

# **CROWN EMPLOYEES (PHYSIOTHERAPISTS, OCCUPATIONAL THERAPISTS, SPEECH PATHOLOGISTS AND MUSIC THERAPISTS) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 2016/00006302)

Before Commissioner Stanton

2 August 2016

## **REVIEWED AWARD**

### **PART A**

#### **1. Arrangement**

##### PART A

Clause No.	Subject Matter
1.	Arrangements
2.	Definitions
3.	Salaries and Allowances
4.	Anti-Discrimination
5.	Grievance and Dispute Settling Procedures
6.	Area, Incidence and Duration

##### PART B

##### MONETARY RATES

Table 1 - Rates of Pay

Table 2 - Other Rates and Allowances

#### **2. Definitions**

(i) General

- (a) "Industrial Relations Secretary" means the person, within the meaning of the *Government Sector Employment Act 2013*, who is taken to be the employer of Public Service employees for industrial purposes.
- (b) "Association" means the Public Service Association and Professional Officers Association Amalgamated Union of New South Wales.
- (c) "Agency" means a Public Service agency, as listed in Schedule 1 of the *Government Sector Employment Act 2013*.
- (d) "Agency Head" means a person who is the Secretary of a Department or the head of another Public Service agency listed in Schedule 1 of the *Government Sector Employment Act 2013*.

(ii) Physiotherapists -

- (a) "Physiotherapist" shall mean a person registered or conditionally registered under the *Physiotherapists Act 2001*.
  - (b) "Physiotherapist, Grade 1" shall mean a Physiotherapist appointed as such who is engaged in the performance of all facets of Physiotherapy.
  - (c) "Physiotherapist, Grade 2" shall mean a Physiotherapist appointed to a position approved as such and shall include:
    - (1) A person who has responsibility for a specific clinical section within a Physiotherapy Unit which involves the supervision of at least one other Physiotherapist;
    - (2) A deputy to a Physiotherapist Grade 4 or 5.
  - (d) "Physiotherapist, Grade 3" shall mean a Physiotherapist appointed to a position approved as such and shall include:
    - (1) A person who has responsibility for a specific clinical section within a Physiotherapy Unit which involves the supervision of more than 6 other Physiotherapists;
    - (2) A person performing Student Unit Supervisor duties on a full-time basis;
    - (3) A person in charge of a Physiotherapy Unit containing 1-5 other Physiotherapists;
    - (4) A deputy to a Physiotherapist Grade 6 or 7.
  - (e) "Physiotherapist, Grade 4" shall mean a Physiotherapist appointed to a position approved as such and shall include a person who is in charge of a Physiotherapy Unit containing 6-14 other Physiotherapists.
  - (f) "Physiotherapist, Grade 5" shall mean a Physiotherapist appointed to a position approved as such and shall include a person who is in charge of a Physiotherapy Unit containing 15-29 other Physiotherapists.
  - (g) "Physiotherapist, Grade 6" shall mean a Physiotherapist appointed to a position approved as such and shall include a person who is in charge of a Physiotherapy Unit containing 30-39 other Physiotherapists.
  - (h) "Physiotherapist, Grade 7" shall mean a Physiotherapist appointed to a position approved as such and shall include a person who is in charge of a Physiotherapy Unit containing 40 or more other Physiotherapists.
- (iii) Occupational Therapist -
- (a) "Occupational Therapist" shall mean a person who possesses a Degree in Occupational Therapy from a recognised tertiary institution.
  - (b) "Occupational Therapist, Grade 1" shall mean an occupational Therapist appointed as such who is engaged in the performance of all facets of Occupational Therapy.
  - (c) "Occupational Therapist, Grade 2" shall mean an Occupational Therapist appointed to a position approved as such and shall include:
    - (1) A person who has responsibility for a specific clinical section within an Occupational Therapy Unit which involves the supervision of at least one other Occupational Therapist;
    - (2) A deputy to an Occupational Therapist Grade 4 or 5.
  - (d) "Occupational Therapist, Grade 3" shall mean an Occupational Therapist appointed to a position approved as such and shall include:

