

**CROWN EMPLOYEES (NEW SOUTH WALES DEPARTMENT OF FAMILY AND COMMUNITY SERVICES) RESIDENTIAL CENTRE SUPPORT SERVICES STAFF AWARD 2015**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(Case No. 2017/177634)

Before Chief Commissioner Kite

30 August 2017

**VARIATION**

- 1. Delete Part A, Arrangement and insert in lieu thereof the following:

**PART A**

**Arrangement**

Clause No.	Subject Matter
1.	Definitions
2.	Salaries
3.	Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation
4.	School Based Apprentices
5.	Higher Duties Allowance
6.	Hours
7.	Roster of Hours
8.	Part-time Staff Member
9.	Conditions Relating to Payment of Allowances for Work Performed at Weekends
10.	Overtime
11.	Uniforms
12.	Notice Board
13.	Recreation Leave
14.	Paid Special Sick Leave
15.	Public Holidays
16.	Meals
17.	Association Representative
18.	Settlement of Disputes
19.	Anti-Discrimination
20.	Overtime, Penalty Rates and Part-time Rates
21.	General Conditions of Employment
22.	No Extra Claims
23.	Area, Incidence and Duration

**PART B**

**MONETARY RATES**

- Schedule A - Rates of Pay
- Schedule B - Special Allowances
- Schedule C - Allowances

Schedule D - Salary Arrangements of Existing Staff  
Members, Services Support Officer

2. Delete in clause 2 Salaries, the following paragraph:

The salary rates in Part B, Monetary Rates, are set in accordance with the Crown Employees (Public Sector - Salaries 2015) Award and any variation or replacement award.

3. Insert after clause 2 Salaries, the following new clause:

**3. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation**

- (1) The entitlement to salary package in accordance with this clause is available to:
- (i) permanent full-time and part-time employees;
  - (ii) temporary employees, subject to the Department or agency's convenience; and
  - (iii) casual employees, subject to the Department or agency's convenience, and limited to salary sacrifice to superannuation in accordance with subclause (7).
- (2) For the purposes of this clause:
- (i) "salary" means the salary or rate of pay prescribed for the employee's classification by clause 3, Salaries of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.
  - (ii) "post compulsory deduction salary" means the amount of salary available to be packaged after payroll deductions required by legislation or order have been taken into account. Such payroll deductions may include, but are not limited to, taxes, compulsory superannuation payments, HECS payments, child support payments, and judgement debtor/garnishee orders.
- (3) By mutual agreement with the Department Head, an employee may elect to package a part or all of their post compulsory deduction salary in order to obtain:
- (i) a benefit or benefits selected from those approved by the Department Head; and
  - (ii) an amount equal to the difference between the employee's salary, and the amount specified by the Department Head for the benefit provided to or in respect of the employee in accordance with such agreement.
- (4) An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.
- (5) The agreement shall be known as a Salary Packaging Agreement.
- (6) Except in accordance with sub-clause (7), a Salary Packaging Agreement shall be recorded in writing and shall be for a period of time as mutually agreed between the employee and the Department Head at the time of signing the Salary Packaging Agreement.
- (7) Where an employee makes an election to sacrifice a part or all of their post compulsory deduction salary as additional employer superannuation contributions, the employee may elect to have the amount sacrificed:
- (i) paid into the superannuation fund established under the *First State Superannuation Act 1992*; or
  - (ii) where the employer is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or

