

# **CROWN EMPLOYEES (SCHOOL ADMINISTRATIVE AND SUPPORT STAFF) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 718 of 2008)

Before Commissioner Ritchie

14 August 2008

## **REVIEWED AWARD**

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Clause No.      Subject Matter

#### **PART A**

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## 2. Definitions

- 2.1 "Aboriginal Education Officer" means a classification of School Administrative and Support Staff for whom the requirement of Aboriginality is a legitimate occupational qualification under section 14(d) of the *Anti-Discrimination Act 1977*.
- 2.2 "Act" means the *Education (School Administrative and Support Staff) Act 1987*.
- 2.3 "Association" means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.
- 2.4 "Centre" means a Departmental centre which provides instruction to students, such as a distance education centre, environmental education centre or intensive English centre.
- 2.5 "Continuous employment" means employment for a specific number of hours per week for each week of the school year, which may be broken by school vacations and any approved leave which counts as service.
- 2.6 "Department" means the New South Wales Department of Education and Training.
- 2.7 "Director-General" means the Director-General of Education and Training.
- 2.8 "Employee" means any person employed as a member of the School Administrative and Support Staff.
- 2.9 "Equivalent full-time" means the number of full-time and part-time employees allocated to a school converted to a full-time equivalent.
- 2.10 "Full-time employee" means any person employed as a member of the School Administrative and Support Staff who works 31.25 hours per week or, in the case of a former Library Clerical Assistant covered by the 1988 agreement, 36.25 hours per week.
- 2.11 "Industrial Relations Commission" means the Industrial Relations Commission of New South Wales established by the *Industrial Relations Act 1996*.
- 2.12 "Long-term temporary employee" means a member of the School Administrative and Support Staff employed by the Director-General on a temporary basis, either full-time or part-time, under section 21 of the Act, for a period in excess of one school term.
- 2.13 "Part-time employee" means any person employed as a member of the School Administrative and Support Staff who works less than 31.25 hours per week.
- 2.14 "Permanent employee" means a member of the School Administrative and Support Staff employed on a permanent basis by the Director-General in the service of the Crown under section 8 of the Act.
- 2.15 "Principal" means the principal of a Department school.
- 2.16 "School" means a Department school where instruction is provided by the Department and includes any place designated as part of, or as an annex to, such school.
- 2.17 "School Administrative and Support Staff" means and includes persons employed as Aboriginal Education Officers, School Support Officers, School Administrative Officers, School Administrative Managers, School Learning Support Officers, School Learning Support Officers (Braille Transcriber), School Learning Support Officers (Sign Interpreter), School Learning Support Officers (Ethnic) and School Learning Support Officers (Pre-School).
- 2.18 "School day" means any weekday during school terms, as specified by the Director-General.

- 2.19 "School for specific purposes" means a school which is classified as such by the Director-General and is established under the *Education Act* 1990 to provide education for students with disabilities.
- 2.20 "Service" means service as determined by the Director-General.
- 2.21 "Short-term temporary employee" means a member of the School Administrative and Support Staff employed by the Director-General on a temporary basis, either full-time or part-time, under section 21 of the Act, for a period of one school term or less.
- 2.22 "Western, Central and Eastern Divisions" means those areas of New South Wales as described in Section 4 of the *Crown Lands Act* 1989.

### **3. Anti-Discrimination**

- 3.1 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.
- 3.2 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.
- 3.3 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.
- 3.4 Nothing in this clause is to be taken to affect:
- 3.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;
- 3.4.2 offering or providing junior rates of pay to persons under 21 years of age;
- 3.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act* 1977;
- 3.4.4 a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- 3.5 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.

#### Notes

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act* 1977 provides:
- "Nothing in this Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

### **4. Classifications**

- 4.1 The classifications of School Administrative and Support Staff are as follows:
- 4.1.1 School Administrative Manager (formerly senior school assistant)

- (i) The classification of School Administrative Manager is comprised of four levels;
- (ii) The level of a School Administrative Manager position is determined as follows:

Level	No. of equivalent full-time School Administrative Manager, School Administrative Officers and School Support Officers allocated to the school by staffing formula
Level 1	Less than 1.4
Level 2	1.4 - less than 1.8
Level 3	1.8 - less than 10
Level 4	10 or more

- (iii) The level for a School Administrative Manager in a school for specific purposes is determined as follows:
  - (a) A notional number of students is determined by multiplying the number of effective full-time teaching staff to which a school for specific purposes is entitled by 30.
  - (b) The notional number of students is then applied to the primary school allocation formula to determine a notional number of School Administrative Managers, School Administrative Officers and School Support Officers and thus which level of School Administrative Manager is to apply.

4.1.2 School Administrative Officer (formerly school assistant)

4.1.3 School Support Officer

4.1.4 Aboriginal Education Officer (formerly Aboriginal education assistant)

4.1.5 School Learning Support Officer (formerly Teachers aide (special))

4.1.6 School Learning Support Officer (Braille Transcriber) (formerly Teachers aide (Braille Transcriber))

4.1.7 School Learning Support Officer (Sign Interpreter) (formerly Teachers aide (Sign Interpreter))

4.1.8 School Learning Support Officer (Ethnic) (formerly Teachers aide (Ethnic))

4.1.9 School Learning Support Officer (Pre-School) (formerly Teachers aide (pre-school))

## **5. Rates of Pay**

- 5.1 The rates of pay that apply to classifications of School Administrative and Support Staff other than Aboriginal Education Officers are set out in Schedule 1 of Part B.
- 5.2 The rates of pay that apply to Aboriginal Education Officers are set out in Schedule 2 of Part B.
- 5.3 The rates of pay for School Administrative Managers, School Administrative Officers and School Support Officers are equivalent to administrative and clerical classifications on a pro rata basis as follows:
  - 5.3.1 School Support Officer is equivalent to general scale clerk, year 5
  - 5.3.2 School Administrative Officer is equivalent to general scale clerk, year 9
  - 5.3.3 School Administrative Manager level 1 is equivalent to clerk grade 2, year 1
  - 5.3.4 School Administrative Manager level 2 is equivalent to clerk grade 2, year 2

5.3.5 School Administrative Manager level 3 is equivalent to clerk grade 3, year 1

5.3.6 School Administrative Manager level 4 is equivalent to clerk grade 3, year 2.

5.4 During the term of this award, the rates of pay as set out in Schedules 1 and 2 will be adjusted to reflect increases in any equivalent classifications under the Crown Employees (Public Sector - Salaries 2007) Award and any successor instrument to that award.

5.5 The hourly rates of pay for permanent employees set out in Schedule 1 and Schedule 2 of Part B provide for 26 equal pays over the period of a year as follows:

$$\frac{\text{Hourly rate} \times \text{weekly hours of work} \times 52.17857}{26}$$

5.6 A permanent employee's extended leave will be paid at the hourly rate of pay specified in Schedule 1 and Schedule 2 of Part B, multiplied by 1.058.

5.7 A long-term temporary employee's hourly rate of pay is determined by multiplying the hourly rate of pay of a permanent employee by 1.058.

5.8 A short-term temporary employee's hourly rate of pay is determined by multiplying the hourly rate of pay of a permanent employee by 1.15. This loaded hourly rate of pay incorporates a payment in lieu of a recreation leave entitlement.