- (1) A person who has responsibility for a specific clinical section within an Occupational Therapy Unit which involves the supervision of more than 6 other Occupational Therapists;
  - (2) A person performing Student Unit Supervisor duties on a full-time basis;
  - (3) A person in charge of an Occupational Therapy Unit containing 1-5 other Occupational Therapists;
  - (4) A deputy to an Occupational Therapist Grade 6.
  - (e) "Occupational Therapist, Grade 4" shall mean an Occupational Therapist appointed to a position approved as such and shall include a person who is in charge of an Occupational Therapy Unit containing 6-14 other Occupational Therapists.
  - (f) "Occupational Therapist, Grade 5" shall mean an Occupational Therapist appointed to a position approved as such and shall include a person who is in charge of an Occupational Therapy Unit containing 15-29 other Occupational Therapists.
  - (g) "Occupational Therapist, Grade 6" shall mean an Occupational Therapist appointed to a position approved as such and shall include a person who is in charge of an Occupational Therapy Unit containing 30 or more other Occupational Therapists.
- (iv) Speech Pathologists -
- (a) "Speech Pathologist" shall mean a person who possesses a Degree in Speech Therapy from a recognised tertiary institution.
  - (b) "Speech Pathologist, Grade 1" shall mean a Speech Pathologist appointed as such, which requires the performance of all facets of Speech Pathology.
  - (c) "Speech Pathologist, Grade 2" shall mean a Speech Pathologist appointed to a position approved as such and shall include:
    - (1) A person who has responsibility for a specific clinical section within a Speech Pathology Department, which involves the supervision of at least one other Speech Pathologist;
    - (2) A deputy to a Speech Pathologist Grade 4 or 5.
  - (d) "Speech Pathologist, Grade 3" shall mean a Speech Pathologist appointed to a position approved as such and shall include:
    - (1) A person who has responsibility for a specific clinical section within a Speech Pathology Unit which involves the supervision of more than 6 other Speech Pathologists;
    - (2) A person performing Student Unit Supervisor duties on a full-time basis;
    - (3) A person in charge of a Speech Pathology Unit containing 1-5 other Speech Pathologists;
  - (e) "Speech Pathologist, Grade 4" shall mean a Speech Pathologist appointed to a position approved as such and shall include a person who is in charge of a Speech Pathology Unit containing 6-14 other Speech Pathologists.
  - (f) "Speech Pathologist, Grade 5" shall mean a Speech Pathologist appointed to a position approved as such and shall include a person who is in charge of a Speech Pathology Unit containing 15 or more other Speech Pathologists.

- (v) "Part-time Student Supervisor" shall mean a Physiotherapists, Occupational Therapist or Speech Pathologist, other than a person performing Student Unit Supervision duties on a full-time basis, who is required from time to time to supervise students and prepare assessments on such students.

### **3. Salaries and Allowances**

- (i) The rates of pay shall be as set out in Table 1 - Rates of Pay of Part B, Monetary Rates.
- (a) Provided that the commencing rate of salary payable to an employee who has obtained an appropriate degree or appropriate degree plus associated diploma requiring a minimum of four years full-time study shall be paid the rate prescribed for the second year of service.
- (b) Provided further that an employee who has obtained an appropriate degree requiring a minimum of three and one-half years full-time study shall after six months relevant full-time service be paid the rate prescribed for the second year of service.
- (ii) The rates of allowances shall be as set out in Table 2 - Allowances of Part B, Monetary Rates.
- (a) A sole therapist allowance shall be paid to a Grade 1 Physiotherapists, Occupational Therapists or Speech Pathologists, who is not responsible to another Physiotherapists, Occupational Therapists or Speech Pathologists and is the only therapist in their discipline in a particular Large Residential Centre or Child and Family Service in a Community Service Centre. The Sole Therapist Allowance shall be paid at the rate specified in Table 2 of Part B, Monetary Rates.
- (b) Part-time Student Unit Supervisors Allowance - A Physiotherapist, Occupational Therapist or Speech Pathologist who is a part-time Student Unit Supervisor shall be paid an allowance for each student per supervised shift at the rate specified in Table 2 of Part B, Monetary Rates. The quantum of the allowance shall be determined by the application of the following formula:
- (1) Subtract the 7th year Grade 1 rate from the Grade 3 rate;
  - (2) Divide (1) by 4 (i.e. the average number of students supervised by a full-time Student Unit Supervisor);
  - (3) Divide the result of (2), by 5 (i.e. the number of shifts per week for a full-time Student Supervisor).
  - (4) Divide by 52.17857 (i.e. the number of weeks in the year).
- Provided that:
- (5) The allowance shall not be payable to a person occupying a position graded at Grade 3 or above;
  - (6) Only one person can receive the allowance for a student on each shift;
  - (7) No person shall receive the allowance for a student who is being supervised by a Student Unit Supervisor (i.e. full-time);
  - (8) The maximum amount payable to a person by way of this allowance in any one week shall be the amount derived by subtracting the rate prescribed for the 7th year of Grade 1 from the rate prescribed for Grade 3.

