(1327) SERIAL C8453

CROWN EMPLOYEES (DEPARTMENT OF INDUSTRY, SKILLS AND REGIONAL DEVELOPMENT) OPERATIONAL STAFF AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 378 of 2015)

Before Commissioner Stanton

28 October 2015

REVIEWED AWARD

PART A

Arrangement

PART A

Clause No. Subject Matter

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1. Title of the Award

(i) This Award shall be known as the Crown Employees (Department of Industry, Skills and Regional Development) Operational Staff Award.

2. Definitions

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

- (xviii) "Member of Staff" for the purposes of this Award, means a person employed as an employee on probation, or employee, employed in any capacity under the provisions of Part 4, Division 5 of the Act, who is classified under this Award.
- (xix) "Normal Work" normal work as defined in clause 17, Grievance and Dispute Settling Procedures is defined as the duties, responsibilities and capabilities relevant to the Role Description of a member, or members of staff at the time of a grievance, dispute or difficulty.
- (xx) "Operational Staff" means all members of staff assigned to roles described in this clause.
- (xxi) "Prior Learning" means recognising formal skills and experience.
- (xxii) "Public Service" means the Public Service of New South Wales as defined in the *Government Sector Employment Act* 2013.
- (xxiii)"Regulation" means the Government Sector Employment Regulation 2014.
- (xxiv) "Role" means a role to which a member of staff has been assigned.
- (xxv) "Rules" means the Government Sector Employment Rules 2014.
- (xxvi) "Salary Rates" means the ordinary time of pay for the member of staff's grading, excluding shift allowances, weekend penalties and all other allowances not regarded as salary.
- (xxvii) "Secretary" means the Secretary of the Department of Industry Skills and Regional Development as specified in Schedule 1 of the *Government Sector Employment Act 2013*
- (xxviii) "Service" means continuous service for salary purposes.
- (xxix) "Supervisor-Special Grade" means a member of staff assigned to the role of supervisor who, in the opinion of the Secretary, has special responsibilities involving supervision of another supervisor and more than one major field of activity
- (xxx) "Unions" means The Australian Workers Union, New South Wales Branch, Australian Manufacturing Workers Union, New South Wales Branch, the Electrical Trades Union of Australia, New South Wales Branch, Communications, Electrical & Plumbing Union, Plumbing Division (NSW Branch); and the Construction, Forestry, Mining and Energy Union, New South Wales Branch.

3. Salaries

- (i) Subject to the provisions of the Act, Regulation and Rules thereunder, the rates of salary as set out in Table 1 Salaries, of Part B, Monetary Rates, shall be paid to members of staff assigned to roles specified.
- (ii) Existing allowances payable for passing prescribed annual technical college examinations shall continue to be paid to apprentices in accordance with the Crown Employees (Skilled Trades) Award.
- (iii) The salary rates in Part B, Monetary Rates, of this Award, are set in accordance with the Crown Employees (Public Sector Salaries 2015) Award and any variation or replacement Award.

