

FARM ASSISTANTS (DEPARTMENT OF EDUCATION AND COMMUNITIES) WAGES AND CONDITIONS AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 728 of 2015)

Before Commissioner Stanton

17 November 2015

REVIEWED AWARD

PART A

1. Arrangement

PART A

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Hours of Work
4.	Overtime
5.	Wage Sacrifice for Superannuation and Wage/Salary Packaging Arrangements
6.	Wages and Allowances
7.	Payment of Wages
8.	Deduction of Union Membership Fees
9.	Public Holidays and Picnic Day
10.	Leave
11.	Tea Breaks
12.	Accommodation
13.	Settlement of Disputes
14.	Terms of engagement
15.	Fares
16.	Anti-Discrimination
17.	Area, Incidence and Duration
18.	No Extra Claims

PART B

MONETARY RATES

Table 1 - Wages

Table 2 - Allowances

2. Definitions

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

2.2 "Casual Employee" means a person engaged on an hourly basis to carry out:

- (i) work that is irregular or intermittent, or

- (ii) work on a short term basis in an area of the Department with a flexible workload, or
- (iii) the work of a position for a short period pending completion of the selection process for the position, or
- (iv) urgent work to deal with an emergency.

Consistent with the casual employment provisions of the *Government Sector Employment Act 2013* and any rules or guidelines issued pursuant to that Act, no single period of casual employment is to exceed three months, and the parties further agree that ideally no single period of engagement as a casual employee should exceed one month and in most instances any period of casual engagement should be less than two weeks in duration.

- 2.3 "Department" means the NSW Department of Education.
- 2.4 "Employee" means and includes all persons employed on an ongoing, temporary or casual basis under the provisions of the *Government Sector Employment Act 2013*, who, on 20 October 1982 were occupying a position covered by this award and included in the schedule attached hereto, or who after that date, are employed under the terms of this award but does not include any person who resigned or whose services were terminated (not including retirement) prior to the making of this award.
- 2.5 "Farm Assistant" means any employee, including a casual, engaged as a Farm Assistant Class I or Farm Assistant Class II.
- 2.6 "Flower Gardener" means any employee engaged as such.
- 2.7 "Horsepower" means the brake horsepower as stated by the manufacturer.
- 2.8 "Part Time Employee" means a person engaged on an ongoing basis for part hours or part years where the employee's contract hours are less than full time hours.
- 2.9 "Regulation" means the *Government Sector Employment Regulation 2014*.
- 2.10 "Temporary Employee" means a person engaged on a temporary basis, either full time or part time, for a fixed period greater than one month, consistent with the temporary employment provisions of the *Government Sector Employment Act 2013* and any guidelines issued pursuant to that Act.

3. Hours of Work

- 3.1 Day Work - The ordinary working hours for a full time employee shall be thirty-eight per week and shall be worked in accord with the following provisions for a four-week work cycle:
 - 3.1.1 Except in the case of employees 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 7.00 a.m. and 5.30 p.m., 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.
 - 3.1.2 The ordinary working hours of employees 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 a.m. and 5.30 p.m., 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.
 - 3.1.3 The rostered day off shall be a Monday or Friday within the working cycle provided that by agreement of the employer and the employee, the rostered day off may be accrued as an entitlement for a day off to be taken in a subsequent work cycle. Provided further that no employee 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 employee as leisure days off, and except

as provided for in this subsection, no work shall be performed by an employee on her/his rostered day off; or rostered days off.

- 3.1.4 A roster of days off (provided for under this subsection) for each employee shall be notified to employees prior to the commencement of each working cycle. Employees 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 employer.
 - 3.1.5 Where such rostered day off prescribed by this subclause falls on a public holiday as prescribed in clause 9, Public Holidays, the next working day shall be taken in lieu of the rostered day off unless an alternative day in that four-week cycle (or the next four-week cycle) is agreed in writing between the employer and the employee.
 - 3.1.6 Each day of paid leave taken on any public holidays occurring during any cycle of four weeks shall be regarded as a day worked for accrual purposes.
 - 3.1.7 An employee who has not worked, or is not regarded by reason of subclause (3.1.6) as having worked a complete four-week cycle, shall receive pro rata accrued entitlements for each day worked (or each fraction of a day worked) or regarded as having been worked in such cycle, payable for the rostered day off or, in the case of termination of employment, on termination.
 - 3.1.8 A majority of the employees concerned and their employers may mutually agree upon a change in starting and ceasing times so that the spread of hours in the award may be between 6.00 a.m. and 6.00 p.m.
 - 3.1.9 Employees shall commence and cease work at the headquarters or the barn.
 - 3.1.10 Employees shall be entitled to an unpaid meal break each day of not less than thirty minutes duration and not more than one hour in duration provided that the said meal break shall be taken between 11.30 a.m. and 1.30 p.m.
- 3.2 Subject to subclause 3.3 the school principal or their delegate may require an employee to work reasonable overtime at overtime rates.
 - 3.3 An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
 - 3.4 For the purposes of subclause 3.3 what is unreasonable or otherwise will be determined having regard to:
 - 3.4.1 any risk to employee health and safety;
 - 3.4.2 the employee's personal circumstances including any family and carer responsibilities;
 - 3.4.3 the needs of the workplace or enterprise;
 - 3.4.4 the notice (if any) given by the school principal or their delegate of the overtime and by the employee of his or her intention to refuse it; and
 - 3.4.5 any other relevant matter.

