

# **CROWN EMPLOYEES (PUBLIC SERVICE CONDITIONS OF EMPLOYMENT) REVIEWED AWARD 2009**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 2019/134157)

Before Commissioner Murphy  
Commissioner Sloan  
Commissioner Webster

17 October 2022

## **REVIEWED AWARD**

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Clause No.      Subject Matter

#### **PART A**

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## 2. Title

This award will be known as the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

## 3. Definitions

- 3.1 “Act” means the *Government Sector Employment Act 2013*.
- 3.2 “Accumulation” means the accrual of leave or time. In respect of weekly study time accumulation means the aggregation of short periods of weekly study time which is granted for private study purposes.
- 3.3 “Agreement” means an agreement referred to in section 51 of the Act or an agreement as defined in the *Industrial Relations Act 1996*.
- 3.4 “Approved Course” means a course relevant to the employment of the employee in the Department or the public service and approved by the Agency Head.
- 3.5 “Association” means the Public Service Association and Professional Officers’ Association Amalgamated Union of New South Wales.
- 3.6 “At the convenience of” means the operational requirements permit the employee's release from duty or that satisfactory arrangements are able to be made for the performance of the employee's duties during the absence.
- 3.7 “Award” means an award as defined in the *Industrial Relations Act 1996*.
- 3.8 “Birth” means the birth of a child and includes stillbirth.
- 3.9 “Capital City” means the area set out as the area for the Sydney Telephone District Directory coded N00 in the Sydney White Pages or within a corresponding area in the Capital City of another State or Territory.
- 3.10 “Casual Employee” means an employee engaged in casual employment under Part 4, Division 5, Section 43 Kinds of employment of the *Government Sector Employment Act 2013* and any Regulations, Rules or guidelines issued thereof or as amended from time to time.
- 3.11 “Contract hours for the day” for a full time employee, means one fifth of the full time contract hours, as defined in this award. For a part time employee, “contract hours for the day” means the hours usually worked on the day.
- 3.12 “Daily rate” means the rate payable for 24 hours, unless otherwise specified.
- 3.13 “Daily span of hours” means, for an employee required to work standard hours, the full time standard hours defined in this award. For an employee required to work flexible hours, the "daily span of hours" means the hours which normally fall within the bandwidth of the scheme applicable to the employee and which do not attract payment for overtime, unless otherwise prescribed in this award.
- 3.14 “Day worker” means an employee other than a shift worker, who works the normal hours of duty from Monday to Friday inclusive between the hours of 7.30 a.m. and 6.00 p.m. or as negotiated under a local arrangement.
- 3.15 “Department” means a Department specified in Schedule 1, Part 1, to the Act.
- 3.16 “Department Head” means in the case of a Department, the Secretary of a Department, or in any other case, the head of the agency listed in Part 2 or 3 of Schedule 1, to the Act.
- 3.17 “Domestic Violence” means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*.
- 3.18 “Employee” means a person employed in ongoing employment or temporary employment as defined in the Act and, unless otherwise specified in this award, includes both full-time and part-time employees.

For the purposes of maternity leave, as set out in clause 75, Parental Leave, of this award, employee means a female employee.

- 3.19 “Expected date of birth”, in relation to an employee who is pregnant, means a date specified by her medical practitioner to be the date on which the medical practitioner expects the employee to give birth as a result of the pregnancy.
- 3.20 “Extended leave” means extended (long service) leave to which an employee is entitled under the provisions of Part 2, Division 3, Clause 16 to the Government Sector Employment Regulation 2014, as amended from time to time.
- 3.21 “Flexible working hours credit” means the time exceeding the contract hours for a settlement period and includes any time carried over from a previous settlement period or periods.
- 3.22 “Flexible working hours debit” means the contract hours not worked by an employee and not covered by approved leave during the settlement period, as well as any debit carried over from the previous settlement period or periods
- 3.23 “Flexible working hours scheme” means the scheme outlined in clause 21, Flexible Working Hours of this award which enables employees, subject to operational requirements, to select their starting and finishing times and which replaces the Flexible Working Hours Agreement No 2275 of 1980.
- 3.24 “Flexible Work Practices, Policy and Guidelines” means the document negotiated between the Industrial Relations Secretary, Unions NSW and affiliated unions which enables employees to rearrange their work pattern.
- 3.25 “Flex leave” means a period of leave available to be taken by an employee as specified in subclause 21.16 of clause 21, Flexible Working Hours of this award
- 3.26 “Full day” means the full -time contract hours for the day, i.e. seven or eight hours depending on the classification of the employee.
- 3.27 “Full pay” or “half pay” means the employee's ordinary rate of pay or half the ordinary rate of pay respectively.
- 3.28 “Full-time contract hours” means the standard weekly hours, that is, 35 or 38 hours per week, depending on the classification, required to be worked as at the date of this award.
- 3.29 “Full-time employee” means an employee whose ordinary hours of duty are specified as such in a formal industrial instrument or whose contract hours are equivalent to the full-time contract hours for the role classification.
- 3.30 “Full-time role” means a role which is occupied, or if not for being vacant, would be occupied, by a full-time employee.
- 3.31 “Half day” means half the standard contract hours for the day.
- 3.32 “Headquarters” means the centre(s) to which an employee is attached or from which an employee is required to operate on a long-term basis.
- 3.33 “Industrial action” means industrial action as defined in the *Industrial Relations Act 1996*.
- 3.34 “Local Arrangement” means an agreement reached at the organisational level between the Department Head or Secretary and the Association in terms of clause 10, Local Arrangements of this award.
- 3.35 “Local holiday” means a holiday which applies to a particular township or district of the state and which is not a public holiday throughout the State.

- 3.36 “Normal hours of duty” means:
- for an employee working standard hours - the fixed hours of duty, with an hour for lunch, worked in the absence of flexible working hours;
- for an employee working under a flexible working hours scheme or local arrangement negotiated under clause 10, Local Arrangements - the hours of duty the Department Head requires an employee to work within the bandwidth specified under the flexible working hours scheme or local arrangement.
- 3.37 “Normal work” means, for the purposes of subclause 9.11 of clause 9, Grievance and Dispute Settling Procedures, of this award, the work carried out in accordance with the employee’s role or role description at the location where the employee was employed at the time the grievance or dispute was notified by the employee.
- 3.38 “Official overseas travel” means authorised travel out of Australia by an employee where the employee proceeds overseas on official business.
- 3.39 “On duty” means the time required to be worked for the Department. For the purposes of clause 53, Trade Union Activities Regarded as On Duty, of this award, on duty means the time off with pay given by the Department to the accredited Association delegate to enable the Association delegate to carry out legitimate Association activities during ordinary work hours without being required to lodge an application for leave.
- 3.40 “On loan” means an arrangement between the Department and the Association where an employee is given leave of absence from the workplace to take up employment with the employee’s Association for a specified period of time during which the Association is required to reimburse the Department for the employee’s salary and associated on-costs.
- 3.41 “On special leave” means the employee is required to apply for special leave in order to engage in an activity which attracts the grant of special leave in the terms of this award.
- 3.42 “Ordinary hourly rate of pay” means the hourly equivalent of the annual rate of pay of the classification as set out in the Crown Employees (Public Sector - Salaries 2019) Award, or any replacement of that award, calculated using the formula set out in clause 12, Casual Employment of this award.
- 3.43 “Overtime” means all time worked, whether before or after the normal hours of duty, at the direction of the Department Head, which, due to its character or special circumstances, cannot be performed during the employee’s normal hours of duty.
- 3.44 “Part-time entitlement”, unless specified otherwise in this award, means pro rata of the full-time entitlements calculated according to the number of hours an employee works in a part-time role or under a part-time arrangement.
- 3.45 “Part-time hours” means hours which are less than the hours which constitute full-time work under the relevant industrial instrument.
- 3.46 “Part-time role” means a designated part-time role and, unless otherwise specified, includes any role which is filled on a part-time basis.
- 3.47 “Part-time employee” means an employee whose ordinary hours of duty are specified as part-time in a formal industrial instrument or whose contract hours are less than the full-time hours.
- 3.48 “Prescribed ceasing time” means for an employee working standard hours, the conclusion of daily standard hours for that employee. For an employee working under a flexible working hours scheme, prescribed ceasing time means the conclusion of bandwidth of the scheme applying to that employee.
- 3.49 “Prescribed starting time” means for an employee not working under a flexible working hours scheme, the commencement of standard daily hours of that employee. For an employee working under a flexible

working hours scheme, prescribed starting time means the commencement of bandwidth of the scheme applying to that employee.

