of clause 15 of this award an employee shall be:
- 38.1.1 Entitled to be paid the on-call allowance set out in Annexure B of this award attached hereto when directed by the Agency to be on-call or on stand-by for a possible recall to duty outside the employee's working hours;
- 38.1.2 If an employee who is on call and is called out by the Agency, the overtime provisions as set out in clause 37, Payment for Overtime and Time Off in Lieu, of this award shall apply to the time worked;
- 38.1.3 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.

39. Uniforms and Protective Clothing

- 39.1 Where employees are required to wear a branded uniform they will provided free of charge.
- 39.2 Where items of clothing referred to in subclause 39.1 are required to be cleaned and maintained by the employee the provisions of Annexure B of this Award attached hereto, shall apply.
- 39.3 The Agency commits to providing appropriate protective clothing for employees as is deemed necessary to provide a safe working environment for employees.
- 39.4 The Agency shall have the right to determine a dress or uniform code for all employees covered by this award, which may include a particular style and colour of dress, which is practical to the working environment, such items shall be provided by the employee.
- 39.5 All uniform items, protective clothing and other tools provided by the employer shall remain the property of the Crown and shall, upon demand be returned to the Agency in reasonable conditions. Upon termination, monies owed to the employee may be withheld until such time as this sub-clause is complied with by the employee.

40. Leave Without Pay

- 40.1 The Agency Head may grant leave without pay to an employee if good and sufficient reason is shown.
- 40.2 Leave without pay may be granted on a full-time or a part-time basis.
- 40.3 Where an employee is granted leave without pay for a period not exceeding 10 consecutive working days, the employee shall be paid for any proclaimed public holidays falling during such leave without pay.
- 40.4 Where an employee is granted leave without pay which, when aggregated, does not exceed 5 working days in a period of twelve (12) months, such leave shall count as service for incremental progression and accrual of recreation leave.
- 40.5 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 Agency Head.
- 40.6 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.
- 40.7 No paid leave shall be granted during a period of leave without pay.

- 40.8 An ongoing appointment may be made to the employee's role if:
- 40.8.1 The leave without pay has continued or is likely to continue beyond the original period of approval and is for a total period of more than 12 months; and
 - 40.8.2 The employee is advised of the Agency's proposal to permanently backfill their role; and
 - 40.8.3 The employee is given a reasonable opportunity to end the leave without pay and return to their role; and
 - 40.8.4 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.
- 40.9 The role cannot be filled on an ongoing basis unless the above criteria are satisfied.
- 40.10 The employee does not cease to be employed by the Agency if their role is backfilled on an ongoing basis.
- 40.11 Subclause 40.8 of this clause does not apply to full-time unpaid parental leave granted in accordance with subparagraph 46.9.1(a) of clause 46, Parental Leave or to Military Leave, granted in accordance with clause 44 of this award.

41. Recreation Leave

- 41.1 Accrual
- 41.1.1 Paid recreation leave for full-time employees and recreation leave for employees working part-time, accrues at the rate of 20 working days per year. 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.
 - 41.1.2 Recreation leave accrues from day to day.
- 41.2 Limits on Accumulation and Direction to Take Leave
- 41.2.1 At least two (2) consecutive weeks of recreation leave shall be taken by an employee every 12 months, except by agreement with the Agency Head in special circumstances.
 - 41.2.2 Where the operational requirements permit, the application for leave shall be dealt with by the Agency Head according to the wishes of the employee.
 - 41.2.3 The Agency Head shall notify the employee in writing when accrued recreation leave reaches 6 weeks or its hourly equivalent and at the same time may direct an employee to take at least 2 weeks recreation leave within 3 months of the notification at a time convenient to the Agency.
 - 41.2.4 The Agency Head shall notify the employee in writing when accrued recreation leave reaches 8 weeks or its hourly equivalent and direct the employee to take at least 2 weeks recreation leave within 6 weeks of the notification. Such leave is to be taken at a time convenient to the Agency.
 - 41.2.5 An employee must take their recreation leave to reduce all balances below 8 weeks or its hourly equivalent, and the Agency must cooperate in this process. The Agency may direct an employee with more than 8 weeks to take their recreation leave so that it is reduced to below 8 weeks.
- 41.3 Conservation of Leave - If the Agency Head is satisfied that an employee is prevented by operational or personal reasons from taking sufficient recreation leave to reduce the accrued leave below an acceptable level of between 4 and 6 weeks or its hourly equivalent, the Agency Head shall:
- 41.3.1 Specify in writing the period of time during which the excess shall be conserved; and

- 41.3.2 On the expiration of the period during which conservation of leave applies, grant sufficient leave to the employee at a mutually convenient time to enable the accrued leave to be reduced to an acceptable level below the 8 week limit.
- 41.3.3 The Agency Head will inform an employee in writing on a regular basis of the employee's recreation leave accrual.
- 41.4 Miscellaneous
- 41.4.1 Recreation leave is not to be granted for a period less than a quarter-day or in other than multiples of a quarter day.
- 41.4.2 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).
- 41.4.3 Recreation leave does not accrue to an employee in respect of any period of absence from duty without leave or without pay, except as specified in paragraph 41.4.4 of this subclause.
- 41.4.4 Recreation leave accrues during any period of leave without pay granted on account of incapacity for which compensation has been authorised to be paid under the *Workers Compensation Act* 1987; or any period of sick leave without pay or any other approved leave without pay, not exceeding 5 full-time working days, or their part-time equivalent, in any period of 12 months.
- 41.4.5 The proportionate deduction to be made in respect of the accrual of recreation leave on account of any period of absence referred to in paragraph 41.4.4 of this subclause shall be calculated to an exact quarter-day (fractions less than a quarter being rounded down).
- 41.4.6 Recreation leave accrues at half its normal accrual rate during periods of extended leave on half pay or recreation leave taken on half pay.
- 41.4.7 Recreation leave may be taken on half pay in conjunction with and subject to the provisions applying to adoption, maternity or parental leave - see clause 46, Parental Leave, of this award.
- 41.4.8 On cessation of employment, an employee is entitled to be paid, the money value of accrued recreation leave which remains untaken.
- 41.4.9 An employee to whom paragraph 41.4.8 of this subclause applies may elect to take all or part of accrued recreation leave which remains untaken at cessation of active duty as leave or as a lump sum payment; or as a combination of leave and lump sum payment.
- 41.5 Death - Where an employee dies, the monetary value of recreation leave accrued and remaining untaken as at the date of death, shall be paid to the employee's nominated beneficiary.
- 41.6 Where no beneficiary has been nominated, the monetary value of recreation leave is to be paid as follows:-
- 41.6.1 To the widow or widower of the employee; or
- 41.6.2 If there is no widow or widower, to the children of the employee or, if there is a guardian of any children entitled under this subclause, to that guardian for the children's maintenance, education and advancement; or
- 41.6.3 If there is no such widow, widower or children, to the person who, in the opinion of the Agency Head was, at the time of the employee's death, a dependent relative of the employee; or
- 41.6.4 If there is no person entitled under paragraphs 41.6.1, 41.6.2 or 41.6.3 of this subclause to receive the money value of any leave not taken or not completed by an employee or which would have accrued to the employee, the payment shall be made to the personal representative of the employee.

- 41.7 Recreation leave does not accrue during leave without pay other than
- 41.7.1 Military leave taken without pay when paid military leave entitlements are exhausted;
 - 41.7.2 Absences due to natural emergencies or major transport disruptions, when all other paid leave is exhausted;
 - 41.7.3 Any continuous period of sick leave taken without pay when paid sick leave is exhausted;
 - 41.7.4 Incapacity for which compensation has been authorised under the *Workplace Injury Management and Workers Compensation Act 1998*; or
 - 41.7.5 Periods which when aggregated, do not exceed 5 working days in any period of 12 months.

42. Annual Leave Loading

- 42.1 General - An employee, other than a trainee who is paid by allowance, is entitled to be paid an annual leave loading as set out in this subclause. Subject to the provisions set out in subclauses 42.2 to 42.4 of this clause, the annual leave loading shall be 17½% on the monetary value of up to 4 weeks recreation leave accrued in a leave year.
- 42.2 Maximum Loading - The annual 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 for a Grade 12 Clerk as specified in the Crown Employees (Administrative and Clerical Officers - Salaries) Award 2007 or any successor instrument, as varied from time to time.
- 42.3 Leave year - For the calculation of the annual leave loading, the leave year shall commence on 1 December each year and shall end on 30 November of the following year.
- 42.4 Payment of annual leave loading - Payment of the annual leave loading shall be made on the recreation leave accrued during the previous leave year and shall be subject to the following conditions:
- 42.4.1 Annual leave loading shall be paid on the first occasion in a leave year, other than the first leave year of employment, when an employee takes at least two (2) consecutive weeks recreation leave. Where an employee does not have at least 2 weeks recreation leave available, the employee may use a combination of recreation leave and any of the following: public holidays, extended leave, leave without pay, time off in lieu, rostered day off. The employee shall be paid the annual leave loading for such period, provided the absence is at least 2 weeks.
 - 42.4.2 If at least two weeks leave, as set out in paragraph 42.4.1 of this subclause, is not taken in a leave year, then the payment of the annual leave loading entitlement for the previous leave year shall be made to the employee as at 30 November of the current year.
 - 42.4.3 While annual leave loading shall not be paid in the first leave year of employment, it shall be paid on the first occasion in the second leave year of employment when at least two weeks leave, as specified in paragraph 42.4.1 of this subclause, is taken.
 - 42.4.4 An employee who has not been paid the annual leave loading for the previous leave year, shall be paid such annual leave loading on resignation, retirement or termination by the employer for any reason other than the employee's serious and intentional misconduct.
 - 42.4.5 Except in cases of voluntary redundancy, proportionate leave loading is not payable on cessation of employment.

43. Family and Community Service Leave

- 43.1 The Agency Head shall grant to an employee some, or all of their accrued family and community service leave on full pay, for reasons relating to unplanned and emergency family responsibilities or other emergencies as described in subclause 43.2 of this clause. The Agency Head may also grant leave

for the purposes in subclause 43.3 of this clause. Non-emergency appointments or duties shall be scheduled or performed outside of normal working hours or through approved use of flexible working arrangements or other appropriate leave.

- 43.2 Such unplanned and emergency situations may include, but not be limited to, the following:-
- 43.2.1 Compassionate grounds - such as the death or illness of a close member of the family or a member of the employee's household;
 - 43.2.2 Emergency accommodation matters up to one day, such as attendance at court as defendant in an eviction action, arranging accommodation, or when required to remove furniture and effects;
 - 43.2.3 Emergency or weather conditions; such as when flood, fire, snow or disruption to utility services etc., threatens an employee's property and/or prevents an employee from reporting for duty;
 - 43.2.4 Attending to unplanned or unforeseen family responsibilities, such as attending child's school for an emergency reason or emergency cancellations by child care providers;
 - 43.2.5 Attendance at court by an employee to answer a charge for a criminal offence, only if the Agency Head considers the granting of family and community service leave to be appropriate in a particular case.
- 43.3 Family and community service leave may also be granted for:
- 43.3.1 An absence during normal working hours to attend meetings, conferences or to perform other duties, for employees holding office in Local Government, and whose duties necessitate absence during normal working hours for these purposes, provided that the employee does not hold a position of Mayor of a Municipal Council, President of a Shire Council or Chairperson of a County Council; and
 - 43.3.2 Attendance as a competitor in major amateur sport (other than Olympic or Commonwealth Games) for employees who are selected to represent Australia or the State.
- 43.4 The definition of "family" or "relative" in this clause is the same as that provided in paragraph 49.4.2 of clause 49, Sick Leave to Care for a Family Member, of this award.
- 43.5 Family and community service leave shall accrue as follows:
- 43.5.1 Two and a half days in the employee's first year of service;
 - 43.5.2 Two and a half days in the employee's second year of service; and
 - 43.5.3 One day per year thereafter.
- 43.6 If available family and community service leave is exhausted as a result of natural disasters, the Agency Head shall consider applications for additional family and community service leave, if some other emergency arises.
- 43.7 If available family and community service leave is exhausted, on the death of a family member or relative, additional paid family and community service leave of up to 2 days may be granted on a discrete, per occasion basis to an employee.
- 43.8 In cases of illness of a family member for whose care and support the employee is responsible, paid sick leave in accordance with clause 49, Sick Leave to Care for a Sick Family Member, of this award shall be granted when paid family and community service leave has been exhausted or is unavailable.
- 43.9 The Agency Head may also grant employee other forms of leave such as accrued recreation leave, time off in lieu and so on for family and community service leave purposes.

44. Military Leave

- 44.1 During the period of 12 months commencing on 1 July each year, the Agency 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.
- 44.2 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.
- 44.3 Up to 24 working days military leave per financial year may be granted by the Agency 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 44.1 of this clause.
- 44.4 The Agency 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.
- 44.5 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 44.3 of this clause may be granted Military Leave Top up Pay by the Agency Head.
- 44.6 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.
- 44.7 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.
- 44.8 At the expiration of military leave in accordance with subclause 44.3 or 44.4 of this clause, the employee shall furnish to the Agency Head a certificate of attendance and details of the employee's reservist pay signed by the commanding officer or other responsible officer.

45. Observance of Essential Religious or Cultural Obligations

- 45.1 An employee of:
- 45.1.1 Any religious faith who seeks leave for the purpose of observing essential religious obligations of that faith; or
- 45.1.2 Any ethnic or cultural background who seeks leave for the purpose of observing any essential cultural obligations, may be granted recreation/extended leave to credit or leave without pay to do so.
- 45.2 Provided adequate notice as to the need for leave is given by the employee to the Agency and it is operationally convenient to release the employee from duty, the Agency Head must grant the leave applied for by the employee in terms of this clause.
- 45.3 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 the Agency Head, subject to:
- 45.3.1 Adequate notice being given by the employee;
- 45.3.2 Prior approval being obtained by the employee; and
- 45.3.3 The time off being made up in the manner approved by the Agency Head.

- 45.4 Notwithstanding the provisions of subclauses 45.1, 45.2 and 45.3 of this clause, arrangements may be negotiated between the Agency and the Unions to provide greater flexibility for employees for the observance of essential religious or cultural obligations.

46. Parental Leave

- 46.1 Parental leave includes maternity, adoption and "other parent" leave.
- 46.2 Maternity leave shall apply to an employee who is pregnant and, subject to this clause the employee shall be entitled to be granted maternity leave as follows:
- 46.2.1 For a period up to 9 weeks prior to the expected date of birth; and
- 46.2.2 For a further period of up to 12 months after the actual date of birth.
- 46.2.3 An employee who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- 46.3 Adoption leave shall apply to an employee adopting a child and who will be the primary care giver, the employee shall be granted adoption leave as follows:
- 46.3.1 For a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
- 46.3.2 For such period, not exceeding 12 months on a full-time basis, as the Agency Head may determine, if the child has commenced school at the date of the taking of custody.
- 46.3.3 Special Adoption Leave - An employee shall be entitled to special adoption leave (without pay) for up to 2 days to attend interviews or examinations for the purposes of adoption. Special adoption leave may be taken as a charge against recreation leave, extended leave or family and community service leave.
- 46.4 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:
- 46.4.1 Short other parent leave - an unbroken period of up to 8 weeks at the time of the birth of the child or other termination of the spouse's or partner's pregnancy or, in the case of adoption, from the date of taking custody of the child or children;
- 46.4.2 Extended other parent leave - for a period not exceeding 12 months, less any short other parental leave already taken by the employee as provided for in paragraph 46.4.1 of this subclause. Extended other parental leave may commence at any time up to 2 years from the date of birth of the child or the taking of custody of the child.
- 46.5 An employee taking maternity or adoption leave is entitled to payment at the ordinary rate of pay for a period of up to 14 weeks, an employee entitled to short other parent leave is entitled to payment at the ordinary rate of pay for a period of up to 1 week, provided the employee:
- 46.5.1 applied for parental leave within the time and in the manner determined set out in subclause 46.10 of this clause; and
- 46.5.2 Prior to the commencement of parental leave, completed not less than 40 weeks' continuous service.
- 46.5.3 Payment for the maternity, adoption or short other parent leave may be made as follows:
- (a) In advance as a lump sum; or

- (b) Fortnightly as normal; or
 - (c) Fortnightly at half pay; or
 - (d) A combination of full pay and half pay.
- 46.6 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:
- 46.6.1 At the full-time rate if they began part-time leave 40 weeks or less before starting parental leave;
 - 46.6.2 at the part-time rate if they began part-time leave more than 40 weeks before starting parental leave and have not changed their part-time work arrangements for the 40 weeks;
 - 46.6.3 At the rate based on the average number of weekly hours worked during the 40 week period if they have been on part-time leave for more than 40 weeks but have changed their part-time work arrangements during that period.
- 46.7 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:
- 46.7.1 At the rate (full-time or part-time) they were paid before commencing the initial leave if they have not returned to work; or
 - 46.7.2 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
 - 46.7.3 At a rate based on the hours worked prior to the subsequent period of leave where the employee has not reduced their hours.
- 46.8 Except as provided in subclauses 46.5, 46.6 and 46.7 of this clause parental leave shall be granted without pay.
- 46.9 Right to request
- 46.9.1 An employee who has been granted parental leave in accordance with subclauses 46.2, 46.3 or 46.4 of this clause may make a request to the Agency Head to:
 - (a) Extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - (b) Return from a period of full-time parental leave on a part-time basis until the child reaches school age (Note: returning to work from parental leave on a part-time basis includes the option of returning to work on part-time leave without pay);
 - (c) To assist the employee in reconciling work and parental responsibilities.
 - 46.9.2 The Agency Head 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 Agency Head's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- 46.10 Notification Requirements
- 46.10.1 When an Agency is made aware that an employee or their spouse is pregnant or is adopting a child, the Agency must inform the employee of their entitlements and their obligations under the award.

- 46.10.2 An employee who wishes to take parental leave must notify the Agency Head in writing at least 8 weeks (or as soon as practicable) before the expected commencement of parental leave:
- (a) That she/he intends to take parental leave, and
 - (b) The expected date of birth or the expected date of placement, and
 - (c) If she/he is likely to make a request under subclause 46.9 of this clause.
- 46.10.3 At least 4 weeks before an employee's expected date of commencing parental leave they must advise:
- (a) The date on which the parental leave is intended to start, and
 - (b) The period of leave to be taken.
- 46.10.4 Employee's request and the Agency Head's decision to be in writing
- The employee's request under paragraph 46.9.1 and the Agency Head's decision made under paragraph 46.9.2 must be recorded in writing.
- 46.10.5 An employee intending to request to return from parental leave on a part-time basis or seek an additional period of leave of up to 12 months must notify the Agency Head in writing as soon as practicable and preferably before beginning parental leave. If the notification is not given before commencing such leave, it may be given at any time up to 4 weeks before the proposed return on a part-time basis, or later if the Agency Head agrees.
- 46.10.6 An employee on maternity leave is to notify her Agency of the date on which she gave birth as soon as she can conveniently do so.
- 46.10.7 An employee must notify the Agency as soon as practicable of any change in her intentions as a result of premature delivery or miscarriage.
- 46.10.8 An employee on maternity or adoption leave may change the period of leave or arrangement, once without the consent of the Agency and any number of times with the consent of the Agency. In each case she/he must give the Agency at least 14 days notice of the change unless the Agency Head decides otherwise.
- 46.11 An employee has the right to her/his former role if she/he has taken approved leave or part-time work in accordance with subclause 46.9 of this clause, and she/he resumes duty immediately after the approved leave or work on a part-time basis.
- 46.12 If the role occupied by the employee immediately prior to the taking of parental leave has ceased to exist, but there are other roles available that the employee is qualified for and is capable of performing, the employee shall be appointed to a role of the same grade and classification as the employee's former role.
- 46.13 An employee does not have a right to her/his former role during a period of return to work on a part-time basis. If the Agency Head approves a return to work on a part-time basis then the role occupied is to be at the same classification and grade as the former role.
- 46.14 An employee who has returned to full-time duty without exhausting their entitlement to 12 months unpaid parental leave is entitled to revert back to such leave. This may be done once only, and a minimum of 4 weeks notice (or less if acceptable to the Agency) must be given.
- 46.15 An employee who is sick during her pregnancy may take available paid sick leave or accrued recreation or extended leave or sick leave without pay. An employee may apply for accrued recreation leave,

extended leave or leave without pay before taking maternity leave. Any leave taken before maternity leave, ceases at the end of the working day immediately preceding the day she starts her nominated period of maternity leave or on the working day immediately preceding the date of birth of the child, whichever is sooner.

46.16 An employee may elect to take available recreation leave or extended leave within the period of parental leave provided this does not extend the total period of such leave.

46.17 An employee may elect to take available recreation leave at half pay in conjunction with parental leave provided that:

46.17.1 Accrued recreation leave at the date leave commences is exhausted within the period of parental leave;

46.17.2 The total period of parental leave is not extended by the taking of recreation leave at half pay;

46.17.3 When calculating other leave accruing during the period of recreation leave at half pay, the recreation leave at half pay shall be converted to the full-time equivalent and treated as full pay leave for accrual of further recreation, extended and other leave at the full-time rate.

46.18 If, for any reason, a pregnant employee is having difficulty in performing her normal duties or there is a risk to her health or to that of her unborn child the Agency Head, should, in consultation with the employee, take all reasonable measures to arrange for safer alternative duties. This may include, but is not limited to greater flexibility in when and where duties are carried out, a temporary change in duties, retraining, multi-skilling, teleworking and job redesign.

46.19 If such adjustments cannot reasonably be made, the Agency Head must grant the employee maternity leave, or any available sick leave, for as long as it is necessary to avoid exposure to that risk as certified by a medical practitioner, or until the child is born whichever is the earlier.

46.20 Communication during parental leave

46.20.1 Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Agency 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 role 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 role the employee held before commencing parental leave.

46.20.2 The employee shall take reasonable steps to inform the Agency Head 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.

46.20.3 The employee shall also notify the Agency Head of changes of address or other contact details which might affect the Agency's capacity to comply with paragraph 46.20.1 of this subclause.

47. Sick Leave

47.1 Illness in this clause and in clauses 48 and 49 of this award means physical or psychological illness or injury, medical treatment and the period of recovery or rehabilitation from an illness or injury.