4. School Based Apprentices

(i) Definition

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

(ii) Wages

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

(iii) Progression through the Wage Structure

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

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

(v) Conditions of Employment

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

5. Saving of Rights

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

6. Minimum Qualification Requirements and Commencing Rates

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

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

7. Promotional Criteria

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

8. Allowances

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

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

- (iv) Any Operational Staff Grade 2 or above who retain the Leading Hand Allowance as a result of operation of the transitional arrangements prescribed by clause 9 of this Award shall, in addition to the appropriate rate of pay prescribed in clause 3, Salaries, be paid an allowance as set out in Item 4 of Table 2 Allowances, of Part B, Monetary Rates. That allowance is to be superable and is to be regarded as salary for all purposes.
- (v) Operational Staff who are required to work a broken shift shall be paid an amount per day extra as set out in Item 5 of Table 2 Allowances, of Part B, Monetary Rates.
- (vi) Operational Staff shall be paid the appropriate working dog allowance as set out in Item 6 of Table 2 Allowances, of Part B Monetary Rates where the relevant Research Station Manager certifies that the use of staff member's working dog(s) is/are necessary for the efficient conduct of the station's operations.
- (vii) First aid
 - (a) A member of staff assigned as a First Aid Officer shall be paid a first aid allowance at the rate appropriate to the qualifications held by such member of staff as specified in Item 7 of Table 2 Allowances, of Part B Monetary Rates.
 - (b) The First Aid Allowance shall not be paid during extended leave or any other continuous period of leave which exceeds four weeks.
 - (c) When the First Aid Officer is absent on leave for one week or more and another qualified member of staff is selected to relieve in the First Aid Officer's role, such member of staff shall be paid a pro rata first aid allowance for assuming the duties of a First Aid Officer.
- (viii) A member of staff required to work more than one and one half hours after the ordinary ceasing time shall be provided with a meal or be paid the appropriate Overtime Meal Allowance as set out Item 8 of Table 2 Allowances, of Part B Monetary Rates for such a meal and after the completion of each four hours of continuous overtime thereafter shall be paid the appropriate rate as set out in Item 8 of Table 2 Allowances, of Part B Monetary Rates for each subsequent meal in addition to the overtime payment.
- (ix) A Maintenance Operator required to hold and act upon a First Class Refrigeration Certification issued by the appropriate Authority or equivalent current NSW certification shall be paid the rate as set out in Item 9 of Table 2 Allowances, of Part B Monetary Rates.

9. Leading Hand Allowance - Transitional Arrangements

- (i) Any Operational Staff Grade 2 or above who receives the Leading Hand Allowance as at the date of the first advertisement of the assigned role of Leading Hand established by the former Crown Employees (Operational Staff NSW Agriculture) Award published 15 November 2002 (337 I.G. 1) will not be financially disadvantaged in the following circumstances:
 - (a) where successful in their application for a role of Leading Hand;
 - (b) where unsuccessful in the application for a role of Leading Hand; or
 - (c) where no application is made for a role of Leading Hand.

Such member of staff shall retain their existing allowance until they retire, resign or are promoted. The Leading Hand allowance payable to such member of staff will continue to be adjusted as prescribed by clause 10, Review of Allowances. Such members of staff who are not assigned to an ongoing full time Leading Hand role, but who retain the Leading Hand

Allowance, can be called upon to perform Leading Hand duties as the need arises whilst in receipt of this allowance. In all other situations payment of the Leading Hand Allowance will cease with the assignment of Leading Hands at the respective locations.

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

10. Review of Allowances Payable in Terms of This Award

- Adjustment of Allowances Allowances contained in clause 8, Allowances, of this Award shall be reviewed as follows:
 - (a) The following allowances shall be reviewed in accordance with variations to the Crown Employees (Public Sector Salaries 2015) Award or any replacement Award:

Chokage Allowance

Licence and Registration Allowances

Leading Hand Allowance

Broken Shift Allowance

First Aid Allowance

Refrigeration Allowance

- (b) Tool Allowances shall be reviewed in accordance with variations to the Crown Employees (Skilled Trades) Award, or any replacement Award
- (c) Overtime Meal Allowances shall be reviewed in accordance with variations to Meal Allowances prescribed by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 as varied or replaced.
- (ii) Dog Allowances shall be adjusted on 1 January each year in line with the increases in the Consumer Price Index for Sydney during the preceding calendar year.

11. Hours of Work - Day Work

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

6:00 pm, with 0.4 of one hour on each day worked accruing as an entitlement to take one rostered day off in each work cycle as a day off paid for as though worked.

(c) The rostered day off shall be a Monday or a Friday within the working cycle provided that by agreement of the Department and the member of staff, the rostered day off may be taken on any other day within the work cycle or accrued as an entitlement for a day off to be taken in a subsequent work cycle.