4. Overtime

- 4.1 Except as hereinafter provided overtime at the rate of time and a half for the first two (2) hours and double time thereafter shall be paid for all time worked:-
 - 4.1.1 in excess of the daily number of rostered hours on any one day; or

- 4.1.2 outside the limits of subclause 3.1.1 in the case of employees other than those engaged on nursery work during the months of October to March inclusive; or
- 4.1.3 outside the limits of subclause 3.1.2 in the case of employees other than those engaged on nursery work during the months of October to March inclusive.
- 4.2 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. An employee 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.
- 4.3 All ordinary time worked on Saturdays shall be paid for at the rate of time and a half.
- 4.4 An employee recalled to work overtime after 5.30 p.m. on any day other than a Sunday or Public Holiday shall receive a minimum payment of four hours pay at the appropriate overtime rate. On each recall the employee may be required to work 4 hours.
- 4.5 An employee who works so much overtime-
- 4.5.1 between the termination of his/her ordinary work day and the commencement of his/her ordinary work in the next day that he/she has not had at least ten consecutive hours off duty between these times;
- 4.5.2 or on Saturdays, Sundays and Holidays, not being ordinary working days without having had ten consecutive hours off duty in the twenty-four hours preceding his/her ordinary commencing time on his/her next ordinary day shall, subject to this sub-clause be released after completion of such overtime until he/she has had ten hours off duty without loss of pay for ordinary working time occurring during such absences.
- Provided that, if on the instructions of his/her employer, such an employee resumes or continues, to work without having had such ten consecutive hours off duty he/she shall be paid at double rates until he/she is released from duty for such period and he/she shall then be entitled to be absent until he/she has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- 4.6 An employee who is required to work overtime for two hours or more after the normal ceasing time shall be allowed, at the expiration of the said two hours, 30 minutes for a meal or crib and thereafter a similar time allowance after every four hours of overtime worked. Time for meals or crib through overtime periods shall be allowed without loss of pay, provided that overtime work continues after such break.
- 4.7 Where overtime is worked on a Saturday, if work continues after 12 noon, a break for a meal of 30 minutes shall be allowed between 12 noon and 1 p.m. which meal break shall be taken without loss of pay.

5. 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 7 - Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation of the Crown Employees Wages Staff (Rates of Pay) Award 2015 or any variation to or successor instruments to the said award shall apply

6. Wages and Allowances

- 6.1 The rates of wages and allowances to be paid to employees appointed to the positions specified are set out in Table 1 Wages and Table 2 Allowances of Part B, Monetary Rates.

- 6.2 The wage rates as set out in Table 1 - Wages, and Table 2 Allowances of Part B, Monetary Rates shall be adjusted in line with the Crown Employees Wages Staff (Rates of Pay) Award 2015 or any variations to or successor instruments to the said award.
- 6.3 Promotion from Farm Assistant, Class I to Farm Assistant Class II shall be subject to completion of 12 month's satisfactory service and the recommendation of the Department Head, that the skill and versatility of the employee in all respects of the work of a Farm Assistant, including proficiency in the operation of farm equipment and vehicles warrants such promotion. For the purposes of this sub-clause, service shall mean service in an established position and shall include prior service as a junior.
- 6.4 Casual employees shall be paid at the rate of one thirty eighth of the weekly rates prescribed in respect of the classification for which the employee is casually employed.
- 6.5 Casual employees shall be paid in addition to the prescribed rate for the classification concerned 15 per centum thereof.
- 6.6 Special rates

A Farm Assistant, Class I or II, employed on any of the following operations, viz.,