- 47.2 Payment for sick leave is subject to the employee:
- 47.2.1 Informing their manager as soon as reasonably practicable that they are unable to perform duty because of illness. This must be done as close to the employee's starting time as possible; and
 - 47.2.2 Providing evidence of illness as soon as practicable if required by clause 48, Sick Leave - Requirements for Evidence of Illness of this award.
- 47.3 If the Agency Head is satisfied that an employee is unable to perform duty because of the employee's illness or the illness of his/her family member, the Agency Head:
- 47.3.1 Shall grant to the employee sick leave on full pay; and
 - 47.3.2 May grant to the employee, sick leave without pay if the absence of the employee exceeds the entitlement of the employee under this award to sick leave on full pay.
- 47.4 The Agency Head may direct an employee to take sick leave if they are satisfied that, due to the employee's illness, the employee:
- 47.4.1 Is unable to carry out their duties without distress; or
 - 47.4.2 Risks further impairment of their health by reporting for duty; or
 - 47.4.3 Is a risk to the health, wellbeing or safety of other employees, Agency clients or members of the public.
- 47.5 The Agency Head may direct an employee to participate in a return to work program if the employee has been absent on a long period of sick leave.
- 47.6 Entitlements.
- 47.6.1 At the commencement of employment with the Public Service, a full-time employee is granted an accrual of 5 days sick leave.
 - 47.6.2 After the first four months of employment, the employee shall accrue sick leave at the rate of 10 working days per year for the balance of the first year of service.
 - 47.6.3 After the first year of service, the employee shall accrue sick leave day to day at the rate of 15 working days per year of service.
 - 47.6.4 All continuous service as an employee in the NSW public service shall be taken into account for the purpose of calculating sick leave due. Where the service in the NSW public service is not continuous, previous periods of public service shall be taken into account for the purpose of calculating sick leave due if the previous sick leave records are available.
 - 47.6.5 Notwithstanding the provisions of paragraph 47.6.4 of this subclause, sick leave accrued and not taken in the service of a public sector employer may be accessed in terms of the Government Sector Employment Regulation 2014 and Public Sector Staff Mobility Policy.
 - 47.6.6 Sick leave without pay shall count as service for the accrual of recreation leave and paid sick leave. In all other respects sick leave without pay shall be treated in the same manner as leave without pay.
 - 47.6.7 When determining the amount of sick leave accrued, sick leave granted on less than full pay, shall be converted to its full pay equivalent.
 - 47.6.8 Paid sick leave shall not be granted during a period of unpaid leave.

- 47.7 Payment during the initial 3 months of service - Paid sick leave which may be granted to an employee, other than a seasonal or relief employee, in the first 3 months of service shall be limited to 5 days paid sick leave, unless the Agency Head approves otherwise. Paid sick leave in excess of 5 days granted in the first 3 months of service shall be supported by a satisfactory medical certificate.
- 47.8 Seasonal or relief employees - No paid sick leave shall be granted to temporary employees who are employed as seasonal or relief employees for a period of less than 3 months.

48. Sick Leave - Requirements for Evidence of Illness

- 48.1 An employee absent from duty for more than 2 consecutive working days because of illness must furnish evidence of illness to the Agency Head in respect of the absence.
- 48.2 In addition to the requirements under subclause 47.2 of clause 47, Sick Leave, of this award, an employee may absent themselves for a total of 5 working days due to illness without the provision of evidence of illness to the Agency Head. Employees who absent themselves in excess of 5 working days in a calendar year may be required to furnish evidence of illness to the Agency Head for each occasion absent for the balance of the calendar year.
- 48.3 As a general practice backdated medical certificates will not be accepted. However if an employee provides evidence of illness that only covers the latter part of the absence, they can be granted sick leave for the whole period if the Agency Head is satisfied that the reason for the absence is genuine.
- 48.4 If an employee is required to provide evidence of illness for an absence of 2 consecutive working days or less, the Agency Head will advise them in advance.
- 48.5 If the Agency Head is concerned about the diagnosis described in the evidence of illness produced by the employee, after discussion with the employee, the evidence provided and the employee's application for leave can be referred to the nominated medical assessor for the NSW public sector for advice.
- 48.5.1 The type of leave granted to the employee will be determined by the Agency Head.
- 48.5.2 If sick leave is not granted, the Agency Head will, as far as practicable, take into account the wishes of the employee when determining the type of leave granted.
- 48.6 The granting of paid sick leave shall be subject to the employee providing evidence which indicates the nature of illness or injury and the estimated duration of the absence. If an employee is concerned about disclosing the nature of the illness to their manager they may elect to have the application for sick leave dealt with confidentially by an alternate manager or the human resources section of the Agency.
- 48.7 The reference in this clause to evidence of illness shall apply, as appropriate:
- 48.7.1 Up to one week may be provided by a registered dentist, optometrist, chiropractor, osteopath, physiotherapist, oral and maxillo facial surgeon or, at the Agency Head's discretion, another registered health services provider, or
- 48.7.2 Where the absence exceeds one week, and unless the health provider listed in paragraph 48.7.1 of this subclause is also a registered medical practitioner, applications for any further sick leave must be supported by evidence of illness from a registered medical practitioner, or
- 48.7.3 At the Agency Head's discretion, other forms of evidence that satisfy that an employee had a genuine illness.
- 48.8 If an employee who is absent on recreation leave or extended leave, furnishes to the Agency Head satisfactory evidence of illness in respect of an illness which occurred during the leave, the Agency Head may, subject to the provisions of this clause, grant sick leave to the employee as follows:
- 48.8.1 In respect of recreation leave, the period set out in the evidence of illness;

48.8.2 In respect of extended leave, the period set out in the evidence of illness if such period is 5 working days or more.

48.9 Subclause 48.8 of this clause applies to all employees other than those on leave prior to resignation or termination of services, unless the resignation or termination of services amounts to a retirement.

49. Sick Leave to Care for a Family Member

49.1 Where family and community service leave provided for in clause 43 of this award is exhausted or unavailable, an employee with responsibilities in relation to a category of person set out in subclause 49.4 of this clause who needs the employee's care and support, may elect to use available paid sick leave, subject to the conditions specified in this clause, to provide such care and support when a family member is ill.

49.2 The sick leave shall initially be taken from the sick leave accumulated over the previous 3 years. In special circumstances, the Agency Head may grant additional sick leave from the sick leave accumulated during the employee's eligible service.

49.3 If required by the Agency Head to establish the illness of the person concerned, the employee must provide evidence consistent with subclause 48.6 of clause 48, Sick Leave - Requirements for Evidence of Illness, of this award.

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

49.4.1 The employee being responsible for the care and support of the person concerned; and

49.4.2 The person concerned being:

- (a) A spouse of the employee; or
- (b) A de facto spouse being a person of the opposite sex to the employee who lives with the employee as her husband or his wife on a bona fide domestic basis although not legally married to that employee; or
- (c) A child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent or legal guardian), grandparent, grandchild or sibling of the employee or of the 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 a relative of the employee who is a member of the same household, where for the purposes of this definition:

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

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

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

50. Sick Leave - Workers Compensation

50.1 The Agency Head shall advise each employee of the rights under the *Workers Compensation Act 1987*, as amended from time to time, and shall give such assistance and advice, as necessary, in the lodging of any claim.

50.2 An employee who is or becomes unable to attend for duty or to continue on duty in circumstances which may give the employee a right to claim compensation under the *Workers Compensation Act 1987* shall be required to lodge a claim for any such compensation.

- 50.3 Where, due to the illness or injury, the employee is unable to lodge such a claim in person, the Agency Head shall assist the employee or the representative of the employee, as required, to lodge a claim for any such compensation.
- 50.4 The Agency Head will ensure that, once received by the Agency, an employee's workers compensation claim is lodged by the Agency with the workers compensation insurer within the statutory period prescribed in the *Workers Compensation Act 1987*.
- 50.5 Pending the determination of that claim and on production of an acceptable medical certificate, the Agency Head shall grant sick leave on full pay for which the employee is eligible followed, if necessary, by sick leave without pay or, at the employee's election by accrued recreation leave or extended leave.
- 50.6 If liability for the workers compensation claim is accepted, then an equivalent period of any sick leave taken by the employee pending acceptance of the claim shall be restored to the credit of the employee.
- 50.7 If an employee notifies the appropriate Agency Head that he or she does not intend to make a claim for any such compensation, the Agency Head shall consider the reasons for the employee's decision and shall determine whether, in the circumstances, it is appropriate to grant sick leave in respect of any such absence.
- 50.8 An employee may be required to submit to a medical examination under the *Workers Compensation Act 1987* in relation to a claim for compensation under that Act. If an employee refuses to submit to a medical examination without an acceptable reason, the employee shall not be granted available sick leave on full pay until the examination has occurred and a medical certificate is issued indicating that the employee is not fit to resume employment.
- 50.9 If the Agency Head provides the employee with employment which meets the terms and conditions specified in the medical certificate issued under the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998* and, without good reason, the employee fails, to resume or perform such duties, the employee shall be ineligible for all payments in accordance with this clause from the date of the refusal or failure.
- 50.10 No further sick leave shall be granted on full pay if there is a commutation of weekly payments of compensation by the payment of a lump sum pursuant to section 51 of the *Workers Compensation Act 1987*.
- 50.11 Nothing in this clause prevents an employee from appealing a decision or taking action under other legislation made in respect of:
- 50.11.1 The employee's claim for workers compensation;
- 50.11.2 The conduct of a medical examination by a Government or other Medical Officer;
- 50.11.3 A medical certificate issued by the examining Government or other Medical Officer; or
- 50.11.4 Action taken by the Agency Head either under the *Workers Compensation Act 1987* or any other relevant legislation in relation to a claim for workers compensation, medical examination or medical certificate.

51. Sick Leave - Claims Other Than Workers Compensation

- 51.1 If the circumstances of any injury to or illness of an employee give rise to a claim for damages or to compensation, other than compensation under the *Workers Compensation Act 1987*, sick leave on full pay may, subject to and in accordance with this clause, be granted to the employee on completion of an acceptable undertaking that:
- 51.1.1 Any such claim, if made, will include a claim for the value of any period of paid sick leave granted by the Agency to the employee; and

- 51.1.2 In the event that the employee receives or recovers damages or compensation pursuant to that claim for loss of salary or wages during any such period of sick leave, the employee will repay to the Agency the monetary value of any such period of sick leave.
- 51.2 Sick leave on full pay shall not be granted to an employee who refuses or fails to complete an undertaking, except in cases where the Agency Head is satisfied that the refusal or failure is unavoidable.
- 51.3 On repayment to the Agency of the monetary value of sick leave granted to the employee, sick leave equivalent to that repayment and calculated at the employee's ordinary rate of pay, shall be restored to the credit of the employee.

52. Special Leave

52.1 Special Leave - Jury Service

52.1.1 An employee shall, as soon as possible, notify the Agency Head of the details of any jury summons served on the employee.

52.1.2 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 after discharge from jury service, furnish to the Agency Head a certificate of attendance issued by the Sheriff or by the Registrar of the court giving particulars of attendances by the employee during any such period and the details of any payment or payments made to the employee under section 72 of the *Jury Act 1977* in respect of any such period.

52.1.3 When a certificate of attendance on jury service is received in respect of any period during which an employee was required to be on duty, the Agency Head shall grant, in respect of any such period for which the employee has been paid out-of-pocket expenses only, special leave on full pay. In any other case, the Agency Head shall grant, at the sole election of the employee, available recreation leave on full pay or leave without pay.

52.2 Witness at Court - Official Capacity - 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 the Agency.

52.3 Witness at Court - Other than in Official Capacity - Crown Witness - An employee who is subpoenaed or called as a witness by the Crown (whether in right of the Commonwealth or in right of any State or Territory of the Commonwealth) shall:

52.3.1 Be granted, for the whole of the period necessary to attend as such a witness, special leave on full pay; and

52.3.2 Pay into the Treasury of the State of New South Wales all money paid to the employee under or in respect of any such subpoena or call other than any such money so paid in respect of reimbursement of necessary expenses properly incurred in answer to that subpoena or call.

52.4 Association Witness - an employee called by the Union to give evidence before an Industrial Tribunal or in another jurisdiction shall be granted special leave by the Agency for the required period.

52.5 Called as a witness in a private capacity - An employee who is subpoenaed or called as a witness in a private capacity shall, for the whole of the period necessary to attend as such a witness, be granted at the staff member's election, available recreation leave on full pay or leave without pay.

52.6 Special Leave - Examinations -

52.6.1 Special leave on full pay up to a maximum of 5 days in any one year shall be granted to employees for the purpose of attending at any examination approved by the Agency Head.

- 52.6.2 Special leave granted to attend examinations shall include leave for any necessary travel to or from the place at which the examination is held.
- 52.6.3 If an examination for a course of study is held during term or semester within the normal class timetable and study time has been granted to the employee, no further leave is granted for any examination.
- 52.7 Special Leave - Union Activities - Special leave on full pay may be granted to employees who are accredited Union delegates to undertake Union activities as provided for in clause 57, Trade Union Activities Regarded as Special Leave, of this award.
- 52.8 Return Home When Temporarily Living Away from Home - Sufficient special leave shall be granted to an employee who is temporarily living away from home as a result of work requirements. Such employee shall be granted sufficient special leave once a month before or after a weekend or a long weekend or, in the case of a shift worker before or after rostered days off to return home to spend two days and two nights with the family. If the employee wishes to return home more often, such employee may be granted recreation leave, extended leave to credit or leave without pay, if the operational requirements allow.
- 52.9 Return Home When Transferred to New Location - Special leave shall be granted to an employee who has moved to the new location ahead of dependants, to visit such dependants, subject to the conditions specified in the Crown Employees (Transferred Employees Compensation) Award.
- 52.10 An employee who identifies as an Indigenous Australian shall be granted up to one day special leave per year to enable the employee to participate in the National Aborigines and Islander Day of Commemoration Celebrations. Leave can be taken at any time during NAIDOC week, or in the weeks leading up to and after NAIDOC week as negotiated between the supervisor and employee.
- 52.11 Special Leave - Other Purposes - Special leave on full pay may be granted to employees by the Agency Head for such other purposes, subject to the conditions specified in the guidelines issued by the Public Service Commissioner at the time the leave is taken.
- 52.12 Matters arising from domestic violence situations.
- 52.12.1 When the leave entitlements referred to in clause 53, Leave for Matters Arising from Domestic Violence, have been exhausted, the Agency Head shall grant up to five days per calendar year to be used for absences from the workplace to attend to matters arising from domestic violence situations.

53. Leave for Matters Arising from Domestic Violence

- 53.1 Domestic Violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*.
- 53.2 Leave entitlements provided for in clause 43, Family and Community Service Leave, clause 47, Sick Leave, and clause 49, Sick Leave to Care for a Family Member, may be used by employees experiencing domestic violence.
- 53.3 Where the leave entitlements referred to in subclause 53.2 are exhausted, Agency Heads shall grant Special Leave as per subclause 52.11.
- 53.4 The Agency Head will need to be satisfied, on reasonable grounds, that domestic violence has occurred and may require proof presented in the form of an agreed document issued by the Police Force, a Court, a Doctor, a Domestic Violence Support Service or Lawyer.
- 53.5 Personal information concerning domestic violence will be kept confidential by the Agency.

- 53.6 The Agency Head, where appropriate, may facilitate flexible working arrangements subject to operational requirements, including changes to working times and changes to work location, telephone number and email address.

54. Disputes Procedure

- 54.1 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 Agency, if required.
- 54.2 An employee is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- 54.3 Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti-Discrimination Act 1977*) that makes it impractical for the employee to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Agency Head or delegate.
- 54.4 The immediate manager, or other appropriate employee, 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.
- 54.5 If the matter remains unresolved with the immediate manager, the employee may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager 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 Agency Head.
- 54.6 If the matter remains unresolved, the Agency 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.
- 54.7 The Agency Head may refer the matter to the Secretary of the Treasury for consideration.
- 54.8 An employee, at any stage, may request to be represented by the relevant Union.
- 54.9 The employee or the Union on their behalf or the Agency Head may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 54.10 The employee, Unions, and the Agency shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- 54.11 Whilst the procedures outlined in subclauses 54.1 to 54.9 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 work 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.

55. Anti-Discrimination

- 55.1 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.
- 55.2 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.

55.3 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.

55.4 Nothing in this clause is to be taken to affect:

55.4.1 Any conduct or act which is specifically exempted from anti-discrimination legislation;

55.4.2 Offering or providing junior rates of pay to persons under 21 years of age;

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

55.4.4 A party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.

55.5 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.

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

55.6 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."

56. Trade Union Activities Regarded as on Duty

56.1 A Union delegate will be released from the performance of normal Agency duty when required to undertake any of the activities specified below. While undertaking such activities the Union delegate will be regarded as being on duty and will not be required to apply for leave:

56.1.1 Attendance at meetings of the workplace's Work Health and Safety Committee and participation in all official activities relating to the functions and responsibilities of elected Work Health and Safety Committee members at a place of work as provided for in the *Work Health and Safety Act 2011* and the Work Health and Safety Regulation 2011.

56.1.2 Attendance at meetings with workplace management or workplace management representatives;

56.1.3 A reasonable period of preparation time, before-

(a) Meetings with management;

(b) Disciplinary or grievance meetings when a Union member requires the presence of a Union delegate; and

(c) Any other meeting with management,

by agreement with management, where operational requirements allow the taking of such time;

56.1.4 Giving evidence in court on behalf of the employer;

56.1.5 Presenting information on the Union and Union activities at induction sessions for new employees of the Agency; and

56.1.6 Distributing official Union publications or other authorised material at the workplace, provided that a minimum of 24 hours notice is given to workplace management, unless otherwise agreed between the parties. Distribution time is to be kept to a minimum and is to be undertaken at a time convenient to the workplace.

57. Trade Union Activities Regarded as Special Leave

57.1 The granting of special leave with pay will apply to the following activities undertaken by a Union delegate, as specified below:

57.1.1 Annual or biennial conferences of the Union;

57.1.2 Meetings of the Union's Executive, Committee of Management or Councils;

57.1.3 Annual conference of the Unions NSW and the biennial Congress of the Australian Council of Trade Unions;

57.1.4 Attendance at meetings called by the Unions NSW involving the Union which requires attendance of a delegate;

57.1.5 Attendance at meetings called by the Secretary, as the employer for industrial purposes, as and when required;

57.1.6 Giving evidence before an Industrial Tribunal as a witness for the Union;

57.1.7 Reasonable travelling time to and from conferences or meetings to which the provisions of clauses 56, 57 and 58 apply.

58. Trade Union Training Courses

58.1 The following training courses will attract the grant of special leave as specified below:

58.1.1 Accredited Work Health and Safety (WHS) courses and any other accredited WHS training for WHS Committee members. The provider(s) of accredited WHS training courses and the conditions on which special leave for such courses will be granted, shall be negotiated between the Agency Head and the Union.

58.1.2 Courses organised and conducted by the Trade Union Education Foundation or by the Union or a training provider nominated by the Union. A maximum of 12 working days in any period of 2 years applies to this training and is subject to:

- (a) The operating requirements of the workplace permitting the grant of leave and the absence not requiring employment of relief staff;
- (b) Payment being at the base rate, i.e. excluding extraneous payments such as overtime, etc.
- (c) All travelling and associated expenses being met by the employee or the Union;
- (d) Attendance being confirmed in writing by the Union or a nominated training provider.

59. Conditions Applying to on Loan Arrangements

59.1 Subject to the operational requirements of the workplace, on loan arrangements will apply to the following activities:

59.1.1 Meetings interstate or in NSW of a Federal nature to which a Union member has been nominated or elected by the Union:

- (a) As an Executive Member; or

- (b) A member of a Federal Council; or
 - (c) Vocational or industry committee.
- 59.1.2 Briefing counsel on behalf of the Union;
- 59.1.3 Assisting Union officials with preparation of cases or any other activity outside their normal workplace at which the delegate is required to represent the interests of the Union;
- 59.1.4 Country tours undertaken by a member of the executive or Council of the Union;
- 59.1.5 Taking up of full-time duties with the Union if elected to the office of President, General Secretary or to another full-time position with the Union.
- 59.1.6 Financial Arrangements - The following financial arrangements apply to the occasions when an employee is placed "on loan" to the Union:
- (a) The Agency will continue to pay the delegate or an authorised Union representative whose services are on loan to the Union;
 - (b) The Agency will seek reimbursement from the Union at regular intervals of all salary and associated costs, including superannuation, as specified by the NSW Treasury from time to time;
 - (c) Agreement with the Union on the financial arrangements must be reached before the on loan arrangement commences and must be documented in a manner negotiated between the Agency Head and the Union.
- 59.1.7 Recognition of "on loan" arrangement as service - On loan arrangements negotiated in terms of this clause are to be regarded as service for the accrual of all leave and for incremental progression.
- 59.1.8 Limitation - On loan arrangements may apply to full-time or part-time employees and are to be kept to the minimum time required. Where the Union needs to extend an on loan arrangement, the Union shall approach the Agency Head in writing for an extension of time well in advance of the expiration of the current period of on loan arrangement.
- 59.1.9 Where the Head and the Union cannot agree on the on loan arrangement, the matter is to be referred to the Secretary of Treasury for determination after consultation with the Agency Head and the Union.

60. Period of Notice for Trade Union Activities

- 60.1 The Agency Head must be notified in writing by the Union or, where appropriate, by the accredited delegate as soon as the date and/or time of the meeting, conference or other accredited activity is known.

61. Access to Facilities by Trade Union Delegates

- 61.1 The workplace shall provide accredited delegates with reasonable access to the following facilities for authorised Union activities:
- 61.1.1 Telephone, facsimile and, where available, E-mail facilities;
 - 61.1.2 A notice board for material authorised by the Union or access to staff notice boards for material authorised by the Union;
 - 61.1.3 Workplace conference or meeting facilities, where available, for meetings with member(s), as negotiated between local management and the Union.

62. Responsibilities of the Trade Union Delegate

62.1 Responsibilities of the Union delegate are to:

- 62.1.1 Establish accreditation as a delegate with the Union and provide proof of accreditation to the workplace;
- 62.1.2 Participate in the workplace consultative processes, as appropriate;
- 62.1.3 Follow the dispute settling procedure applicable in the workplace;
- 62.1.4 Provide sufficient notice to the immediate supervisor of any proposed absence on authorised Union business;
- 62.1.5 Account for all time spent on authorised Union business;
- 62.1.6 When special leave is required, to apply for special leave in advance;
- 62.1.7 Distribute Union literature/membership forms, under local arrangements negotiated between the Agency Head and the Union; and
- 62.1.8 Use any facilities provided by the workplace properly and reasonably as negotiated at organisational level.

63. Responsibilities of the Trade Union

63.1 Responsibilities of the Union are to:

- 63.1.1 Provide written advice to the Agency Head about a Union activity to be undertaken by an accredited delegate and, if requested, to provide written confirmation to the workplace management of the delegate's attendance/participation in the activity;
- 63.1.2 Meet all travelling, accommodation and any other costs incurred by the accredited delegate, except as provided in paragraph 64.1.3 of clause 64, Responsibilities of Workplace Management of this award;
- 63.1.3 Pay promptly any monies owing to the workplace under a negotiated on loan arrangement;
- 63.1.4 Provide proof of identity when visiting a workplace in an official capacity, if requested to do so by management;
- 63.1.5 Apply to the Agency Head well in advance of any proposed extension to the "on loan" arrangement;
- 63.1.6 Assist the workplace management in ensuring that time taken by the Union delegate is accounted for and any facilities provided by the employer are used reasonably and properly; and
- 63.1.7 Advise employer of any leave taken by the Union delegate during the on loan arrangement.