- 3.50 “Public holiday” means a day declared under Part 2 of the *Public Holidays Act 2010*, as a public holiday.
- 3.51 “Public Service” means the Public Service of New South Wales referred to in Part 4 of the Act.
- 3.52 “Recall to duty” means those occasions when an employee is directed to return to duty outside the employee’s ordinary hours or outside the bandwidth in the case of an employee working under a flexible working hours scheme.
- 3.53 “Relief employee” means an employee employed on a temporary basis to provide relief in a role until the return from authorised leave of the assigned occupant or in a vacant role until it is filled.
- 3.54 “Residence”, in relation to an employee, means the ordinary and permanent place of abode of the employee.
- 3.55 “Rostered Day Off” means, for the purposes of clause 22, Rostered Days Off for 38 Hour Week Workers, of this award, a day off in a regular cycle at a time operationally convenient.
- 3.56 “Seasonal employee” means an employee employed on a temporary basis for less than three months to meet seasonal demands which cannot be met by employees already employed in the Department and which, because of their seasonal nature, do not justify employment of employees on a long-term basis.
- 3.57 “Secondment” means an arrangement agreed to by the Department Head, the employee and another public service Department, a government sector organisation or a private sector organisation which enables the employee to work in such other organisation for an agreed period of time and under conditions agreed to prior to the commencement of the period of secondment. Secondments are to comply with Part 5, Section 64 Employee transfers and secondments and Section 65 Cross-Agency Employment of the Act.
- 3.58 “Secretary” means the Industrial Relations Secretary, as defined under Part 4, Division 6 of the Act.
- 3.59 “Shift worker - Continuous Shifts” means an employee engaged in work carried out in continuous shifts throughout the 24 hours of each of at least six consecutive days without interruption except during breakdown or meal breaks or due to unavoidable causes beyond the control of the Department Head.
- 3.60 “Shift worker - Non-continuous Shifts” means an employee who is not a day worker or a shift worker - continuous shifts, as defined above.
- 3.61 “Short leave” means the leave which was available to be granted to an employee in the case of pressing necessity and which was replaced by family and community service leave from 20 September 1994.
- 3.62 “Standard hours” are set and regular hours of operation as determined by the Secretary, or by the Department Head in accordance with any direction of the Secretary. Standard hours are generally the hours which were in operation prior to the introduction of flexible working hours or have been determined as standard hours for the organisation since the introduction of flexible working hours.
- 3.63 “Standby” means an instruction given by the Department Head to an employee to be available for immediate contact in case of an authorised call-out requiring the performance of duties.
- 3.64 “Study leave” means leave without pay granted for courses at any level or for study tours during which financial assistance may be approved by the Department Head, if the activities to be undertaken are considered to be of relevance or value to the Department and/or the public service.
- 3.65 “Study Time” means the time allowed off from normal duties on full pay to an employee who is studying a part-time course which is of relevance to the Department and/or the public service.

- 3.66 “Supervisor” means the immediate supervisor or manager of the area in which an employee is employed or any other employee authorised by the Department Head to fulfil the role of a supervisor or manager, other than a person engaged as a consultant or contractor.
- 3.67 “Temporary work location” means the place at or from which an employee temporarily performs official duty if required to work away from headquarters.
- 3.68 “Trade Union” or “Union” means a registered trade union, as defined in the *Industrial Relations Act 1996*.
- 3.69 “Trade Union Delegate” means an accredited Association delegate responsible for his/her workplace; and/or a person who is elected by the Association as its representative, an executive member or a member of the Association's Council.
- 3.70 “Trade Union Official” means a person who is employed by the Association to carry out duties of an official in a permanent or temporary capacity, including elected full-time officials and/or employees placed on loan to the Association for an agreed period of time.
- 3.71 “Workplace” means the whole of the organisation or, as the case may be, a branch or section of the organisation in which the employee is employed.
- 3.72 “Workplace Management” means the Department Head or any other person authorised by the Department Head to assume responsibility for the conduct and effective, efficient and economical management of the functions and activities of the organisation or part of the organisation.

#### **4. Parties to the Award**

The parties to this award are:

Industrial Relations Secretary, and

Public Service Association and Professional Officers’ Association Amalgamated Union of New South Wales.

#### **5. Conditions of Employment**

This award contains the current common conditions of employment as negotiated by the Industrial Relations Secretary and the Association.

#### **6. Coverage**

- (a) The provisions of this award will, subject to cl 6(b) below, apply to all non-executive public service employees as defined in the *Government Sector Employment Act 2013* employed in Departments, Public Service executive agencies related to Departments, and separate Public Service agencies, listed in Schedule 1 to the *Government Sector Employment Act 2013*.
- (b) Where another industrial instrument or arrangement applies to a group of employees covered by this Award the following interaction rules apply:
- (i) if the other industrial instrument or arrangement expressly displaces the entirety of this Award then this Award will have no application to those employees;
- (ii) if the other industrial instrument or arrangement expressly displaces one or more provisions of this Award then:
- (a) this Award will not apply to those employees covered by the other instrument or arrangement in relation to those provisions,
- (b) but the balance of this Award will apply to those employees; and



- (iii) If the other industrial instrument or arrangement comprehensively determines conditions of employment for a group of employees then this Award will have no application in relation to that group of employees;
- (iv) If the other industrial instrument or arrangement comprehensively determines a particular class of conditions of employment for a group of employees, then this Award will have no application in relation to that group of employees in relation to that class of conditions;
- (v) If none of subclauses 6(b)(i)-(iv) apply, and the other industrial instrument or arrangement is silent as to its interaction with this Award, then:
  - a. if the application of the other industrial instrument or arrangement is inconsistent with the application of this Award, the other industrial instrument or arrangement applies to the extent of the inconsistency; otherwise
  - b. this Award applies.
- (c) Any officer, Departmental temporary employee and casual employee who, as at 23 February 2014, was employed in a Department listed in Schedule 1, Part 1, of the *Public Sector Employment and Management Act 2002* and who was covered by this award on that date will continue to be covered by this award.

NOTATION: This clause was amended in 2014 and again in 2017 with the agreed intention of the parties to maintain the status quo of industrial coverage, by award, other industrial instrument or arrangement, following the commencement of the *Government Sector Employment Act 2013* on 24 February 2014.

## **7. Statement of Intent**

This award aims to consolidate, in the one document, all common conditions of employment of those employees employed in Departments, Public Service executive agencies related to Departments, and separate Public Service agencies, listed in Schedule 1 to the *Government Sector Employment Act 2013*, except where another industrial instrument or arrangement applies to the employees, as per Clause 6 above, to encourage the consultative processes at the service-wide and the various organisational levels, to facilitate, as appropriate, greater flexibility in the workplace and to help ensure that the excess hours, accumulated as a result of Agency work requirements, are not forfeited.

## **8. Work Environment**

- 8.1 Work Health and Safety - The parties to this award are committed to achieving and maintaining accident-free and healthy workplaces in Government organisations covered by this award by:
  - 8.1.1 the development of policies and guidelines for the New South Wales Public Service and, as and when appropriate for individual organisations, on Work Health, Safety and Rehabilitation;
  - 8.1.2 assisting to achieve the objectives of the *Work Health and Safety Act 2011* and the Work Health and Safety Regulation 2011 by establishing agreed Work Health and Safety consultative arrangements in Government organisations and or/work premises; to identify and implement safe systems of work, safe work practices, working environments and appropriate risk management strategies; and to determine the level of responsibility within a Government organisation to achieve these objectives;
  - 8.1.3 identifying training strategies for employees, as appropriate, to assist in the recognition, elimination or control of workplace hazards and the prevention of work related injury and illness;
  - 8.1.4 developing strategies to assist the rehabilitation of injured employees;
  - 8.1.5 directly involving the appropriate Department Head in the provisions of paragraphs 8.1.1 to 8.1.4 inclusive of this subclause.