5.9 Salary Packaging Arrangements, including Salary Sacrifice to Superannuation

An employee may elect, subject to the agreement of the Department, to enter into a Salary Packaging Arrangement in accordance with the provisions of clause 5 of the Crown Employees (Public Sector - Salaries 2007) Award or any variation or replacement award.

## 6. Increments

6.1 The payment of increments, where applicable, under the rates of pay prescribed in Schedule 1 and Schedule 2 of Part B shall be subject to approval by the Director-General's delegate.

6.2 Subject to satisfactory performance, permanent and temporary School Learning Support Officers and School Learning Support Officers (Braille Transcriber), (Ethnic), (Sign Interpreter) and (Pre-School) may progress along the relevant incremental rate of pay scale as follows:

6.2.1 Permanent adult employees, irrespective of the number of hours worked in a week, are eligible to receive an increment at the completion of each year of continuous employment.

6.2.2 Temporary adult employees continuously employed, irrespective of the number of hours worked in a week, are eligible to receive an increment at the completion of each year of continuous employment.

6.2.3 Permanent and temporary junior employees commence on junior rates and progress to the next increment on completion of 12 months' service or at age 20.

6.3 Aboriginal Education Officers

6.3.1 An Aboriginal Education Officer who successfully completes:

(i) the first stage of a relevant course of training approved by the Director-General shall be paid the third year rate of pay contained in Schedule 2 of Part B;

(ii) the second stage of a relevant course of training approved by the Director-General shall be paid the fifth year rate of pay contained in Schedule 2 of Part B.

6.3.2 An Aboriginal Education Officer shall not progress:

- (i) beyond the fourth year rate of pay contained in Schedule 2 of Part B unless he or she has successfully completed the second stage of a relevant course of training approved by the Director-General;
- (ii) to the sixth year rate of pay contained in Schedule 2 of Part B until completion of the third stage of a relevant course of training approved by the Director-General.

## **7. Hours**

7.1 The normal hours of work for full-time employees shall not exceed 31 hours 15 minutes per week between 8.00 am and 4.30 pm on school days, provided that:

7.1.1 full-time School Administrative Managers shall work 33 hours 20 minutes per week;

7.1.2 former Library Clerical Assistants covered by the 1988 agreement may continue to work 36.25 hours per week.

7.2 Starting and finishing times of employees shall be as determined by the principal in agreement with an employee or employees to suit the needs of the school.

7.3 Normal hours of work shall be structured to avoid broken periods of duty, i.e. there shall be no split shifts.

7.4 The actual hours worked by an employee in any week may, by agreement between the principal and the employee, be averaged over periods of up to 10 weeks between the hours of 7.30 am and 6.00 pm; provided that the total hours worked in a 10 week period are:

7.4.1 312 hours 30 minutes for full-time employees working 31 hours 15 minutes per week; or

7.4.2 333 hours 20 minutes for full-time employees working 33 hours 20 minutes per week; or

7.4.3 362 hours 30 minutes for full-time employees working 36 hours 15 minutes per week.

The pattern of hours worked by an employee under such an arrangement must be approved by the principal taking into account the needs of the school.

7.5 Aboriginal Education Officers receive a rate of pay which covers all incidents of employment.

## **8. Meal Breaks**

8.1 Employees who work not less than four hours per day shall be entitled to an unpaid lunch break of not less than 30 minutes each day.

8.2 Employees who work more than two hours from the commencement of the school day shall be entitled to a paid morning tea break of 10 minutes each day.

8.3 To meet the needs of the school, the principal may vary the time at which the lunch and morning tea breaks are taken and may stagger lunch breaks.

## **9. Allowances**

9.1 First-aid Allowance

9.1.1 A first-aid allowance as set out in Item 1 of Schedule 3 of Part B is payable to approved employees holding a current St John Ambulance First-aid Certificate or its equivalent for undertaking first-aid duties.

## 9.2 Administration of Prescribed Medications Allowance

9.2.1 An administration of prescribed medications allowance as set out in Item 2 of Schedule 3 of Part B is payable to approved employees who have agreed to administer prescribed medications and have completed appropriate training. The allowance is paid only on days worked.

## 9.3 Health Care Procedures Allowance

9.3.1 A health care procedures allowance as set out in Item 3 of Schedule 3 of Part B is payable to approved School Learning Support Officers who have agreed to perform health care procedures in accordance with agreed Department and Association guidelines and who have completed appropriate training. The allowance is paid only on days worked.

## **10. Appointments**

10.1 Provisions relating to the appointment of employees shall be as set out below in subclauses 10.2 to 10.7 of this clause.

### 10.2 School Administrative Manager Positions

10.2.1 Where, in accordance with paragraph 4.1.1 of clause 4, Classifications, the level of a School Administrative Manager position is increased due to increased student enrolments, the incumbent, if permanent, may be directly appointed to the position on the recommendation of the principal and approval by the Director Staffing Services or a delegated officer.

10.2.2 Where, in accordance with the said paragraph 4.1.1, the level of a School Administrative Manager position is reduced due to decreased student enrolments in a school:

- (i) the level of the position shall be placed on review from the commencement of Term 2 to the completion of Term 1 the following school year;
- (ii) the current rate of pay and level of the incumbent of that position shall continue for the period of review. The incumbent may apply for appointment to another school during the review period;
- (iii) should student enrolments not increase in the school on the conclusion of the review period, the incumbent of the position may:
  - (a) be directly appointed to the nearest suitable vacancy of an equal level;
  - (b) request retention in the current position at the lower level; or
  - (c) apply for appointment to a School Administrative Officer position. Such applications will be given priority over School Administrative Officer transfer applications.

10.2.3 Where positions are not filled under the provisions of paragraphs 10.2.1 or 10.2.2 of this subclause, transfer applications on compassionate grounds from permanent School Administrative Managers shall be considered.

10.2.4 Where the transfer process does not result in an appointment, the position shall be filled by merit selection following internal advertisement within the Department. All permanent employees, whether full-time or part-time, are eligible to apply.

10.2.5 Where the selection panel does not recommend an appointment following internal advertisement, the position may be advertised in the press.

### 10.3 School Administrative Officer Positions

10.3.1 Applications for transfer from permanent School Administrative Officers shall be considered in the first instance.

10.3.2 Where the transfer process does not result in an appointment, the position shall be filled by merit selection following press advertisement.

### 10.4 School Support Officer Positions

10.4.1 Applications for transfer from permanent School Support Officers shall be considered in the first instance.

10.4.2 Where the transfer process does not result in an appointment, the position shall be filled by merit selection following press advertisement.

### 10.5 School Learning Support Officer Positions

10.5.1 Applications for transfer from permanent School Learning Support Officers shall be considered in the first instance.

10.5.2 Where the transfer process does not result in an appointment, the position shall be filled by merit selection following press advertisement.

### 10.6 Aboriginal Education Officer Positions

10.6.1 Applications for transfer from permanent Aboriginal Education Officers shall be considered in the first instance with preference given to a permanent Aboriginal Education Officer whose position has been abolished.