64. Responsibilities of Workplace Management

64.1 Where time is required for Union activities in accordance with this clause the responsibilities of the workplace management are to:

- 64.1.1 Release the accredited delegate from duty for the duration of the Union activity, as appropriate, and, where necessary, to allow for sufficient travelling time during the ordinary working hours;
- 64.1.2 Advise the workplace delegate of the date of the next induction session for new employees in sufficient time to enable the Union to arrange representation at the session;

- 64.1.3 Meet the travel and/or accommodation costs properly and reasonably incurred in respect of meetings called by the workplace management;
- 64.1.4 Where possible, to provide relief in the role occupied by the delegate in the workplace, while the delegate is undertaking Union responsibilities to assist with the business of workplace management;
- 64.1.5 Re-credit any other leave applied for on the day to which special leave or release from duty subsequently applies;
- 64.1.6 Where a Union activity provided under this clause needs to be undertaken on the Union delegate's rostered day off to apply the provisions of paragraph 64.1.5 of this clause;
- 64.1.7 To continue to pay salary during an "on loan" arrangement negotiated with the Union and to obtain reimbursement of salary and on-costs from the Union at regular intervals, or as otherwise agreed between the parties if long term arrangements apply;
- 64.1.8 To verify with the Union the time spent by a Union delegate or delegates on Union business, if required; and
- 64.1.9 If the time and/or the facilities allowed for Union activities are thought to be used unreasonably and/or improperly, to consult with the Union before taking any remedial action.

65. Right of Entry Provisions

- 65.1 The right of entry provisions shall be as prescribed under the *Work Health and Safety Act 2011* and the *Industrial Relations Act 1996*.

66. Travelling and Other Costs of Trade Union Delegates

- 66.1 Except as specified in paragraph 64.1.3 of clause 64, Responsibilities of Workplace Management of this award, all travel and other costs incurred by accredited Union delegates in the course of Union activities will be paid by the Union.
- 66.2 In respect of meetings called by the workplace management in terms of paragraph 64.1.3 of clause 64, Responsibilities of Workplace Management of this award, the payment of travel and/or accommodation costs, properly and reasonably incurred, is to be made, as appropriate.
- 66.3 No overtime, leave in lieu or any other additional costs will be claimable by an employee from the Agency or the Secretary, in respect of Union activities covered by special leave or on duty activities provided for in this clause.
- 66.4 The on loan arrangements shall apply strictly as negotiated and no extra claims in respect of the period of on loan shall be made on the Agency by the Union or the employee.

67. Industrial Action

- 67.1 Provisions of the *Industrial Relations Act 1996* shall apply to the right of Union members to take lawful industrial action (Note the obligations of the parties under clause 54, Disputes Procedure).
- 67.2 There will be no victimisation of employees prior to, during or following such industrial action.

68. Consultation and Technological Change

- 68.1 There shall be effective means of consultation, as set out in the Consultative Arrangements Policy and Guidelines document, on matters of mutual interest and concern, both formal and informal, between management and Union.

68.2 The Agency management shall consult with the Union prior to the introduction of any technological change.

69. Deduction of Trade Union Membership Fees

69.1 At the employee's election, the Agency Head shall provide for the employee's Union membership fees to be deducted from the employee's pay and ensure that such fees are transmitted to the employee's Union at regular intervals. Alternative arrangements for the deduction of Union membership fees may be negotiated between the Agency Head and the Union.

70. Review of Allowances Payable in Terms of This Award

70.1 Adjustment of Allowances - Allowances contained in this award shall be reviewed as follows:

70.1.1 Allowances listed in this paragraph will be determined at a level consistent with the reasonable allowances amounts for the appropriate income year as published by the Australian Taxation Office (ATO):

(a) Clause 36, Overtime Meal Allowances, for breakfast, lunch and dinner.

70.1.2 Allowances listed in this paragraph will be determined and become effective from 1 July each year at a level consistent with the reasonable allowances amounts as published at or before that time by the Australian Taxation Office (ATO):

(a) Clause 19, Allowance Payable for Use of Private Motor Vehicle.

70.1.3 Allowances payable in terms of clauses listed in this paragraph shall be adjusted on 1 July each year in line with the increases in the Consumer Price Index for Sydney during the preceding year (March quarter figures):

(a) Clause 39, Uniforms and Protective Clothing;

(b) Clause 36, Overtime Meal Allowances, for supper.

70.1.4 Allowances payable in terms of clauses listed in this paragraph shall continue to be subject to a percentage increase under an Award, Agreement or Determination and shall be adjusted on and from the date or pay period the percentage increase takes effect:

(a) Clause 18, First Aid Allowance;

(b) Clause 38, On-Call (Stand-by) and On-Call Allowance.

ANNEXURE A - SALARIES

Table 1.1 - Ongoing and Temporary Employees, Non-annualised Salary

Annual rate of pay for a week not exceeding 38 ordinary hours.

Promotion to a Level and from Level to Level is subject to the occurrence of a vacancy in such level with the exception of progression from Level 1 to Level 2.

Increases are effective from the beginning of the first pay period to commence on or after the dates in the column headings

Level	Step	Annual Rate \$
Venues Officer		22 January 2019 +2.5%
1 *	1	42,950

2	1	44,687
	2	45,235
	3	46,704
3	1	48,068
	2	49,349
	3	51,634
4	1	52,452
	2	54,376
	3	56,656
5	1	62,847
	2	65,940
	3	69,035
6	1	71,986
	2	74,938
	3	78,694
7	1	82,246
	2	85,446
	3	88,645

* A Level 1 Venues Officer shall undertake either on the job or off the job structured training to reach a satisfactory standard of performance for appointment to a Level 2 role. At the conclusion of 380 hours employment at Level 1 the employee shall progress to Level 2, subject to satisfactory performance of duties and completion of structured training. An employee who hasn't reached the standard of performance required for progression to Level 2, shall be counselled and provided appropriate additional training as a Level 1 employee for a maximum of a further 152 hours. After such additional period the employment shall either be terminated or the employee appointed to a Level 2 role.

Junior Rates

Employees engaged as weekly employees or as casuals under the provisions of Table 1.1 or Table 1.2, who are less than 18 years of age shall be paid according to the following scale:

Under 17 years of age - 80% of the appropriate rate.

Under 18 years but more than 17 years - 90% in the appropriate rate.

18 years and older - 100% of the appropriate rate.

Table 1.2 - Annualised Salaried Employees

Employees engaged under annualised salary packages for all incidents of work under clause 15 this award.

Promotion to a Level and from Level to Level is subject to the occurrence of a vacancy in such level.

Level 8 and Level 9 employees shall be paid a salary in accordance with the employee's relevant level and within the salary range as set out in Table 1.2 as per clause 15, Annualised Salary, of this award.

Increases are effective from the beginning of the first pay period to commence on or after the dates in the column headings.

Level	Step	Salary Per Annu 22 January 2019 +2.5% \$
Venues Officer		
1		N/A
2	1	56,230
	2	56,920
	3	59,106

3	1	60,485
	2	62,097
	3	64,971
4	1	66,006
	2	68,420
	3	71,296
5	1	79,083
	2	82,976
	3	86,871
6	1	90,581
	2	94,294
	3	98,893
7	1	103,492
	2	107,516
	3	111,542
8	Pay Point Min	116,246
	Max	124,771
9	Pay Point Min	129,160
	Max	146,598

ANNEXURE B - ALLOWANCES

Item No	Clause No	Description	Amount Per Annum
1	18.1	First Aid Allowance	
		Holders of basic qualifications	\$910
		Holders of current occupational first aid certificate	\$1,367
2		Use of Private Motor Vehicle	Cents per Km
		19.2 Official business	68
		19.2 Casual rate (40% of official business rate)	27.2
		Motor cycle allowance	34
		19.7 Towing trailer or horse float	8.8
3	36.1	Overtime meal allowances	
		Breakfast	\$30.60
		Lunch	\$30.60
		Dinner	\$30.60
		Supper	11.40
4	38.1	On-call (stand-by) and on-call allowance	\$0.98 per hour
5	39.2	Laundry allowance	\$4.95 per week

ANNEXURE C - CLASSIFICATION STANDARDS

Employees shall perform all duties required by Venues NSW within their skill and competence, to ensure the elimination of demarcation barriers preventing an employee from performing the whole job. At times, these duties may require an employee to perform tasks incidental to their normal activities in order to ensure events are staged in the most cost-efficient manner possible.

Promotion to a Level and from Level to Level is subject to the occurrence of a vacancy in such level with the exception of progression from Level 1 to Level 2.

Progression within Levels 1 to 7 shall be by way of incremental progression in terms of Rule 14 of the Government Sector Employment Regulation 2014.

For Levels 8 and 9, an employee may progress within the salary range as applicable to the level at the employer's discretion having regard to all relevant factors including:

the employee's performance which over time has significantly contributed to Venues NSW meeting its corporate objectives and outcomes as outlined in the Agency's business plan;

an employee's increased competence and effectiveness as assessed in the performance review process;

any expanding job requirements (where a role's responsibilities has increased but not sufficiently to result in the role being evaluated at a higher level);

the Agency's budget considerations.

P. M. KITE, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

AMBULANCE SERVICE OF NEW SOUTH WALES - SYDNEY AMBULANCE CENTRE (EMPLOYEE CAR PARKING) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 288177 of 2018)

Before Chief Commissioner Kite

13 March 2019

REVIEWED AWARD

Preamble

The Sydney Ambulance Centre (SAC), operated by the Ambulance Service of New South Wales (the Service), is located within leased premises at Australia Technology Park (ATP), Eveleigh, Sydney, New South Wales.

Employees of the Service employed at the Sydney Ambulance Centre have sought provision of access to secure car parking facilities at ATP at rates subsidised by the Service.

Secure parking at ATP is available only at a commercial facility.

This Award provides for specific subsidies to employees of the Service who, subject to the terms of the Award, subscribe for allocation of car parking at the facility operated by ATP, where the car parking space to be utilised is leased by the Service from ATP.

PART 1

Definitions

"The Service" means The Ambulance Service of New South Wales.

"ATP" means the Australia Technology Park, Eveleigh.

"Employee" means an employee of the Service whose normal place of employment is the SAC, Eveleigh.

"SAC employee" means an employee of the Service whose normal place of employment is the SAC, Eveleigh, including employees of the Medical Retrieval Unit (MRU).

PART 2

Car Parking Subsidy for Employees

- (1) The following arrangements shall apply on and from 22 February 2019.
- (2) The Employer will subsidise a maximum of 50 car spots which may be shared among SAC employees.
 - (i) SAC Employees who wish to subscribe to the car parking arrangement provided by this Award must agree to contribute to the cost of parking under the terms of this Award for a continuous period of not less than 12 months.
- (3) Car Parking Subsidy - SAC Employees
 - (i) Where no less than 25 SAC employees agree to subscribe, and continue to subscribe, to car parking arrangements in accordance with the terms of this Award, the Service shall make

available to those employees such car parking spaces at a ATP car parking facility as are agreed between the Service and the car park provider.

- (ii) Where no less than 25 and no more than 50 SAC employees agree to subscribe to the car parking arrangement, each such employee shall contribute \$47.85 per week toward the cost of the parking by way of payroll deduction.
 - (iii) Where more than 50 SAC employees subscribe to the car parking arrangement, each employee shall contribute an equal amount per week, which shall be reduced proportionately from the amount of \$47.85 per week for each employee in excess of 50 employees who subscribes to the car parking arrangement i.e. Where 100 such employees subscribe, the contribution per employee shall be \$23.95, calculated as follows: $50/100 \times \$47.85$ per week.
 - (iv) Employee contributions under this Award shall be adjusted in direct proportion to variations to the cost to the service of the car parking spaces charged.
- (4) No Further Claims
- (i) The employees (and their union) undertake not to pursue any extra claims award or over award, arising from or connected with, directly or indirectly, the provision of car parking for employees at SAC.
 - (ii) The benefits of this Award apply only to SAC employees and identified MRU employees in Schedule 1 while their normal place of work remains the SAC at Eveleigh.
- (5) Dispute Resolution
- (i) The provisions of clause 42, Issues Resolution, of the Operational Ambulance Officers (State) Award published 14 September 2018 (383 I.G. 1276), as updated or replaced from time to time, shall be used by the parties to resolve any disputes or grievances arising out of the operation of this Award.
- (6) Commencement and Term of Award
- (i) The changes made to the award following the Award Review pursuant to section 19(6) of the *Industrial Relations Act* 1996 and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 22 February 2019.
 - (iii) This award remains in force until varied or rescinded, the period for which it was made already having expired.

P. M. KITE, *Chief Commissioner*

CROWN EMPLOYEES (INTERPRETERS AND TRANSLATORS, MULTICULTURAL NSW) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 285964 of 2018)

Before Chief Commissioner Kite

13 March 2019

REVIEWED AWARD

PART A

1. Arrangement

PART A

Clause No.	Subject Matter
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4.	Parties to the Award
5.	Exhibition of Award
6.	Salaries
7.	Interpreter/Translator Classifications
8.	Casual Interpreters
9.	Casual Translators
10.	No Extra Claims
11.	Anti-Discrimination
12.	Grievance/Dispute Resolution Procedures
13.	Deduction of Union Membership Fees
14.	Area, Incidence and Duration

2. Title

This Award shall be known as the Crown Employees (Interpreters and Translators, Multicultural NSW) Award.

3. Definitions

- 3.1 "Act" means the *Government Sector Employment Act 2013*.
- 3.2 "Association" means Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.
- 3.3 "Base rate" for casual interpreters means the hourly rate based on 35 hour week for work undertaken on Mondays to Fridays.
- 3.4 "Hourly rate" means the base rate, plus the casual itinerant worker loading of 20% which is not paid for overtime hours, and the itinerant work loading of 34.5% loading, which applies for all hours worked.
- 3.5 "Interpreting Assignment" means a single interpreting task or a number of interpreting tasks within any twenty four hour period, provided the time lapse between the scheduled conclusion of one task and the

commencement of the next is not greater than two and a half hours. The time lapse between interpreting tasks will not be paid.

- 3.6 "Interpreter/Translator" means a person with either interpreting or translation qualifications as specified under subclauses 7.2, 7.3 or 7.4 of clause 7, Interpreter/Translator Classifications, or means a person with both interpreting and translation qualifications which are as specified under the said subclauses 7.2, 7.3 or 7.4.
- 3.6.1 "Minimum hours of work for casual interpreters" means 3 ordinary hours work at the hourly rate for such assignment between the hours of 7.30 a.m. and 18.00 p.m. Monday to Friday.
- 3.6.2 Work outside the period 7:30 am and 18:00. Mondays to Fridays - All work performed by casual interpreters Monday to Friday inclusive, shall be paid at the rate of time and one half for the first two hours and double time thereafter, or a minimum payment of 3 ordinary hours whichever is higher.
- 3.6.3 Work on Saturdays - All work performed by casual interpreters on Saturday shall be paid for at the rate of time and one-half for the first two hours and double time thereafter.
- 3.6.4 Work on Sundays - All work performed by casual interpreters on Sunday shall be paid at the rate of double time.
- 3.6.5 Work on Public Holidays - All work performed by casual interpreters on a public holiday shall be paid for the rate of double time and one half.
- 3.6.6 A casual interpreter who works on a Saturday, Sunday and Public Holiday shall be paid a minimum payment as for three (3) hours work at the appropriate rate.
- 3.7 "Multicultural NSW" means the Multicultural NSW Staff Agency, within the Department of Family and Community Services as specified in Schedule 1, Part 2 of the *Government Sector Employment Act 2013*.
- 3.8 "NAATI" means the National Accreditation Authority for Translators and Interpreters.
- 3.9 "Ordinary hours for casual interpreters" means hours worked between the hours of 7:30 am and 6:00 pm Monday and Friday and is paid at the base rate as defined in clause 3.3, plus the casual loading of 20% and itinerant worker's loading of 34.5%.
- 3.10 "Overtime rate" for casual interpreters includes the base hourly rate for a 35 hour week, plus the itinerant worker loading of 34.5% and is paid at the appropriate overtime rate.
- 3.11 "Secretary" means the Secretary, NSW Industrial Relations, as established under the *Government Sector Employment Act 2013*".
- 3.12 "Service" means continuous service for salary purposes.
- 3.13 "Staff member" means an ongoing or temporary employee to whom, Part 4 of the *Government Sector Employment Act 2013* applies and, unless otherwise specified in this award, includes both full-time and part-time staff.

4. Parties to the Award

The parties to this award are the Secretary of NSW Industrial Relations, the Department of Family and Community Services and the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

5. Exhibition of Award

A copy of this Award is to be accessible to all Interpreters/Translators.

6. Salaries

- 6.1 Salary rates are set in accordance with the Crown Employees (Public Sector - Salaries 2018) Award or any variation or replacement award.
- 6.2 A person employed as a casual employee shall be paid the appropriate hourly rates at the level specified for the relevant position as set out in in the Crown Employees (Public Sector - Salaries 2018) Award or any variation or replacement Award.
- 6.3 Multicultural NSW may determine to commence a staff member or casual employee on a salary point above the Year 1 rate depending on their qualifications, skills, knowledge and experience.

7. Interpreter/Translator Classifications

- 7.1 An Interpreter/Translator has either interpreting or translation qualifications or both interpreting and translation qualifications.

7.2 Interpreting/Translating Officer

Qualification: Relevant community languages that NAATI neither certifies nor recognises. Initial appointment to the Interpreting/Translating Officer level shall be dependent upon the assessment of the ability, qualifications and skills in the community language of the applicant by an independent committee coordinated by Multicultural NSW.

7.3 Interpreter/Translator

Qualification:

- (a) Certified at Interpreter level or Translator level as demonstrated by way of the NAATI certification or equivalent accreditation authority at the time; or
- (b) meeting the qualifications/standards determined by Multicultural NSW.

7.4 Senior Interpreter/Translator

Qualification:

- (a) Certification at Conference Level (Interpreter) or Advanced Translator (Translators or above as demonstrated by way of NAATI certification or equivalent certification authority at the time); or
- (b) meeting the qualifications/standards determined by Multicultural NSW.

- 7.5 Incremental Progression is in accordance with the Government Sector Employment Regulation 2014. The effective date of progression shall be the anniversary date of appointment to the position. Incremental progression for part-time staff members is the same as for full time staff members, that is, part-time staff members receive an increment annually.

8. Casual Interpreters

The parties agree that the employment of Interpreters on a casual basis shall not prejudice the employment of any permanent Interpreters/Translators.

- 8.1 Rates of Pay - Rates of pay for Casual Interpreters are as set out in the Crown Employees (Public Sector-Salaries 2018) Award for the relevant position.

8.1.1 These hourly rates include:

- an additional 20 per cent loading on the base rate in lieu of all leave entitlements, excluding extended leave.

- the 20 per cent loading in lieu of leave will not be paid in the overtime rates.
 - A further 34.5 per cent loading will be applied to the base rate to cover the itinerant nature of the work being carried out within the normal work areas as specified under subclause 8.4 of this clause. This loading compensates Casual Interpreters for travel, meals, waiting time and travel time.
- 8.2 The base overtime rate in the Crown Employees (Public Sector - Salaries 2018) Award is to be used to calculate all overtime payments. This rate does not include the 20% loading.
- 8.3 Commencement Rate and Incremental Progression for Casual Interpreters
- (a) all Casual Interpreters employed after the date this award is made will commence on a rate calculated by reference to the Year 1 rate and will progress to the next rate on the anniversary date of appointment.
 - (b) Multicultural NSW may consider a commencement rate above the Year 1 rate depending on the individual's qualifications, skills, knowledge and experience.
 - (c) Casual Interpreters employed at the date of commencement of this award will continue to be paid at a rate calculated by reference to the Year 5 rate.
- 8.4 Day Work Outside Normal Work Area - A Casual Interpreter shall be entitled to payment for travel time as per the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 for distances travelled when required to carry out day work outside their normal work area.
- (a) for Interpreters classed as Sydney Interpreters the normal work area is the County of Cumberland as defined by the Crown Lands Office being the boundaries of the Sydney metropolitan area.
 - (b) for Interpreters classed as Regional Interpreters, the normal work area is the area within an 80 km radius, one way, of the home address of the Interpreter.
- 8.5 Minimum Hours of Work - A Casual Interpreter directed to work any interpreting assignment shall be paid a minimum of three ordinary hours work at the hourly rate for such assignment between the hours of 7.30 a.m. and 6.00 p.m. Monday to Friday.
- 8.6 A Casual Interpreter who works for more than three hours but less than eight hours between 7.30 a.m. and 6.00 p.m. Monday to Friday shall be paid for time actually worked beyond the three hours as follows:
- (a) assignments exceeding 3 hours by up to 29 minutes will be rounded for the first half hour, then
 - (b) all subsequent time will be rounded to the next 15 minutes.
- 8.7 During work performed between the hours of 7.30 a.m. and 6.00 p.m. Monday to Friday a Casual Interpreter shall be entitled to take an unpaid luncheon period of a minimum of one half hour.
- 8.8 A Casual Interpreter required to perform work outside the hours of 7.30 a.m. and 6.00 p.m. Monday to Friday shall be paid at the base overtime rate and receive meal allowance provisions in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.
- 8.9 Cancellation Fees - Where a Casual Interpreter has been booked to work any assignment to be completed in a single day and the assignment is cancelled within 1 working day (24 hours) of the work due to commence, the Casual Interpreter shall be paid for three ordinary hours work.

Where a Casual Interpreter has been booked for court or tribunal work exceeding a single day and the assignment is cancelled within 1 full working day (24 hours) of the work due to commence, the Casual Interpreter shall be paid three ordinary hours work per day for a maximum of two days that the

assignment was booked. No cancellation fee is payable to the Casual Interpreter if alternative assignment(s) are allocated by Multicultural NSW during the period of the original assignment.

- 8.10 Travel Requiring Overnight Accommodation - Casual Interpreters required to travel to an assignment necessitating overnight accommodation shall receive payment in accordance with the provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

9. Casual Translators

The parties agree that the employment of Casual Translators shall not prejudice the employment of any permanent Interpreters/Translators.

For the purposes of this Award, 200 words of translation equate to one hour of translation, 45 minutes of editing, 30 minutes of proof reading and 45 minutes of checking.

Casual Translators work using their own equipment, work at a time suitable to themselves and are not accommodated in the workplace to carry out their duties therefore travel is not incurred.

9.1 Definitions

"Translations" are made up of two types which are defined as:

- (a) "Standard Documents" - these documents include personal documentation relating to an individual. They are not limited to but include a birth certificate, marriage certificate, baptismal/christening certificate, death certificate, driver's licence, passport and are deemed to be equal to one hundred words of translation. Standard documents exclude educational qualifications.
- (b) "Non-Standard Documents" - these are all other documents including educational qualifications, medical certificates, reports, letters and information pamphlets.