- 8.2 Equality in employment - The NSW Public Service is committed to the achievement of equality in employment and the award has been drafted to reflect this commitment.
- 8.3 Harassment-free Workplace - Harassment on the grounds of sex, race, marital status, physical or mental disability, sexual preference, transgender, age or responsibilities as a carer is unlawful in terms of the *Anti-Discrimination Act 1977*. Management and employees are required to refrain from, or being party to, any form of harassment in the workplace.

### **9. Grievance and Dispute Settling Procedures**

- 9.1 All grievances and disputes relating to the provisions of this award will 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 Department or Agency, if required.
- 9.2 An employee 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.
- 9.3 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 Department Head or delegate.
- 9.4 The immediate manager, or other appropriate employee, will 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.
- 9.5 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 will respond within two (2) working days, or as soon as practicable. The employee may pursue the sequence of reference to successive levels of management until the matter is referred to the Department Head.
- 9.6 The Department Head may refer the matter to the Secretary for consideration.
- 9.7 If the matter remains unresolved, the Department Head will 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.
- 9.8 An employee, at any stage, may request to be represented by the Association.
- 9.9 The employee or the Association on their behalf or the Department Head may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 9.10 The employee, Association, Department and Secretary will agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- 9.11 Whilst the procedures outlined in subclauses 9.1 to 9.10 of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty will continue unless otherwise agreed between the parties, or, in the case involving work health and safety, if practicable, normal work will proceed in a manner which avoids any risk to the health and safety of any employee or member of the public.

## **SECTION 2 - ATTENDANCE/HOURS OF WORK**

### **10. Local Arrangements**

- 10.1 Local arrangements may be negotiated between the Department Head and the Association in respect of the whole Department or part of a Department in relation to any matter contained in the award.

- 10.2 All local arrangements negotiated between the Department Head and the Association must:
- 10.2.1 be approved by the Secretary; and
  - 10.2.2 be approved in writing by the General Secretary of the Association; and
  - 10.2.3 be contained in a formal document, such as a co-lateral agreement, a memorandum of understanding, an award, an enterprise agreement or other industrial instrument; and
  - 10.2.4 include a clause allowing either party to terminate the arrangement by giving 12 months' notice.
- 10.3 Subject to the provisions of subclause 10.2 of this clause, nothing in this clause will prevent the negotiation of local arrangements between the Department Head and the Association in respect of the provisions contained in clause 24, Flexible Work Practices of this award, where the conditions of employment of any group are such that the application of the standard flexitime provisions would not be practicable. Where such local arrangements do not include provisions in relation to core time, settlement periods, contract hours, flex credit, flex debit, or flex leave, the relevant provisions of clause 21, Flexible Working Hours of this award will apply.
- 10.4 Attendance and the accrual of flexible working hours credit – An employee may only work outside the hours of a standard day but within the bandwidth and accrue hours toward a flexible working hours credit if the work is available to be performed.
- 10.5 Where an employee has accrued 8 weeks recreation leave, unless otherwise authorised by their manager, flex leave can only be taken where recreation leave has been applied for and approved. If, however, recreation leave has been applied for and declined or not actioned by the manager, access to flex leave is still available.

## **11. Working Hours**

- 11.1 The working hours of employees and the manner of their recording, will be as determined from time to time by the Department Head in accordance with any direction of the Secretary. Such direction will include the definition of full time contract hours as contained in clause 3, Definitions of this award.
- 11.2 The employee in charge of a division or branch of a Department will be responsible to the Department Head for the proper observance of working hours of employees and for the proper recording of such attendance.
- 11.3 The Department Head may require an employee to perform duty beyond the hours determined under subclause 11.1 of this clause but only if it is reasonable for the employee to be required to do so. An employee may refuse to work additional hours in circumstances where the working of such hours would result in the employee working unreasonable hours. In determining what is unreasonable the following factors will be taken into account:
- 11.3.1 the employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements,
  - 11.3.2 any risk to the employee's health and safety,
  - 11.3.3 the urgency of the work required to be performed during additional hours, the impact on the operational commitments of the organisation and the effect on client services,
  - 11.3.4 the notice (if any) given by the Department Head regarding the working of the additional hours, and by the employee of their intention to refuse the working of additional hours, or
  - 11.3.5 any other relevant matter.
- 11.4 The application of hours of work is subject to the provisions of this clause.

- 11.5 The ordinary hours may be standard or flexible and may be worked on a full time or part-time basis.
- 11.6 The Department Head will ensure that all employees employed in the Department are informed of the hours of duty required to be worked and of their rights and responsibilities in respect of such hours of duty.

## **12. Casual Employment**

- 12.1 This clause will only apply to those casual employees whose conditions of employment are not otherwise included in another industrial instrument.

### **12.2 Hours of Work**

12.2.1 A casual employee is engaged and paid on an hourly basis.

12.2.2 A casual employee will be engaged and paid for a minimum of 3 consecutive hours for each day worked.

12.2.3 A casual employee will not work more than 9 consecutive hours per day (exclusive of meal breaks) without the payment of overtime for such time in excess of 9 hours, except where longer periods are permitted under another award or local agreement under clause 10 of this award, covering the particular class of work or are required by the usual work pattern of the role.

### **12.3 Rate of Pay**

12.3.1 A casual employee will be paid the ordinary hourly rate of pay calculated by the following formula for the hours worked per day:

Annual salary divided by 52.17857 divided by the ordinary weekly hours of the classification.

12.3.2 A casual employee will be paid a loading on the appropriate ordinary hourly rate of pay of:

15% for work performed on Mondays to Fridays (inclusive)

50% for work performed on Saturdays

75% for work performed on Sundays

150% for work performed on public holidays.

12.3.3 A casual employee will also receive a 1/12th loading in lieu of annual leave.

12.3.4 The loadings specified in paragraph 12.3.2 of this subclause are in recognition of the casual nature of the employment and compensate the employee for all leave, other than annual leave and long service leave, and all incidence of employment, except overtime.

### **12.4 Overtime**

12.4.1 A casual employee will be paid overtime for work performed:

(a) In excess of 9 consecutive hours (excluding meal breaks) except where longer periods are permitted under another award or local agreement under clause 10 of this award, covering the particular class of work or are required by the usual work pattern of the role; or

(b) Outside the bandwidth application to the particular class of work; or

(c) In excess of the daily roster pattern applicable for the particular class of work; or

(d) In excess of the standard weekly roster of hours for the particular class of work; or

(e) In accordance with a local arrangement negotiated under clause 10 of this award.

12.4.2 Overtime rates will be paid in accordance with the rates set in clause 90, Overtime Worked by Day Workers of this award.

12.4.3 Overtime payments for casual employees are based on the ordinary hourly rate plus the 15% loading set out in paragraph 12.3.2 of this clause.

12.4.4 The loading in lieu of annual leave as set out in paragraph 12.3.3 of this clause is not included in the hourly rate for the calculation of overtime payments for casual employees.

## 12.5 Leave

12.5.1 Other than as described under subclauses 12.5, 12.6 and 12.7 of this clause, casual employees are not entitled to any other paid or unpaid leave.

12.5.2 As set out in paragraph 12.3.3 of this clause, casual employees will be paid 1/12th in lieu of annual leave.

12.5.3 Casual employees will be entitled to Long Service Leave in accordance with the provisions of the *Long Service Leave Act 1955*.

12.5.4 Casual employees are entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, section 54, Entitlement to Unpaid Parental Leave, of the *Industrial Relations Act 1996*. The following provisions will also apply in addition to those set out in the *Industrial Relations Act 1996*.

(a) The Department Head must not fail to re-engage a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996*) because:

(i) the employee or employee's spouse is pregnant; or

(ii) 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.