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

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

12. Hours of Work - Shift Work

- (i) The ordinary working hours for shift work shall be thirty-eight per week and shall be worked in accordance with the following provisions for a four-week work cycle:
 - (a) The ordinary working hours for shift work shall be worked as twenty-day four-week cycle of five days per week during the period Monday to Sunday inclusive (except broken shifts) with nineteen working days of eight hours each, with 0.4 of one hour on each shift accruing as an entitlement to take one rostered shift off in each work cycle as a shift off paid for as though worked.
 - (b) The rostered shift off shall be Monday or a Friday within the working cycle provided that by agreement of the Department and the member of staff the rostered shift off may be taken on any

other day within the work cycle or accrued as an entitlement for a shift off to be taken in a subsequent work cycle. Provided that no member of staff shall be entitled to accrue more than six shifts off under the terms of this subsection. All rostered shifts off shall be taken by the member of staff as a leisure day off, and except as provided for in this subsection no work shall be performed by a member of staff on their rostered off shift or shifts.

- (c) A roster of shifts off (provided for under this subsection) for each member of staff shall be notified to members of staff prior to the commencement of each working cycle. Unless otherwise decided by mutual agreement staff shall be provided with seven (7) working shifts notice of change in roster provided that in the case of an emergency situation, forty-eight (48) hours notice of change in roster may be given by the Department.
- (d) Where such rostered shift off prescribed by this subclause falls on a public holiday as defined in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 as varied or replaced, the next working day shall be taken in lieu of the rostered shift off unless an alternative day in that four-week cycle (or the next four-week cycle) is agreed in writing between the employer and the member of staff.
- (e) Each shift of paid leave taken and any public holidays occurring during any cycle of four weeks shall be regarded as a shift worked for accrual purposes.
- (f) A member of staff who has not worked a complete four-week cycle shall receive pro-rata accrued entitlements for each shift worked (or each fraction of a shift worked) or regarded as having been worked in such cycle, payable for the rostered shift off or, in the case of termination of employment, on termination.
- (g) Shift workers shall be allowed a meal break of at least twenty minutes which shall be counted as time worked at a time convenient to the Department.

(ii) Shift Allowances

Shift workers shall be paid the following shift allowances:

Shift	Commencing Time Allowance in Addition to	
		Ordinary Rate
Day	at or after 6am	Nil
Afternoon	at or after 10am and before 1pm 10%	
Afternoon	at or after 1pm and before 4pm	121/2%
Night	at or after 4pm and before 4am 15%	
Night	at or after 4am and before 6am	10%

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

(iii) Penalty Rates

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

(a) Weekends

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

(b) Public Holidays

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

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

13. Overtime

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

Provided that, if on the instructions of the Department, such a member of staff resumes, or continues to work, without having had such ten consecutive hours off duty the member of staff shall be paid at double rates until released from duty for the ten hour period and shall then be

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

Provided that:

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

14. Public Service Holiday

- (i) The Public Service Holiday as prescribed by Clause 12(C) the *Government Sector Employment Regulation* 2014 shall be a Public Service Holiday/Union Picnic Day for Operational Staff covered by this Award and shall be in lieu of any other Picnic Day.
- (ii) All Operational Staff shall, as far as practicable, be given and shall take this day as the Public Service Holiday/Union Picnic Day and shall be paid therefore as for eight hours' work at the rate prescribed in clause 3, Salaries, of this Award. Any member of staff required to work on such day shall be paid at the

rate of double time and a half for not less than four hours' work. Provided that a member of staff who is required to work on the Public Service Holiday/Union Picnic Day and who fails to comply with such requirement shall not be entitled to payment for the day.

15. Job Evaluation

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

16. Appeals Mechanism

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

17. Grievance and Dispute Settling Procedures

(i) All grievances and disputes relating to the provisions of this Award 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 Department, if required.

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

18. Deduction of Union Membership Fees

- (i) The union/association shall provide the Department with a schedule setting out fortnightly membership fees payable by members of the union/association in accordance with the union's/association's rules.
- (ii) The union/association 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/association fortnightly membership fees payable shall be provided to the Department at least one month in advance of the variation taking effect.
- (iii) Subject to subclauses (i) and (ii) of this clause, the Department shall deduct union/association fortnightly membership fees from the pay of any member of staff who is a member of the union/association in accordance with the union's/association's rules, provided that the member of staff has authorised the Department to make such deductions.
- (iv) Monies so deducted from member of staff's pay shall be forwarded regularly to the union/association together with all necessary information to enable the union/association to reconcile and credit subscriptions to members of staff union/association membership accounts.