"Editing" - editing is the process of revision by translators of translations of texts and personal documents into English/target language and is performed by other translators. It includes verifying the spelling and grammar of the English/target language translation of the document.

"Proof Reading" - proof reading is the correction, with the aid of standard proof reading symbols, of typographical errors in printers proofs, or, using the same method, the revision of passages because the client has made minor changes to the source text.

"Checking" - checking is an independent linguistic comparison of a translation with the source text and with the preparation of an assessment report.

- 9.2 Rates of Pay - the rates of pay for Casual Translators are set out in the Crown Employee (Public Sector - Salaries 2018) for the relevant position. These hourly rates include an additional 20 per cent loading on the base rate in lieu of all leave entitlements, excluding extended leave, plus a 34.5 per cent loading covering use of their own equipment and premises.

9.3 Commencement Rate and Incremental Progression for Casual Translators

- (a) all Casual Translators employed after the date this award is made will commence on a rate calculated by reference to the Year 1 rate and will progress to the next rate on the anniversary date of appointment.
- (b) Multicultural NSW may consider a commencement rate above the Year 1 rate depending on the individual's qualifications, skills, knowledge and experience.
- (c) Casual Translators employed at the date of commencement of this award will continue to be paid at a rate calculated by reference to the Year 5 rate.

10. No Extra Claims

The no extra claims clause (clause 8) contained in the Crown Employees (Public Sector - Salaries 2018) Award shall apply to employees covered by this Award.

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, age and responsibilities as a carer.
- 11.2 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.
- 11.3 Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise a staff member or casual employee because that person 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 matters of unlawful discrimination in any State or federal jurisdiction.
- 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.
- (a) Staff members and casual 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."

12. Grievance/Dispute Resolution Procedures

All grievances, disputes or difficulties relating to the provision of the 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 including the Chief Executive Officer, if required.

- 12.1 Staff members and casual employees are required to notify (in writing or otherwise) their immediate supervisor or 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.
- 12.2 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 or casual employee to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Agency Head or delegate.

- 12.3 The immediate supervisor or manager shall convene a meeting in order to resolve the grievance, dispute or difficulty within one working day, or as soon as practicable, of the matter being brought to their attention.
- 12.4 If the matter remains unresolved with the immediate supervisor or manager, the staff member or casual employee may require to meet with the appropriate person at the next level of management in order to resolve the matter. This manager should respond within one working day, or as soon as practicable. This sequence of reference to successive levels of management may be pursued by the staff member or casual employee until the matter is referred to the CEO, Multicultural NSW.
- 12.5 In the event that the matter remains unresolved, the CEO-Multicultural NSW, shall provide a written response to the staff member or casual employee and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reasons for not taking action, in relation to the matter.
- 12.6 A staff member or casual employee may at any stage request to be represented by the Association representative.
- 12.7 The staff member or casual employee or Association on his/her behalf, or the CEO, Multicultural NSW, may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 12.8 The staff member or casual employee, Association, CEO, Multicultural NSW and the Public Service Commission, shall agree to be bound by any lawful recommendation, order or determination by the New South Wales Industrial Relations Commission in relation to the grievance, dispute or difficulty.
- 12.9 Whilst the procedures are being followed, normal work undertaken prior to notification of the grievance or dispute shall continue unless otherwise agreed between the parties, or, in the case of a dispute involving Work Health and Safety, if practicable, normal work shall proceed in such a manner to avoid any risk to the health and safety of any staff member or casual employee or member of the public.

13. Deduction of Union Membership Fees

- 13.1 The Association 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.
- 13.2 The Association 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.
- 13.3 Subject to subclauses 13.1 and 13.2 of this clause, the employer shall deduct union fortnightly membership fees from the pay of any staff member or casual employee who is a member of the union in accordance with the union's rules, provided that the staff member or casual employee has authorised the employer to make such deductions.
- 13.4 Monies so deducted from the staff member's or casual 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 staff member's or casual employees' union membership accounts.
- 13.5 Unless other arrangements are agreed to by the employer and the union, all union membership fees shall be deducted on a fortnightly basis.
- 13.6 Where a staff member or casual 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 staff member or casual employee to make a fresh authorisation in order for such deduction to continue.

14. Area, Incidence and Duration

- 14.1 This award shall apply to the classifications as defined herein.
- 14.2 The staff members and casual employees regulated by this award shall be entitled to the conditions of employment as set out in this award and, except where specifically varied by this award, existing conditions as provided for under the *Government Sector Employment Act 2013*, the *Government Sector Employment Regulation 2014*, the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* and the *Crown Employees (Public Sector - Salaries 2018) Award* or any awards replacing these awards.
- 14.3 This Award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the *Crown Employees (Interpreters and Translators, Community Relations Commission) Award* published 15 January (378 I.G. 1105), 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 I.G. 359) take effect on and from 4 March 2019.

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

P. M. KITE, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (OFFICE OF SPORT - PROGRAM OFFICERS) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 287235 of 2018)

Before Chief Commissioner Kite

25 July 2019

REVIEWED AWARD

PART A

1. Arrangement

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23.	Variable Year Employment
24.	Deduction of Union Membership Fees
25.	Anti-Discrimination
26.	No Extra Claims
27.	Area, Incidence and Duration

PART B

Table 1 - Rates of Pay - Program Officers - Ongoing Employees

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

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

Table 4 - Allowances

SCHEDULES

Schedule 1 - Centre Locations

2. Title

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

3. Definitions

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

"Agency" means the Office of Sport.

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

"AQF" refers to the Australian Qualifications Framework.

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

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

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

"Centre Manager" refers to the Centre Manager of a Centre of the Agency.

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

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

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

"Executive Director" means the Executive Director, Sport and Recreation Services Group of the Agency.

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

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

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

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

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

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

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

"Regional Director" means a Regional Director of the Sport and Recreation Services Group of the Agency.

"Regulation" means the Government Sector Employment Regulation 2014.

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

"Sport and Recreation" means the Sport and Recreation Services Group of the Agency.

4. Parties

4.1 This award has been made between the following parties:

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

5. Appointment and Employment

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

6. Rates of Pay

- 6.1 This award is listed in Schedule A of the Crown Employees (Public Sector - Salaries 2019) Award and salaries and allowances payable to employees shall be in accordance with that award or any award replacing it. The rates set out at Part B - Tables 1, 2, 3, & 4 of this award are subject to the rates as set by the Crown Employees (Public Sector - Salaries 2019) Award or any award replacing it.

6A. Calculation of Service

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

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

7. Temporary and Casual Employment

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

8. Mobile Roles

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

9. General Conditions of Employment

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

10. Hours of Duty

- 10.1 The contract hours of duty will be 35 hours per week, exclusive of meal breaks and shall be worked over 20 days within a four week roster cycle. Hours of duty may be undertaken on any day of the week and may comprise day duty and night duty.
- 10.2 Employees will be rostered according to client needs and may be required to commence duty at any time during the day.
- 10.3 Rosters will be displayed in an area available to all employees no less than five (5) days before the beginning of the four week roster cycle. A roster may be altered at any time to enable the service of a Centre to be delivered. A minimum of 24 hours notice of roster variations will be given wherever possible.
- 10.4 An employee may be requested to work when a rostered employee is absent from duty on account of illness, in an emergency or due to unforeseen circumstances but only if it reasonable for the employee to be required to do so.
- 10.5 An employee may refuse to work additional hours resulting from a roster change in circumstances where the working of such hours would result in the employee working unreasonable hours. In determining what is unreasonable, the following factors will be taken into account:
- (i) the employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements;
 - (ii) any risk to employee health and safety;
 - (iii) the urgency of the work required to be performed, the impact on the operational commitments of the organisation and the effect on client services;
 - (iv) the notice (if any) given by the Manager and by the employee of their intention to refuse to work the additional hours, or
 - (v) any other relevant matter
- 10.6 Employees will be rostered for 20 days within a four week roster cycle. Permanent and temporary program officers who are required to undertake duty on days in excess of 20 days in a four week roster cycle shall be entitled to accumulate one day compensatory leave for each day worked in excess of twenty.
- 10.7 Night duty and hours worked in excess of 35 hours per week by permanent and temporary program officers are compensated by way of payment of the sport and recreation allowance (see clause 12), additional recreation leave (see subclause 14.2) and compensatory leave (see clause 15).
- 10.8 Wherever practicable, an unpaid meal break of 30 minutes must be provided to and taken by employees after every five hours of continuous duty. Where it is not possible for an employee to be provided with an uninterrupted meal break, the meal break will be counted as part of the employee's hours of duty.
- 10.9 All employees must record their hours of duty each day in an approved form, specifying start and finish times and meal breaks.

10A. Public Holidays

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

11. On Call

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

12. Sport and Recreation Allowance

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

- 12.6 The sport and recreation allowance will be adjusted in accordance with variations to the Crown Employees (Public Sector - Salaries 2019) Award or any replacement award.
- 12.7 The sport and recreation allowance will not be payable during temporary assignments to roles that are not covered by this award.

13. Night Duty Allowance

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

14. Recreation Leave and Annual Leave Loading

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

15. Compensatory Leave

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

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

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

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

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

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

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

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

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

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

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

16. Accommodation and Residential Requirements

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

17. Staff to Client Ratios

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

18. Protective Clothing and Equipment

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

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

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

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

19. Immunisations

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

20. Accreditations

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

21. Professional Development

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

22. Transfers Between Centres

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

23. Variable Year Employment

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

24. Deduction of Union Membership Fees

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

25. Anti-Discrimination

- 25.1 It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age or responsibilities as a carer.
- 25.2 It follows that in fulfilling their obligations under the Grievance and Dispute Settling Procedures prescribed by the Crown Employees (Public Sector - Salaries 2018) Award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award, which, by its terms or operation, has a direct or indirect discriminatory effect.
- 25.3 Under the *Anti-Discrimination Act 1977* it is unlawful to victimise an employee because the employee has made or may make, or has been involved in, a complaint of unlawful discrimination or harassment.
- 25.4 Nothing in this clause is to be taken to affect:
 - 25.4.1 Any conduct or act which is specifically exempted from anti-discrimination legislation;

- 25.4.2 Offering or providing junior rates of pay to persons under 21 years of age;
- 25.4.3 Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
- 25.4.4 A party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- 25.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.
- 25.5.1 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- 25.5.2 Section 56(d) of the *Anti-Discrimination Act 1977* provides:
- "Nothing in the Act affects... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

26. No Extra Claims

- 26.1 The no extra claims clause (clause 8) contained in the Crown Employees (Public Sector - Salaries 2019) Award shall apply to employees covered by this award.

27. Area, Incidence and Duration

- 27.1 This award will apply to all staff employed by the Agency who are employed in the classifications of Program Officer and Program Officer (Group Leader).
- 27.2 The employees regulated by this award will be entitled to the conditions of employment as set out in this award and, except where specifically varied by this award, existing conditions provided for by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 and the Crown Employees (Public Sector - Salaries 2019) Award or any replacement awards.
- 27.3 This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Crown Employees (Office of Sport - Program Officers) Award published 15 January 2016 (378 I.G. 1304), as varied.

The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 4 July 2019.

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

PART B

This award is listed in Schedule A of the Crown Employees (Public Sector - Salaries 2019) Award and salaries payable to employees shall be in accordance with that award or any award replacing it. The rates set out at Table 1 of Part B of this award are subject to the rates as set by the Crown Employees (Public Sector - Salaries 2019) Award or any award replacing it.

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

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

Table 1 - Program Officers - Ongoing

Classification and Grades	1.7.19 Per annum 2.50%
	\$
Program Officers	
Level 1	60673
Level 2	63049
Level 3	66608
Level 4	71367
Level 5	73744
Level 6	77324
Level 7	80884
Level 8	84462
Level 9	88019
Level 10	91598
Level 11	95151
Level 12	97532

Table 2 - Program Offers - Temporary and Casual Employees

Program Officers - Temporary employees	1.7.19 Per day 2.50%
	\$
Level 1	232.90
Level 2	241.40
Level 3	254.70
Level 4	274.15
Level 5	282.60
Level 6	295.95
Level 7	310.50
Level 8	323.85
Level 9	337.20
Level 10	350.55
Level 11	365.10
Level 12	373.60
Program Officers - Casual Employees	1.7.19 Per day 2.50%
	\$
Level 1	261.65
Level 2	271.90
Level 3	287.25
Level 4	307.70
Level 5	318.05
Level 6	333.40
Level 7	348.80
Level 8	364.20
Level 9	379.55
Level 10	395.00
Level 11	410.35
Level 12	420.55

Table 3 - Program Officer (Group Leader)

Program Officer (Group Leader) *	1.7.19 Per day 2.50% \$
Grade 1	203.35
Grade 2	246.65

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

Table 4 - Allowances

Sport and recreation allowance - Ongoing Employees Program Officers (per annum)	11893
Sport and recreation allowance- Temporary Program Officers (per day)	45.60
Night duty allowance - Casual Program Officers (per night)	97.30
Night duty allowance - Program Officer (Group Leaders) (per night)	46.95

SCHEDULE 1**CENTRE AND ACADEMY LOCATIONS**

Berry Sport and Recreation Centre
660 Coolangatta Road
BERRY NSW 2535

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

Broken Bay Sport and Recreation Centre
BROOKLYN NSW 2083

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

Lake Burrendong Sport and Recreation Centre
Tara Road
MUMBIL NSW 2820

Jindabyne Sport and Recreation Centre
The Barry Way
JINDABYNE NSW 2627

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

Milson Island Sport and Recreation Centre
BROOKLYN NSW 2083

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

Point Wolstoncroft Sport and Recreation Centre
Kanangra Drive
GWANDALAN NSW 2259

Sydney Academy of Sport and Recreation
Wakehurst Parkway
NARRABEEN NSW 2101

P. M. KITE, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (OFFICE OF THE SYDNEY HARBOUR FORESHORE AUTHORITY) AWARD 2007

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 287243 of 2018)

Before Chief Commissioner Kite

25 July 2019

REVIEWED AWARD

1. Arrangement

PART A

Clause No.	Subject Matter
1.	Arrangement
2.	Title
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5.	Consultative Arrangements
6.	Conditions of Employment
7.	Trade Union Activities
8.	Savings of Rights
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14.	Leave Entitlements
15.	Anti-Discrimination
16.	Area, Incidence and Duration

PART B

MONETARY RATES

Table 1 - Casual Staff

2. Title

- 2.1 This award shall be known as the Crown Employees (Crown Employees (Department of Planning, Industry & Environment - Place Management NSW Casual Staff) Award 2019.

3. Parties

- 3.1 The parties to this award are the Industrial Relations Secretary, Department of Planning, Industry & Environment and the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

4. Definitions

- 4.1 "Act" means the *Place Management NSW Act* 1998.

- 4.2 "Authority" shall mean Place Management NSW or its successor.
- 4.3 "Award" means the Crown Employees Crown Employees (Department of Planning, Industry & Environment - Place Management NSW Casual Staff) Award 2019.
- 4.4 "Casual" shall mean a staff member engaged and paid as such by the Authority, who is employed on an hourly basis as prescribed by clause 13 and employed under clauses 43(1)(c) and 43(4) of the *Government Sector Employment Act 2013*.
- 4.5 "Chief Executive Officer" means the Chief Executive Officer of the Authority.
- 4.6 "Joint Consultative Committee" or "JCC" means the Department of Planning, Industry & Environment Joint Consultative Committee established by this Award.
- 4.7 "Manager" means an employee of the Authority with management responsibilities for a branch, unit or discrete group of people who has delegation to act as determined from time to time by delegations of the Chief Executive Officer.
- 4.8 "Nominee" means a person who has been delegated particular power(s) of the Chief Executive Officer.
- 4.9 "Normal work" means the method of carrying out work functions that were established practice prior to the onset of a dispute or grievance, in terms of clause 13 of the Award.
- 4.10 "Overtime" means all time worked, whether before or after the ordinary daily hours of duty, at the direction of the Chief Executive Officer, which, due to its character or special circumstances, cannot be performed during the staff member's ordinary hours of duty.
- 4.11 "Public holiday" means a bank or public holiday under the Public Holidays Act 2010, but does not include a Saturday which is such a holiday by virtue of section 15A of that Act, and 1 August or such other day that is a bank holiday instead of 1 August.
- 4.12 "Salary Rates" means the rates prescribed by the Common Salary Points in the Crown Employees (Public Sector - Salaries 2018) Award or its replacement.
- 4.13 "Service" holds the same meaning as service under the *Long Service Leave Act 1955*.
- 4.14 "Staff" or "staff member" means and includes all persons who are casually employed under the *Government Sector Employment Act 2013*.
- 4.15 "Standard hours" are the hours set under clause 13.2 of this Award.
- 4.16 "Supervisor" means the immediate supervisor or manager of the area in which a staff member is employed or any other ongoing or temporary employee authorised by the Chief Executive Officer to fulfil the role of a supervisor or manager, other than a person employed as a consultant or contractor.
- 4.17 "Union" or "PSA" means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.
- 4.18 "Workplace" means the whole organisation or, as the case may be, a branch or sections of the organisation in which staff are employed.

5. Consultative Arrangements

- 5.1 The parties to this award shall utilise an established Joint Consultative Committee (JCC) to encourage and facilitate consultation and negotiation on workplace reform and equitable, innovative and productive workplace relations.

6. Conditions of Employment

- 6.1 Conditions of employment other than those fixed by this award are determined by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or its successor and will apply to all staff employed by the Authority.

7. Trade Union Activities

- 7.1 The provisions for trade union activities as set out in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, and the Consultative Arrangements between the PSA and NSW Government including consultation and technological change and union deductions, shall apply.

8. Savings of Rights

- 8.1 No staff member covered by this award shall suffer a reduction in the rate of pay or any loss or diminution of any conditions of employment as a consequence of the making of this award.

9. Relationship to Other Awards

- 9.1 This award shall be varied to give effect to any salary increase or other benefits received by the public service as a result of a variation to the Crown Employees (Public Sector - Salaries 2018) Award or award replacing it.
- 9.2 This award shall be varied to give effect of any variation to the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, or an award replacing it, in so far as it may affect clauses referred to in that award by this award.
- 9.3 Where there may be inconsistencies between this award and the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, the arrangements in this award shall prevail.

10. Grievance and Dispute Settling Procedures

- 10.1 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.
- 10.2 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.
- 10.3 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.
- 10.4 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.
- 10.5 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. This sequence of reference to successive levels of management may be pursued by the staff member until the matter is referred to the Chief Executive Officer.
- 10.6 The Chief Executive Officer or the Union may refer the matter to Public Sector Industrial Relations for consideration.

- 10.7 If the matter remains unresolved, the Chief Executive Officer shall provide a written response to the staff member and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- 101.8 A staff member, at any stage, may request to be represented by the Union.
- 10.9 The staff member or the Union on their behalf or the Chief Executive Officer may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 10.10 The staff member, Union, authority and Secretary of Treasury shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- 10.11 Whilst the procedures outlined in subclauses 10.1 to 10.10 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 workplace 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.

11. Classification and Rates Schedule

- 11.1 All staff covered by this award will be paid in accordance with the classifications and rate structures as set out in Part B, Monetary Rates.
- 11.2 No staff will be disadvantaged by the application of this award.

12. Deduction of Union Membership Fees

- 12.1 The union shall provide the Authority with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- 12.2 The union shall advise the Authority 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 Authority at least one month in advance of the variation taking effect.
- 12.3 Subject to 12.1 and 12.2 above, the Authority shall deduct union fortnightly membership fees from the pay of any staff member who is a member of the union in accordance with the union's rules, provided that the staff member has authorised the Authority to make such deductions.
- 12.4 Monies so deducted from the staff member'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.
- 12.5 Unless other arrangements are agreed to by the Authority and the union, all union membership fees shall be deducted on a fortnightly basis.
- 12.6 Where a staff member 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 staff member to make a fresh authorisation in order for such deductions to continue.

13. Casual Employment

- 13.1 Pursuant to section 43 of the *Government Sector Employment Act 2013*, the Authority may engage casuals, for the staging of the annual events program, as part of the educational services tour program and to staff the Sydney Visitor Centres.
- 13.2 Hours of duty - The ordinary hours of duty of casual staff shall be worked between the hours of 6.00am and 10.00pm, seven days a week.

- 13.3 Penalty Rates - A casual shall be paid a loading of 15% for work commencing at or after 10pm and before 4am and 10% for work commencing at or after 4am and before 6am.
- 13.4 Where a casual is required to and does work on a Public Holiday, the casual shall be paid at two and a half times the rate for time worked. Such payment shall be in lieu of any other allowances or penalties which would have been payable if the day had not been a Public Holiday.
- 13.5 Minimum period of engagement - Casual staff shall be provided with a minimum period of three hours' work on each engagement or be paid for a minimum of three hours at the appropriate casual rate.
- 13.6 Rates of pay - The ordinary hourly rate of pay of casual staff shall be ascertained by dividing the annual salary for the relevant Common Salary Point in which the casual is employed by 52.17857, dividing the resultant answer by 35 and loaded by 20%. This loading shall be paid in lieu of all leave prescribed by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.
- 13.7 On termination of each period of casual engagement, the casual shall receive payment at the rate of 4/48th of monies received as compensation in recognition of the *Annual Holidays Act 1944*.
- 13.8 Overtime - All time worked by a casual outside or in excess of thirty five hours per week shall be deemed overtime, and be paid for at the appropriate hourly rate.
- 13.9 Termination - Casual staff members may be terminated by either the Authority or by the casual with three hours notice. In such circumstances remuneration shall only be payable up to and including the time of termination of the three hourly period of engagement. Casuals may be terminated by the Authority without notice in cases of serious and wilful misconduct.
- 13.10 Other - A casual shall be entitled to other payments applicable to other employees, including overtime and appropriate allowances where those payments or allowances are not covered by this clause.

14. Leave Entitlements

- 14.1 All leave shall be granted and administered in accordance with the leave provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 and subsequent variations.

15. Anti-Discrimination

- 15.1 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.
- 15.2 It follows that in fulfilling their obligations under the dispute settling 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.
- 15.3 It is the intention of the parties bound by this award to respect and value diversity in the workforce and to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace and in particular to ensure equal remuneration for men and women doing work of equal or comparable value.
- 15.4 Unlawful discrimination in the workplace includes any distinction, exclusion or preference made on any prohibited ground, which has the effect of denying or limiting equality of opportunity or treatment. Unlawful discrimination in the work place includes sexual harassment and harassment on any prohibited grounds.