## 12.6 Personal Carers entitlement for casual employees

12.6.1 Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a family member described in paragraph 81.4.2 of clause 81, Sick Leave to Care for a Family Member, of this award who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child. This entitlement is subject to the evidentiary requirements set out in paragraph 12.6.4, and the notice requirements set out in paragraph 12.6.5 of this clause.

12.6.2 The Department Head and the casual employee will agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work 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.

12.6.3 A Department Head 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 to engage a casual employee are otherwise not affected.

12.6.4 The casual employee will, if required,

(a) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or

- (b) establish by production of documentation acceptable to the Department Head or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, a casual employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

12.6.5 The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the supervisor of their inability to attend for duty. If it is not reasonably practicable to inform the supervisor during the ordinary hours of the first day or shift of such absence, the employee will inform the supervisor within 24 hours of the absence.

## 12.7 Bereavement entitlements for casual employees

12.7.1 Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a family member on production of satisfactory evidence (if required by the employer).

12.7.2 The Department Head and the casual employee will agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work 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.

12.7.3 A Department Head 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.

12.7.4 The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the supervisor of their inability to attend for duty. If it is not reasonably practicable to inform the supervisor during the ordinary hours of the first day or shift of such absence, the employee will inform the supervisor within 24 hours of the absence.

## 12.8 Application of other clauses of this Award to casual employees

12.8.1 The following clauses of this award do not apply to casual employees:

11	Working Hours
16	Variation of Hours
17	Natural Emergencies and Major Transport Disruptions
19	Public Holidays
20	Standard Working Hours
21-24	relating to Flexible Working arrangements
27	Excess Travelling Time
28	Waiting Time
43	Room at Home Used as Office
44	Semi-Official Telephones
53-59	relating to Trade Union activities
63	Travelling and other costs of Trade Union Delegates
67	Leave - General Provisions
69-84	relating to the various Leave provisions
86	Study Assistance
87	Shift Work
88-89	relating to Overtime
91-92	relating to Recall to Duty, On-Call and Stand-by Arrangements
96	Payment for Overtime or Leave in Lieu
97	Compensation for Additional Hours Worked by Duty Officer, State Emergency Services.

### **13. Part-Time Employment**

#### 13.1 General

13.1.1 This clause will only apply to part-time employees whose conditions of employment are not otherwise provided for in another industrial instrument.

13.1.2 Part-time work may be undertaken with the agreement of the relevant Department Head. Part-time work may be undertaken in a part-time role or under a part-time arrangement.

13.1.3 A part-time employee is to work contract hours less than full-time hours.

13.1.4 Unless otherwise specified in the award, part-time employees receive full time entitlements on a pro rata basis calculated according to the number of hours an employee works in a part-time role or under a part-time arrangement. Entitlements to paid leave will accrue on the equivalent hourly basis.

13.1.5 Before commencing part-time work, the Department Head and the employee must agree upon:

- (a) the hours to be worked by the employee, the days upon which they will be worked, commencing and ceasing times for the work, and whether hours may be rostered flexibly;
- (b) whether flexible working hours provisions or standard hours provisions will apply to the part-time employee; and
- (c) the classification applying to the work to be performed;

13.1.6 The terms of the agreement must be in writing and may only be varied with the consent of both parties.

13.1.7 Incremental progression for part-time employees is the same as for full-time employees, that is, part-time employees receive an increment annually.

#### 13.2 Additional hours

13.2.1 An employer may request, but not require, a part-time employee to work additional hours. For the time worked in excess of the employee's usual hours and up to the normal full-time hours for the classification, part-time employees may elect to:

- (a) be paid for additional hours at their hourly rate plus a loading of 4/48ths in lieu of recreation leave; or
- (b) if working under a Flexible Working Hours scheme under clause 21 of this award, or a Local Agreement made in accordance with clause 10 of this award, have the time worked credited as flex time.

13.2.2 For time worked in excess of the full-time hours of the classification, or outside the bandwidth payment will be made at the appropriate overtime rate in accordance with clause 95, Rate of Payment for Overtime, of this award.

### **14. Morning and Afternoon Breaks**

Employees may take a 10 minute morning break, provided that the discharge of public business is not affected and, where practicable, they do so out of the view of the public contact areas. Employees, other than the 38 hour week workers, may also take a 10 minute afternoon break, subject to the same conditions as apply to the morning break.

### **15. Meal Breaks**

15.1 Meal breaks must be given to and taken by employees. No employee will be required to work continuously for more than 5 hours without a meal break, provided that: -

15.1.1 where the prescribed break is more than 30 minutes, the break may be reduced to not less than 30 minutes if the employee agrees. If the employee requests to reduce the break to not less than 30 minutes, the reduction must be operationally convenient; and

15.1.2 where the nature of the work of an employee or a group of employees is such that it is not possible for a meal break to be taken after not more than 5 hours, local arrangements may be negotiated between the Department Head and the Association to provide for payment of a penalty.

### **15A. Lactation Breaks**

15A.1 This clause applies to employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this award.

15A.2 A full-time employee or a part-time employee working more than 4 hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day.

15A.3 A part-time employee working 4 hours or less on any one day is entitled to only one paid lactation break of up to 30 minutes on any day so worked.

15A.4 A flexible approach to lactation breaks can be taken by mutual agreement between an employee and their manager provided the total lactation break time entitlement is not exceeded. When giving consideration to any such requests for flexibility, a manager needs to balance the operational requirements of the organisation with the lactating needs of the employee.

15A.5 The Department Head will provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk.

15A.6 Other suitable facilities, such as refrigeration and a sink, will be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and employee will take place to attempt to identify reasonable alternative arrangements for the employee's lactation needs.

15A.7 Employees experiencing difficulties in effecting the transition from home-based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.

15A.8 Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave in accordance with clause 79, Sick Leave, of this award, or access to the flexible working hours scheme provided in clause 21, Flexible Working Hours, of this award, where applicable.

### **16. Variation of Hours**

16.1 If the Department Head is satisfied that an employee is unable to comply with the general hours operating in the Department because of limited transport facilities, urgent personal reasons, community or family reasons, the Department Head may vary the employee's hours of attendance on a one off, short or long-term basis, subject to the following:

16.1.1 the variation does not adversely affect the operational requirements;

16.1.2 there is no reduction in the total number of daily hours to be worked;

16.1.3 the variation is not more than an hour from the commencement or finish of the span of usual commencing and finishing time;



16.1.4 a lunch break of one hour is available to the employee, unless the employee elects to reduce the break to not less than 30 minutes;

16.1.5 no overtime or meal allowance payments are made to the employee, as a result of an agreement to vary the hours;

16.1.6 ongoing arrangements are documented; and

16.1.7 the Association is consulted, as appropriate, on any implications of the proposed variation of hours for the work area.

### **17. Natural Emergencies and Major Transport Disruptions**

17.1 An employee prevented from attending work at a normal work location by a natural emergency or by a major transport disruption may:

17.1.1 apply to vary the working hours as provided in clause 16, Variation of Hours of this award; and/or

17.1.2 negotiate an alternative working location with the Department; and/or

17.1.3 take available family and community service leave and/or flex leave, recreation or extended leave or leave without pay to cover the period concerned.

### **18. Notification of Absence from Duty**

18.1 If an employee is to be absent from duty, other than on authorised leave, the employee must notify the supervisor, or must arrange for the supervisor to be notified, as soon as possible, of the reason for the absence.

18.2 If an employee is absent from duty without authorised leave and does not provide an explanation of the absence to the satisfaction of the appropriate Department Head, the amount representing the period of absence will be deducted from the employee's pay.

### **19. Public Holidays**

19.1 Unless directed to attend for duty by the Department Head, an employee is entitled to be absent from duty without loss of pay on any day which is:

19.1.1 a public holiday throughout the State; or

19.1.2 a local holiday in that part of the State at or from which the employee performs duty; or

19.1.3 a day between Boxing Day and New Year's Day determined by the appropriate Department Head as a public service holiday.

19.2 An employee required by the Department Head to work on a local holiday may be granted time off in lieu on an hour for hour basis for the time worked on a local holiday.