10.6.2 Following placement of permanent Aboriginal Education Officers under paragraph 10.6.1 of this subclause, remaining vacant positions shall be filled by merit selection following internal advertisement within the Department and the press.

## **11. Training and Development**

11.1 The Department and the Association confirm a commitment to training and development for all employees. Employees recognise their obligation to maintain and update their skills. The Department recognises its obligation to provide employees with opportunities to maintain and update their skills.

11.2 Employees shall be provided with opportunities for training and development so that they will form a highly skilled, competent and committed workforce, experiencing job satisfaction and providing high quality service.

11.3 Training and development will be based on:

11.3.1 identified competencies in accordance with the NSW Public Sector Capability Framework;

11.3.2 a focus on both current and future job needs and career path planning; and

11.3.3 recognition of each person's prior learning and building on this through the acquisition of new competencies.

11.4 Employees attending approved training and development activities during the hours of 7.30 am to 6.00 pm on a school day shall be regarded as being on duty.

11.5 Approved training and development activities shall be conducted, wherever possible, during the hours of 7.30 am to 6.00 pm on a school day. When employees (other than Aboriginal Education Officers)

attend departmentally approved training activities conducted outside these hours, they are eligible to be paid overtime in accordance with provisions contained in clause 18, Overtime.

- 11.6 Employees shall be entitled to reimbursement of any actual necessary expenses regarding travel, meals and accommodation incurred in attending training and development activities.

## **12. Higher Duties Allowance**

- 12.1 A permanent or long-term temporary employee who is directed to carry out a period of relief in a higher position for a period of five consecutive days or more shall be paid a higher duties allowance subject to:
- 12.1.1 satisfactory performance of the whole of the duties and assuming the whole of the responsibilities which would ordinarily be performed and assumed by the employee appointed to that position; and
- 12.1.2 the allowance paid will be the difference between the present rate of pay of the employee and the rate of pay to which they would have been entitled if appointed to that position; or
- 12.1.3 where the employee does not assume the whole of the duties and responsibilities of the position, the amount of any allowance will be determined by the principal as a proportion of the duties and responsibilities which are satisfactorily undertaken.
- 12.2 Employees who have relieved continuously for 12 calendar months or more, inclusive of school vacation periods, in the same higher-graded position are eligible for the payment of higher duties allowance for any leave which is taken during the ongoing period of relief.

## **13. Performance Management**

- 13.1 The objective of performance management is to enhance the performance of the Department and to support the career development and aspirations of employees. All employees need to understand the role, accountabilities and performance standards that are expected of them. All employees are entitled to feedback and constructive support to improve performance.

## **14. Flexible Work Organisation**

- 14.1 The Department and the Association agree to facilitate flexible work organisation in schools as follows:
- 14.1.1 The principal or employees in a school or other workplace may seek to vary its organisation in order to improve service to students and/or to improve employees' working arrangements, provided that:
- (i) the proposal can be implemented within the school's current overall staffing entitlement;
  - (ii) the proposal has the concurrence of the principal (or other responsible officer) and the majority of the employees;
  - (iii) the majority of the employees directly affected by the proposal concur;
  - (iv) consultation with staff, parents, students and relevant community groups is undertaken where appropriate; and
  - (v) consideration is given to equity and gender and family issues involved in the proposal.

## **15. Dispute and Grievance Resolution Procedures**

- 15.1 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:

- 15.1.1 Should any dispute, question or difficulty arise as to matters occurring in a particular workplace, then the employee and/or Association workplace representative will raise the dispute, question or difficulty with the principal/supervisor as soon as practicable.
- 15.1.2 The principal/supervisor will discuss the matter with the employee and/or Association 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.
- 15.1.3 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 Association may raise the matter with an appropriate officer of the Department with a view to resolving the dispute, question or difficulty or negotiating an agreed method and time frame for proceeding.
- 15.1.4 Where the procedures in paragraph 15.1.3 of this subclause do not lead to resolution of the dispute, question or difficulty, the matter will be referred to the Director of Industrial Relations of the Department and the General Secretary of the Association. They or their nominees will discuss the dispute, question or difficulty with a view to resolving the matter or by negotiating an agreed method and time frame for proceeding.
- 15.1.5 Should the above procedures not lead to a resolution, then either party may make application to the Industrial Relations Commission of New South Wales.

## **16. Leave**

### **16.1 Adoption, Maternity and Parental Leave**

- 16.1.1 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:
- (i) For a period up to 9 weeks prior to the expected date of birth; and
  - (ii) For a further period of up to 12 months after the actual date of birth.
  - (iii) An employee who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- 16.1.2 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:
- (i) For a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
  - (ii) For such period, not exceeding 12 months on a full-time basis, as the Director-General may determine, if the child has commenced school at the date of the taking of custody.
  - (iii) 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, or organised through hours averaging provisions if applicable.
- 16.1.3 Parental leave shall apply to male and female staff to look after his/her child or children where maternity or adoption leave does not apply. Parental leave applies for a period not exceeding 12 months. Parental leave may commence 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 or at any time up to 2 years from that date.

16.1.4 An employee taking maternity or adoption leave is entitled to payment at the ordinary rate of pay for a period of 14 weeks, an employee entitled to parental leave is entitled to payment at the ordinary rate of pay for a period of up to 1 week, provided the employee:

- (i) Applied for maternity, adoption or parental leave within the time and in the manner determined set out in paragraph 16.1.9 of this clause; and
- (ii) Prior to the commencement of maternity, adoption or parental leave, completed not less than 40 weeks' continuous service.
- (iii) Payment for the maternity, adoption or parental 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.

16.1.5 Payment for maternity, adoption or parental leave is at the rate applicable when the leave is taken. An employee holding a full time position who is on part time leave without pay when they start leave is paid:

- (i) at the full time rate if they began part time leave 40 weeks or less before starting maternity, adoption or parental leave;
- (ii) at the part time rate if they began part time leave more than 40 weeks before starting maternity, adoption or parental leave and have not changed their part time work arrangements for the 40 weeks;
- (iii) 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.

16.1.6 An employee who has taken no more than 12 months full time maternity, adoption or parental leave or its part time equivalent is entitled to be paid at their normal rate (ie the rate at which they were paid before proceeding on maternity, adoption or parental leave) for another period of such leave regardless of whether they resume their normal hours of work before proceeding on leave for another pregnancy or adoption.

16.1.7 Except as provided in paragraphs 16.1.4, 16.1.5 and 16.1.6 of this clause, maternity, adoption or parental leave shall be granted without pay.

16.1.8 Right to request

- (i) An employee who has been granted maternity, adoption or parental leave in accordance with paragraphs 16.1.1, 16.1.2 or 16.1.3 may make a request to the Director-General to:
  - (a) extend the period of simultaneous unpaid leave use up to a maximum of eight weeks in cases where partners wish to take maternity/adoption leave and parental leave;
  - (b) extend the period of unpaid maternity, adoption or parental leave for a further continuous period of leave not exceeding 12 months;
  - (c) return from a period of full time maternity, adoption or parental leave on a part time basis until the child reaches school age (Note: returning to work from

maternity, adoption or parental leave on a part time basis includes the option of returning to work on part time leave without pay);

to assist the employee in reconciling work and parental responsibilities.

