

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

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 741 of 2015)

Before Commissioner Stanton

28 October 2015

REVIEWED AWARD

Arrangement

Clause No.	Subject Matter
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PART A

1. Title

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

2. Definitions

- (i) "Act" means *Government Sector Employment Act 2013* .
- (ii) "Association" means the Public Service Association and the Professional Officers' Association Amalgamated Union of New South Wales.
- (iii) "Department" means the Department of Industry, Skills and Regional Development, as specified in Schedule 1of the *Government Sector Employment Act 2013* .

- (iv) "Industrial Relations Secretary" means the Secretary of the Treasury, as established under the *Government Sector Employment Act 2013*.
- (v) "Job Evaluation" means a methodology agreed to between the parties to grade Technical Staff under this Award.
- (vi) "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.
- (vii) "Normal Work" 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.
- (viii) "Public Service" means the Public Service of New South Wales as defined in the *Government Sector Employment Act 2013*.
- (ix) "Regulation" means the *Government Sector Employment Regulation 2014*.
- (x) "Role " means a role as dealt with in Division 5 of the *Government Sector Employment Act 2013*.
- (xi) "Rules" means the *Government Sector Employment Rules 2014*.
- (xii) "Salary Rates" means the ordinary time rate of pay for the member of staff's grading, excluding shift allowances, weekend penalties and all other allowances not regarded as salary.
- (xiii) "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*
- (xiv) "Service" means continuous service for salary purposes.
- (xv) "Technical Assistant" means an employee who holds the New South Wales School Certificate or its equivalent and is able to demonstrate the ability to undertake the capabilities provided for in the Government Sector Capabilities Framework as outlined in the role description that is required for employment in any of the roles covered by the provisions of this Award. VET Certificate II in any qualification is considered equivalent to the NSW School Certificate.
- (xvi) "Technical Co-ordinator" means an employee who has the experience, expertise and is able to demonstrate the ability to undertake the capabilities provided for in the Government Sector Capabilities Framework as outlined in the role description that allows them to accept responsibility for the supervision and co-ordination of technical activities in a technical section or work unit and is assigned to a role designated as such.
- (xvii) "Technical Manager" means an employee who is able to demonstrate the ability to undertake the capabilities provided for in the Government Sector Capabilities Framework as outlined in the role description of the role and assigned to a role designated as such.
- (xviii) "Technical Officer" means an employee who is able to demonstrate the ability to undertake the capabilities provided for in the Government Sector Capabilities Framework as outlined in the role description of the role and holds:
 - (a) a Biological Technicians Certificate, Chemistry Certificate Course, or the Pathology Technician Certificate Course from TAFE, or a relevant VET Diploma (equivalent AQF Level V) or other qualification deemed by the Department to be equivalent; or
 - (b) a trade qualification plus 5 years relevant post trade experience that is required for employment in any of the roles covered by the provisions of this Award; or,
 - (c) a Library Technician Certificate from TAFE or other qualification deemed by the Department to be equivalent; or

- (d) successfully completed two-thirds of the required credit points necessary for the awarding of a relevant degree; or
 - (e) a relevant AQF Certificate IV or equivalent plus 5 years relevant post qualification experience.
- (xix) Technical Staff" means all members of staff employed to provide technical contributions to the achievement of the Department's corporate goals.

3. Salaries

Subject to the provisions of the Act, Regulation and Rules thereunder and the Crown Employees (Public Sector – Salaries 2015) Award, 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 at grades specified.

4. Saving of Rights

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

5. Progression Criteria

- (i) A Technical Assistant who has been in receipt of the maximum salary prescribed for their grade for 12 months shall be eligible for progression to the next grade, up to and including Grade 3, subject to satisfying the merit progression criteria.
- (ii) A Technical Officer, who has been in receipt of the maximum salary prescribed for their grade for 12 months, shall be eligible for progression to the next grade, up to and including Grade 3, subject to satisfying the merit progression criteria.
- (iii) Technical Manager roles shall be included at levels, Grade 3, Grade 4 and Grade 5, with promotion into such roles being by assignment subject to the occurrence of a vacancy and completing a comparative assessment process.