- 15.5 The parties recognise that it is unlawful to victimise an employee because the employee has made or may make or has even been involved in a complaint of discrimination or harassment.
- 15.6 Accordingly, in fulfilling their obligations the parties bound by this award must take all reasonable steps to ensure that the award must take all reasonable steps to ensure that the award provisions do not unlawfully discriminate in their effect and that unlawful discrimination or victimisation does not occur in any aspect of employment.
- 15.7 Any employee or group of employees who has a genuine belief that they have been or are being unlawfully discriminated against in their employment, or have been or are being victimised, may lodge a grievance in accordance with the relevant dispute resolution procedures referred to in this award
- 15.8 Note section 56(d) of the *Anti-Discrimination Act 1977* states:
- "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."

16. Area, Incidence and Duration

- 16.1 This award shall apply to all casual staff employed by the Authority.
- 16.2 This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Crown Employees (Office of the Sydney Harbour Foreshore Authority) Award 2007 published 15 January 2016 (378 I.G. 1317), as varied.

The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 25 July 2019.

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

PART B

MONETARY RATES

Classification and Rates Schedules - Casual Staff

Effective from the beginning of the first full pay period to commence on or after 1 July 2018

Level	Common Salary Point	Base Hourly Rate Per Hour	20% Loading Per Hour Per Cl.13.6	4/48th Payment Per Hour Per Cl.13.7	Casual Full Rate Per Hour
1	17	\$26.3485	\$5.2697	\$2.6338	\$34.2520
2	28	\$29.4363	\$5.8873	\$2.9425	\$38.2660
3	40	\$32.8000	\$6.5600	\$3.2787	\$42.6387
4	49	\$35.6227	\$7.1245	\$3.5608	\$46.3081
5	61	\$39.8538	\$7.9708	\$3.9838	\$51.8083
6	69	\$43.1617	\$8.6323	\$4.3144	\$56.1084
7	78	\$47.1091	\$9.4218	\$4.7090	\$61.2400

Effective from the beginning of the first full pay period to commence on or after 1 July 2019

Level	Common Salary Point	Base Hourly Rate Per Hour	20% Loading Per Hour Per Cl.13.6	4/48th Payment Per Hour Per Cl.13.7	Casual Full Rate Per Hour
1	17	\$27.0072	\$5.4015	\$2.6996	\$35.1084
2	28	\$30.1722	\$6.0344	\$3.0160	\$39.2227
3	40	\$33.6203	\$6.7241	\$3.3607	\$43.7050
4	49	\$36.5133	\$7.3026	\$3.6498	\$47.4655
5	61	\$40.8501	\$8.1701	\$4.0834	\$53.1039
6	69	\$44.2407	\$8.8482	\$4.4223	\$57.5114
7	78	\$48.2868	\$9.6574	\$4.8268	\$62.7711

P. M. KITE, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (TRANSFERRED EMPLOYEES COMPENSATION) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 287273 of 2018)

Before Chief Commissioner Kite

25 July 2019

REVIEWED AWARD

1. Arrangement

Clause No.	Subject Matter
1.	Arrangement
2.	Parties to the Award
3.	Intent and Application
4.	Definitions
5.	Notice of Transfer
6.	Leave
7.	Travelling and Meal Expenses
8.	Temporary Accommodation Benefits - Commercially Rented
9.	Temporary Accommodation Benefits - Privately Rented
10.	Removal and Storage Expenses
11.	Depreciation and Disturbance Allowance
12.	Education of Children
13.	Reimbursement of Transaction Expenses
14.	Reimbursement of Incidental Costs
15.	Retirement and Death Benefits
16.	Additional Benefits
17.	Existing Entitlements
18.	Anti-Discrimination
19.	Grievance and Dispute Settling Procedures
20.	Area, Incidence and Duration

2. Parties to the Award

The parties to this award are:

Industrial Relations Secretary, and

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

3. Intent and Application

3.1 The intent of the parties to this award is to provide reimbursement towards expenses of employees transferred to work in a new location which, by necessity of that transfer, requires them to relocate their principal place of residence in accordance with the decision of the Full Bench of 16 October 2008 in matters no's. IRC 445 and 879 of 2008.

- 3.2 Where an existing or a new employee is otherwise ineligible for the benefits of this award an Agency Head may offer in writing to the new or existing employee any or all of the benefits available under this award on recruitment or appointment as part of an attraction and retention measure. The benefits must be clearly detailed in writing at the time of appointment. Such offers may also be made to temporary employees.
- 3.3 Where two employees who cohabit relocate together to the same location, reimbursement of expenses must not be claimed twice e.g. conveyance and stamp duty. Where applicable, both may claim the leave concessions.

4. Definitions

- 4.1 "Association" shall mean the Public Service Association and the Professional Officers' Association Amalgamated Union of New South Wales.
- 4.2 "Agency" means a Public Service agency specified in Schedule 1 of the *Government Sector Employment Act 2013*.
- 4.3 "Agency Head" means a person who is the Secretary of a Department or the head of another Public Service agency listed in Schedule 1 of the *Government Sector Employment Act 2013*.
- 4.4 "Dependant" means a person who lives in the principal place of residence of the employee and who is wholly or in part dependent on the employee for support.
- 4.5 "Employee" means a Public Service Senior Executive or Public Service employee employed on an ongoing, term or temporary basis as defined in the *Government Sector Employment Act 2013*.
- 4.6 "Excess rent" is rent which is paid for a private rental property in a new location which is above the affordable rate for the employee as defined in clause 9, Temporary Accommodation Benefits - Privately Rented of this award.
- 4.7 "Family member" is as defined in clause 81, Sick Leave to Care for a Family Member of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.
- 4.8 "Industrial Relations Secretary" is the Secretary of the Treasury.
- 4.9 "Reimbursement" or "reimbursed" means payment of an expense by the employer which is actually incurred by the employee, which the Agency Head is satisfied is reasonable, and for which adequate evidence is produced by the employee.
- 4.10 "Transferred Employee" means an employee who has been assigned to a new location and who, as a consequence of such assignment, finds it necessary to leave their existing residence and seek or take up a new residence, but shall not include an employee transferred:
- (a) at own request;
 - (b) who has applied for a role and obtained it through a merit selection process; or
 - (c) under an arrangement between officers to exchange positions; 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 Agency Head otherwise approves.

5. Notice of Transfer

- 5.1 The Agency Head will give, in writing, as long a period of notice of transfer as is practicable. A transferred employee will not be transferred with less than ten working days notice in writing except in special or urgent circumstances.

6. Leave

- 6.1 Transferred employees will be given special leave of up to five working days as necessary to carry out any of the following activities:
- 6.1.1 Visit the new location to obtain accommodation
 - 6.1.2 Prepare and pack personal and household effects prior to removal
 - 6.1.3 Arrange storage
 - 6.1.4 Travel to the new location for the purpose of commencing duty
 - 6.1.5 Clean the premises being vacated
 - 6.1.6 Occupy and settle into the new premises.
- 6.2 If satisfied that the activities referred to above cannot be completed within five working days, the Agency Head may grant additional special leave, as considered necessary.
- 6.3 Subject to operational requirements, where a transferred employee has not been able to secure permanent accommodation at the new location, the transferred employee will be entitled to special leave for the amount of time required to travel to and from their home to enable the transferred employee to spend two consecutive days and nights at home each four weeks. Where a public holiday occurs immediately before or after such leave, the leave will be extended by a day and a night for each such public holiday.
- 6.4 Where this is not practical due to the distance home, a transferred employee will accumulate two days special leave per four weeks until a return home is practical. This leave will be taken at a time suitable to the Agency Head and the transferred employee.

7. Travelling and Meal Expenses

- 7.1 A transferred employee shall be entitled to an economy air fare or reimbursement for the use of a private vehicle paid at the casual rate for motor vehicle allowances as set out in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, on the following basis:
- 7.1.1 For the transferred employee and one member of the household to travel to the new location to seek accommodation.
 - 7.1.2 For the transferred employee and all members of the household to travel to the new location to commence duty. Where the members of the household do not travel with the transferred employee to commence duty the cost of their personal transport will be deferred until such time as they travel to take up residence at the new location.
 - 7.1.3 For the transferred employee proceeding on special leave under subclauses 6.3 and 6.4 of clause 6, Leave, of this award.
- 7.2 Where a transferred employee elects to use a private vehicle the motor vehicle allowance shall not exceed the equivalent cost of economy air fares.
- 7.3 Transferred employees travelling to the new location to commence duty who elect to use a private vehicle shall be paid at the official business rate.

- 7.4 When a transferred employee, travels to the new location to seek new accommodation he or she will be reimbursed for overnight accommodation and meals for the journey to and from the new location for two people under clause 26, Travelling Compensation, of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

8. Temporary Accommodation Benefits - Commercially Provided

- 8.1 Temporary accommodation benefits will be reimbursed for a period of up to four weeks to transferred employees who are relocated and use commercially provided accommodation such as a hotel. Such benefits are available in three forms:

8.1.1 Transferred employees without dependant relatives will be reimbursed up to 50% of the cost of accommodation provided that the total amount to be reimbursed does not exceed \$254 per week.

8.1.2 Transferred employees with dependant relatives will be reimbursed up to a maximum of \$254 per week plus an additional \$27 for each dependent child 6 years and over (max. contribution \$54 per week), where the cost of accommodation exceeds the amount calculated in the following table:

Salary of Transferred Employee and Spouse \$ per annum	Amount \$ per week	Each Dependant Child 6 yrs of age and over (max. contribution \$54 per week) \$ per week
Up to 28,233	218	27
28,234 to 35,980	239	27
35,981 to 46,258	262	27
46,259 to 59,477	324	27
59,478 and over	412	27

8.1.3 A transferred employee required to move to the new location ahead of the dependants will be reimbursed up to a maximum of \$254 per week, providing the cost of accommodation is in excess of \$51 per week.

- 8.2 To be eligible for any Temporary Accommodation Benefit a relocated transferred employee is, by necessity, required to vacate the existing residence prior to departure for the new location and secure board and lodging (including for dependants, where applicable) at the new location pending a residence becoming available.

- 8.3 This clause will not apply to Government-owned residences.

- 8.4 Where the period of four weeks referred to in subclause 8.1 of this clause is not sufficient for the transferred employee to obtain suitable permanent accommodation, the Agency Head will consider each case on its merits but will require full particulars to be supplied.

- 8.5 Temporary Accommodation Benefits will not be paid to more than one person per household.

- 8.6 The Agency Head will discontinue payment of Temporary Accommodation Benefits if satisfied the transferred employee has rejected suitable accommodation.

9. Temporary Accommodation Benefits - Privately Rented

- 9.1 Where a transferred employee secures privately rented accommodation (e.g. a private house) at his or her new location and incurs excess rent then the transferred employee shall receive assistance as per the table below:

Employee with 2 or more dependant children	\$68 per week
Employee with 1 dependant child	\$59 per week
Employee without dependant children	\$51 per week

9.2 The formula for excess rent is as follows.

Excess rent in respect of any transferred employee means rent in excess of the employee's weekly contribution calculated as follows:

$$\text{Contribution} = \text{Substantive salary} \times \frac{(\text{Substantive salary} + 2927)}{101,840}$$

"An employee's weekly contribution" shall be the "Contribution" as above multiplied by 7 and divided by 365.25

The formula for calculating an employee's weekly contribution is based on:

- (a) 15% of the salary of a General Scale Clerk, Step 10 A&C
- (b) 20% of the salary of Clerk, min. Grade 4 A&C
- (c) 25% of the salary of Clerk, min. Grade 7 A&C

In the event of movement in the salaries for these classifications in the Crown Employees (Administrative and Clerical Officers - Salaries) Award 2007, the formula will be varied as follows:

replacing the figure of 101,840 by ten times the difference between the salaries for the Step 10 of the General Scale and for the minimum of Grade 7, A&C and,

replacing the figure of 2,927 by the difference between the salary for the Step 10 of the General scale and 15% of the figure referred above.

9.3 Agency Heads may require transferred employees to show evidence of difficulties in obtaining cheaper private accommodation, including the provision by a transferred employee of a statutory declaration.

9.4 In exceptional circumstances, Agency Heads may extend excess rent payments beyond six months, including in areas where there is an acute shortage of housing of a reasonable standard, and areas experiencing extremely high rents due to conditions which are abnormal compared with those generally in New South Wales.

10. Removal and Storage Expenses

10.1 A transferred employee shall be entitled to reimbursement for the costs incurred in removing personal and household effects to the new location, including:

10.1.1 Expenses reasonably incurred by transferred employees and their families for meals and accommodation during the course of the journey.

10.1.2 Cost of transporting a second vehicle by either rail, road transport or driving (motor vehicle allowance to be paid at the casual rate) to the transferred employee's new location.

10.1.3 Cost of insuring furniture and effects whilst in transit up to an amount of \$38,000. If the insured amount exceeds that amount, the case may be referred to the Agency Head for consideration.

10.1.4 An advance payment to cover the whole or part of the removal expenses provided that the transferred employee repays any unused portion within one month of incurring the cost of removal, unless the Agency Head otherwise approves.

10.1.5 Meal and accommodation expenses reasonably incurred where, due to circumstances beyond the control of the transferred employee, the furniture and household effects arrive late at the new location, or are moved before the transferred employee's departure from the former location.

- 10.2 Where the Agency Head is satisfied that a transferred employee is unable to secure suitable accommodation at the new location and is required to store furniture, reimbursement for the cost of transport and storage will be made. The transferred employee shall also be allowed the cost of insurance of furniture while in storage on the same basis as prescribed in paragraph 10.1.3 of this clause.

11. Depreciation and Disturbance Allowance

- 11.1 Where the Agency Head is satisfied that the transferred employee has removed a substantial portion of the household's furniture, furnishings and fittings, the transferred employee will be paid a Depreciation and Disturbance Allowance of \$1,126 compensation for the accelerated depreciation of personal and/or household effects to the value of \$7,037 or pro rata if the value is less.

12. Education of Children

- 12.1 A transferred employee will be reimbursed for accommodation expenses exceeding \$27 per week, up to a maximum of \$56 per week, for each dependent child undertaking Year 12 where the elected subjects are not available at a school in the transferred employee's new location. The transferred employee will be required to provide a certificate from the Department of Education confirming that the elected subjects are not available at the transferred employee's new location.
- 12.2 A transferred employee will be reimbursed costs for the replacement of essential school clothing and ancillary items for each dependent child required to change schools as a result of the employee's transfer from the former location to the new location subject to advice from the new school.

13. Reimbursement of Transaction Expenses

- 13.1 A transferred employee who sells a residence at the former location and buys a residence (or land upon which to build a residence), as a result of the transfer to the new location, will be reimbursed for Transaction Expenses.
- 13.2 Such Transaction Expenses will include:
- 13.2.1 Professional costs and disbursements of a solicitor or registered conveyancing company;
 - 13.2.2 Stamp duty on the purchase;
 - 13.2.3 Real estate agent commission on the sale of former residence;
 - 13.2.4 Registration fees on transfers and mortgages on the residence, or the land and a house erected on the land;
 - 13.2.5 Stamp duty paid in respect of any mortgage entered into or the discharge of mortgage in connection with transactions for the sale and purchase.
- 13.3 Transaction expenses will only be paid where the sale and purchase are completed up to 2 years after any relocation.
- 13.4 Other than for stamp duty as detailed in subclause 13.5 of this clause, a maximum property value of \$520,000 per property for sale and purchase will determine the limit of Transaction Expenses paid to a transferred employee.
- 13.5 Stamp duty will be paid in full where occupation of the residence occurs within fifteen months from the date of commencement at the new location. Where occupation of the residence occurs after 15 months but within 2 years from the date of commencement at the new location, reimbursement of stamp duty will not exceed the property value of \$520,000.
- 13.6 Transaction Expenses will be paid where the sale and purchase transactions are completed no earlier than 6 months prior to commencing work at the new location.

- 13.7 The Agency Head may consider payment of transaction expenses on a sale and/or purchase of a residence more than 2 years after relocation, if satisfied there is good reason. The transferred employee must provide full details of why the sale and/or purchase could not be completed within the 2 year period.
- 13.8 A transferred employee who does not sell a residence at the former location, but buys a residence at the new location (or land upon which to build a residence), shall be entitled to reimbursement for Transaction Expenses outlined in this clause, provided the transferred employee enters into occupation within 15 months of transfer to the new location.

14. Reimbursement of Incidental Costs

- 14.1 The transferred employee will receive reimbursement for the following Incidental Costs of relocation:
- 14.1.1 Council rates and charges levied upon an unsold former residence for any period during which the former residence remains untenanted to allow the sale of the property of the relocating transferred employee;
- 14.1.2 Gas and electricity connection costs to the new residence, and telephone connection provided the telephone was connected at the transferred employee's former residence;
- 14.1.3 Survey certificates and pest inspection costs for the new residence;
- 14.1.4 Mail re-direction from the former residence to the new residence for 1 month.

15. Retirement and Death

- 15.1 Upon retirement from the Public Service the transferred employee will enjoy the benefits of clause 10, Removal and Storage Expenses of this award for relocation to a place of their choice within the State of NSW provided the transferred employee's relocation is effected within 12 months following the date of retirement.
- 15.2 In the event a transferred employee dies, the partner and dependent children or dependant relatives will receive the benefits of clause 10, Removal and Storage Expenses, of this award for relocation to a single place of their choice within the State of NSW. Claims under this subclause may be made up to 12 months after the death of the transferred employee.
- 15.3 For retirement and death the maximum amount of reimbursement will be limited to that payable had the transferred employee moved to the place of original recruitment to the Public Service.
- 15.4 "The place of original recruitment" means the address of the workplace where the transferred employee first began duty with the NSW Public Service.

16. Additional Benefits

- 16.1 Subject to approval from the Industrial Relations Secretary, an Agency Head may offer additional support or benefits not specifically referred to in this award to assist in the attraction, recruitment or relocation of an employee to a location. For example, this may include assistance with housing, education or career development expenses.

17. Existing Entitlements

- 17.1 This award shall not operate to deprive a transferred employee assigned to work at a new location, prior to the making of this award, of any existing entitlements to compensation.

18. Anti-Discrimination

- 18.1 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.

- 18.2 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.
- 18.3 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.
- 18.4 Nothing in this clause is to be taken to affect:
- 18.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;
- 18.4.2 offering or providing junior rates of pay to persons under 21 years of age;
- 18.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
- 18.4.4 a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- 18.5 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.
- 18.5.1 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- 18.5.2 Section 56(d) of the *Anti-Discrimination Act 1977* provides:
- "Nothing in the Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

19. Grievance and Dispute Settling Procedures

- 19.1 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 Division, if required.
- 19.2 An employee is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- 19.3 Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti-Discrimination Act 1977* that makes it impractical for the employee to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Agency Head or delegate.
- 19.4 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.
- 19.5 If the matter remains unresolved with the immediate manager, the employee may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager 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 Agency Head.

- 19.6 The Agency Head may refer the matter to the Industrial Relations Secretary for consideration.
- 19.7 If the matter remains unresolved, the Agency 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.
- 19.8 An employee, at any stage, may request to be represented by the Association.
- 19.9 The employee or the Association on their behalf or the Agency Head may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 19.10 The employee, Association, Agency 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.
- 19.11 Whilst the procedures outlined in subclauses 19.1 to 19.10 of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or, in the case involving occupational health and safety, if practicable, normal work shall proceed in a manner which avoids any risk to the health and safety of any employee or member of the public.

20. Area, Incidence and Duration

- 20.1 This award is made following a review under section 19 of the *Industrial Relations Act* 1996 and rescinds and replaces the Crown Employees (Transferred Employees Compensation) Award published 15 January 2016 (378 I.G. 1527), as varied.

The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act* 1996 and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 IG 359) take effect on and from 8 May 2019.

- 20.2 Changes made to this award subsequent to it first being published on 28 August 2009 (368 I.G.1521) have been incorporated into this award as part of the review.
- 20.3 This award remains in force until varied or rescinded, the period for which it was made having already expired.

P. M. KITE, *Chief Commissioner*

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

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 289483 of 2018)

Before Chief Commissioner Kite

25 July 2019

REVIEWED AWARD

1. Arrangement

PART A

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6.	Implementation of 38 Hour Week
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PART B

MONETARY RATES

- Table 1A - Former Wages
- Table 1B - Wages - Support Worker Classifications
- Table 1C - New Wages - Child Care Classifications Long Day Care
- Table 1D - New Wages - Child Care Classifications Pre-Schools
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- Appendix A - Casual Service Card
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2. Name of Award

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

3. Definitions

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

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

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

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

- (v) Day - means the period from midnight to midnight.

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

4. Contract of Employment

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

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

- (iii) The employment of a casual employee may be terminated by one hour's notice.
- (iv) Upon request by an employee, the employer shall give an employee a signed statement of service upon termination. Such statement shall certify the period of commencing and ceasing employment and the class of work upon which the employee was employed. Note: with respect to casual employees, see paragraph (e) of subclause (i) of clause 8, Classification Structure, of this award.
- (v) Employees terminating employment shall be paid all wages and other monies due forthwith, including any payments which may be due in lieu of annual leave and/or long service leave.
- (vi) Flexibility of Work
 - (a) An employer may direct an employee to carry out such duties as are within the limits of the employee's skills, competence and training consistent with the classification structure of this award, provided that such duties are not designed to promote de-skilling.

- (b) Persons employed as Child Care Workers may be required to assist with duties incidental to their primary contact care role.
- (c) Any direction issued by an employer shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

4A. Secure Employment Provisions

(i) Objective of this Clause

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

(ii) Casual Conversion

- (a) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (b) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (c) Any casual employee who has a right to elect under paragraph (ii)(a), upon receiving notice under paragraph (ii)(a) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer 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.
- (d) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (ii)(c), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (ii)(c), discuss and agree upon:
 - (1) whether the employee will convert to full-time or part-time employment; and
 - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

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

- (g) Following an agreement being reached pursuant to paragraph (e), the employee 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.
 - (h) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (iii) Work Health and Safety
- (a) For the purposes of this subclause, the following definitions 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.
 - (b) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
 - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
 - (c) Nothing in this subclause (iii) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Work Health and Safety Act 2011* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (iv) Disputes Regarding the Application of this clause

Where a dispute arises as to the application or implementation of this clause, the matter 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.

- (vi) Exemption

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

5. Hours

- (i) Ordinary Working Hours - The ordinary working hours, inclusive of crib breaks, shall not, without payment of overtime, exceed an average of thirty eight per week. Such hours shall be worked as follows:
 - (a) Day Workers - Between the hours of 6.30 a.m. and 6.30 p.m., Monday to Friday inclusive. The above hours shall be worked on each day in either one or two shifts provided that the total hours worked on any day shall not exceed the applicable hours provided for in clause 6 Implementation of 38 Hour Week without payment for overtime.
 - (b) Shift Workers - Fixed shifts of a duration provided for in clause 6, Implementation of 38 Hour Week, to be worked on five days of the week, Monday to Sunday inclusive.
- (ii) Notification of Hours - The employer shall, by legible notice displayed at some place accessible to the employees, notify the ordinary hours of commencing and ceasing work and the ordinary times of meal or crib breaks. Such hours, once notified, shall not be changed without the payment of overtime except by seven days' clear notice to the employee, or by mutual agreement between the employer and employee to waive or shorten the notice period, or due to an emergency outside the employer's control.