- (ii) The Director-General 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 Director-General's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

#### 16.1.9 Notification Requirements

- (i) When the Director-General is made aware that an employee or their spouse is pregnant or adopting a child the Director-General must inform the employee of their entitlements and their obligations under the Award.
- (ii) An employee who wishes to take maternity, adoption or parental leave must notify the Director-General in writing at least 8 weeks (or as soon as practicable) before the expected commencement of maternity, adoption or parental leave:
  - (a) that she/he intends to take maternity, adoption or 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 paragraph 16.1.8.
- (iii) At least 4 weeks before an employee's expected date of commencing maternity, adoption or parental leave they must advise:
  - (a) the date on which the maternity, adoption or parental leave is intended to start, and
  - (b) the period of leave to be taken.
- (iv) Employee's request and the Director-General's decision to be in writing.

The employee's request and the Director-General's decision made under 16.1.9(i) and 16.1.9(ii) must be recorded in writing.
- (v) An employee intending to request to return from maternity, adoption or parental leave on a part time basis or seek an additional period of leave of up to 12 months must notify the Director-General in writing as soon as practicable and preferably before beginning maternity, adoption or 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 Director-General agrees.
- (vi) An employee on maternity leave is to notify the Director-General of the date on which she gave birth as soon as she can conveniently do so.
- (vii) An employee must notify the Director-General as soon as practicable of any change in her intentions as a result of premature delivery or miscarriage.
- (viii) An employee on maternity or adoption leave may change the period of leave or arrangement, once without the consent of the Director-General and any number of times with the consent of the Director-General. In each case she/he must give the Director-General at least 14 days notice of the change unless the Director-General decides otherwise.

- 16.1.10 An employee has the right to her/his former position if she/he has taken approved leave or part time work in accordance with paragraph 16.1.8, and she/he resumes duty immediately after the approved leave or work on a part time basis.
- 16.1.11 If the position occupied by the employee immediately prior to the taking of maternity, adoption or parental leave has ceased to exist, but there are other positions available that the employee is qualified for and is capable of performing, the employee shall be appointed to a position of the same grade and classification as the employee's former position.
- 16.1.12 An employee who has returned to full time duty without exhausting their entitlement to 12 months unpaid maternity, adoption or 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 Director-General) must be given.
- 16.1.13 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.
- 16.1.14 An employee may elect to take available recreation leave or extended leave within the period of maternity, adoption or parental leave provided this does not extend the total period of such leave.
- 16.1.15 An employee may elect to take available recreation leave at half pay in conjunction with maternity, adoption or parental leave subject to:
- (i) accrued recreation leave at the date leave commences is exhausted within the period of maternity, adoption or parental leave
  - (ii) the total period of maternity, adoption or parental leave, is not extended by the taking of recreation leave at half pay
  - (iii) 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.
- 16.1.16 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 Director-General 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.
- 16.1.17 If such adjustments cannot reasonably be made, the Director-General 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.
- 16.1.18 Communication during maternity, adoption or parental 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 Director-General 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 maternity, adoption or parental leave; and
  - (b) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing maternity, adoption or parental leave.
- (ii) The employee shall take reasonable steps to inform the Director-General about any significant matter that will affect the employee's decision regarding the duration of maternity, adoption or parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part time basis.
  - (iii) The employee shall also notify the Director-General of changes of address or other contact details which might affect the Director-General's capacity to comply with subparagraph 16.1.18(i).

## 16.2 Annual Leave Loading

16.2.1 A permanent or long-term temporary employee is entitled to payment of an annual leave loading of 17½ per cent on the monetary value of up to four weeks' recreation leave accrued in a leave year, subject to the provisions set out in paragraphs 16.2.2 to 16.2.4 of this subclause.

16.2.2 Where additional leave is accrued by a permanent or long-term temporary employee 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 four weeks' leave.

16.2.3 For the calculation of the annual leave loading, the leave year shall commence at the beginning of term one each year and shall end at the end of term four.

16.2.4 Payment of the annual leave loading shall be made on the recreation leave accrued during the previous leave year. Except in cases of voluntary redundancy, proportionate leave loading is not payable on cessation of employment.

## 16.3 Extended Leave

16.3.1 A permanent or long-term employee shall be entitled to extended leave of 44 working days on full pay after completing 10 years of service and a further 11 working days for each completed year of service after 10 years.

16.3.2 Payment for extended leave for permanent employees is calculated using the hourly rates designated in Schedule 1 multiplied by a factor of 1.058.

16.3.3 Part-time permanent and long-term temporary employees shall receive a pro rata proportion of the full-time entitlement.

16.3.4 Permanent and long term temporary employees with 7 years or more service are entitled to take (or be paid out on resignation) extended leave. The amount of leave available is that which would have applied if pro rata leave was granted.

16.3.5 Public holidays that fall whilst a permanent or long term temporary employee is on a period of extended leave are paid and not debited from an employee's leave entitlement.

16.3.6 Permanent and long term temporary employees with an entitlement to extended leave may elect to take leave at double pay.

## 16.4 Family and Community Service Leave

16.4.1 The Director-General shall, in the case of emergencies or in personal or domestic circumstances, grant to a permanent or long-term temporary employee some or all of the available family and community service leave on full pay.

16.4.2 Such cases may include but not be limited to the following:

- (i) compassionate grounds - such as the death or illness of a close member of the family or a member of the employee's household;
- (ii) 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;
- (iii) emergency or weather conditions - such as when flood, fire or snow, etc., threaten property and/or prevent an employee from reporting for duty;
- (iv) other personal circumstances - such as citizenship ceremonies, parent/teacher interviews or attending child's school for other reasons.

16.4.3 Attendance at court by a permanent or long-term temporary employee to answer a charge for a criminal offence, if the Director-General considers the granting of family and community service leave to be appropriate in a particular case.

16.4.4 A permanent or long-term temporary employee who is selected to represent Australia or the State as a competitor in major amateur sport (other than Olympic or Commonwealth Games).

16.4.5 A permanent or long-term temporary employee who holds office in Local Government other than as a Mayor of a Municipal Council, President of a Shire Council or Chairperson of a County Council, to attend meetings, conferences or other duties associated with that office where those duties necessitate absence during normal working hours.

16.4.6 The maximum amount of family and community service leave on full pay which may, subject to this award, be granted to a permanent or long-term temporary employee shall be the greater of the leave provided in subparagraphs (i) or (ii) of this paragraph.

- (i) 2½ days in the first year of service and, on completion of the first year's service, five days in any period of two years; or
- (ii) After the completion of two years' continuous service, the available family and community service leave is determined by allowing one day's leave for each completed year of service less the total amount of short leave or family and community service leave previously granted to the employee.

16.4.7 If available family and community service leave is exhausted as a result of natural disasters, the Director-General shall consider applications for additional family and community service leave, if some other emergency arises. On the death of a person defined in paragraph 16.7.3 of this clause, additional paid family and community service leave of up to two days may be granted on a discrete, per occasion basis to a permanent or long-term temporary employee.

16.4.8 In cases of illness of a family member for whose care and support the employee is responsible, paid sick leave in accordance with subclause 16.7 of this clause shall be granted when paid family and community service leave has been exhausted.