- (v) Unless other arrangements are agreed to by the employer and the union/association, all union/association membership fees shall be deducted on a fortnightly basis.
- (vi) Where a member of staff has already authorised the deduction of union/association membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the member of staff to make a fresh authorisation in order for such deductions to continue.

19. Anti-Discrimination

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

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

20. Area, Incidence and Duration

- (i) This Award shall apply to Operational Staff described in clause 2, Definitions of this Award, in the Department of Industry, Skills and Regional Development.
- (ii) The members of staff 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 are provided for under the *Government Sector Employment Act 2013*, the *Government Sector Employment Regulation* 2014, the *Government Sector Employment Rules*, the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 and the Crown Employees (Public Sector Salaries 2015) Award or any Awards replacing these Awards.

- (iii) The changes made to the Award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act* 1996 and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commissioner of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 28 October 2015.
- (iv) The Award remains in force until varied or rescinded, the period for which it was made having already expired.

PART B

MONETARY RATES

Table 1 - Salaries

Effective from the beginning of the first full pay period to commence on or after 1 July 2015 with the exception of the Dog Allowances as shown in item 6, Table 2, is adjusted on 1 January each year in line with the increases in the Consumer Price Index for Sydney during the preceding calendar year.

(A) Full time (Annual Rate)		Common Salary	1.07.15
		Point	Per Annum
			2.50%
			\$
Junior	Under 17	-	33,151
	at 17 years	-	40,254
Grade 1	Step 1	-	47,355
	Step 2	26	49,106
	Step 3	29	50,433
	Step 4	33	52,185
Grade 2	Step 1	36	53,642
	Step 2	39	55,169
	Step 3	43	57,253
	Step 4	46	58,687
Grade 3	Step 1	46	58,687
	Step 2	50	60,998
	Step 3	53	62,627
Grade 4	Step 1	56	64,399
	Step 2	60	66,909
	Step 3	63	69,025
Grade 5	Step 1	63	69,025
	Step 2	66	71,112
	Step 3	70	73,918
Grade 6	Step 1	73	76,071
	Step 2	76	78,301
	Step 3	80	81,404
(B) Apprentices Full-time (Weekly Rate)			Per Week
			\$
Year 1		-	474.10
Year 2		-	625.80
Year 3		-	797.25
Year 4		-	905.90

Table 2 - Allowances

Item No.	Clause No.	Brief Description	1.7.2015 Amount 2.50% \$
1	8 (i)	Chokage Allowance per day or part thereof	8.86
2	8 (ii)	Maintenance Operator - Licence & Registration Allowances	Per annum
		Electricians Licence A Grade	2,466
		B Grade	1,326
		Registration Allowance	1,856
		(a) Plumber's Licence	2,438
		(b) Gasfitter's Licence	2,438
		(c) Drainer's Licence	2,103
		(d) Plumber's/Gasfitter's Licence	3,253
		(e) Gasfitter's/Drainer's Licence	3,253
		(f) Plumber's/Drainer's Licence	3,253
		(g) Plumber's/Gasfitter's/Drainer's Licence	4,490
3	8 (iii)	Maintenance Operator & Apprentice Tool	Per week
		Allowances	
		Carpenter	30.40
		Electrician	18.99
		Plumber	30.40
		Motor Mechanic	30.40
		Fitter & Turner	30.40
		Welder	30.40
4	8 (iv)	Leading Hand Allowance Per Annum	2,150
5	8 (v)	Broken Shift Allowance Per Day	13.69
6	8 (vi)	Dog Allowance Not Found - 1 Dog* Per Week	3.62
		Dog Allowance Not Found - 2 Dogs* Per week	7.22
		Dog Allowance - 1 Dog Per week	10.41
		Dog Allowance - 2 Dogs Per week	20.82
7	8 (vii)	Occupational First Aid Allowance Per week	24.33
		First Aid Allowance Per week	16.33
8	8 (viii)	Overtime Meal Allowance	
		First Meal	28.80
		Subsequent Meals	28.80
9	8 (ix)	Refrigeration Allowance Per Annum	650.98

^{*} Where dog is fed meat supplied by the Department

J. D. STANTON, Commissioner

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