- (iii) subject to the Department or agency's agreement, paid into another complying superannuation fund.
- (8) Where the employee makes an election to salary sacrifice, the employer shall pay the amount of post compulsory deduction salary, the subject of election, to the relevant superannuation fund.
- (9) Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:
  - (i) *Police Regulation (Superannuation) Act 1906*;
  - (ii) *Superannuation Act 1916*;
  - (iii) *State Authorities Superannuation Act 1987*; or
  - (iv) *State Authorities Non-contributory Superannuation Act 1987*, the employee's Department or agency must ensure that the employee's superable salary for the purposes of the above Acts, as notified to the SAS Trustee Corporation, is calculated as if the Salary Packaging Agreement had not been entered into.
- (10) Where the employee makes an election to salary package, and where the employee is a member of a superannuation fund other than a fund established under legislation listed in sub-clause (9) of this clause, the employee's Department or agency must continue to base contributions to that fund on the salary payable as if the Salary Packaging Agreement had not been entered into. This clause applies even though the superannuation contributions made by the Department or agency may be in excess of superannuation guarantee requirements after the salary packaging is implemented.
- (11) Where the employee makes an election to salary package:
  - (i) subject to Australian Taxation law, the amount of salary packaged will reduce the salary subject to appropriate PAYG taxation deductions by the amount packaged; and
  - (ii) any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this Award or any applicable Award, Act or statute which is expressed to be determined by reference to the employee's rate of pay, shall be calculated by reference to the rate of pay which would have applied to the employee under clause 3, Salaries of this Award if the Salary Packaging Agreement had not been entered into.
- (12) The Department Head may vary the range and type of benefits available from time to time following discussion with the Association. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.
- (13) The Department Head will determine from time to time the value of the benefits provided following discussion with the Association. Such variations shall apply to any existing or future Salary Packaging Agreement from the date of such variation. In this circumstance, the employee may elect to terminate the Salary Packaging Agreement.
- 4. Insert after clause 13 Recreation Leave, the following new clause:

#### **14. Paid Special Sick Leave**

- (1) Paid special sick leave shall be granted by the Department if an employee satisfies the following criteria:
  - (i) has ten or more years of service
  - (ii) has been or will be absent for a period of at least three months; and
  - (iii) has exhausted or will exhaust, all sick leave entitlements.

- (2) Paid sick leave will be granted in accordance with the following table:

Completed years of service	Number of working days		
	5 day week	6 day week	7 day week
10	22	26	30
20	44	52	60
30	66	78	90
40	88	104	120
50	110	150	150

5. Delete in clause 19 General Conditions of Employment, the following paragraph:

The salary rates in Part B, Monetary Rates, are set in accordance with the Crown Employees (Public Sector - Salaries 2015) Award and any variation or replacement award.

6. Delete clause 22, Extra Claims and insert in lieu thereof the following:

#### **22. No Extra Claims Clause**

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 2018 by a party to this Award.

7. Delete Part B, Monetary Rates and insert in lieu thereof the following:

### **PART B**

#### **MONETARY RATES**

Effective from 1 July 2017.

### **SCHEDULE A**

#### **RATES OF PAY**

Classification and Grades	Effective from 1.7.17 Per Annum \$
Transport Driver	
Up to 2,950 kilograms	50,504
Over 2,950 kilos and up to 4,650 kilos*	50,916
Over 4,650 kilos and up to 7,700 kilos*	51,348
Over 7,700 kilos and up to 10,800 kilos*	51,872
Over 10,800 kilos and up to 12,350 kilos*	52,320
Over 12,350 kilos and up to 15,5000 kilos*	52,734
Over 15,500 kilos and up to 21,000 kilos*	53,251
Over 21,000 kilos and up to 22,450 kilos*	53,688
*Manufacturer's Gross Vehicle Mass	
Extra Hand	50,504
Services Support Officer -	
Grade 1	46,407
Grade 2	47,656
Grade 3	49,210
Apprentice Cook -	
1st six months (50%)	25,254

2nd six months (70%)	35,354
3rd six months (80%)	40,403
4th six months (85%)	42,930
5th six months (90%)	45,454
6th six months (95%)	47,979
Hunter Residences -	
Head Chef	68,190
Chef	60,368
Metro Residences -	
Head Chef	55,020
Deputy Head Chef	52,734
Chef	51,872
Other Residences -	
Head Chef	52,734
Deputy Head Chef	51,872
Chef	50,504
Outdoor Attendant Sewerage Works - Peat Island	52,734
Gardener (Tradesperson)	55,701
Gardener (non-Tradesperson)	52,320
Instructor Woodwork -	
Without Qualifications - 1st Year	60,366
Without Qualifications - 2nd Year	61,512
Without Qualifications - Thereafter	62,139
With Qualifications - 1st Year	61,650
With Qualifications - 2nd Year	63,231
With Qualifications - Thereafter	63,872
Technical Instructor Without Qualifications -	
1st Year	56,745
2nd Year	57,206
Thereafter	57,855
Technical Instructor With Qualifications -	
1st Year	58,888
2nd Year	59,325
Thereafter	60,366
Therapy Aide -	
1st Year	50,102
2nd Year	51,352
Thereafter	52,731
Supervisor - Linen Distribution -	
Rydalmere	53,242
Marsden, Grosvenor	50,869