## 16.5 Leave Without Pay

16.5.1 The Director-General may grant leave without pay to a permanent or long-term temporary employee if good and sufficient reason is shown.

- 16.5.2 Leave without pay may be granted on a full-time or a part-time basis.
- 16.5.3 For leave up to and including a period of 12 months, a permanent employee has a right of return to the same school at their same classification. For periods in excess of 12 months and up to and including three years, a permanent employee has a right of return to the nearest suitable vacancy to their previous school.
- 16.5.4 Leave without pay may be granted to long-term temporary employees, provided it does not extend beyond the end of the school year in which it is taken.
- 16.5.5 Where a permanent or long-term temporary 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.
- 16.5.6 Where a permanent or long-term temporary employee is granted leave without pay which, when aggregated, does not exceed five working days in a period of 12 months, such leave shall count as service for incremental progression and accrual of recreation leave.
- 16.5.7 A permanent or long-term temporary employee who has been granted leave without pay shall not engage in private employment of any kind during the period of leave without pay, unless prior approval has been obtained from the Director-General.
- 16.5.8 A permanent or long-term temporary 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.

## 16.6 Military Leave

- 16.6.1 During the period of 12 months commencing on 1 July each year, the Director-General may grant to a permanent or long-term temporary 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 conducted by the employee's unit.
- 16.6.2 Up to 24 working days' military leave per year may be granted by the Director-General to members of the Naval and Military Reserves and up to 28 working days per year to members of the Air Force Reserve for the activities specified in paragraph 16.7.1 of this subclause.
- 16.6.3 At the expiration of military leave, the employee shall furnish to the principal a certificate of attendance signed by the commanding officer or other responsible officer.

## 16.7 Personal Carers Leave

### Use of Sick Leave to Care for a Family Member

When family and community service leave provided for in subclause 16.4 of this clause is exhausted, a permanent or long-term temporary employee with responsibilities in relation to a category of person set out in paragraph 16.7.3 of this subclause who needs the employee's care and support, may elect to use available paid sick leave, subject to the conditions specified in this subclause, to provide such care and support when a family member is ill.

- 16.7.1 The sick leave shall initially be taken from the current leave year's entitlement followed, if necessary, by the sick leave accumulated over the previous three years. In special circumstances, the Director-General may grant additional sick leave from the sick leave accumulated during the employee's eligible service.
- 16.7.2 If required by the Director-General, the permanent or long-term temporary employee must establish by production of a medical certificate or statutory declaration, the illness of the person concerned.

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

- (i) the employee being responsible for the care and support of the person concerned; and
- (ii) 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 stepchild, a foster child or an ex nuptial child), parent (including a foster parent or 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 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.

Use of recreation leave to care for a family member

16.7.4 A permanent or long term temporary employee may elect, with the consent of the Director-General, to take recreation 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.

16.7.5 A permanent or long term temporary employee may elect, with the consent of the Director-General, to take recreation leave at any time within a period of 24 months from the date at which it falls due.

## 16.8 Recreation Leave

16.8.1 Full-time permanent and long-term temporary employees accrue 20 days' recreation leave per year. Full-time permanent and long-term temporary employees in the central and western divisions of New South Wales accrue 25 days' recreation leave per year.

16.8.2 Part-time permanent and long-term temporary employees receive a pro rata proportion of the full-time entitlement.

16.8.3 Recreation leave for permanent or long-term temporary employees is paid during the initial four weeks (five weeks central and western divisions) of the summer school holidays (excluding public holidays).

## 16.9 Sick Leave

16.9.1 If the Director-General is satisfied that a permanent or long-term temporary employee is unable to perform duty because of the employee's illness or the illness of a member of their family, the Director-General:

- (i) shall grant to the employee sick leave on full pay; and
- (ii) may grant to the employee sick leave without pay if the absence exceeds the entitlement of the employee under this award to sick leave on full pay.

#### 16.9.2 Entitlements

- (i) Sick leave on full pay accrues to a permanent or long-term temporary employee at the rate of 15 days each school year. Any leave which is not taken accumulates.
- (ii) Sick leave on full pay accrues at the beginning of the school year. If an employee is appointed after the beginning of the school year, sick leave on full pay accrues on a proportionate basis for the year in which employment commences.
- (iii) All continuous service as a permanent or long-term temporary employee shall be taken into account for the purpose of calculating sick leave due. Where the service is not continuous, previous periods of service shall be taken into account for the purpose of calculating sick leave due if the previous sick leave records are available.
- (iv) Sick leave without pay shall count as service for the accrual of recreation leave and paid sick leave.
- (v) When determining the amount of sick leave accrued, sick leave granted on less than full pay shall be converted to its full pay equivalent.

16.9.3 Paid sick leave which may be granted to a permanent and long-term temporary employee in the first three months of service shall be limited to five days' paid sick leave, unless the Director-General 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.

16.9.4 No paid sick leave shall be granted to short-term temporary employees.

#### 16.10 Sick Leave - Requirements for Medical Certificate

- 16.10.1 A permanent or long-term temporary employee absent from duty for more than three consecutive working days because of illness must furnish a medical certificate to the Director-General in respect of the absence.
- 16.10.2 A permanent or long-term temporary employee shall be put on notice in advance if required by the Director-General to furnish a medical certificate in respect of an absence from duty for three consecutive working days or less because of illness.
- 16.10.3 If there is any concern about the reason shown on the medical certificate, the Director-General, after discussion with the employee, may refer the medical certificate and the employee's application for leave to HealthQuest for advice.
- 16.10.4 The nature of the leave to be granted to a permanent or long-term temporary employee shall be determined by the Director-General on the advice of HealthQuest.
- 16.10.5 If sick leave applied for is not granted, the Director-General must, as far as practicable, take into account the wishes of the employee when determining the nature of the leave to be granted.
- 16.10.6 A permanent or long-term temporary employee may elect to have an application for sick leave dealt with confidentially by HealthQuest in accordance with the general public service policy on confidentiality, as applies from time to time.
- 16.10.7 If a permanent or long-term temporary employee who is absent on recreation or extended leave furnishes to the Director-General a satisfactory medical certificate in respect of an

illness which occurred during the leave, the Director-General may grant sick leave to the employee if the period set out in the medical certificate is five working days or more.

16.10.8 Paragraph 16.10.7 of this subclause applies to all permanent or long-term temporary employees other than those on leave prior to resignation or termination of services, unless the resignation or termination of services amounts to a retirement.

16.10.9 The reference in this subclause to a medical certificate shall apply, as appropriate, to the certificates of up to one week provided by a registered dentist, optometrist, chiropractor, osteopath, physiotherapist, oral and maxillo facial surgeon or, at the Director-General's discretion, another registered health services provider. Where the absence exceeds one week and, unless the health provider listed above is also a registered medical practitioner, applications for any further sick leave must be supported by a medical certificate from a registered medical practitioner.

#### 16.11 Sick Leave - Workers Compensation

16.11.1 Pending the determination of an employee's workers compensation claim and on production of an acceptable medical certificate, the Director-General 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.

16.11.2 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.