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

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

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

- (iii) Rest Pauses - All employees shall be allowed a rest break of ten minutes per shift between the second and third hour from starting time and, if the work exceeds seven hours from starting time the employee shall be allowed a further rest break of ten minutes, to be taken at a time mutually convenient to the employer and the employees in the establishment concerned, subject to the provisions relating to the supervision of children under the *Children and Young Persons (Care and Protection) Act 1998*.
- (iv) Crib Breaks - Not more than thirty minutes nor less than twenty shall be allowed to employees each day for a midday crib break between the fourth and fifth hour if such employee's shift exceeds five hours from commencement of work. Such crib breaks shall be counted as time worked.

Provided however that employee may, by agreement with the employer, leave the premises during the crib break. Where such reasonable request has been made by an employee, the employer shall give favourable consideration to any such request having regard to the provisions of the *Children and Young Persons (Care and Protection) Act 1998* relating to supervision of children. Such time away from the premises shall not count as time worked nor shall any payment be made for such time. A record of unpaid lunch periods shall be kept in the Time and Wages records.

- (v) Unpaid Meal breaks for those employed on or after 28 August 2000. An employer may direct an employee engaged on or after 28 August 2000 to take an unpaid meal break of up to thirty minutes between the fourth and fifth hour of the employee's shift provided that the shift exceeds five hours and

having regard to the provisions of the *Children and Young Persons (Care and Protection) Act 1998* relating to supervision of children. During this unpaid time, the employee may leave the premises.

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

6. Implementation of 38 Hour Week

6A. Ordinary Hours of Work

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

6B. 19 Day Month

- (iv) An employee shall accrue two hours per week or 0.4 of an hour (i.e., 24 minutes) for each eight hour shift or day worked, to give an entitlement to take an accrued rostered day off in each four week cycle as though worked.
- (v)
 - (a) Each day of paid leave taken (including annual leave but not including long service leave or any period of paid or unpaid stand-down as provided in clause 4 (ii) of this award) and any public holiday occurring during any cycle of four weeks shall be regarded as a day worked for accrual purposes. Provided however that accrued days off shall not be regarded as part of annual leave for any purpose.

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

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

6C. Implementation of 19 Day Month

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

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

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

- (x) Establishments Operating 41 - 47 Weeks

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

6D. Part Time Employees

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

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

- (b) Where rostered days off are taken the provisions of subclause 6C of this clause shall apply.

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

6E. Casual Employees

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

7. Rostered Days Off Duty

(i) Rostering

- (a) Notice - Except as provided in paragraph (b), an employee shall be advised by the employer at least four weeks in advance of the day or days he or she is to be rostered off duty.
- (b) Substitution - An individual employee with the agreement of the employer may substitute the day he or she is rostered off duty for another day.
- (c) Payment of Wages - Subject to clause 14, Payment of Wages, of this award, where an employee is paid by cash or cheque and such employee is rostered off duty on a day which coincides with pay day, such employee shall be paid no later than the working day immediately following pay day.
- (d) Accumulation - Rostered days off may accumulate in accordance with subclause (iv) of clause 6, Implementation of 38 Hour Week, of this award.

- (ii) Payment of Rostered Days Off - For every ordinary hour paid for, payment to the employee of one twentieth (5%) of the hourly rate will be withheld by the employer and then paid in the pay week in which the employee's rostered day off is taken. Notation: The withholding of payment for rostered days off for part time employees may also be implemented by applying a divisor of 40 in lieu of a 38 divisor to the appropriate full time rate of pay used to determine the part time rate applicable.

- (iii) Rostered Day Off Falling on a Public Holiday - Where an employee's rostered day off falls on a public holiday the employee and the employer shall agree to the substitution of an alternative day off. Provided however that where such agreement is not reached the substituted day may be determined by the employer.

- (iv) Sick Leave and Rostered Days Off - An employee is not eligible for sick leave in respect of absences on rostered days off as such absences are outside the ordinary hours of duty.

- (v) Bereavement & Rostered Days Off - An employee shall not be entitled to payment for Bereavement leave in respect of absences on rostered days off as such absences are outside the ordinary hours of duty.

- (vi) Work on Rostered Day Off - Except as provided in paragraph (b) of subclause (i) of this clause, any employee required to work on a rostered day off shall be paid in accordance with the provisions of clause 12, Overtime, of this award and an alternative day shall be granted as a rostered day off.

8. Classification Structure

(i) Implementation of Classification Structure

- (a) The employer shall determine the appropriate classification for each position in the service having regard to the needs of the service. The employer may choose not to appoint anyone to a particular classification in the Award, subject to the provisions of the *Children and Young Persons (Care and Protection) Act 1998* and/or the *Children's Services Regulations 2004*.

- (b) An employee will be appointed to the position and the corresponding classification in this award having regard to the duties required by the employer to be undertaken by the employee, the qualifications of the employee and the employee's length of service.
- (c) An employee shall commence on the step in the appropriate classification commensurate with the number of years of employment in early childhood and child care services for children aged 0 - 12 years whether conducted by the employer or not and shall progress thereafter in accordance with the award.

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

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

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

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

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

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

(ii) Classification Structure

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

Child Care Support Worker (as defined)

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

Child Care Worker (as defined)

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

Advanced Child Care Worker (as defined)

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

Advanced Child Care Worker (Qualified) (as defined)

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

Assistant Co-ordinator (as defined)

Assistant Co-ordinator Qualified (as defined)

Co-ordinator (as defined)

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

Co-ordinator Qualified (as defined)

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

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

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

assisting a qualified cook;

laundry work;

cleaning;

gardening;

cooking (where the employee is unqualified);

driving (as part of other duties);

handy work; and

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

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

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

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

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

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

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

assist to implement daily routines;

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

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

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

understand and work according to the service policies and procedures;

assist in the development and/or evaluation of the program;

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

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

communicate with parents as instructed;

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

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

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

- (d) An employee at this level may be required by the employer to possess and maintain a current first aid certificate recognised under the *Children and Young Persons (Care and Protection) Act 1998*.
 - (e) Employees appointed to the position of child care worker, but required to perform the duties of an advanced child care worker, will be paid the higher rate applicable to that classification.
- (vi) Advanced Child Care Worker - means an unqualified carer appointed by the employer with the responsibility to develop, plan and implement the child care program. An employee at this level is responsible to the overall employer of a service and may be responsible for the direction of other staff within the group for which they have responsibility. An employee at this level may be required by the employer to perform some or all of the following duties:

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

ensure the maintenance of a healthy and safe work environment;

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

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

maintain appropriate and up-to-date records;

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

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

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

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

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

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

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

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

ensure the maintenance of a healthy and safe work environment;

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

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

maintain appropriate and up-to-date records;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

manage staff through liaison and consultation with the employer;

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

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

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

ensure all appropriate records are maintained;

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

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

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

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

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

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

prepare and present reports regarding Service issues;

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

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

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

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

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

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

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

manage staff through liaison and consultation with the employer;

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

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

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

ensure all appropriate records are maintained;

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

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

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

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

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

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

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

prepare and present reports regarding service issues;

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

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

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

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

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

9. Wages

- (i) Full-Time Employees
 - (a) Rates:- The minimum rate of pay for the classifications as set out in clause 8, Classification Structure, of employees engaged in Long day Care Centres or services operating more than 41

- weeks per year shall be the rates as set out, in Tables 1B and 1C - Wages, of Part B, Monetary Rates.
- (b) Rates:- The minimum rate of pay for the classifications as set out in clause 8, Classification Structure, of employees engaged in Pre-Schools or services operating 41 weeks per year shall be the rates as set out, in Tables 1B and 1D - Wages, of Part B, Monetary Rates.
- (c) The rates of pay in this award include the adjustments payable under the State Wage Case 2018. These adjustments may be offset against:
- (i) any equivalent overaward payments, and/or
 - (ii) award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.
- (ii) Savings Clause - Leading Hand and First Aid Allowance: With the exception of employees classified as Co-ordinators under the new structure, an employee who is employed as at July 8, 1997 and who is currently appointed as a leading hand and/or appointed first aid attendant and is in receipt of an allowance for such appointment(s) shall continue to receive the amount of such allowance(s), as an over award payment, whilst they continue in employment in that position with that employer.
- (iii) Part time Employees:
- (a) Rates - For each hour worked during ordinary time, part-time employees shall be paid the hourly equivalent of the minimum weekly wage prescribed by this award for the class of work performed by them.
 - (b) Minimum Starts
 1. Child Care Support Worker. A part-time employee engaged as a Child Care Support Worker or Child Care Support Worker (Qualified Cook) working a single shift on any day shall be paid a minimum of two hours for each start.
 2. Out of School Hours Care. A part-time employee working a single shift shall be paid a minimum of two hours for each start.
 3. Broken Shift Workers. A part-time employee working a broken shift pursuant to paragraph (a) Day Workers of subclause (i) of clause 5, Hours, of this award, shall be paid a minimum of two hours for each of the two shifts so worked.
 4. All other part-time employees shall be paid a minimum of three hours for each start.
- (iv) Casual Employees
- (a) Rates. Casual employees, for each hour worked during ordinary time shall be paid the hourly equivalent of the minimum weekly wage prescribed by this award for the class of work performed by them, plus an additional amount of 15 per centum of the appropriate weekly rate. Casuals are entitled to annual leave payments under the *Annual Holidays Act 1944*. The employer must make the payment by adding an additional one twelfth of the ordinary time casual hourly rate to the aggregate ordinary pay after each engagement.
 - (b) Minimum Starts
 1. Child Care Support Worker A casual employee engaged as a Child Care Support Worker or Child Care Support Worker (Qualified Cook) working a single shift on any day shall be paid a minimum of two hours for each start.
 2. Out of School Hours Care A casual employee working a single shift shall be paid a minimum of two hours for each start.

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

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

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

- (vii) Junior Employees (Special Conditions): Junior employees employed otherwise than in accordance with subclause (vii), of this clause, shall be paid the appropriate adult rate of pay. The employment of junior employees is further subject to the following conditions:-
- (a) The ratio of juniors to adults employed in any capacity in any establishment shall not exceed the following ratios -
- Where up to 20 children are catered for - one junior to one adult.
- Where over 20 children are catered for - one junior to two adults.
- (b) Junior employees engaged as trainee Advanced Child Care Worker shall be required, as a condition of employment, to train as such employees shall attend the Associate Diploma of Social Science (Child Studies) Course or such other technical college course as is necessary.
- (c) The employer shall, in respect of each trainee Advanced Child Care Worker, pay all fees and charges necessary to attend and complete the said course and shall, if necessary, allow the employee time off duty without deduction of pay to attend the said course.

10. Additional Rates and Allowances

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

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

- (ii) Broken Shifts - Employees working broken shifts as provided in paragraph (a) of subclause (i), of clause 5, Hours, shall be paid the following additional allowances:
- (a) For each broken shift so worked - a shift allowance in accordance with Item 1 of Table 2, Additional Rates and Allowances, of Part B, Monetary Rates.

- (b) Excess fares allowance - at the rate in accordance with Item 2 of the said Table 2.
- (iii) Uniform Laundry Allowance - In the event of an employee being required to wear a uniform such uniform shall be provided by and laundered at the employer's expense, or, by mutual agreement, such employees shall be paid a uniform laundry allowance, in accordance with Item 3 of the said Table 2.
- (iv) Cooks Uniform Laundry Allowance - Where an employer requires a cook to wear an ordinary white overall or wrap, coat, cap, apron and trousers, usually worn by cooks, such garments shall be laundered either at the employer's expense or at the option of the employer, the employee shall be paid a cooks uniform laundry allowance, in accordance with Item 4 of the said Table 2.
- (v) First Aid Certificate:
 - (a) If an employer requires an employee who is not required to have a first aid certificate under the award definition of the classification, to obtain and/or maintain such a qualification, the employee shall be allowed time off without loss of pay for the purpose of completing the course required. The cost of the course shall be met by the employer.
 - (b) Employers who require employees to attend to medical procedures such as administering eye drops, suppositories and drip feeding shall ensure staff are adequately trained in such procedures, before being required to undertake them. The cost of any such training will be met by the employer.
- (vi) Qualification Allowances
 - (a) An employee who has completed successfully the Commercial Cookery Basic Training Course at TAFE or a course deemed by the employer to be an equivalent qualification, shall be paid an additional allowance in accordance with Item 5 of the said Table 2, such amount shall be part of the ordinary rate of pay for all award purposes.
 - (b) An employee who has completed successfully the Hotel and Restaurant Cookery Course at the Sydney Technical college or a course deemed by the employer to be an equivalent qualification, shall be paid an allowance in accordance with Item 6 of the said Table 2, such amount shall be part of the ordinary rate of pay for all award purposes.
 - (c) An employee shall advise the employer of the date of completion of such course as specified in paragraph (a) and/or (b) of this subclause.
- (vii) The rate of pay for a Support Worker (Qualified Cook) provided for in subclause (i) of clause 9, Wages, of this award shall include any allowance for the responsibility of directing or supervising the duties of an assistant cook when such is employed.
- (viii) Board and Lodging : An employer shall not be compelled to board and/or lodge any worker but where board and/or lodging are provided the employer shall be entitled to deduct in respect of all workers the following amounts:-
 - (a) For full board of twenty-one (21) meals per week, an amount equal to 18.5 per cent of the adult basic wage.
 - (b) For full lodging for seven (7) days per week, an amount equal to 7 per cent of the adult basic wage.
 - (c) Where by mutual consent, part board and/or part lodgings are provided the deductions referred to in subclauses (a) and (b), of this clause, may be made on a pro-rata basis. Non-residential employees shall not suffer any deductions for meals provided unless by mutual consent.
- (ix) Authorised Supervisor Allowance: An employee (other than a Co-ordinator: Qualified or a Co-ordinator) who is required by the employer to act as an Authorised Supervisor in accordance with the *Children and Young Persons (Care and Protection) Act 1998*, as amended, shall be paid an amount as

set out in Item 8, of the said Table 2. The daily rate for such allowance shall be calculated by dividing the weekly allowance by 5.

11. Saturday and Sunday Work

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

Saturday Work	Time and one-half
Sunday Work	Double time

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

12. Overtime

- (i) Subject to subclause (iii) of this clause and subclauses (iii) and (iv) of clause 11, Saturday and Sunday Work, of this award, for all work done outside ordinary hours the rates of pay shall be time and one half for the first two hours and double time thereafter. In computing overtime each day's work shall stand alone.
- (ii) Where overtime or extra shifts are required to be worked, the employer shall give preference for such work to employees as classified and covered by the terms of this award where it is reasonably practicable to do so.
- (iii) Part-time employees -
- If a part-time employee agrees to work additional hours, the additional hours must be paid at the same rate as full time employees are paid under the award. The work must be paid for at the ordinary hourly rate for all hours unless they fall outside the ordinary hours fixed by this Award for full-time employees. Any hours worked in addition to ordinary full-time hours must be paid at the overtime rate applicable to full-time employees under this Award.
- (iv) Meal Money: An employee required to work overtime in excess of one and one half hours shall either be paid an allowance in accordance with Item 7 of Table 2 of Part B, Monetary Rates or be supplied with a meal of equivalent value.
- (v) Time Off in Lieu of Overtime: Where an employee performs duty on overtime the employee may at the employee's request and with the agreement of the employer subsequently be released from duty in ordinary hours subject to the following conditions:
- (a) The agreement shall be in writing and be kept with the time and wages records;

- (b) Where an employee takes subsequent time off the relevant and equivalent period of overtime shall be paid for at ordinary rates of pay; all other overtime worked and in respect of which time off is not taken shall be paid for at the appropriate overtime rate otherwise provided in this award;
 - (c) Where an employee elects to take any period/s of time off in ordinary hours in accordance with this clause such time off shall be with pay and shall equate to the relevant period/s of overtime worked;
 - (d) Time off may be taken only in respect of overtime worked between Monday to Friday inclusive;
 - (e) Payment for any period/s of overtime worked and in relation to which the employee elects to take time off may be paid by the employer to the employee in the pay period in which the time off is taken;
 - (f) An employee may not accumulate more than 20 hours of equivalent time off which shall be taken within four weeks of its accrual. Where such time off is not taken the period/s of overtime referable thereto shall be paid for in the next relevant pay period at the appropriate overtime rate otherwise applicable.
- (vi) Reasonable Overtime: Subject to clause (vii) an employer may require an employee to work reasonable overtime at overtime rates.
- (vii) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
- (viii) For the purposes of clause (vii) what is unreasonable or otherwise will be determined having regard to:
- (1) any risk to employee's health and safety;
 - (2) the employee's personal circumstances including any family responsibilities;
 - (3) the needs of the workplace or enterprise;
 - (4) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
 - (5) any other relevant matter.

13. Make Up Time

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

14. Payment of Wages

- (i) Wages shall be paid weekly or fortnightly in ordinary working time. An employee kept waiting after the normal ceasing time for the payment of wages shall be paid at overtime rates from the normal ceasing time until payment is made. Casual employees shall be paid within one hour of the termination of the employment or on the normal pay day for the establishment.
- (ii) Where an employer and employee agree, the employee may be paid the employee's wages by cheque or direct transfer into the employee's bank (or other recognised financial institution) account. Notwithstanding this provision, if the employer and the majority of employees agree, all employees may be paid their wages by cheque or direct transfer into an employee's bank (or other recognised financial institution) account.

- (iii) Where payment is made by cheque the employer shall ensure that clearance of such cheque is made available by the appropriate bank or, alternatively, an employer may make a direct deposit by cheque to the appropriate bank for transfer to nominated employee accounts to ensure access by the employee to wages on the nominated pay day.

15. Miscellaneous Conditions

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

16. Job Sharing

- (i) Definitions 'Job Sharing' may be defined as the occupation of a full-time or part-time position by two employees (job sharers) sharing all of the duties and responsibilities of the position.
- (ii) General Employment Conditions
 - (a) A job share position shall only be created by mutual agreement between the employer and the employee occupying the position to be job shared.
 - (b) Subject to the provisions of subclause (iii) of this clause relating to overtime, job sharers will be employed on pro-rata hours, wages and conditions for the relevant classification or grade of the position filled.
 - (c) Before any job sharing arrangements are approved, the employer shall provide each prospective job sharer with a copy of this clause and obtain her or his acceptance of the job share position to be worked.
 - (d) Job sharers will discuss with the employer arrangements to determine how the job is to be split and agree the hours to be worked by each job sharer including the arrangements to be adopted when one job sharer is absent.
 - (e) Where a job share position is of a specific duration and instead of being filled by two existing employees an additional employee must be engaged to share the position, such additional

employee shall be advised that the position is only available for the duration sought and approved.

(iii) Hours of Duty

- (a) The hours of work of job sharers shall be worked in accordance with clause 5, Hours, of this award.
- (b) The hours of job sharers once established will not be changed except by mutual consent of both the job sharers and the employer or subject to the operational requirement of the centre. Where an employer is required to change a job sharers hours because of the operational requirement of the centre, the employer shall give the job share employees notice in accordance with subclause (ii) of clause 5, Hours, of this award.
- (c) The total weekly hours of job sharers of a full-time position shall not exceed an average of 38 hours per week to be worked in accordance with Clause 6, Implementation of the 38 Hour Week. Hours worked in excess of the arrangements set out in the said Clause 6 by a job sharer shall be paid in accordance with clause 12, Overtime, of this award.
- (d) Job Sharers shall not be entitled to accrue credits towards rostered days off provided for under clause 6, Implementation of 38 Hour Week and clause 7, Rostered Days Off Duty, of this award.

(iv) Leave

- (a) Job sharers shall be entitled to all leave provisions available under this award on a pro rata basis.
- (b) Job sharers may take annual leave or other leave at the same time or separately.
- (c) Job sharers may be asked and may agree to cover for the absences of the other job share employees. Such coverage may be either for part of the absence or for the full period.
- (d) All leave arrangements wherever possible will be made by mutual agreement between both job sharers and the employer.
- (e) Where a job share employee agrees to cover for the other job share employee whilst he or she is on leave, they shall be paid at ordinary rates for the extra days or extra hours worked subject to the provisions of paragraph (f) of this subclause.
- (f) Where the absence of one job sharer on leave is covered by the other job sharer the aggregate number of hours worked shall not exceed those of a full-time employee without the payment of overtime.

(v) Redundancy. Subject to the provisions of clause 27, Redundancy, of this award where a job share position is made redundant then the job sharers shall be entitled to the provisions of the said clause 27.

(vi) Termination of Employment

- (a) The position of a job sharer may be terminated in accordance with the relevant provisions of clause 4, Contract of Employment, of this award.
- (b) Where one job sharer has terminated the position of the remaining job sharer shall not be prejudiced.
- (c) Where one job-sharer has terminated, the position may be filled internally or externally provided that any replacement employee is advised of the job share nature of the position and particularly when the position is of a specific duration, or the remaining job-sharer may be offered the option of occupying the full position on a permanent basis.

- (d) Any replacement employee shall also be advised of the provisions of this clause applying to the job share position.

17. Relieving in Other Positions

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

18. Sick Leave

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

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

Payment During the Initial Three Months of Service

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

Infectious Diseases at the Centre or Service

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

Workers Compensation

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

Definition of Week

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

Savings for sick leave accruals

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

19. Public Holidays

- (i) The days on which the following holidays are observed shall be holidays, namely, New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day and Boxing Day and any day which may hereafter be proclaimed as a public holiday throughout the State of New South Wales, and the first Monday in August or such other day as is mutually agreed between the employer and an employee or the employer and the majority of employees. Provided that for pre-schools operating 41 weeks per year only, the first Monday in August may be subsumed into a period of paid stand-down provided in subclause 4(ii) of this award.
- (ii) The above holidays falling on an ordinary working day shall be paid for if not worked, irrespective of such holidays falling in a vacation period.
- (iii) Employees required to work on any of the above holidays shall be paid at the rate of double time and one-half with a minimum payment of four hours at such rate.
- (iv)
- (a) Where a holiday occurs on the rostered day off of a seven day shift worker as provided for in paragraph (i)(b) of clause 5, Hours, and:
 - (1) the employee is not required to work on that day, the employer shall pay such employee eight hours' ordinary pay in respect of such day;
 - (2) the employee is required to work on that day, the employer shall pay such employee eight hours' ordinary pay in respect of such time and in addition at the rate of time and one-half for the first eight hours (with a minimum payment of four hours) and double time and one-half thereafter.
 - (b) The employer may, in lieu of the payment of eight hours' ordinary pay prescribed in paragraph (a) of this subclause, add a day to the annual leave period.
 - (c) Any day or days added in accordance with this subclause shall be the working day or working days immediately following the annual leave period to which the employee is entitled to under clause 20, Annual Leave, of this award.
 - (d) Where the employment of an employee has been terminated and the employee thereby becomes entitled under section 4 of the *Annual Holidays Act 1944*, to payment in lieu of an annual holiday with respect to a period of employment, the employee shall be entitled also to an additional

payment for each day accrued to the employee under this clause at the appropriate ordinary rate of pay, if payment has not already been made in accordance with paragraph (a) of this subclause.