## SCHEDULE B

### SPECIAL ALLOWANCES

- (i) Services Support Officers Grade 2 shall receive an additional duties allowance of \$15.98 per week for appropriate duties involved in the maintenance and supervision of swimming pools, pest control duties on a continuing basis, driving tractors (other than drivers), maintenance of bowling greens and sporting ovals.
- (ii) Services Support Officers Grade 2 regularly required to perform work on sewerage works and grease traps or other duties considered offensive by the Department shall be paid an allowance at the rate of \$3.40 per week; the allowance is not automatically adjusted in the future.
- (iii) Services Support Officers Grade 2 required to assist in cleaning sewerage chokages and who are required to assist in opening up any soil pipe, waste pipe, drain pipe or pump containing sewerage or

who are required to work in a septic tank in operation shall be paid an allowance of \$9.58 per day or part thereof.

- (iv) Drivers and Extra Hands who handle wet and dry garbage shall be paid an allowance of 51c per hour. The allowance shall be payable to Services Support Officers for those periods when they relieve Extra Hands and are required to handle wet and dry garbage.
- (v) Staff members covered by this award who are required to handle linen of a nauseous nature (other than in sealed bags) shall be paid an allowance of \$4.54 per shift.
- (vi) Leading Hand Allowance - A staff member, who is placed in charge of not less than two other staff members of substantially similar classification, shall be paid in accordance with the following:

	Per Week
	\$
In charge of 2 to 5 other staff members	32.95
In charge of 6 to 10 other staff members	46.99
In charge of 11 to 15 other staff members	59.82
In charge of 16 to 19 other staff members	73.26

This allowance will not be payable to those staff members whose classification and salary includes supervisory responsibilities.

- (vii) A Boiler Attendant required to attend more than one high pressure boiler shall receive an allowance of \$867.88 per annum.
- (viii) Uniform Allowance - If the uniform of a staff member is not laundered at the expense of the Department an allowance of \$5.35 per week shall be paid to such staff member.

## **SCHEDULE C**

### **ALLOWANCES**

Staff members shall be paid the following amounts when working in situations where the conditions encountered are not normally encountered by staff members of that classification:

- (i) Cold Places - Staff members working in places where the temperature is reduced by artificial means to below 0 degrees Celsius shall be paid 81 cents per hour extra. Where the work continues for more than two hours, staff members shall be entitled to a rest period of 20 minutes every two hours without loss of pay.
- (ii) Confined Spaces - Staff members working in a place the dimensions or nature of which necessitate working in a stooped or cramped position or without sufficient ventilation shall be paid 99 cents per hour extra.
- (iii) Dirty Work - Work which a supervisor and staff member agree is of a dirty or offensive nature by comparison with the work normally encountered in the classification concerned and for which no other special rates are prescribed shall be paid for by an additional amount at the rate of 81 cents per hour above the rate prescribed by this award.
- (iv) Height Money - Staff members working at a height of 7.5 metres from the ground, deck, floor or water shall be paid 81 cents per hour extra and 25 cents per hour extra for every additional 3 metres. Height shall be calculated where it is necessary for the staff member to place his/her hands or tools in order to carry out the work to such ground, floor, deck or water. For the purpose of this subclause, deck or floor means a substantial structure which, even though temporary, is sufficient to protect a staff member from falling any further distance. Water level means, in tidal waters, mean water level. This subclause shall not apply to staff members working on a suitable scaffold erected in accordance with the *Work Health and Safety Act 2011*.

- (v) Hot Places - Staff members working in the shade in places where the temperature is raised by artificial means to between 46 degrees Celsius and 54 degrees Celsius shall be paid 81 cents per hour extra; in places where the temperature exceeds 54 degrees Celsius such staff members shall be paid 99 cents per hour extra. Where work continues for more than two hours in temperatures exceeding 54 degrees Celsius, staff members shall also be entitled to 20 minutes' rest after every two hours work, without deduction of pay. The temperature shall be decided by the supervisor of the work after consultation with the staff members who claim the extra rate.
  