16.11.3 A permanent or long-term temporary employee who continues to receive compensation after the completion of the period of 26 weeks referred to in section 36 of the Workers Compensation Act 1987 may use any accrued and untaken sick leave to make up the difference between the amount of compensation payable under that Act and the employee's ordinary rate of pay. Sick leave utilised in this way shall be debited against the employee.

16.11.4 If an employee notifies the Director-General that he or she does not intend to make a claim for any such compensation, the Director-General 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.

16.11.5 A permanent or long-term temporary 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.

16.11.6 If the Director-General provides the permanent or long-term temporary employee with employment which meets the terms and conditions specified in the medical certificate issued under the *Workers Compensation Act 1987* 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.

16.11.7 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*.

#### 16.12 Sick Leave - other than Workers Compensation

16.12.1 If the circumstances of any injury to or illness of a permanent or long-term temporary 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:

- (i) any such claim, if made, will include a claim for the value of any period of paid sick leave granted by the Department to the employee; and
  - (ii) 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 Department the monetary value of any such period of sick leave.
- 16.12.2 Sick leave on full pay shall not be granted to a permanent or long-term temporary employee who refuses or fails to complete an undertaking, except in cases where the Director-General is satisfied that the refusal or failure is unavoidable.
- 16.12.3 On repayment to the Department 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.

#### 16.13 Study Assistance

- 16.13.1 Study assistance of up to three hours per week may be granted on full pay to permanent or long-term temporary employees who are studying on a part-time basis.
- 16.13.2 Approval of study assistance will be at Departmental convenience. Study assistance may be used for:
- (i) attending compulsory lectures or tutorials, where these are held during working hours; and/or
  - (ii) necessary travel outside working hours to attend lectures, tutorials, etc., held during or outside working hours; and/or
  - (iii) private study for an approved course.
- 16.13.3 Subject to the convenience of the school or centre, permanent or long-term temporary employees may choose to accumulate part or all of their hours of study assistance to attend compulsory field days or residential schools.

#### 16.14 Special Leave

##### 16.14.1 Jury Service

- (i) A permanent or long-term temporary employee shall, as soon as possible, notify the Director-General of the details of any jury summons served on the employee.
- (ii) A permanent or long-term temporary 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 Director-General 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.
- (iii) When a certificate of attendance on jury service is received in respect of any period during which a permanent or long-term temporary employee was required to be on duty, the Director-General 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 Director-General shall grant, at the sole election of the employee, available recreation leave on full pay or leave without pay.

16.14.2 Witness at Court - Official Capacity

When a permanent or long-term temporary 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 Department.

16.14.3 Witness at Court - Other than in Official Capacity - Crown Witness

A permanent or long-term temporary 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:

- (i) be granted, for the whole of the period necessary to attend as such a witness, special leave on full pay; and
- (ii) 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.

16.14.4 Called as a Witness in a Private Capacity

A permanent or long-term temporary 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 employee's election, leave without pay.

16.14.5 Examinations

Special leave on full pay up to a maximum of five days in any one year shall be granted to permanent or long-term temporary employees for the purpose of attending at any examination approved by the Director-General.

Special leave granted to attend examinations shall include leave for any necessary travel to or from the place at which the examination is held.

16.14.6 Association Activities

Special leave on full pay may be granted to permanent or long-term temporary employees who are accredited trade union delegates to undertake approved trade union activities as specified below:

- (i) annual or biennial conferences of the Association;
- (ii) meetings of the Association's Executive, Committee of Management or Council;
- (iii) annual conference of the Unions NSW and the biennial Congress of the Australian Council of Trade Unions;
- (iv) attendance at meetings called by the Unions NSW involving a public sector trade union which requires attendance of a delegate;
- (v) attendance at meetings called by the Department as and when required;
- (vi) giving evidence before an industrial tribunal as a witness for the Association;

- (vii) reasonable travelling time to and from conferences or meetings to which the provisions of this subclause apply.

#### 16.14.7 Training Courses

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

- (i) Accredited Occupational Health and Safety (OH&S) courses and any other accredited OH&S training for OH&S Committee members.
- (ii) Courses organised and conducted by the Trade Union Education Foundation or by the Association or a training provider nominated by the Association. A maximum of 12 working days in any period of two 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 shift allowances/penalty rates, overtime, etc;
  - (c) all travelling and associated expenses being met by the employee or the association;
  - (d) attendance being confirmed in writing by the Association or a nominated training provider.

#### 16.14.8 Return Home when Temporarily Living Away from Home

Sufficient special leave shall be granted to a permanent or long-term temporary employee who is temporarily living away from home as a result of work requirements to return home once each month to enable such employees to spend two days and two nights with their family. If the employee wishes to return home more often, they may be granted extended leave or leave without pay, if the operational requirements allow.

#### 16.14.9 Return Home when Transferred to New Location

Special leave shall be granted to a permanent or long-term temporary 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 or successor instrument.

- 16.14.10 A permanent or long-term temporary employee who identifies as an Aboriginal person or a Torres Strait Islander may be granted up to one day's special leave per year to enable the employee to participate in the National Day celebrations.

### **17. Travelling Compensation**

#### 17.1 Excess Travelling Time

A permanent or long-term temporary employee, other than an Aboriginal Education Officer, directed by the Director-General to travel on official business outside the usual hours of duty is entitled to apply and to be compensated for such time either by:

17.1.1 payment calculated in accordance with the provisions contained in this subclause; or

17.1.2 if it is operationally convenient, by taking equivalent time off in lieu to be granted for excess time spent in travelling on official business.

17.2 Compensation under paragraphs 17.1.1 or 17.1.2 of this clause shall be subject to the following conditions:

17.2.1 on a non-working day - all time spent travelling on official business;

17.2.2 on a working day - subject to the provisions of subclause 17.5 of this clause, all additional time spent travelling before or after the employee's normal hours of duty;

17.2.3 period for which compensation is being sought is more than a quarter of an hour on any one day.

17.3 No compensation for travelling time shall be given in respect of travel between 11.00 pm on any one day and 7.30 am on the following day where the employee has travelled overnight and sleeping facilities have been provided for the employee.

17.4 Compensation for travelling time shall be granted only in respect of the time that might reasonably have been taken by the use of the most practical and economic means of transport.

17.5 Compensation for excess travelling time shall exclude the following:

17.5.1 time normally taken for the periodic journey from home to headquarters and return;

17.5.2 any periods of excess travel of less than 30 minutes on any one day;

17.5.3 travel to new headquarters on permanent transfer, if special leave has been granted for the day or days on which travel is to be undertaken;

17.5.4 time from 11.00 pm on one day to 7.30 am on the following day if sleeping facilities have been provided;

17.5.5 travel not undertaken by the most practical available route;

17.5.6 working on board ship where meals and accommodation are provided;

17.5.7 any travel undertaken by an Aboriginal Education Officer whose salary includes an "all incidents of employment" component;

17.5.8 travel overseas.

17.6 Waiting Time

When a permanent or long-term temporary employee, other than an Aboriginal Education Officer, is required to wait for transport in order to commence a journey to another location or to return to headquarters and such time is outside the normal hours of duty, such waiting time shall be treated and compensated in the same manner as travelling time.