19.3 If a local holiday falls during an employee's absence on leave, the employee is not to be credited with the holiday.

### **20. Standard Working Hours**

20.1 Standard hours are set and regular with an hour for lunch and, if worked by the employee under a flexible working hours scheme, would equal the contract hours required to be worked under the scheme. Standard hours could be full time or part-time.

20.2 Urgent Personal Business - Where an employee needs to undertake urgent personal business, appropriate leave or time off may be granted by the Department Head. Where time off has been granted, such time will be made up as set out in subclause 20.4 of this clause.

- 20.3 Late Attendance - If an employee is late for work, the employee must either take appropriate leave or, if the Department Head approves, make the time up in accordance with subclause 20.4 of this clause.
- 20.4 Making up of Time - The time taken off in circumstances outlined in subclauses 20.2 and 20.3 of this clause must be made up at the earliest opportunity. The time may be made up on the same day or on a day or days agreed to between the employee and the Department Head.

## **21. Flexible Working Hours**

- 21.1 The parties to this award are committed to fostering flexible work practices with the intention of providing greater flexibility in dealing with workloads, work deadlines and the balance between work and family life. All parties are committed to managing time worked to prevent any forfeiture of credit hours accumulated under a Flexible Working Hours arrangement.
- 21.2 Unless local arrangements have been negotiated as provided in clause 10, Local Arrangements, of this award, and consistent with subclause 21.1 of this clause, a flexible working hours scheme in terms of this subclause may operate in a Department or a section of a Department, subject to operational requirements, as determined by the Department Head.
- 21.3 Where the operational requirements allow, the working of flexible hours under a flexible working hours scheme operating in a Department, will be extended to an employee working under a part time work arrangement. Except for provisions contained in subclauses 21.11, 21.13 and 21.16 of this clause, all other provisions under this subclause will be applied pro rata to an employee working under a part time work arrangement.
- 21.4 Exclusions - Flexible working hours will not apply to employees who work:
- 21.4.1 a 38 hour week and are entitled to a rostered day off in a regular cycle; or
  - 21.4.2 permanent standard hours; or
  - 21.4.3 according to a shift roster.
- 21.5 Attendance – An employee's attendance outside the hours of a standard day but within the bandwidth will be subject to the availability of work.
- 21.6 Bandwidth - The bandwidth will be between the hours of 7.30 a.m. and 6.00 p.m., unless a different time span has been negotiated under a local arrangement in terms of clause 10, Local Arrangements of this award.
- 21.7 Coretime - The coretime will be between the hours of 9.30 a.m. and 3.30 p.m., excluding the lunch break, unless other arrangements have been negotiated under a local arrangement in terms of clause 10, Local Arrangements of this award.
- 21.8 Lunch break - The standard lunch period will be 1 hour. With the approval of the supervisor, the lunch period may be extended by the employee up to 2 and 1/2 hours or reduced to not less than 30 minutes within the span of hours determined by the Department Head. Where a local arrangement has been negotiated in terms of clause 10, Local Arrangements, of this award, the lunch break will be taken in accordance with such local arrangement.
- 21.9 Settlement period - Unless a local arrangement has been negotiated in terms of clause 10, Local Arrangements, of this award, the settlement period will be four weeks.
- 21.9.1 For time recording purposes the settlement period and flex leave must coincide.
  - 21.9.2 Where exceptional circumstances apply, e.g. prolonged transport strikes, adverse weather conditions and the like, the Department Head may extend the affected settlement period by a further 4 weeks.

- 21.10 Contract hours - The contract hours for a settlement period will be calculated by multiplying the employee's weekly contract hours by the number of weeks in a settlement period.
- 21.11 Flexible working hours credit – an employee may carry a maximum of 10 hours credit into the next settlement period. Local arrangements in terms of clause 10, Local Arrangements, of this award may be negotiated in respect of the carry over of additional flexible hours credit than permitted in this clause, the length of the settlement period and the banking of any accumulated credit hours for time worked.
- 21.12 Weekly hours worked during the settlement period are to be monitored by the employee and their supervisor. If it appears that the employee may exceed an accumulated work time of 150 hours in a settlement period; or if the total hours of work in a settlement period with the credit hour carry over from the previous settlement period may exceed 150 hours, the supervisor and employee will develop a strategy to ensure that the employee does not forfeit any of the credit hours accumulated, or likely to be accumulated.
- 21.13 Flexible Working Hours Debit - The following provisions will apply to the carry over of flexible working hours debits, unless a local arrangement has been negotiated in terms of clause 10, Local Arrangements, of this award:
- 21.13.1 a debit of up to 10 hours at the end of a settlement period may be carried over into the next period;
- 21.13.2 where the debit exceeds 10 hours, the excess will be debited as leave without pay, unless the employee elects to be granted available recreation or extended leave to offset the excess.
- 21.13.3 any debit of hours outstanding on an employee's last day of duty is to be deducted from any unpaid salary or the monetary value of accrued recreation/extended leave. If applicable, the debit of hours may be transferred to the next NSW public sector organisation.
- 21.14 Cessation of duty – An employee may receive payment for a flex day accrued and remaining untaken on the last day of service:
- 21.14.1 where the employee's services terminate without a period of notice for reasons other than misconduct; or
- 21.14.2 where an application for flex leave which would have eliminated the accumulated day or days was made during the period of notice of retirement or resignation and was refused or could not be granted; or
- 21.14.3 in such other circumstances as have been negotiated between the Department Head and the Association under a local arrangement in terms of clause 10, Local Arrangements, of this award.
- 21.14.4 Prior to an employee's last day of service the employee and supervisor will ensure that the employee does not forfeit any credit hours accumulated. Strategies to reduce accumulated credit hours may include those outlined in paragraph 21.16.2 of this subclause.
- 21.15 Where an employee ceases duty in the Department in order to take up employment in another public service or government sector organisation, the same provisions as apply to recreation leave under the Government Sector Employment Regulation 2014 will apply to the accrued but untaken or not forfeited flex leave.
- 21.16 Flex leave - Subject to operational requirements:
- 21.16.1 An employee may take off one full day or two half days in a settlement period of 4 weeks.
- 21.16.2 Where it appears an employee may exceed a 10 hour credit, as per subclause 21.12 of this clause strategies to reduce this credit may include the granting of additional full days, consecutive days, half days, or any combination of days and half days.

- 21.16.3 Flex leave may be taken on consecutive working days.
  - 21.16.4 Absences on flex leave may be combined with other periods of authorised leave.
  - 21.16.5 Local arrangements in respect of the taking of flex leave may be negotiated in terms of clause 10, Local Arrangements of this award.
- 21.17 Absence during coretime - Where an employee needs to take a short period of authorised leave within coretime, other than flex leave, the quantum of leave to be granted will be determined according to the provisions contained in clause 68, Absence from Work, of this award.
- 21.18 Standard hours - Notwithstanding the provisions of this clause, the Department Head may direct the employee to work standard hours and not flexible hours:
- 21.18.1 where the Department Head decides that the working of flexible hours by an employee or employees does not suit the operational requirements of the Department or section of the Department, the Association will be consulted, where appropriate; or
  - 21.18.2 as remedial action in respect of an employee who has been found to have deliberately and persistently breached the flexible working hours scheme.
- 21.19 Easter concession - Employees who work under a flexible working hours scheme may be granted, subject to the convenience of the Department, an additional half day's flex leave on the Thursday preceding the Good Friday public holiday or, if directed to work, an additional half day's flex leave on another day within that settlement period.