- (vi)
  - (a) Insulation Material - Staff members working in any room or similar area or in any confined (unventilated) space where pumice or other recognised insulating material is being used in insulating work shall be paid 66 cents per hour extra, or, if the insulating material be silicate, 99 cents per hour extra, whether they are actually handling such material or not; provided that such insulation material shall include granulated cork but shall not include cork board or materials contained in unbroken packages.
  - (b) Asbestos - A staff member required to work with any materials containing asbestos or to work in close proximity to staff members using such materials shall be provided with and shall use all necessary safeguards as required by the appropriate occupational health authority and where such safeguards include the mandatory wearing of protective equipment such staff members shall be paid 81 cents per hour whilst so engaged.
  
- (vii) Wet Places -
  - (a)
    - (1) A staff member working in a place where water other than rain is falling so that their clothing shall be appreciably wet and/or water, oil or mud underfoot is sufficient to saturate their boots shall be paid 81 cents per hour extra; provided that this extra rate shall not be payable in respect to a staff member who is provided with suitable and effective protective clothing and/or footwear. A staff member who becomes entitled to this extra rate shall be paid such rate for such part of the day or shift as he/she is required to work in wet clothing or boots.
    - (2) Where a staff member is required to work in the rain, he/she shall be paid 81 cents per hour extra for the time so worked.
  - (b) A staff member called upon to work knee-deep in mud or water shall be paid at the rate of \$6.28 per day in addition to ordinary rates of pay prescribed for each day or portion thereof so worked; provided that this subclause shall not apply to a staff member who is provided with suitable protective clothing and/or footwear.
  
- (viii) Acid Furnaces, Stills, etc.- A staff member engaged on the construction or alteration or repairs to boilers, flues, furnaces, retorts, kilns, ovens, ladles and similar refractory work shall be paid \$4.08 per hour. This additional rate shall be regarded as part of the wage rate for all purposes.
  
- (ix) Depth Money - A staff member engaged in tunnels, cylinders, caissons, coffer dams and sewer work and in underground shafts exceeding 3 metres in depth shall be paid 81 cents per hour.
  
- (x) Swinging Scaffolds -
  - (a) A staff member working in a bosun's chair or on a swinging scaffold shall be paid \$5.83 for the first four hours whilst so engaged, thence \$1.17 per hour thereafter.
  - (b) A staff member shall not raise or lower a bosun's chair or swinging scaffold alone and an employer shall not require a staff member to raise or lower a bosun's chair or swinging scaffold alone.

- (xi) Spray Application - A staff member engaged on all spray applications carried out in other than a properly constructed booth approved by the WorkCover Authority shall be paid 81 cents per hour extra.
- (xii) Roof Work - Staff members engaged in the fixing or repairing of a roof or any other work in excess of 12 metres from the nearest floor level shall be paid 99 cents per hour extra with a minimum payment of 99 cents.
- (xiii) Explosive Powered Tools - Staff members required to use explosive powered tools shall be paid 4 cents per hour extra with a minimum payment of \$1.86 per day.
- (xiv) Toxic and Obnoxious Substances -
  - (a) A staff member engaged in either the preparation and/or the application of toxic or epoxy based materials or materials of a like nature shall be paid 99 cents per hour extra.
  - (b) In addition, staff members applying such material in buildings which are normally air-conditioned shall be paid 68 cents per hour extra for any time worked when the air-conditioning plant is not operating.
  - (c) Where there is an absence of adequate natural ventilation, the employer shall provide ventilation by artificial means and/or supply an approved type of respirator and, in addition, protective clothing shall be supplied where recommended by the Department.
  - (d) Staff members working in close proximity to staff members so engaged shall be paid 81 cents per hour extra.
  - (e) For the purpose of this clause, all materials which are toxic or which include or require the addition of a catalyst hardener and reactive additives or two-pack catalyst system shall be deemed to be materials of a like nature.
- (xv) Rates Not Subject To Penalty Provisions - The special rates herein prescribed shall be paid irrespective of the times at which the work is performed, and shall not be subject to any premium or penalty conditions.
- (xvi) Extra Rate Not Cumulative - When more than one of the above rates provide payment for disabilities of substantially the same nature then only the highest of such rates shall be payable.

**SCHEDULE D**

**Salary Arrangements of Existing Staff Members, Services Support Officers at 19/4/99**

	Rate as at 1.7.17 Per annum \$
Outdoor Attendant (Other) 11th year and thereafter. Current incumbents only.	50,104

8. This variation shall take effect on and from 1 July 2017.

P. KITE, Chief Commissioner

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