### **4. 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.

#### Notes

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

### **5. 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 appropriate agency, if required.
- (ii) An employee is required to notify in writing their immediate manager, as to the substance of the grievance, dispute of 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 employee to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Agency Head or delegate.
- (iv) The immediate manager, or other appropriate officer, shall convene a meeting in order to resolve the grievance, dispute or difficulty within two (2) working days, or as soon as practicable, of the matter being brought to attention.
- (v) If the matter remains unresolved with the immediate manager, the employee may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager shall respond within two (2) working days, or as soon as practicable. This sequence of reference to successive levels of management may be pursued by the employee until the matter is referred to the Agency Head.

- (vi) The Agency Head may refer the matter to the Industrial Relations Secretary for consideration.
- (vii) If the matter remains unresolved, the Agency Head shall provide a written response to the employee and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- (viii) An employee, at any stage, may request to be represented by the Association.
- (ix) The employee or the Association on their behalf, or the Agency Head may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- (x) The employee, Association, Agency and Industrial Relations Secretary shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- (xi) Whilst the procedures outlined in subclauses (i) to (x) of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or in the case involving occupational health and safety, if practicable, normal work shall proceed in a manner which avoids any risk to the health and safety of any employee or member of the public.

#### **6. Area, Incidence and Duration**

- (i) This award shall apply to all of the classifications contained herein.
- (ii) The employees regulated by this award shall be entitled to the conditions of employment as set out in this award and, except where specifically varied by this award, existing conditions are provided for under the *Government Sector Employment Act 2013*, the *Government Sector Employment Regulation 2014*, the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 and the Crown Employees (Public Sector - Salaries 2016) Award 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 Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 2 August 2016.
- (iv) This award remains in force until varied or rescinded, the period for which it was made having already expired.

**PART B**  
**MONETARY RATES**

**Table 1 - Rates of Pay**

Physiotherapists, Occupational Therapists, Speech Pathologists and Music Therapists		
Classification and Grade	Common Salary Point	1.7.16 Per annum 2.50% \$
Physiotherapists - Grade 1		
1st year of service	46	60,154
2nd year of service	50	62,523
3rd year of service	56	66,009
4th year of service	63	70,751
5th year of service	70	75,766
6th year of service	76	80,259
7th year of service	81	84,188
Grade 2	85	87,591
Grade 3	92	93,772
Grade 4	95	96,784
Grade 5	98	99,862
Grade 6	100	101,851
Grade 7	103	104,779
Occupational Therapists Grade 1		
1st year of service	46	60,154
2nd year of service	50	62,523
3rd year of service	56	66,009
4th year of service	63	70,751
5th year of service	70	75,766
6th year of service	76	80,259
7th year of service	81	84,188
Grade 2	85	87,591
Grade 3	92	93,772
Grade 4	95	96,784
Grade 5	98	99,862
Grade 6	100	101,851
Speech Pathologist - Grade 1		
1st year of service	46	60,154
2nd year of service	50	62,523
3rd year of service	56	66,009
4th year of service	63	70,751
5th year of service	70	75,766
6th year of service	76	80,259
7th year of service	81	84,188
Grade 2	85	87,591
Grade 3	92	93,772
Grade 4	95	96,784
Grade 5	98	99,862
Music Therapists		
1st year of service	31	52,551
2nd year of service	38	55,970
3rd year of service	43	58,684

4th year of service	49	61,921
5th year of service	54	64,754
6th year of service	59	67,951
7th year of service	63	70,751

**Table 2 - Other Rates of Allowances**

Sole Allowance - 3(ii)(a)		2,531
Part-time Student Unit Supervisor Allowance for each student per supervised shift - refer formula in award at 3(ii)(b)		9.18

J. D. STANTON, Commissioner

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