6 Allowances

- (i) A member of staff who is assigned to a role as a Technical Co-ordinator will be paid an allowance as set out in Item 1 of Table 2 - Allowances of Part B Monetary Rates from the date of their assignment. The allowance will be part of the member of staff's salary for all purposes and will be adjusted in accordance with any variations applied commensurate with this Award. The allowance will also be superable.
- (ii) Members of staff will be assigned to the role of Technical Co-ordinator for periods of up to two years with future assignments to be determined by comparative assessment.

7. Hours of Work

- (i) Both full-time and part-time members of staff, subject to Departmental convenience, will work a flexible working hours arrangement in accordance with the Department's Flexible Working Hours Agreement, which is a co-lateral arrangement under clause 10, Local Arrangement of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.
- (ii) Members of staff cannot be required to work more than 5 hours in one continuous period without an unpaid meal break of at least 30 minutes.

8. Job Evaluation

Roles classified as Technical Staff shall be graded in accordance with the accredited Job Evaluation methodology and to meet the requirements of the NSW Government Sector Capability Framework as agreed by the Secretary and the Association.

9. Appeals Mechanism

- (i) A member of staff of the Department shall have the right to appeal any decision made by the Department in relation to their performance assessment review or in relation to promotion on merit from one grade to another where this is available under the provisions of this Award.
- (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, an Association representative and one peer that is acceptable to both Management and the Association.
- (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 approval.
- (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.
- (vi) This appeal mechanism shall not cover matters that are dealt with by Clause 24 of the Rules.

10. Anti-Discrimination

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

- (c) "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."

11. Deduction of Union Membership Fees

- (i) The Association shall provide the employer with a schedule setting out Association fortnightly membership fees payable by members of the Association in accordance with the Association's rules.
- (ii) The Association shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of Association fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.
- (iii) Subject to (i) and (ii) above, the employer shall deduct Association 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 employer to make such deductions.
- (iv) Monies so deducted from employee's pay shall be forwarded regularly to the Association together with all necessary information to enable the Association to reconcile and credit subscriptions to employees' Association membership accounts.
- (v) Unless other arrangements are agreed to by the employer and the Association, all Association membership fees shall be deducted on a fortnightly basis.
- (vi) 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.

12. Area, Incidence and Duration

- (i) The Award shall apply to each member of staff described as a Technical Staff employees in clause 2, Definitions, 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 2014*, the Crown Employees (Public Service Conditions of Employment) Award 2009 and the Crown Employees (Public Sector - Salaries 2015) Award or any Awards replacing these Awards.
- (iii) The changes made to this Award pursuant to the Award Review under 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) with 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

Effective from the beginning of the first full pay period to commence on or after 1 July 2015.

Table 1 - Salaries

(A) Full-time rates

Technical Assistant

Junior	1.7.15 Per annum 2.50% \$	Common Salary Point
Under 17	24,554	n/a
Age 17	29,463	n/a
Age 18	34,375	n/a
Age 19	39,288	n/a
Age 20	44,197	n/a
Grade 1		
1st Year	49,106	26
2nd Year	50,433	29
3rd Year and thereafter	52,185	33
Grade 2		
1st Year	53,642	36
2nd Year and thereafter	55,169	39
Grade 3		
1st Year	57,253	43
2nd Year and thereafter	58,687	46

Technical Officer

Grade 1	Per annum \$	CSP
1st Year	58,687	46
2nd Year	60,998	50
3rd Year	62,627	53
4th Year and thereafter	64,399	56
Grade 2		
1st Year	69,696	64
2nd Year	71,839	67
3rd Year	73,918	70
4th Year and thereafter	78,301	76
Grade 3		
1st Year	82,135	81
2nd Year	84,570	84
3rd Year	87,147	87
4th Year and thereafter	90,646	91
Grade 4		
1st Year	94,423	95
2nd Year	97,426	98
3rd Year	99,367	100
4th Year and thereafter	102,223	103

Grade 5		
1st Year	106,307	107
2nd Year	109,490	110
3rd Year and thereafter	112,713	113

(B) Part-Time Hourly Rate Formula

$$\frac{\text{Annual Salary}}{52.17857143 \times 35} \times 1 \text{ hours pay}$$

Table 2 - Allowances

Item No.	Clause No.	Brief Description	Amount
			1.7.15 Per annum 2.50% \$
1	7 (i)	Technical Co-ordinator Allowance	2,636

J. D. STANTON, Commissioner

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