## **22. Rostered Days Off for 38 Hour Week Workers**

- 22.1 The provisions of this clause apply only to those employees who work a 38 hour week and are entitled to a rostered day off in a regular cycle.
- 22.2 Time for a rostered day off accrues at 0.4 of an hour each 8 hour day.
- 22.2.1 Except as provided in paragraph 22.2.2 of this subclause, all paid ordinary working time and paid leave count towards accrual of time for the rostered day off.
  - 22.2.2 Limit - When a long period of approved leave is taken, accrual towards a rostered day off applies only in respect of the 4 weeks' period during which the employee resumes duty.
  - 22.2.3 Exception - Notwithstanding the provisions of paragraph 22.2.2 of this subclause, where more generous provisions apply to the accrual of rostered days off, such provisions will continue to apply until renegotiated.
- 22.3 In the event of unforeseen circumstances or the Department's operational requirements, the rostered day off may be deferred and taken at a later more suitable time.
- 22.4 Where seasonal or school vacation considerations affect Departmental operations, rostered days off may be accrued and taken during a less active period.
- 22.5 A rostered day off is not to be re-credited if the employee is ill or incapacitated on a rostered day off.
- 22.6 Payment of above level allowances is not to be made to another employee for undertaking some or all of the duties of the employee who is absent on a rostered day off.

## **23. Non-Compliance**

In the event of any persistent failure by an employee to comply with the hours of duty required to be worked, the Department Head will investigate such non-compliance as soon as it comes to the Department Head's notice and will take appropriate remedial action according to the provisions under clause 13 of the Government Sector Employment Regulation 2014.

## **24. Flexible Work Practices**

- 24.1 Nothing in this award will affect the hours of duty of an employee who is covered by a written flexible working hours agreement negotiated under the Flexible Work Practices, Policy and Guidelines.
- 24.2 Flexible working hours agreements negotiated in terms of the NSW Government Flexible Work Practices, Policy and Guidelines after 28 October 1997 will be subject to the conditions specified in this award and in consultation with the Association.

## **25. Existing Hours of Work Determinations**

Any existing Determinations, pursuant to section 130 (1) of the *Public Sector Employment and Management Act 2002* on local arrangements in respect of the hours of work which operated in a Department or part of a Department as at the effective date of this award, will be taken to be a determination under section 52 of the Act and will continue to apply until renegotiated.

## **SECTION 3 - TRAVEL ARRANGEMENTS**

### **26. Travelling Compensation**

- 26.1 Any authorised official travel and associated expenses, properly and reasonably incurred by an employee required to perform duty at a location other than their normal headquarters will be met by the Department.
- 26.2 The Department Head will require employees to obtain an authorisation for all official travel prior to incurring any travel expense.
- 26.3 Where available at a particular centre or location, the overnight accommodation to be occupied by employees who travel on official business will be the middle of the range standard, referred to generally as three star or three diamond standard of accommodation.
- 26.4 Where payment of a proportionate amount of an allowance applies in terms of this clause, the amount payable will be the appropriate proportion of the daily rate. Any fraction of an hour will be rounded off to the nearest half-hour.
- 26.5 The Department will elect whether to pay the accommodation directly or whether an employee should pay the accommodation and be compensated in accordance with this clause. Where practicable, employees will obtain prior approval when making their own arrangements for overnight accommodation.
- 26.6 Subject to subclause 26.14 of this clause, an employee who is required by the Department Head to work from a temporary work location will be compensated for accommodation, meal and incidental expenses properly and reasonably incurred during the time actually spent away from the employee's residence in order to perform the work.
- 26.7 If meals are provided by the Government at the temporary work location, the employee will not be entitled to claim the meal allowance.
- 26.8 For the first 35 days, the payment will be:
- 26.8.1 where the Department elects to pay the accommodation provider the employee will receive:
- (a) the appropriate meal allowance in accordance with Item 1 of Table 1 - Allowances of Part B, Monetary Rates, and
  - (b) incidentals as set out in Item 3 of Table 1 - Allowances of Part B, Monetary Rates, and
  - (c) actual meal expenses properly and reasonably incurred (excluding morning and afternoon teas) for any residual part day travel;

26.8.2 where the Department elects not to pay the accommodation provider the employee will elect to receive either:

- (a) the appropriate rate of allowance specified in Item 2 of Table 1 - Allowances of Part B Monetary Rates, and actual meal expenses properly and reasonably incurred (excluding morning and afternoon teas) for any residual part day travel; OR
- (b) in lieu of subparagraph (a) of this paragraph, payment of the actual expenses properly and reasonably incurred for the whole trip on official business (excluding morning and afternoon teas) together with an incidental expenses allowance set out in Item 2 of Table 1 - Allowances of Part B, Monetary Rates.

- 26.9 Payment of the appropriate allowance for an absence of less than 24 hours may be made only where the employee satisfies the Department Head that, despite the period of absence being of less than 24 hours duration, expenditure for accommodation and three meals has been incurred.
- 26.10 Where an employee is unable to so satisfy the Department Head, the allowance payable for part days of travel will be limited to the expenses incurred during such part day travel.
- 26.11 After the first 35 days - If an employee is required by the Department Head to work in the same temporary work location for more than 35 days, the employee will be paid the appropriate rate of allowance as specified in Item 2 of Table 1 - Allowances of Part B, Monetary Rates.
- 26.12 Long term arrangements - As an alternative to the provisions after the first 35 days set out in subclause 26.11 of this clause, Departments could make alternative arrangements for meeting the additional living expenses, properly and reasonably incurred by an employee working from a temporary work location.
- 26.13 The return of an employee to their home at weekends, on rostered days off or during short periods of leave while working from a temporary work location will not constitute a break in the temporary work arrangement.
- 26.14 This clause does not apply to employees who are on an employee-initiated secondment in accordance with section 64, 65 and 66 of the Act.

## **27. Excess Travelling Time**

- 27.1 Excess Travelling Time – An employee directed by the Department Head to travel on official business outside the usual hours of duty to perform duty at a location other than normal headquarters will, at the Department Head's discretion, be compensated for such time either by:
- 27.1.1 payment calculated in accordance with the provisions contained in this clause; or
  - 27.1.2 if it is operationally convenient, by taking equivalent time off in lieu to be granted for excess time spent in travelling on official business. Such time in lieu must be taken within 1 month of accrual unless otherwise authorised by the employee's manager.
- 27.2 Compensation under paragraphs 27.1.1 and 27.1.2 of this clause will be subject to the following conditions:
- 27.2.1 on a non-working day - subject to the provisions of paragraphs 27.3.4, 27.3.5, 27.3.6 and 27.3.7 of this clause, all time spent travelling on official business;
  - 27.2.2 on a working day - subject to the provisions of subclause 27.3 of this clause, all time spent travelling on official business outside the usual hours of duty, provided the period for which compensation is being sought is more than a half an hour on any one day.
- 27.3 Compensation for excess travelling time will exclude the following:
- 27.3.1 time normally taken for the periodic journey from home to headquarters and return;

- 27.3.2 any periods of excess travel of less than 30 minutes on any one day;
  - 27.3.3 travel to new headquarters upon transfer, if special leave has been granted for the day or days on which travel is to be undertaken;
  - 27.3.4 time from 11.00 p.m. on one day to 7.30 a.m. on the following day if sleeping facilities have been provided.
  - 27.3.5 travel not undertaken by the most practical available route and by the most practical and economic means of transport;
  - 27.3.6 working on board ship where meals and accommodation are provided;
  - 27.3.7 Any travel undertaken by an employee whose salary includes an all incidents of employment component;
  - 27.3.8 time within the flex time bandwidth;
  - 27.3.9 travel overseas.
- 27.4 Payment - Payment for travelling time calculated in terms of this clause will be at the employee's ordinary hourly rate of pay calculated as follows:

$$\frac{\text{Annual salary}}{1} \times \frac{5}{260.89} \times \frac{1}{\text{Normal hours of work}}$$

- 27.5 The rate of payment for travel or waiting time on a non-working day will be the same as that applying to a working day.
- 27.6 Employees whose salary is in excess of the maximum rate for Clerk, Grade 5 will be paid travelling time or waiting time calculated at the maximum rate for Clerk, Grade 5 plus \$1.00 per annum, as adjusted from time to time.
- 27.7 Time off in lieu or payment for excess travelling time or waiting time will not granted or made for more than eight hours in any period of 24 consecutive hours.