- (v) For the purpose of this clause any employee whose ordinary hours of work commence before and continue past midnight shall be regarded as working on a holiday only if the greater number of the employee's working hours fall on the holiday, in which case all time worked shall be regarded as holiday work; provided that 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.

20. Annual Leave

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

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

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

21. Annual Leave Loading

- (i) In this clause the *Annual Holidays Act 1944*, is referred to as "the Act".
- (ii) Before an employee is given and takes his or her annual holiday, or where, by agreement between the employer and the employee the annual holiday is given and taken in more than one separate period, then before each of such separate periods, the employer shall pay the employee a loading determined in accordance with this clause (Note: The obligation to pay in advance does not apply where an employee takes an annual holiday wholly or partly in advance - see subclause (vi)).
- (iii) The loading is payable in addition to the pay for the period of holidays given and taken and due to the employee under the Act and this award.
- (iv) The loading is to be calculated in relation to any period of annual holiday to which the employee becomes or has become entitled under the Act and this award (but excluding days added to compensate for public or special holidays worked or public or special holidays falling on an employee's rostered day off not worked), or where such a holiday is given and taken in separate periods, then in relation to each such separate period. (Note: See subclause (vi) as to holidays taken wholly or partly in advance).
- (v) The loading is the amount payable for the period or the separate period, as the case may be, stated in subclause (iv) of this clause at the rate per week of 17.5 per cent of the appropriate ordinary weekly time rate of pay prescribed by this award for the classification in which the employee was employed immediately before commencing his or her annual holiday together with, where applicable, the following allowances prescribed by clause 10, Additional Rates and Allowances, in subclause (vii) Leading Hands and subclause (vi) Qualification Allowances, of this award, but shall not include any

other allowances, penalty rates, shift allowances, overtime rates or any other payment prescribed by this award.

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

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

22. Long Service Leave

See *Long Service Leave Act 1955*.

23. Parental Leave

- (i) See Appendix B to this award.
- (ii) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
 - (a) the employee or employee's spouse is pregnant; or

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

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

(iii) Right to request

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

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

to assist the employee in reconciling work and parental responsibilities.

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

The employee's request and the employer's decision made under subparagraphs 23(iii)(a)(2) and 23(iii)(a)(3) must be recorded in writing.

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

Where an employee wishes to make a request under subparagraph 23(iii)(a)(3), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(iv) Communication during parental leave

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

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

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

24. Personal/Carers Leave

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

(i) Use of sick leave

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

(b) The employee shall, if required,

(1) establish by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or

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

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

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

(1) the employee being responsible for the care and support of the person concerned; and

(2) the person concerned being:

(a) a spouse of the employee; or

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

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

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

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

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

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

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

(d) An employee 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 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.

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

Where the parties are unable to reach agreement the disputes settling procedure at Clause 35 should be followed.

(ii) Unpaid leave for family purpose

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in subparagraph 24(i)(c)(2) above, who is ill or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

(iii) Annual leave

(a) To give effect to this clause an employee may elect, with the consent of the employer, to take annual leave not exceeding ten days in any calendar year at a time or times agreed by the parties.

(b) Access to annual leave, as prescribed in paragraph 24(iii)(a) above, shall be exclusive of any shutdown period provided for elsewhere under this award.

(c) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

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

(iv) Time Off in Lieu of Payment for Overtime

(a) An employee may elect, with the consent of their employer, to take time off in lieu of payment of overtime at a time or times agreed with the employer.

(b) Arrangements for taking overtime as time off shall be governed by clause 12, Overtime of the Award.

(v) Make-up time

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

(vi) Grievance process

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

(vii) Personal Carers Entitlement for casual employees

(a) Subject to the evidentiary and notice requirements in paragraphs 24(i)(b) and 24(i)(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subparagraph 24(i)(c)(2) who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

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

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

25. Bereavement Leave

- (i) An employee other than a casual employee shall be entitled to up to two days bereavement leave without deduction of pay, up to and including the day of the funeral, on each occasion of the death of a person prescribed in (iii) below. Provided that where the death of a relative as defined occurs outside Australia and a memorial service is held, one day's leave without loss of any ordinary pay shall be allowed.
- (ii) The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.
- (iii) Bereavement leave shall be available to the employee in respect to the death of a person prescribed by subparagraph (i)(c)(2) of clause 24, Personal/Carer's Leave, provided that for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- (iv) An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
- (v) Bereavement leave may be taken in conjunction with other leave available under subclauses (i), (ii), (iii) (iv) and (v) of clause 24 Personal/Carers Leave of this Award. In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.
- (vi) Bereavement entitlements for casual employees
 - (a) Subject to the evidentiary and notice requirements in subclause 25(ii) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subparagraph 24(i)(c)(2).
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

26. Jury Service

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

27. Redundancy

- (i) Application
 - (a) This clause shall apply in respect of full time and part time employees as set out in clause 9, Wages.

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

(ii) Introduction of Change

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and the union to which they belong.
- (b) 'Significant effects' include termination of employment, major changes in the composition, operation or size of the employers workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

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

(iii) Employers Duty to Discuss Change

- (a) The employer shall discuss with the employees affected and the union to which they belong, inter alia, the introduction of the changes referred to in subclause (ii) of this clause, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the union in relation to the changes.
- (b) 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 subclause (ii) of this clause.
- (c) 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.

(iv) Discussions Before Terminations

- (a) Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone pursuant to paragraph (a) of subclause (ii), of this clause and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the union to which they belong.
- (b) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of paragraph (a) of this subclause and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination of the employees concerned.

- (c) For the purposes of the discussion the employer shall, as soon as practicable, provide to the employees concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of workers normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

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

This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from 'production', 'program', 'organisation' or 'structure' in accordance with paragraph (a) of subclause (ii) of this clause.

- (a) In order to terminate the employment of an employee the employer 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

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

(vi) Notice for Technological Change

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

- (a) In order to terminate the employment of an employee the employer shall give to the employee 3 months notice of termination.
- (b) 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.
- (c) 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.

(vii) Time Off During the Notice Period

- (a) 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.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee 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.

(viii) Employee Leaving During the Notice Period

If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee 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.

(ix) Statement of Employment

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

(x) Notice to Centrelink

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

(xi) Centrelink Separation Certificate

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

(xii) Transfer to Lower Paid Duties

Where an employee is transferred to lower paid duties for reasons set out in paragraph (a) of subclause (ii), of this clause, the employee 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.

(xiii) Severance Pay

Where the employment of an employee is to be terminated pursuant to subclause (v) of this clause, subject to further order of the Industrial Relations Commission, the employer 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 of Age Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

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

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

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

- (xiv) Incapacity to Pay

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

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

- (xv) Alternative Employment

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

- (xvi) Procedures Relating to Grievances

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

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

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

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

29. Meetings and Activities

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

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

30. Professional Development, Training and Planning

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

31. Examination and Study Leave

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

32. Supported Wage

Definition:

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

Eligibility criteria

- (ii) Employees covered by this clause will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of Disability Support Pension.

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

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

Supported wage rates

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

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

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

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

Assessment of capacity

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

Lodgement of assessment instrument

- (v)
 - (a) All assessment instruments under the condition of this clause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Industrial Relations Commission.
 - (b) All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where the union which is party to the award/agreement, is not a party to the assessment, it shall be referred by the Registrar to the union by certified mail and shall take effect unless an objection is notified to the Registrar within ten working days.

Review of assessment

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

Other terms and conditions of employment

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

Workplace adjustment

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

Trial Period

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

33. Superannuation

A. Definitions

- (i) "CARE" means Care Superannuation.

- (ii) "HESTA" means the Health Employees Superannuation Trust Australia, constituted by deed made 30 July 1987.
- (iii) "Union" means United Voice, New South Wales Branch.
- (iv) "Eligible employee" means:
 - (a) a full-time employee engaged under the terms and conditions of this Award.
 - (b) a part-time or casual employee engaged under the terms and conditions of the above Award who earns two hundred dollars (\$200.00) or more per calendar month.
- (v) "Ordinary time earnings" means the weekly rate of pay for the employee's classification (including leading hand allowances, broken shift allowance, excess fares allowance, toilet cleaning allowance, qualification allowances and shift work premiums) and any overaward payments for ordinary hours of work.

B. Fund

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

C. Contributions

- (i) Each employer shall pay to the respective Trustee in respect of each eligible employee an amount equal to three per centum of employee's ordinary time earnings for all ordinary hours worked from the date the employee becomes eligible in accordance with subclause (iv) of clause 3, Definitions, of this award.
- (ii) A pro-rata deduction shall be made from the weekly contribution payable for any unauthorised absence of at least one day's duration.
- (iii) An employer shall not be required to contribute during any period of unpaid leave - such as unpaid sick leave, maternity leave or the like, or periods of workers compensation beyond the expiry of any entitlement to full pay in accordance with the *Workers Compensation Act 1987*.

Further an employer shall not be required to make additional contributions in respect of annual leave paid out on termination.

- (iv) Contributions shall be made at the end of each calendar month for periods of employment worked during that month.
- (v) Notwithstanding the date upon which an employee signs an Application Form, contributions in accordance with subclause (I) of this clause shall be made from the date when the employee became eligible for membership.

D. Records

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

E. Exemptions

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

State Superannuation Fund

State Public Service Superannuation Scheme

Public Authorities Superannuation Scheme

34. Anti-Discrimination

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

Notes

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

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

35. Dispute Settling Procedure

The parties agree that, subject to the provisions of the New South Wales *Industrial Relations Act 1996*, all grievances, claims or disputes 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 employee(s) and the employee's immediate supervisor.
- (ii) If the matter is not resolved at this level, it will be further discussed between the affected employee(s), the union delegate (if any) or contact and the employer. Both the employer's industrial representative and the employee's union representative may be notified.
- (iii) If no agreement is reached the union representative or contact will discuss the matter with the employer's nominated industrial relations representative.
- (iv) Whilst the foregoing procedure is being followed work shall continue normally. No party 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 it may be referred by the parties to the Industrial Relations Commission of New South Wales for settlement.

36. Exemptions

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

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

Such employees shall continue to be entitled to family leave provisions and additional sick leave in the first year of employment contained in the Miscellaneous Workers Kindergartens and Child Care Centres Family

Leave (Catholic Kindergartens, Child Care Centres and Others and Independent Schools) (State) Award published 17 November 1995 (289 I.G. 519) as varied.

37. Salary Packaging

- (i) Where agreed between the employer and a full-time or part-time employee, an employer may offer salary packaging in respect of salary. Neither the employer nor the employee may be compelled to enter into a salary packaging agreement.
- (ii) Salary packaging shall mean that the employee will have part of their salary packaged into a fringe benefit which does not constitute a direct payment to the employee but is payable to a bona fide third party.
- (iii) The terms and conditions of such a package shall not, when viewed objectively, be less favourable than the entitlements otherwise available under this award and shall be subject to the following provisions:
 - (a) the employer shall ensure that the structure of any agreed remuneration package complies with taxation and other relevant legislation;
 - (b) where there is an agreement to salary package, the agreement shall be in writing and made available to the employee;
 - (c) the employee shall have access to details of the payments and transactions made on their behalf. Where such details are maintained electronically, the employee shall be provided with a printout of the relevant information;
 - (d) the employer has the right to vary or withdraw from a salary packaging agreement and/or withdraw from offering salary packaging in the event of changes to the operation of legislation that are detrimental to, or increase the costs of, salary packaging arrangements;
 - (e) prior to entering into any salary packaging agreements, the employee will be given the opportunity by the employer to seek independent advice in respect of salary package arrangements including advice from the union;
 - (f) in the event that the employer withdraws from a salary packaging agreement, the individual employee's salary will revert to whichever is the higher of:
 - (i) the ordinary time rate of pay that applied to the employee prior to the commencement of the salary packaging agreement; or
 - (ii) the applicable rate specified in Part B, Monetary Rates, of this Award.
 - (g) notwithstanding any of the above arrangements, the employer or employee may cancel any salary packaging agreements by the giving of one month's notice of cancellation to the other party;
 - (h) Superannuation Guarantee Contributions will be calculated with reference to the ordinary time rate of pay the employee would have been entitled to receive but for the salary packaging arrangement;
 - (i) any allowance, penalty rates, overtime, payment for unused leave entitlements shall be calculated by reference to the ordinary time rate of pay which would have applied to the employee but for the salary packaging arrangement
 - (j) unless there is agreement between the employer and the employee to the contrary, all salary packaging arrangements shall cease during any period of leave without pay, including periods of unpaid sick leave.

38. Leave Reserved

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

39. Area, Incidence and Duration

This award is made following a review under section 19 of the *Industrial Relations Act* 1996 and rescinds and replaces the Miscellaneous Workers' - Kindergartens and Child Care Centres, &c. (State) Award published 27 November 2015 (378 I.G. 64), as varied.

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

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

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

PART B**MONETARY RATES****TABLE 1B****WAGES - SUPPORT WORKER CLASSIFICATIONS**

Classification	Rate at 16/12/2018 \$
Support Worker	771.80
Support Worker (Qualified Cook)	789.04

TABLE 1C**NEW WAGES - CHILD CARE CLASSIFICATIONS IN LONG DAY CARE**

Level	Step	Rate at 16/12/2018 \$
CCW	1	881.50
	2	888.70
	3	895.70
	4	902.80
	5	911.40
ACCW	1	920.10
	2	938.00
	3	968.90
ACCWQ	1	985.00
	2	1085.60
	3	1138.20
	4	1194.80

Asst Co-ord		1004.10
Asst Co-ord Qual		1221.30
Co-Ord OOSH	L1	1075.90
Co-Ord LDC	L2	1102.40
	L3	1138.60
	L4	1184.00
Co-Ord Qual OOSH		1314.50
Co-Ord Qual LDC	L2	1340.80
	L3	1377.10
	L4	1422.60

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

Level	Step	Rate at 16/12/2018 \$
CCW	1	849.60
	2	856.60
	3	863.30
	4	870.10
	5	878.50
ACCW	1	886.70
	2	905.00
	3	932.70
ACCWQ	1	950.30
	2	1045.70
	3	1096.30
	4	1150.90
Asst Co-ord		967.70
Asst Co-ord Qual		1176.40
Co-ord OOSH	L1	1041.00
Co-Ord Pre-School	L2	1067.60
	L3	1103.80
	L4	1149.40
Co-OrdQual OOSH		1270.70
Co-Ord Qual Pre-Sch	L2	1297.10
	L3	1333.30
	L4	1378.70

TABLE 2

Additional Rates and Allowances

Item No	Clause No.	Brief Description	Amount 16/12/2018 \$
1	10 (ii)(a)	Broken Shift	77.90 Per week 15.60 Per day
2	10 (ii)(b)	Excess Fares	10.60
3	10 (iii)	Uniform: Laundry Allowance	5.60
4	10 (iv)	Cooks Uniforms: Laundry Allowance	9.00
5	10 (vi)(a)	Qualification Allowance Commercial Cookery Basic Certificate	7.90
6	10 (vi)(b)	Hotel & Restaurant Cookery Certificate	16.30
7	12 (iv)	Meal Money	8.70
8	10 (ix)	Authorised Supervisor	42.10 Weekly 8.50 daily

Note: The rates at Table 1B, Table 1C, Table 1D and Table 2 reflect the State Wage Case 2018 outcome and are effective from the first full pay period on or after 16 December 2018.

APPENDIX A

RECORD OF CASUAL EMPLOYMENT

EMPLOYEE’S RECORD TO BE MAINTAINED BY EMPLOYEE

1. Name:
2. Number of years of training:
3. Name of qualification:
4. Year of attainment of this qualification:

Period of engagement (from date to date)	No. of days/hours worked in total, classification; years trained & step	Name, address & telephone number of Centre	Signed by Centre Director (signature, date & name)

APPENDIX B**PARENTAL LEAVE**

Set out below are the provisions relating to Parental Leave contained in Part 4, Chapter 2, of the *Industrial Relations Act 1996*.

Division 1 - Parental Leave Generally

53. Employees to Whom Part Applies

This Part applies to all employees, including part time employees, but does not apply to casual or seasonal employees.

54. Entitlement to Unpaid Parental Leave

- (1) An employee is entitled to a total of 52 weeks unpaid parental leave in connection with the birth or adoption of a child, as provided by this Part.
- (2) Parental leave is not to extend beyond 1 year after the child was born or adopted.

Note: See also Part 5 relating to entitlements to part time work agreements.

55. What is Parental Leave?

- (1) For the purposes of this Part, parental leave is maternity leave, paternity leave or adoption leave.
- (2) Maternity leave is taken by a female employee in connection with the pregnancy or the birth of a child of the employee. Maternity leave consists of an unbroken period of leave.
- (3) Paternity leave is leave taken by a male employee in connection with the birth of a child of the employee or of the employee's spouse. Paternity leave consists of:
 - (a) an unbroken period of up to one week at the time of the birth of the child or other termination of the pregnancy (short paternity leave), and
 - (b) a further unbroken period in order to be the primary care-giver of the child (extended paternity leave).
- (4) Adoption leave is leave taken by a female or male employee in connection with the adoption by the employee of a child under the age of 5 years (other than a child who has previously lived continuously with the employee for a period of at least 6 months or who is a child or step child of the employee or of the employee's spouse). Adoption leave consists of:
 - (a) an unbroken period of up to 3 weeks at the time of the placement of the child with the employee (short adoption leave), and
 - (b) a further unbroken period in order to be the primary care giver of the child (extended adoption leave).
- (5) For the purposes of this Part, spouse includes a de facto spouse.

Note: Employees are also entitled to special maternity leave for recovery from a termination of pregnancy or illness related to pregnancy (section 71) and to special adoption leave up to 2 days to attend interviews or examinations for the purposes of adoption (section 72). The requirement of unbroken periods of leave is subject to section 63 (employee and employer may agree to interruption of parental leave by return to work).

56. This Part Provides Minimum Entitlements

- (1) This Part sets out the minimum entitlements of employees to parental leave.
- (2) The provisions of an industrial instrument, contract of employment or other agreement (whether made or entered into before or after the commencement of this Part) do not have effect to the extent that they provide an employee with a benefit that is less favourable to the employee than the benefit to which the employee is entitled under this Part.

57. Length of Service for Eligibility

- (1) An employee is entitled to parental leave only if the employee has had at least 12 months of continuous service with the employer.
- (2) Continuous service is service under one or more unbroken contracts of employment, including:
 - (a) any period of authorised leave or absence, and
 - (b) any period of part time work.

Note: Under Part 8 of this Chapter a period of service in the business of a former employer counts as service with a new employer to whom the business concerned has been transferred.

58. Notices and Documents Required to be Given to Employer

(1) Maternity Leave

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

- (a) The employee should give a least 10 weeks' written notice of the intention to take the leave.
- (b) The employee must, at least 4 weeks before proceeding on leave, give written notice of the dates on which she proposes to start and end the period of leave.
- (c) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that she is pregnant and the expected date of birth.
- (d) The employee must, before the start of leave, provide a statutory declaration by the employee stating, if applicable, the period of any paternity leave sought or taken by her spouse.

(2) Paternity Leave

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

- (a) In the case of extended paternity leave, the employee should give at least 10 weeks' written notice of the intention to take the leave.
- (b) The employee must, at least 4 weeks before proceeding on leave, give written notice of the dates on which he proposes to start and end the period of leave.
- (c) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that his spouse is pregnant and expected date of birth.
- (d) In the case of extended paternity leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:

- (i) if applicable, the period of any maternity leave sought or taken by his spouse, and
- (ii) that he is seeking that period of extended paternity leave to become the primary care giver of a child.

(3) Adoption Leave

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

- (a) In the case of extended adoption leave, the employee should give written notice of any approval or other decision to adopt a child at least 10 weeks before the expected date of placement.
- (b) The employee must give written notice of the dates on which the employee proposes to start and end the period of leave, as soon as practicable after the employee is notified of the expected date of placement of the child but at least 14 days before proceeding on leave.
- (c) The employee must, before the start of leave, provide a statement from an adoption agency or another appropriate body of the expected date of placement of the child with the employee for adoption purposes.
- (d) In the case of extended adoption leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:
 - (i) if applicable, the period of any adoption leave sought or taken by his or her spouse, and
 - (ii) that the employee is seeking that period of extended adoption leave to become the primary care giver of a child.

(4) An employee does not fail to comply with this section if the failure was caused by:

- (a) the child being born (or the pregnancy otherwise terminating) before the expected date of birth, or
- (b) the child being placed for adoption before the expected date of placement, or if it was not otherwise reasonably practicable to comply in the circumstances.

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

- (5) An employee must notify the employer of any change in the information provided under this section within 2 weeks after the change.
- (6) If required by the employer, an employee who applies for parental leave is to give the employer a statutory declaration, or enter into an agreement with the employer, that for the period of the leave the employee will not engage in any conduct inconsistent with the employee's contract of employment.

59. Continuity of Service

- (1) Parental leave does not break an employee's continuity of service, but is not to be taken into account in calculating an employee's period of service for any purpose.

- (2) However, parental leave counts as service for any purpose authorised by law or by any industrial instrument or contract of employment.

60. Parents Not to Take Parental Leave at the Same Time

- (1) An employee is not entitled to parental leave at the same time as his or her spouse is on parental leave under this Part.
- (2) If this section is contravened the period of parental leave to which the employee is entitled under this Part is reduced by the period of leave taken by his or her spouse.
- (3) This section does not apply to short paternity leave or short adoption leave.

61. Cancellation of Parental Leave

(1) Before Starting Leave

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

- (a) the employee withdraws the application for leave by written notice to the employer, or
- (b) the pregnancy concerned terminates other than by the birth of a living child or the placement of the child concerned does not proceed.

(2) After Starting Leave

If:

- (a) the pregnancy of an employee or an employee's spouse terminates other than by the birth of a living child while the employee or spouse is on parental leave, or
- (b) the child in respect of whom an employee is then on parental leave dies, or
- (c) the placement of a child for adoption purposes with an employee then on adoption leave does not proceed or continue, the employee is entitled to resume work at a time nominated by his or her employer within 2 weeks after the date on which the employee gives his or her employer a notice in writing stating that the employee intends to resume work and the reason for the intended resumption.

(3) Special Leave Not Affected

This section does not affect an employee's entitlement to special maternity leave under section 71.

62. Parental Leave and Other Leave

- (1) An employee may take any annual leave or long service leave (or any part of it) to which the employee is entitled instead of or in conjunction with parental leave.
- (2) However, the total period of leave cannot be so extended beyond the maximum period of parental leave authorised by this Part.
- (3) Any paid sick leave or other paid absence authorised by law or by an industrial instrument or contract of employment is not available to an employee on parental leave, except if the paid absence is annual leave or long service leave or with the agreement of the employer.