17.7 Payment

Payment for travelling time calculated according to subclauses 17.1 and 17.3 of this clause shall be at the employee's ordinary rate of pay on an hourly basis calculated as follows:

$$\text{Annual salary} \quad \times \quad \frac{5}{260.89} \quad \times \quad \frac{1}{\text{Normal hours of work}}$$

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

17.9 Time off in lieu or payment for excess travelling time or waiting time will not be granted or made for more than eight hours in any period of 24 consecutive hours.

#### 17.10 Meal Allowances

A permanent or long-term temporary employee who is authorised by the Director-General to undertake a one-day journey on official business which does not require the employee to obtain overnight accommodation shall be paid the following allowances as described at Item 4 of Schedule 3 of Part B:

- 17.10.1 breakfast when required to commence travel at or before 6.00 am and at least one hour before the prescribed starting time;
- 17.10.2 an evening meal when required to travel until or beyond 6.30 pm; and
- 17.10.3 lunch when required to travel a total distance on the day of at least 100 kilometres and, as a result, is located at a distance of at least 50 kilometres from the employee's normal headquarters at the time of taking the normal lunch break.

#### 18. Overtime

- 18.1 The provisions of this clause shall not apply to Aboriginal Education Officers who receive a rate of pay which covers all incidents of employment.

#### 18.2 Rates

Overtime shall be paid at the following rates:

##### 18.2.1 Weekdays (Monday to Friday inclusive)

At the rate of time and one half for the first two hours and at the rate of double time thereafter for all directed overtime worked:

- (i) For employees, other than Aboriginal Education Officers, working under the hours averaging provisions of subclause 7.4 of clause 7, Hours, who are directed to work overtime after 6.00 pm on a weekday following seven hours of normal work.
- (ii) For employees, other than Aboriginal Education Officers, not working under the hours averaging provisions of the said subclause 7.4, who are directed to work overtime on a weekday following seven hours of normal work.

##### 18.2.2 Saturday

All overtime directed to be worked on a Saturday at the rate of time and one half for the first two hours and at the rate of double time thereafter.

##### 18.2.3 Sundays

All overtime directed to be worked on a Sunday at the rate of double time.

##### 18.2.4 Public Holidays

All overtime directed to be worked on a public holiday at the rate of double time and one half.

- 18.3 If an employee is absent from duty on any working day during any week in which directed overtime has been worked, the time so lost may be deducted from the total amount of overtime worked during the week unless the employee has been granted leave of absence or the absence has been caused by circumstances beyond the employee's control.
- 18.4 An employee who works directed overtime on a Saturday, Sunday or public holiday shall be paid a minimum payment as for three hours' work at the appropriate rate.

## 18.5 Meal Breaks and Allowances

18.5.1 An employee who works directed overtime is entitled to a meal break as follows:

- (i) an employee not working under the averaging of hours scheme as provided at subclause 7.4 of clause 7, Hours, who is required to work overtime on weekdays for 1½ hours or more after the employee's ordinary hours of duty, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked;
- (ii) an employee working under the averaging of hours scheme as provided at the said subclause 7.4, who is required to work overtime on weekdays beyond 6.00 pm and until or beyond 8½ hours after commencing duty plus the time taken for lunch, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked;
- (iii) 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.

18.5.2 Meal allowances are set out in Item 5 of Schedule 3 of Part B and are payable for meal breaks taken as above, if an adequate meal has not been provided by the Department and:

- (i) the time worked is directed overtime;
- (ii) the employee incurred expenditure in obtaining the meal in respect of which the allowance is sought;
- (iii) 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;
- (iv) overtime is not being paid in respect of the time taken for the meal break.

## 18.6 Rest Periods

18.6.1 An employee who works overtime shall be entitled to be absent until eight consecutive hours have elapsed.

18.6.2 Where an employee, at the direction of the supervisor, resumes or continues work without having had eight consecutive hours off duty, then such employee shall be paid at the appropriate overtime rate until released from duty. The employee shall then be entitled to eight consecutive hours off duty and shall be paid for the ordinary working time occurring during the absence.

## 18.7 Recall to Duty

18.7.1 An employee recalled to work overtime after leaving the employer's premises shall be paid for a minimum of three hours' work at the appropriate overtime rates.

18.7.2 The employee shall not be required to work the full three hours if the job can be completed within a shorter period.

18.7.3 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.

18.7.4 An employee recalled to duty within three 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.

18.7.5 This subclause shall not apply in cases where it is customary for an employee to return to the Department'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 hours unless the actual time worked is three or more hours.

### **19. Transferred Employees' Compensation**

- 19.1 The provisions of the Crown Employees (Transferred Employees Compensation) Award, or successor instruments, will apply to permanent and long-term temporary employees.

### **20. Deduction of Association Membership Fees**

- 20.1 The Association shall provide the Department with a schedule setting out union fortnightly membership fees payable by members of the Association in accordance with the Association's rules.
- 20.2 The Association shall advise the Department 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 Department at least one month in advance of the variation taking effect.
- 20.3 Subject to subclauses 20.1 and 20.2 of this clause, the Department shall 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 Department to make such deductions.
- 20.4 Monies so deducted from employees' pay will be forwarded regularly to the Association together with all necessary information to enable the Association to reconcile and credit subscriptions to employees' union membership accounts.
- 20.5 Unless other arrangements are agreed to by the Department and the Association, all Association membership fees shall be deducted on a fortnightly basis.
- 20.6 Where an employee has already authorised the deduction of Association membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

### **21. No Further Claims and No Industrial Action**

- 21.1 Except as provided under the *Industrial Relations Act* 1996, prior to 30 June 2007 there shall be no further claims and no industrial action by the parties to this award in relation to matters contained in paragraphs 4.1.1, 4.1.2 and 4.1.3 of clause 4, Classifications, and subclause 5.3 of clause 5, Rates of Pay.
- 21.2 The parties acknowledge that the Memorandum of Understanding between the Association and the NSW Government in full and final settlement of IRC Matter No. 3817 of 2004 includes a no extra claims commitment that is applicable to classifications covered by this award.

### **22. Secure Employment**

- 22.1 Occupational Health and Safety

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

- (i) 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.
- (ii) 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.

22.1.2 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):

- (i) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (ii) 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;
- (iii) 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
- (iv) 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.

22.1.3 Nothing in this subclause 22.1 is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

## 22.2 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.

22.3 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.

## **23. Short Term Temporary Employee Entitlements**

23.1 Other than as described under subclauses 23.3, 23.4, 23.5 and 23.6 of this clause, short term temporary employees are not entitled to any other paid or unpaid leave.

23.2 As set out in subclause 5.8, the short term temporary rates of pay incorporate a payment in lieu of a recreation leave entitlement.

23.3 Short term temporary employees will be entitled to Long Service Leave in accordance with the provisions of the Long Service Leave Act 1955.

23.4 Short term temporary employees are entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, Section 54, Entitlement to Unpaid Parental Leave, *Industrial Relations Act 1996*, if they meet the definition of a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996*). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).

23.4.1 The Director-General must not fail to re-engage a short term temporary employee who meets the definition of a regular casual employee 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 short term temporary employees are not affected, other than in accordance with this clause.

### 23.5 Personal Carers Entitlement for short term temporary employees

23.5.1 Short term temporary 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 16.7.3 of the 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 below in 23.5.4, and the notice requirements set out in 23.5.5.