**28. Waiting Time**

When an employee travelling on official business is required to wait for transport in order to commence a journey to another location or to return home or headquarters and such time is outside the normal hours of duty, the waiting time will be treated and compensated for in the same manner as excess travelling time pursuant to clause 27, Excess Travelling Time of this Award

**29. Meal Expenses on One-Day Journeys**

- 29.1 An employee who is authorised by the Department Head to undertake a one-day journey on official business which does not require the employee to obtain overnight accommodation, will be paid the appropriate rate of allowance set out in Item 1 - Allowances of Table 1 of Part B, Monetary Rates for: -
  - 29.1.1 breakfast when required to commence travel at or before 6.00 a.m. and at least 1 hour before the prescribed starting time;
  - 29.1.2 an evening meal when required to travel until or beyond 6.30 p.m.; and

29.1.3 lunch when required to travel a total distance on the day of at least 100 kilometres and, as a result, is located at a distance of at least 50 kilometres from the employee's normal headquarters at the time of taking the normal lunch break.

### **30. Restrictions on Payment of Travelling Allowances**

- 30.1 An allowance under clause 26, Travelling Compensation, of this award is not payable in respect of:
- 30.1.1 any period during which the employee returns to their residence at weekends or public holidays, commencing with the time of arrival at that residence and ending at the time of departure from the residence;
  - 30.1.2 any period of leave, except with the approval of the Department Head or as otherwise provided by this clause; or
  - 30.1.3 any other period during which the employee is absent from the employee's temporary work location otherwise than on official duty.
- 30.2 An employee who is in receipt of an allowance under clause 26, Travelling Compensation, will be entitled to the allowance in the following circumstances:
- 30.2.1 when granted special leave to return to their residence at a weekend, for the necessary period of travel for the journey from the temporary work location to the employee's residence; and for the return journey from the employee's residence to the temporary work location, or
  - 30.2.2 when leaving a temporary work location on ceasing to perform duty at or from a temporary work location, for the necessary period of travel to return to the employee's residence or to take up duty at another temporary work location;
- but is not entitled to any other allowance in respect of the same period.

### **31. Increase or Reduction in Payment of Travelling Allowances**

- 31.1 Where the Department Head is satisfied that a travelling allowance is:
- 31.1.1 insufficient to adequately reimburse the employee for expenses properly and reasonably incurred, a further amount may be paid to reimburse the employee for the additional expenses incurred; or
  - 31.1.2 in excess of the amount which would adequately reimburse the employee for expenses properly and reasonably incurred, the allowance may be reduced to an amount which would reimburse the employee for expenses incurred properly and reasonably.

### **32. Production of Receipts**

Payment of any actual expenses will be subject to the production of receipts, unless the Department Head is prepared to accept other evidence from the employee.

### **33. Travelling Distance**

The need to obtain overnight accommodation will be determined by the Department Head having regard to the safety of the employee or employees travelling on official business and local conditions applicable in the area. Where employees are required to attend conferences or seminars which involve evening sessions or employees are required to make an early start at work in a location away from their normal workplace, overnight accommodation will be appropriately granted by the Department Head.

## **SECTION 4 - ALLOWANCES AND OTHER MATTERS**

### **34. Camping Allowances**



- 34.1 Except as provided in an Award, Agreement or Determination, payment of the camping allowance applies to an employee who is: -
- 34.1.1 in receipt of a camping equipment allowance under clause 38, Camping Equipment Allowance, of this award; or
  - 34.1.2 provided with camping equipment by the Department; or
  - 34.1.3 reimbursed by the Department for the cost of hiring camping equipment.
- 34.2 When required to camp in connection with the performance of official duties, an employee will be paid an allowance for the expenses incurred in camping as follows:
- 34.2.1 the daily rate specified in Item 4 of Table 1 of Part B, Monetary Rates for all expenses; and
  - 34.2.2 where required to camp for more than 40 nights in any calendar year - that daily rate plus the additional rate for that year as specified in Item 4 of Table 1 - Allowances of Part B, Monetary Rates.
- 34.3 Where the Department Head is satisfied that it was not reasonable in the circumstances for the employee to camp, an employee who is entitled to a camping allowance will be paid a travelling allowance under clause 26, Travelling Compensation of this award, instead of the camping allowance.
- 34.4 An employee who is paid a remote areas allowance under clause 39, Allowance for Living in a Remote Area, of this award is entitled to continue to receive that allowance while receiving a camping allowance.

### **35. Composite Allowance**

- 35.1 An employee employed in one of the classifications of Rangelands Management Officers, Field Supervisors or Field Service Managers, and who:
- 35.1.1 is required to perform official duty in the field; and
  - 35.1.2 on some occasions, is required to camp and on other occasions resides in accommodation for which an allowance is payable under clause 26, Travelling Compensation, of this award
- may elect to be paid an all inclusive allowance for accommodation, meals and incidental expenses incurred as a result of being required to work in the field.
- 35.2 The rate of the allowance under this clause will be the daily rate for all expenses as shown in Item 5 of Table 1 - Allowances of Part B, Monetary Rates.
- 35.3 To be paid the composite allowance under this clause, the employee must submit to the Department Head an election each 12 months. If the election is not made by the employee or not approved by the Department Head, travelling or camping allowances under clauses 26 or 34 of this award, whichever is appropriate, will apply.
- 35.4 An election under subclause 35.3 of this clause is revocable 12 months after it is made, unless the employee changes classification.
- 35.5 An employee who elects to receive the composite allowance is entitled to payment of the allowance, regardless of whether they are required to camp, or are residing temporarily in hotels, motels or other fixed establishments in order to perform official duties in the field (except as provided in subclause 35.6).
- 35.6 On occasions when an employee receiving a composite allowance is provided with accommodation by the Government, the allowance ceases. The incidental expenses allowances and reimbursement for any meal expenses properly and reasonably incurred and not provided by the Government are to be paid in accordance with clause 26, Travelling Compensation, of this award.

- 35.7 The amount of composite allowance payable per hour for a portion of a day is in all cases 1/24th of the appropriate daily rate. When the time taken is a fraction of an hour, periods of less than a half hour are disregarded while periods between a half hour and 1 hour are counted as 1 hour (that is, the time is rounded to the nearest hour).
- 35.8 An employee who receives a composite allowance is entitled to the camping equipment allowance if the Department head certifies that it is necessary for the employee to provide camping equipment at personal expense

### **36. Allowance Payable for Use of Private Motor Vehicle**

- 36.1 The Department Head may authorise an employee to use a private motor vehicle for work where:
- 36.1.1 such use will result in greater efficiency or involve the Department in less expense than if travel were undertaken by other means; or
- 36.1.2 where the employee is unable to use other means of transport due to a disability.
- 36.2 An employee who, with the approval of the Department Head, uses a private motor vehicle for work will be paid an appropriate rate of allowance specified in Item 6 of Table 1 of Part B, Monetary Rates for the use of such private motor vehicle. A deduction from the allowance payable is to be made for travel as described in subclause 36.4 of this clause.
- 36.3 Different levels of allowance are payable for the use of a private motor vehicle for work depending on the circumstances and the purpose for which the vehicle is used.
- 36.3.1 The casual rate is payable if an employee elects, with the approval of the Department Head, to use their vehicle for occasional travel for work. This is subject to the allowance paid for the travel not exceeding the cost of travel by public or other available transport.
- 36.3.2 The official business rate is payable if an employee is directed, and agrees, to use the vehicle for official business and there is no other transport available. It is also payable where the employee is unable to use other transport due to a disability. The official business rate includes a component to compensate an employee for owning and maintaining the vehicle.
- 36.4 Deduction from allowance
- 36.4.1 Except as otherwise specified in this award, an employee will bear the cost of ordinary daily travel by private motor vehicle between the employee's residence and headquarters and for any distance travelled in a private capacity. A deduction will be made from any motor vehicle allowance paid, in respect of such travel.
- 36.4.2 In this subclause "headquarters" means the administrative headquarters to which the employee is attached or from which the employee is required to operate on a long term basis or the designated headquarters per paragraph 36.4.3 of this subclause.
- 36.4.3 Designated headquarters
- (a) Where the administrative headquarters of the employee to which they are attached is not within the typical work area in which the employee is required to use the private vehicle on official business, the distance to and from a point designated within the typical work area is to be adopted as the distance to and from the headquarters for the purpose of calculating the daily deduction.
- (b) An employee's residence may be designated as their headquarters provided that such recognition does not result in a further amount of allowance being incurred than would otherwise be the case.
- 36.4.4 On days when an employee uses a private vehicle for official business and travels to and from home, whether or not the employee during that day visits headquarters, a deduction is to be made

from the total distance travelled on the day. The deduction is to equal the distance from the employee's residence to their headquarters and return or 20 kilometres (whichever is the lesser) and any distance that is travelled in a private capacity.