- 6.6.1 operating and servicing a tractor provided that for the purpose of this provision a tractor shall be deemed to include a wheel tractor and a crawler tractor and provided that such tractors shall be not less than 10 horsepower;
- 6.6.2 driving on farm or college property a truck which, if driven on the highway, would require possession of at least a Class 3 driver's licence;
- 6.6.3 operating headers, harvesters, including maize harvesters, and mechanical pick-up hay balers;
- shall be paid an additional allowance as prescribed in Table 2 Allowances of Part B, Monetary Rates per day while actually so employed, provided that no allowance shall be paid for periods of such employment of less than one hour per day nor shall an employee receive more than one such allowance in respect of any one day.
- 6.6.4 an employee required to drive a truck on the highway shall be paid the rates prescribed by the Crown Employees (Transport Drivers, etc) Award provided that, where such employment is for less than half a day, payment shall be as for a half a day and where such employment is for a half day or more payment shall be as for a full day and provided however that no additional payment shall be made in respect of periods of one hour or less.

6.7 Broken shift allowance

Employees who are required to work a broken shift shall be the allowance prescribed in Table 2 Allowances of Part B, Monetary Rates per day extra as a broken shift allowance.

6.8 Mixed functions

An employee engaged for more than two hours during one day on duties carrying a higher rate than his/her ordinary classification shall be paid the higher rate for such day. If so engaged for two hours or less during one day he/she shall be paid the higher rate for the time so worked.

6.9 Protective clothing

Employees required to work in the rain or in mud, slurry, water or wet places shall be paid an allowance prescribed in Table 2 Allowances of Part B, Monetary Rates.

This allowance shall not be payable to an employee who is provided by the employer with adequate protective clothing.

6.10 First Aid

A standard first aid outfit shall be provided and maintained by the employer.

An employee appointed by the employer to perform first aid duty shall be paid in the first aid allowance prescribed in Table 2 Allowances of Part B, Monetary Rates in addition to their ordinary rates of pay.

6.11 Meal Allowance

An employee required to work more than one and one half hours after the ordinary ceasing time shall be provided with a meal or shall be paid the amount prescribed in Table 2 Allowances of Part B, Monetary Rates for such a meal and after the completion of each four hours of continuous overtime shall be paid the amount prescribed in Table 2 Allowances of Part B, Monetary Rates for each subsequent meal in addition to his/her overtime payment.

6.12 Distant places

The provisions of the Act and the Regulations apply.

7. Payment of Wages

7.1 Wages shall be paid fortnightly into a bank or other account, provided that where employees work in isolated areas or where employees experience hardship or other exceptional circumstances then payment shall be made to the employee fortnightly by cheque.

7.2 One day of each pay period shall be recognised as pay day for each job: it shall be the same day in each pay period.

8. Deduction of Union Membership Fees

8.1 The union shall provide the employer with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.

8.2 The union shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.

8.3 Subject to (8.1) and (8.2) above, the employer shall deduct union fortnightly membership fees from the pay of any employee who is a member of the union in accordance with the union's rules, provided that the employee has authorised the employer to make such deductions.

8.4 Monies so deducted from employees' pay shall be forwarded regularly to the union together with all necessary information to enable the union to reconcile and credit subscriptions to employees' union membership accounts.

8.5 Unless other arrangements are agreed to by the employer and the union, all union membership fees shall be deducted on a fortnightly basis.

8.6 Where an employee has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

9. Public Holidays

9.1 The following days shall be observed as Public Holidays:-

New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day and any other proclaimed or gazetted holiday for the state of New South Wales.

- 9.2 Where local Show Day is a proclaimed local holiday it shall be observed as a Public Holiday for employees covered by this award. In the event that an employee cannot be spared without inconvenience to the Department, an alternative day with pay shall be given within twenty working days of the proclaimed local holiday; provided that no employee shall be entitled to payment at overtime rates for work on such proclaimed local holiday and provided further that an employee shall not be entitled to the benefit of more than one holiday upon such occasion.
- 9.3 Where an employee is absent from his or her employment on the working day before or the working day after a public holiday without reasonable excuse or without the consent of the employer the employee shall not be entitled to payment of such holiday.
- 9.4 Public Service Holiday
- 9.4.1 Unless directed to attend for duty by the Department Head a staff member is entitled to be absent from duty on a day between Boxing Day and New Year's Day determined by the Department Head as a public service holiday.
- 9.4.2 Any employee 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 an employee who is required to work on the nominated public service holiday and who fails to comply with such requirement shall not be entitled to payment for the day. An employee who is absent on the public service holiday on approved leave is not entitled to the public holiday overtime rate of pay.