63. Employee and Employer may Agree to Interruption of Parental Leave by Return to Work

- (1) An employee on parental leave may, with the agreement of the employer, break the period of leave by returning to work for the employer, whether on a full time, part time or casual basis.
- (2) The period of leave cannot be extended by such a return to work beyond the maximum period of leave authorised by this Part.
- (3) Nothing in this section affects any other work undertaken by the employee during parental leave.

Note: - Section 58(6) requires the employee when taking parental leave to provided the employer with a statutory declaration, or enter into an agreement with the employer, that the employee will not engage during leave in any conduct inconsistent with the employee's contract.

64. Extension of Period of Parental Leave

- (1) An employee may extend the period of parental leave once only by giving the employer notice in writing of the extended period at least 14 days before the start of the extended period. The period of leave cannot be extended by such a notice beyond the maximum period of leave authorised by this Part.
- (2) An employee may extend the period of parental leave at any time with the agreement of the employer. The period of leave can be extended by such an agreement beyond the maximum period of leave authorised by this Part.
- (3) This section applies to an extension of leave while the employee is on leave or before the employee commences leave.

65. Shortening of Period of Parental Leave

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

66. Return to Work After Parental Leave

- (1) An employee returning to work after a period of parental leave is entitled to be employed in:
 - (a) the position held by the employee immediately before proceeding on that leave, or
 - (b) if the employee worked part time because of the pregnancy before proceeding on maternity leave - the position held immediately before commencing that part time work, or
 - (c) if the employee was transferred to a safe job under section 70 before proceeding on maternity leave - the position held immediately before the transfer.
- (2) If the position no longer exists but there are other positions available that the employee is qualified for and is capable of performing, the employee is entitled to be employed in a position as nearly as possible comparable in status and pay to that of the employee's former position.
- (3) This section extends to a female employee returning to work after a period of leave under section 71 (special maternity leave and sick leave).
- (4) An employer who does not make available to an employee a position to which the employee is entitled under this section is guilty of an offence.

Maximum penalty: 100 penalty units.

Note: - An employee returning to work after parental leave may also have an entitlement to work part time under an industrial instrument or a part time work agreement under Part 5.

Division 2 - Miscellaneous Provisions

67. Employer's Obligations

- (1) Information to employees on becoming aware that an employee (or an employee's spouse) is pregnant, or that an employee is adopting a child, an employer must inform the employee of:
 - (a) the employee's entitlements to parental leave under this Part, and
 - (b) the employee's obligations to notify the employer of any matter under this Part.

An employer cannot rely on an employee's failure to give a notice or other document required by this Part unless the employer establishes that this subsection has been complied with in relation to the employee.

- (2) Records An employer must keep, for at least 6 years, a record of parental leave granted under this Part to employees and all notices and documents given under this Part by employees or the employer.

Maximum penalty: 20 penalty units.

68. Termination of Employment Because of Pregnancy or Parental Leave

- (1) An employer must not terminate the employment of an employee because:
 - (a) the employee or employee's spouse is pregnant or has applied to adopt a child, or
 - (b) the employee or employee's spouse has given birth to a child or has adopted a child, or
 - (c) the employee has applied for, or is absent on, parental leave, but otherwise the rights of an employer in relation to termination of employment are not affected by this Part.

Maximum penalty: 100 penalty units.

- (2) For the purposes of establishing such a termination of employment, it is sufficient if it is established that the alleged reason for termination was one of two or more reasons for termination.
- (3) This section does not affect any other rights of a dismissed employee under this or any other Act or under any industrial instrument or contract of employment, or the rights of an industrial organisation representing such an employee.

Note: A dismissed employee may also make a claim under Part 6 (unfair dismissals).

69. Replacement Employees

- (1) A replacement employee is a person who is specifically employed as a result of an employee proceeding on parental leave (including as a replacement for an employee who has been temporarily promoted or transferred in order to replace the employee proceeding on parental leave).
- (2) Before a replacement employee is employed, the employer must inform the person of the temporary nature of the employment and of the rights of the employee on parental leave to return to work.

Maximum penalty: 50 penalty units.

- (3) A reference in this section to an employee proceeding on parental leave includes a reference to a pregnant employee exercising a right under section 70 to be transferred to a safe job.

70. Transfer to a Safe Job

- (1) This section applies whenever the present work of a female employee is, because of her pregnancy or breastfeeding, a risk to the health or safety of the employee or of her unborn or new born child. The assessment of such a risk is to be made on the basis of a medical certificate supplied by the employee and of the obligations of the employer under the *Occupational Health and Safety Act 1983*.
- (2) The employer is to temporarily adjust the employee's working conditions or hours of work to avoid exposure to that risk.
- (3) If such an adjustment is not feasible or cannot reasonably be required to be made, the employer is to transfer the employee to other appropriate work that:
- (a) will not expose her to that risk and
- (b) is as nearly as possible comparable in status and pay to that of her present work.
- (4) If such a transfer is not feasible or cannot reasonably be required to be made, the employer is to grant the employee maternity leave under this Part (or any available paid sick leave) for as long as is necessary to avoid exposure to that risk, as certified by a medical practitioner.
- (5) An employer who does not comply with any obligation imposed on the employer by this section is guilty of an offence.

Maximum penalty (subsection (5)): 50 penalty units.

71. Special Maternity Leave and Sick Leave If the pregnancy of an employee terminates before the expected date of birth (other than by the birth of a living child), or she suffers illness related to her pregnancy, and she is not then on maternity leave:

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

72. Special Adoption Leave An employee who is seeking to adopt a child is entitled to up to 2 days unpaid leave if the employee requires that leave to attend compulsory interviews or examinations as part of the adoption procedure.

KINDERGARTENS, &c, (STATE) INDUSTRIAL COMMITTEE

Industries and Callings

All persons employed in or in connection with child care, child minding centres, day nurseries and pre-school kindergartens in the State, excluding the County of Yancowinna; excepting -

Persons employed as teachers or teachers in training but not excepting unqualified teachers' aides, helpers or assistants;

Persons employed as teachers' aides in pre-school kindergartens and nurseries within the grounds of public schools;

Persons employed by the Department of Corrective Services;

Drivers of vehicles;

Employees of all city, municipal, shire and county councils;

Employees in child minding centres in public hospitals;

and excepting also employees within the jurisdiction of the following Conciliation Committees -

Private Hospital Employees (State);

Trained Nurses, &c. Other Than In Hospitals, &c, (State);

Voluntary Care Association Employees (State).

P. M. KITE, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

TRANSPORT INDUSTRY - EXCAVATED MATERIALS, CONTRACT DETERMINATION

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Transport Workers' Union of New South Wales, Industrial Organisation of Employees.

(Case No. 32136 of 2019)

Before Commissioner Sloan

12 February 2019

VARIATION

1. Delete the second paragraph of clause 21, Area, Incidence and Duration, and insert in lieu thereof the following Remuneration of the contract determination published 24 October 1997 (301 I.G. 1082), and insert in lieu thereof the following:

This determination rescinds and replaces the Transport Industry - Excavated Materials Contract Determination published 9 July 1986 (242 LG. 89), as varied. It shall commence on and from 1 March 2019. This determination shall remain in force thereafter for a period of three years.

2. Delete Part B, Rates of Remuneration, and Part C, Rise and Fall Formula, and insert in lieu thereof the following:

PART B

RATES OF REMUNERATION

Item	2 Axles (\$)	3 Axles (\$)	4 Axles (\$)	5 Axles (\$)	6 Axles (\$)	6 Axles (48t) (\$)	7 Axles (\$)	PBS T&D (\$)
1. Loading Rate	18.610	28.977	35.194	41.875	45.094	48.301	48.995	52.202
IA.Extra Capacity (per cubic metre)	3.207	3.207	3.207	3.207	3.207	x	3.207	x
2. Kilometre Rate (0-8 Km)	4.680	7.291	8.853	10.535	11.342	12.149	12.326	13.133
2A.Extra Capacity (per cubic metre)	0.807	0.807	0.807	0.807	0.807	x	0.807	x
3. Kilometre Rate (over 8 - 25 km)	4.330	6.744	8.194	9.747	10.500	11.247	11.408	12.155
3A.Extra Capacity (per cubic metre)	0.747	0.747	0.747	0.747	0.747	x	0.747	x
4. Kilometre Rate (over 25 km)	3.406	3.406	3.406	3.406	3.406	4.100	3.406	4.100
4A.Extra Capacity (per cubic metre)	0.694	0.694	0.694	0.694	0.694	x	0.694	x
6. Hourly Rate	61.016	95.009	115.434	137.239	147.800	158.354	168.175	178.729
6A.Extra Capacity (per cubic metre)	10.554	10.554	10.554	10.554	10.554	x	10.554	x

PART C**RISE AND FALL FORMULA**

1. The rates prescribed in Part B may be adjusted each year upon application to the Industrial Relations Commission of New South Wales.
2. Application for adjustment shall be made by reference to the weighted movement in the following benchmarks for each cost component, calculated as at the end of the full quarter immediately preceding the variation, with each adjustment application based upon the rates and amounts in the immediately preceding variation.

Component Current	Benchmark	Current Index	Weighting
Wages	Road Transport and Distribution Award 2010, Grade Three Transport Worker	790.50	34.89
Capital	ABS Consumer Price Index (CPI), Motor Vehicles, Australia	91.6	18.17
Insurances	ABS CPI, Insurance, Australia	130.1	5.95
Registration	ABS CPI, Transportation Group, Other Services in respect of motor vehicles.	130.4	3.49
Repairs & Maintenance	ABS CPI, Transportation Group, Maintenance and Repair of Motor and Repair of motor vehicles	110.8	17.64
Tyres	ABS CPI, Transportation Group, Spare Parts and Accessories for motor vehicles	109.3	4.74
Fuel AIPNSW State	Average for the Retail Price of diesel (excluding GST), calculated by determining the average of the weekly figures between the end of the quarter relating to the last variation and the end of the quarter prior to any new variation.	129.25	11.66
Administration	ABS CPI, All Groups, Sydney	114.7	3.46
Total			100.00

3. If the cost components, excepting fuel, change such that it causes an increase in the total remuneration of 2 percent or more from the date of the last variation, an interim adjustment may be made. An application to vary rates of remuneration for changes in the price of fuel may be made at any time, provided that the date upon which any rate adjustment is sought to become operative is at least one calendar month after the last occasion upon which a fuel rate adjustment became operative.
4. Each cost component will be re-weighted after each adjustment.
5. Parties to this Determination will confer with a view to reaching agreement on any application for adjustment on any application for adjustment. In the absence of agreement the rates and amounts shall be determined by the IRC.
6. Notwithstanding anything contained in this Part, a variation shall not be retrospective in operation but shall operate from a date not earlier than the date upon which it is made.
3. This variation shall take effect on and from 1 March 2019.

D. SLOAN, *Commissioner*

**CROWN EMPLOYEES (FIRE AND RESCUE NSW FIREFIGHTING
STAFF DEATH AND DISABILITY) AWARD 2017**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Fire and Rescue NSW.

(Case No. 248313 of 2018)

Before Commissioner Sloan

19 October 2018

VARIATION

1. Delete paragraph (f) in subclause 8, Health Checks and Fitness Drills, of Annexure A, of the award published 22 June 2018 (383 I.G. 1) and insert in lieu thereof the following:
 - (f) The health checks (which will commence not prior to 31 January 2019 and in respect of any commencement date, upon four weeks formal advance notice to the FBEU) will be arranged and undertaken by each firefighter within the twelve month period following their fourth anniversary of employment, and again within the twelve month period following their ninth anniversary of employment, and so on, so that health checks are undertaken at least once every five years up until the age of 60, at which age health checks will then be arranged and undertaken by each firefighter no more than three years after their last health check until the age of 67, at which age health checks will then be arranged and undertaken by each firefighter annually.
2. This variation shall take effect on and from 31 July 2018.

D. SLOAN, *Commissioner*

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CROWN EMPLOYEES (NSW POLICE FORCE POLICE BAND) AWARD 2018

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Commissioner of Police.

(Case No. 309230 of 2018)

Before Chief Commissioner Kite

18 October 2018

VARIATION

1. Delete clause 8, Future Adjustments, of the award published 22 June 2018 (383 I.G. 26) and insert in lieu thereof the following:

8. Future Adjustments

Should there be a variation to the Crown Employees (Public Sector - Salaries 2018) Award, or an award replacing it during the term of this award by way of salary increase, this award shall be varied to give effect to any such salary increase, from the operative date of the variation of the former award or replacement award.

2. Insert after clause 26, Recreation Leave, the following new clause 27, Annual Leave Loading and renumber existing clauses accordingly.

27. Annual Leave Loading

- 27.1 General - Unless more favourable conditions apply to a staff member under another industrial instrument, a staff member, other than a trainee who is paid by allowance, is entitled to be paid an annual leave loading as set out in this subclause. Subject to the provisions set out in subclauses 27.2 to 27.6 of this clause, the annual leave loading shall be 17½% on the monetary value of up to 4 weeks recreation leave accrued in a leave year.
- 27.2 Loading on additional leave accrued - Where additional leave is accrued by a staff member:-
 - 27.2.1 As compensation for work performed regularly on Sundays and/or Public Holidays, the annual leave loading shall be calculated on the actual leave accrued or on five weeks, whichever is the lower.
 - 27.2.2 If stationed in an area of the State of New South Wales which attracts a higher rate of annual leave accrual, the annual leave loading shall continue to be paid on a maximum of 4 weeks leave.
- 27.3 Shift workers - Shift workers proceeding on recreation leave are eligible to receive the more favourable of:
 - 27.3.1 The shift premiums and penalty rates, or any other allowances paid on a regular basis in lieu thereof, which they would have received had they not been on recreation leave; or
 - 27.3.2 17½% annual leave loading.
- 27.4 Maximum Loading - Unless otherwise provided in an Award or Agreement under which the staff member is paid, the annual leave loading payable shall not exceed the amount which would have been payable to a staff member in receipt of salary equivalent to the maximum salary for a Grade 12 Clerk.
- 27.5 Leave year - For the calculation of the annual leave loading, the leave year shall commence on 1 December each year and shall end on 30 November of the following year.

- 27.6 Payment of annual leave loading - Payment of the annual leave loading shall be made on the recreation leave accrued during the previous leave year and shall be subject to the following conditions:
- 27.6.1 Annual leave loading for the previous leave year shall be paid in the first pay on or after 1 December in the subsequent leave year.
- 27.6.2 Notwithstanding paragraph 27.6.1 above a staff member may, with appropriate notice, elect to defer the payment of annual leave loading to a subsequent pay period. Provided further that such deferral shall be limited to the last pay on or before 31 December in the same leave year.
- 27.6.3 While annual leave loading shall not be paid in the first leave year of employment it shall be paid in the subsequent leave year in accordance with paragraphs 27.6.1 and 27.6.2 of this subclause.
- 27.6.4 A staff member who has not been paid annual leave loading for the previous leave year, shall be paid annual leave loading on resignation, retirement or termination by the NSW Police Force for any reason other than the staff member's serious and intentional misconduct.
- 27.6.5 Except in cases of voluntary redundancy, proportionate leave loading is not payable on cessation of employment.
3. Delete subclause 50.2 of clause 50, Area, Incidence and Duration, and insert in lieu thereof the following:
- 50.2 It shall take effect on and from 1 May 2018 with the exception of the rates of pay and allowances prescribed under Part B, Monetary Rates, which shall take effect from the dates specified in that Part, or where otherwise stated in the Award and shall remain in force until 30 April 2019.
4. Delete Part B, Monetary Rates, and insert in lieu thereof the following:

PART B

MONETARY RATES

Table 1 - Salaries

Effective from the first full pay period to commence on or after 1 July 2018.

In addition to the salaries prescribed in Column 1, officers shall be paid a loading in accordance with Column 2 for work performed on weekends and other incidents of employment not otherwise provided for elsewhere in this award.

(a) Musicians (Police Band)

Musicians (Police Band)	\$ per annum Column 1 Base	\$ per annum Column 2 Loading (10%)	\$ per annum Column 3 Total
1st year of service	60,574	6,057	66,631
2nd year of service	61,655	6,166	67,821
3rd year of service	62,717	6,272	68,989
4th year of service	63,863	6,386	70,249
5th year of service	66,871	6,687	73,558
6th year of service and thereafter	68,032	6,803	74,835

(b) Senior Musicians (Police Band)

Senior Musicians (Police Band)	\$ per annum Column 1 Base	\$ per annum Column 2 Loading (10%)	\$ per annum Column 3 Total
1st year of service and thereafter	70,592	7,059	77,651

Table 2 - Other Rates and Allowances

Item No.	Clause No.	Subject Matter	Amount \$ Effective from the first full pay period on or after 1.7.2018
1	15	Doubling Allowance	1123 per annum
2	16	Shift Work Allowance -	Effective from the first full pay period on or after 1.7.2018
	Shift	Shift Commencing Time	
	A	At or after 1 pm and before 4 pm	43.48
	B	At or after 4pm and before 4am	50.73
	C	At or after 10am and before 1pm	28.99
	C	At or after 4am and before 6am	28.99

5. This variation shall operate on and from 1 May 2018 and have a nominal term expiring on 30 April 2019.

P. M. KITE, *Chief Commissioner*

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(1305)

SERIAL C8909

CROWN EMPLOYEES (NSW POLICE FORCE SPECIAL CONSTABLES) (SECURITY) AWARD 2018

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Commissioner of Police.

(Case No. 316835 of 2018)

Before Chief Commissioner Kite

18 October 2018

VARIATION

1. Delete clause 8, Future Adjustments, of the award published 22 June 2018 (383 I.G. 60) and insert in lieu thereof the following:

8. Future Adjustments

The parties recognise that the wages prescribed in Table 1 - Wages, of Part B, Monetary Rates, establish a wages structure for Special Constables (Security). Should there be a variation to the *Crown Employees (Public Sector - Salaries 2018) Award*, or any award replacing it, during the term of this award, by way of salary increase, this award shall be varied to give effect to any such salary increase from the operative date of the variation of the former award or replacement award.

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

PART B

MONETARY RATES

Table 1 - Wages

Effective from the first full pay period to commence on or after 1 July 2018.

An officer shall according to rank held and years of service be paid a weekly wage of not less than the following:

- (a) Special Constable (Security)

	Per Week \$
1st year of service	1,012.60
2nd year of service	1,030.00
3rd year of service and thereafter	1,049.90

Progression to the 2nd and 3rd year rate shall be dependent upon completion of 12 months satisfactory service at the previous year's rate of pay and satisfactory conduct.

- (b) Special Constable (Security) First Class

1st year of service and thereafter	\$ 1,068.40
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Providing that for progression to the position of Special Constable (Security) First Class the officer has completed 12 months satisfactory service at the 3rd year Special Constable (Security) level and the Commissioner is of the opinion that the value of the work performed, the results achieved and the manner in which the duties are performed warrant such progression.

(c) Senior Special Constable (Security)

1st year of service	\$ 1,143.50
2nd year of service and thereafter	\$ 1,168.70

(d) Special Constable (Security), Field Supervisor

1st year of service	\$ 1,307.70
2nd year of service and thereafter	\$ 1,335.90

The parties agree that the final numbers and locations of promotional positions is recognised as a management prerogative of the Commissioner of Police.

The parties agree that confirmation of appointment to the rank of Senior Special Constable (Security) shall be subject to the successful completion of an appropriate supervisory course.

Table 2 - Other Rates and Allowances

Item No.	Clause No.	Subject Matter	Amount \$ Effective from the first full pay period on or after 1.7.2018
1	10	Full time Special Constables (Security), Monday to Friday Shift Allowance	69.10 per week
2	11	Full time Special Constables (Security), Saturday and Sunday Shift Allowance	195.20 per week
			Effective from the first full pay period on or after 30.7.1997
3	15.3(e)	Meal Allowance Subsequent Meal Allowance after further 4 hours overtime	6.00 per meal 5.50 per meal

3. This variation shall take effect on and from 22 May 2018 and have a nominal term of one year.

P. M. KITE, *Chief Commissioner*

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**ENTERPRISE AGREEMENTS APPROVED
BY THE INDUSTRIAL RELATIONS COMMISSION**

(Published pursuant to s.45(2) of the *Industrial Relations Act 1996*)

EA19/04 - Wollongong City Council Enterprise Agreement 2018 - 2021

Made Between: Wollongong City Council-&- Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch, New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, The Development and Environmental Professionals' Association, The Local Government Engineers' Association of New South Wales.

New/Variation: New

Approval and Commencement Date: Approved 20 September 2018 and commenced 1 July 2018.

Description of Employees: The agreement applies to all employees employed by Wollongong City Council located at 41 Burelli Street, Wollongong.

Nominal Term: 36 Months.

Printed by the authority of the Industrial Registrar.

**CONTRACT AGREEMENTS APPROVED
BY THE INDUSTRIAL RELATIONS COMMISSION**

(Published pursuant to s.331(2) of the *Industrial Relations Act 1996*)

CA19/01 - Veolia Environmental Services (Australia) Pty Ltd Contract Carriers Agreement 2017

Made Between: Veolia Environmental Services (Australia) Pty Limited-&- the Transport Workers' Union of New South Wales.

New/Variation: New.

Approval and Commencement Date: Approved 15 November 2018 and commenced 1 July 2017.

Description of Employees: The agreement applies to all contract carriers employed by Veolia Environmental Services (Australia) Pty Limited located at corner of Unwin & Shirley St, Rosehill NSW 2142, that work out of the Arndell Park depot only, who fall within the coverage of the Transport Industry Waste Collection and Recycling Contract Determination.

Nominal Term: 36 Months.

CA19/02 - TNT Australia - TWU New South Wales (Contract Carriers) Agreement 2017 - 2020

Made Between: TNT Australia Pty Limited Council -&- the Transport Workers' Union of New South Wales.

New/Variation: New.

Approval and Commencement Date: Approved 20 November and commenced 27 November 2018.

Description of Employees: The agreement applies to all contract carriers employed by TNT Australia Pty Ltd located at 201 Coward Street, Mascot NSW 2020 and Riteway Transport Pty Ltd, who fall within the coverage of the Transport Industry - General Carriers Contract Determination 2017.

Nominal Term: 36 Months.

CA19/03 - Toll Contract Carriers Agreement 2018 - 2020

Made Between: Toll Holdings Limited -&- the Transport Workers' Union of New South Wales.

New/Variation: New.

Approval and Commencement Date: Approved 12 April 2019 and commenced 1 July 2018.

Description of Employees: The agreement applies too all contract carriers engaged by Toll Holdings Limited, who fall within the coverage of the Transport Industry - General Carriers Contract Determination.

Nominal Term: 24 Months.

Printed by the authority of the Industrial Registrar.