23.5.2 The Director-General and the short term temporary 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 short term temporary employee is not entitled to any payment for the period of non-attendance.

23.5.3 The Director-General must not fail to re-engage a short term temporary employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a short term temporary employee are otherwise not affected.

23.5.4 The short term temporary employee shall, if required:

- (i) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
- (ii) establish by production of documentation acceptable to the Director-General 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 short term temporary employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

23.5.5 The short term temporary employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the Director-General of their inability to attend for duty. If it is not reasonably practicable to inform the Director-General during the ordinary hours of the first day or shift of such absence, the employee will inform the Director-General within 24 hours of the absence.

### 23.6 Bereavement entitlements for short term temporary employees

23.6.1 Short term temporary 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 Director-General).

23.6.2 The Director-General and the short term temporary 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 short term temporary employee is not entitled to any payment for the period of non-attendance.

23.6.3 The Director-General must not fail to re-engage a short term temporary employee because the employee accessed the entitlements provided for in this clause. The rights of the Director-General to engage or not engage a short term temporary employee are otherwise not affected.

23.6.4 The short term temporary employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the Director-General of their inability to attend for duty. If it is not reasonably practicable to inform the Director-General

during the ordinary hours of the first day or shift of such absence, the employee will inform the Director-General within 24 hours of the absence.

#### 24. Area, Incidence and Duration

- 24.1 This award shall apply to all employees as defined in clause 2, Definitions.
- 24.2 This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Crown Employees (School Administrative and Support Officers) Award published 27 May 2005 (351 I.G. 374) and all variations thereof.
- 24.3 The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 14 August 2008.
- 24.4 The award remains in force until varied or rescinded, the period for which it was made having already expired.

### PART B

#### Schedule 1 - School Administrative and Support Staff (other than Aboriginal Education Officers) - Rates of Pay

##### 1.1 Permanent School Administrative and Support Staff

	Rate of pay from the first pay period to commence on or after 1.7.2007 (\$ p/h)
School Support Officer	19.53
School Administrative Officer	21.91
School Administrative Manager -	
Level 1	25.36
Level 2	26.05
Level 3	26.79
Level 4	27.59

	Rate of pay from the first pay period to commence on or after 1.7.2007 (\$ p/h)
School Learning Support Officer and School Learning Support Officer (Braille Transcriber), (Ethnic), (Sign Interpreter) - (for progression on these rates see clause 6)	
Junior	13.96
Following 12 months of service or at age 20	16.48
1st year	20.07
2nd year	20.43
3rd year	21.86
4th year	23.30
School Learning Support Officer (Pre-school) - (for progression on these rates see clause 6)	
Junior	13.96
Following 12 months of service or at age 20	16.48
1st year	19.35
2nd year	19.70
3rd year	20.07
4th year	20.43

1.2 Long-term Temporary School Administrative and Support Staff

	Rate of pay from the first pay period to commence on or after 1.7.2007 (\$ p/h)
School Support Officer	20.68
School Administrative Officer	23.18
School Administrative Manager -	
Level 1	26.82
Level 2	27.56
Level 3	28.35
Level 4	29.20
	Rate of pay from the first pay period to commence on or after 1.7.2007 (\$ p/h)
School Learning Support Officer and School Learning Support Officer (Braille Transcriber), (Ethnic), (Sign Interpreter) - (for progression on these rates see clause 6)	
Junior	14.73
Following 12 months of service or at age 20	17.43
1st year	21.27
2nd year	21.61
3rd year	23.11
4th year	24.64
School Learning Support Officer (Pre-school) - (for progression on these rates see clause 6)	
Junior	14.73
Following 12 months of service or at age 20	17.43
1st year	20.49
2nd year	20.84
3rd year	21.27
4th year	21.61

1.3 Short-term Temporary School Administrative and Support Staff

	Rate of pay from the first pay period to commence on or after 1.7.2007 (\$ p/h)
School Support Officer	22.47
School Administrative Officer	25.20
School Administrative Manager	
Level 1	29.16
Level 2	29.96
Level 3	30.82
Level 4	31.74
	Rate of pay from the first pay period to commence on or after 1.7.2007 (\$ p/h)
School Learning Support Officer and School Learning Support Officer (Braille Transcriber), (Ethnic), (Sign Interpreter) - (for progression on these rates see clause 6)	
Junior	16.04
Following 12 months of service or at age 20	18.93
1st year	23.09
2nd year	23.49
3rd year	25.14
4th year	26.79

School Learning Support Officer (Pre-school) - (for progression on these rates see clause 6)	
Junior	16.04
Following 12 months of service or at age 20	18.93
1st year	22.27
2nd year	22.68
3rd year	23.09
4th year	23.49

**Schedule 2 - Aboriginal Education Officers - Rates of Pay**

**(For progression on these rates see subclause 6.3)**

2.1 Permanent Aboriginal Education Officer

	Rate of pay from the first pay period to commence on or after 1.7.2007 (\$ p/h)
Junior	14.19
Following 12 months of service or at age 20	17.65
1st year	21.74
2nd year	22.35
3rd year	23.16
4th year	23.78
5th year	24.44
6th year	25.06

2.2 Long-term Temporary Aboriginal Education Officer

	Rate of pay from the first pay period to commence on or after 1.7.2007 (\$ p/h)
Junior	15.00
Following 12 months of service or at age 20	18.67
1st year	23.02
2nd year	23.64
3rd year	24.52
4th year	25.18
5th year	25.85
6th year	26.55

2.3 Short-term Temporary Aboriginal Education Officer

	Rate of pay from the first pay period to commence on or after 1.7.2007 (\$ p/h)
Junior	16.32
Following 12 months of service or at age 20	20.30
1st year	25.02
2nd year	25.70
3rd year	26.62
4th year	27.36
5th year	28.10
6th year	28.85

**Schedule 3 - School Administrative and Support Staff - Allowances**

Item No.	Clause No.	Brief Description	Amount Item Nos. 1, 4 and 5 effective from 1 July 2007 \$
1	9.1.1	First-aid allowance - Permanent staff Temporary staff	35.78 cents per hour 37.86 cents per hour
2	9.2.1	Administration of prescribed medications allowance - Permanent and temporary staff	18.50 cents per hour
3	9.3.1	Health care procedures allowance - Permanent and temporary staff	40 cents per hour
4		Meal allowances on one-day journeys - Capital Cities and High-cost Country Centres: (see the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006 for list of capital cities and high cost country centres)	
	17.10.1	Breakfast allowance	20.20
	17.10.2	Evening meal allowance	38.95
	17.10.3	Lunch allowance	22.65
		Other Centres:	
	17.10.1	Breakfast allowance	18.05
	17.10.2	Evening meal allowance	35.60
	17.10.3	Lunch allowance	20.65
5	18.5.2	Overtime meal allowances - Breakfast Lunch Dinner Supper	22.60 22.60 22.60 8.70

The allowances listed at Item 4 and 5 and the relevant cities and centres are adjusted in accordance with the provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006 or successor award, or as approved from time to time by the Director-General of the Department of Premier and Cabinet.

D.W. RITCHIE, Commissioner

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