10. Leave

- 10.1 General leave conditions of employees under this Award shall be regulated in accordance with the provisions contained within the Act and Regulation.
- 10.2 In addition to provisions for sick leave existing under the terms of regulations made pursuant to the Act, and applicable to the employees covered under the terms of this award, the following provisions for sick leave shall apply:
- Where an employee is ill or incapacitated (within the meaning of regulations relating to sick leave under the Act) on her/his rostered day off he/she shall not be entitled to payment for sick leave on that day nor shall her/his sick leave entitlements be reduced as a result of such illness or incapacity.
- 10.3 In addition to provisions for annual (recreation) leave, long service (extended) leave, accident pay and short leave existing under the terms of regulations made pursuant to the Act, employees covered under the terms of this award shall have the following provisions apply -
- 10.3.1 All paid leave taken in service with the exception of long service (extended) leave and accident pay shall be paid as follows:
- An employee who is absent from work on paid leave shall accrue an entitlement of 0.4 of one hour for each such day as if he/she had worked on that day. The time accrued shall be paid on the scheduled day off.
- 10.3.2 Annual (recreation) leave on termination of service and long service (extended) leave and accident pay taken in service or paid on termination shall be paid as follows:
- 10.3.2.1 All accrued time against a paid day off shall be paid to the employee prior to proceeding, on leave or at the time of termination of the employee's service;
- 10.3.2.2 All leave accrued or time due shall be paid to the employee on the basis of one week of accrued leave etc., being equal to 38 hours or one day being equal to 7.6 hours.

Provided that where a full year's annual (recreation) leave of 20 days or more is accrued when the employee shall be paid a further 7.6 hours for the first 20 days and on the same basis for the remainder of accrued leave.

10.3.3 Where the employee is absent on long service (extended) leave and accident pay during the 20 day cycle and returns to work prior to or on the rostered day off the time involved during the current cycle shall be regarded as accruing 0.4 of one hour for each day of paid absence.

10.4 Personal/Carer's leave

Use of Sick Leave

10.4.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (ii) of subclause 10.4.3.2 shall be entitled to use, in accordance with this subclause, any sick leave for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.

10.4.2 The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned.

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

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

10.4.3.2 the person concerned being:

- (i) a spouse of the employee; or
- (ii) a de facto spouse, who, in relation to the employee, is a person of the opposite sex to the employee who lives with the employee as the husband or wife of the employee on a bona fide domestic basis although not legally married to that person; or
- (iii) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (iv) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (v) a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:

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

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

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

10.4.4 An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of the absence.

10.4.5 Subject to the evidentiary and notice requirements in 10.4.2 and 10.4.4, casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 10.4.3 of 10.4 Personal/Carer's Leave who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child.

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

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

Use of Annual (Recreation) Leave

10.4.8 An employee may elect with the employer's agreement to take annual leave not exceeding ten days in single day periods, or part thereof, in any calendar year at a time or times agreed by the parties to care for a person prescribed in subclause 10.4.3 of 10.4 Personal/Carer's Leave who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child.

10.4.9 An employee may elect with the employer's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

10.5 Bereavement Leave

10.5.1 An employee other than a casual employee shall be entitled to up to two days Bereavement Leave without deduction of pay on each occasion of the death of a member of a class of person set out in subparagraph (ii) of subclause 10.4.3.2 of this clause.

10.5.2 The employee must notify the employer as soon as practicable of the intention to take Bereavement Leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.

10.5.3 Bereavement Leave shall be available to the employee in respect of the death of a person in relation to whom the employee could have utilised Carer's Leave as prescribed by this clause. The employee need not have been responsible for the care of the person concerned to be eligible for Bereavement Leave as prescribed in this subclause.

10.5.4 An employee shall not be entitled to Bereavement Leave under this clause during any period in respect of which the employee has been granted other leave.

10.5.5 Bereavement leave may be taken in conjunction with any other leave available to employees. Where such other available leave is to be taken in conjunction with Bereavement Leave, consideration will be given to the circumstances of the employee and the reasonable operational requirements of the employer.

10.5.6 Subject to the evidentiary and notice requirements in 10.5.2, casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 10.4.3 of 10.4 Personal/Carer's Leave.

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

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

10.6 Parental Leave

10.6.1 Parental leave conditions of employees under this Award shall be regulated in accordance with the provisions contained within the Act and Regulation and will be in addition to those set out in the *Industrial Relations Act 1996* and the Regulation.

10.6.2 An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:

- (a) the employee or employee's spouse is pregnant; or
- (b) the employee is or has been immediately absent on parental leave.

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

10.6.3 Right to Request

10.6.3.1 An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

10.6.3.2 The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

10.6.3.3 The employee's request and the employer's decision made under 10.6.1 (ii) and 10.6.1 (iii) must be recorded in writing.

10.6.3.4 Where an employee wishes to make a request under 10.6.1 (iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

10.6.4 Communication During Parental Leave

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

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and

- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- 10.6.4.2 The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
- 10.6.4.3 The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with 10.6.4.1.

11. Tea Breaks

- 11.1 A tea break during the morning period of not more than fifteen minutes' duration shall be allowed to each individual employee, at a time to be arranged by the employer, without deduction from their wages.
- 11.2 Provided that an employer may grant a tea break of not more than ten minutes' duration during both the morning and afternoon periods of the working day, under the same conditions as above. Where an afternoon tea break is taken the employer may direct that it be taken immediately prior to ceasing time.

12. Accommodation

- 12.1 Employees who reside in Departmental premises and are provided with board and lodging by the employer shall be charged at the rates determined from time to time by the Department of Premier and Cabinet according to whether the employee is provided with full board and lodging or whether he/she attends to his/her own room and waits on himself/herself at table.
- 12.2 Where employees do not reside at the Farm, the employer shall provide free of charge a dining room fitted with sufficient and suitable table and seating accommodation together with an adequate supply of boiling water for employees at meal times. Pure drinking water shall be provided at suitable locations on each farm in clean containers where it is not available from a water service pipe.
- 12.3 Change rooms shall be provided by the employer and shall be used exclusively for that purpose. Where practicable, hot and cold showers shall be provided.

13. Settlement of Disputes

Subject to the provisions of the *Industrial Relations Act 1996*, the undermentioned procedures shall be applied in the settlement of disputes -

- 13.1 Where a dispute arises in a particular section which cannot be resolved between the employees or their representative and supervising staff, it shall be referred to the Departmental Personnel/ Industrial Officer or other officer nominated by the employer who will arrange for the matter to be discussed with the union or unions concerned.
- 13.2 Failing settlement of the issue at this level, the matter should be referred to senior management.
- 13.3 If the matter remains unsolved then either party may make application to the Industrial Relations Commission of New South Wales.
- 13.4 Whilst these procedures are continuing, no stoppage of work or any form of limitation of work shall be applied.
- 13.5 The right is reserved to the parties to vary this procedure where it is considered a safety factor is involved.

14. Terms of Engagement

- 14.1 Employees shall be employed in accordance with the *Government Sector Employment Act 2013*, and except in the case of misconduct, their engagement shall only be terminated by a week's notice on either side given at any time during the week or by the payment or forfeiture of one week's wages in lieu, as the case may be.

15. Fares

- 15.1 Any person selected for work and sent by the employer or his/her agent, including a Government Employment Bureau or Private Employment Agency, from the City to the country or from one country centre to another, or from a country centre to the City, shall have the necessary fares provided by the employer.

16. Anti-Discrimination

- 16.1 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.
- 16.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed in clause 13, 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.
- 16.3 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.
- 16.4 Nothing in this clause is to be taken to affect:
- any conduct or act which is specifically exempted from anti-discrimination legislation;
 - offering or providing junior rates of pay to persons under 21 years of age;
 - any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*, or
 - a party to this award from pursuing matters of unlawful discrimination in any state or federal jurisdiction.
- 16.5 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.

17. Area, Incidence and Duration

- 17.1 This award shall apply to all employees as defined herein.

This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Farm Assistants (Department of Education and Communities) Wages and Conditions Award published 3 August 2012 (373 I.G. 1034) and all variations thereof.

- 17.2 The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 IG 359) take effect on and from 17 November 2015.

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

18. No Extra Claims

- 18.1 Other than as provided for in the *Industrial Relations Act 1996* and the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014*, there shall be no further claims/demands or proceedings instituted before the NSW Industrial Relations Commission for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the Employees covered by the Award that take effect prior to 30 June 2016 by a party to this Award.

PART B

MONETARY RATES

Table 1 - Wages

Classification	From 1.7.15 \$
Farm Assistant Class I	892.90
Class II	1,026.80
Flower Gardener	922.50

Table 2 - Allowances

Clause	Allowance	From 1.7.15 \$
6.6 Special Rates		
6.6.1	Tractor operation (per day)	4.53
6.6.2	Truck driving (per day)	4.53
6.6.3	Headers, etc (per day)	4.53
6.7	Broken Shift (per day)	13.72
6.9	Protective Clothing (per hour)	0.74
6.11	First meal per day	14.70
	Subsequent meals	12.60
6.10	First Aid (per day)	3.44

J. D. STANTON, Commissioner

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