36.4.5 Where a headquarters has been designated per paragraph 36.4.3 of this subclause and the employee is required to attend the administrative headquarters, the distance for calculating the daily deduction is to be the actual distance to and from the administrative headquarters, or, to and from the designated headquarters, whichever is the lesser.

36.4.6 Deductions are not to be applied in respect of days characterised as follows:

- (a) When staying away from home overnight, including the day of return from any itinerary.
- (b) When the employee uses the vehicle on official business and returns it to home prior to travelling to the headquarters by other means of transport at their own expense.
- (c) When the employee uses the vehicle for official business after normal working hours.
- (d) When the monthly claim voucher shows official use of the vehicle has occurred on one day only in any week. Exemption from the deduction under this subparagraph is exclusive of, and not in addition to, days referred to in subparagraphs (a), (b) and (c) of this paragraph.
- (e) When the employee buys a weekly or other periodical rail or bus ticket, provided the Department is satisfied that:
  - (i) at the time of purchasing the periodical ticket the employee did not envisage the use of their private motor vehicle on approved official business;
  - (ii) the periodical ticket was in fact purchased; and
  - (iii) in regard to train travellers, no allowance is to be paid in respect of distance between the employee's home and the railway station or other intermediate transport stopping place.

36.5 The employee must have in force, in respect of a motor vehicle used for work, in addition to any policy required to be effected or maintained under the *Motor Vehicles (Third Party Insurance) Act 1942*, a comprehensive motor vehicle insurance policy to an amount and in a form approved by the Department head.

36.6 Expenses such as tolls etc. will be refunded to employees where the charge was incurred during approved work related travel.

36.7 Where an employee tows a trailer or horse-float during travel resulting from approved work activities while using a private vehicle, the employee will be entitled to an additional allowance as prescribed in Item 6 of Table 1 - Allowances of Part B, Monetary Rates.

### **37. Damage to Private Motor Vehicle Used for Work**

37.1 Where a private vehicle is damaged while being used for work, any normal excess insurance charges prescribed by the insurer will be reimbursed by the Department, provided:

37.1.1 the damage is not due to gross negligence by the employee; and

37.1.2 the charges claimed by the employee are not the charges prescribed by the insurer as punitive excess charges.

37.2 Provided the damage is not the fault of the employee, the Department will reimburse to an employee the costs of repairs to a broken windscreen, if the employee can demonstrate that:

37.2.1 the damage was sustained on approved work activities; and

37.2.2 the costs cannot be met under the insurance policy due to excess clauses.

### **38. Camping Equipment Allowance**

38.1 In this clause, "camping equipment" includes instrument and travelling equipment.

38.2 An employee who provides camping equipment required for the performance of official duties will be paid a camping equipment allowance at the rate specified in Item 7 of Table 1 - Allowances of Part B, Monetary Rates, for the expense of providing the equipment.

38.3 An employee who provides their own bedding and sleeping bag while camping on official business, will be paid an additional allowance at the rate specified in Item 7 of Table 1 - Allowances of Part B, Monetary Rates.

### **39. Allowance for Living in a Remote Area**

39.1 An employee will be paid an allowance for the increased cost of living and the climatic conditions in a remote area, if:

39.1.1 indefinitely stationed and living in a remote area as defined in subclause 39.2 of this clause; or

39.1.2 not indefinitely stationed in a remote area but because of the difficulty in obtaining suitable accommodation compelled to live in a remote area as defined in subclause 39.2 of this clause.

39.2 Grade of appropriate allowance payable under this clause will be determined as follows:

39.2.1 Grade A allowances - the appropriate rate shown as Grade A in Item 8 of Table 1 - Allowances of Part B Monetary Rates in respect of all locations in an area of the State situated on or to the west of a line starting from the right bank of the Murray River opposite Swan Hill and then passing through the following towns or localities in the following order, namely: Conargo, Coleambally, Hay, Rankins Springs, Marsden, Condobolin, Peak Hill, Nevertire, Gulargambone, Coonabarabran, Wee Waa, Moree, Warialda, Ashford and Bonshaw, and includes a place situated in any such town or locality, except as specified in paragraphs 39.2.2 and 39.2.3 of this subclause;

39.2.2 Grade B allowances - the appropriate rate shown as Grade B in Item 8 of Table 1 - Allowances of Part B, Monetary Rates; in respect of the towns and localities of Angledool, Barringun, Bourke, Brewarrina, Clare, Enngonia, Goodooga, Ivanhoe, Lake Mungo, Lightning Ridge, Louth, Mungindi, Pooncarie, Redbank, Walgett, Wanaaring, Weilmoringle, White Cliffs, Wilcannia and Willandra;

39.2.3 Grade C allowances - the appropriate rate shown as Grade C in Item 8 of Table 1 - Allowances of Part B, Monetary Rates in respect of the localities of Fort Grey, Mutawintji, Mount Wood, Nocoleche, Olive Downs, Tibooburra and Yathong.

39.3 The dependant rate for each grade is payable where

39.3.1 the employee has a dependant as defined; and

39.3.2 the employee's dependant(s) resides within the area that attracts the remote area allowance; and

39.3.3 the employee's spouse, if also employed in the service of the Crown, is not in receipt of an allowance under this clause, unless each spouse resides at a separate location within the remote area.

39.4 For the purposes of this clause dependant is defined as

39.4.1 the spouse of the employee (including a de facto spouse);

- 39.4.2 each child of the employee aged eighteen years or under;
  - 39.4.3 each son and daughter of the employee aged more than eighteen years but less than twenty-six years who remains a student in full time education or training at a recognised educational institution, or who is an apprentice; and
  - 39.4.4 any other person who is part of the employee's household and who is, in the opinion of the Secretary, substantially financially dependent on the employee.
- 39.5 Departmental temporary employees, such as relief employees, who are employed for short periods are not eligible to receive a remote areas allowance.
- 39.6 An employee who is a volunteer part-time member of the Defence Force and receives the remote area allowance at the non-dependant rate is not paid the allowance while on military leave
- 39.7 An employee who is a volunteer part-time member of the Defence Forces and receives the remote area allowance at the dependant rate may continue to receive the allowance at the normal rate for the duration of the military leave provided that:
- 39.7.1 the employee continues in employment; and
  - 39.7.2 the dependants continue to reside in the area specified; and
  - 39.7.3 military pay does not exceed Departmental salary plus the remote areas allowance.
- If the military salary exceeds Departmental salary plus the allowance at the dependant rate, the allowance is to be reduced to the non-dependant rate.

**40. Assistance to Employees Stationed in a Remote Area When Travelling on Recreation Leave**

- 40.1 An employee who:
- 40.1.1 is indefinitely stationed in a remote area of the State of New South Wales situated to the west of the 144th meridian of longitude or such other area to the west of the 145th meridian of longitude as determined by the Secretary; and
  - 40.1.2 proceeds on recreation leave to any place which is at least 480 kilometres by the nearest practicable route from the employee's work location in that area,
- will be paid an allowance once in any period of 12 months at the appropriate rate shown in Item 9 of Table 1 - Allowance of Part B, Monetary Rates for the additional costs of travel.
- 40.2 Dependant in this clause has the same meaning as subclause 39.4 of clause 39, Allowance for Living in a Remote Area, of this award.
- 40.3 Allowances under this clause do not apply to employees who have less than three years' service and who, at the date of engagement, were resident in the defined area.

**41. Overseas Travel**

Unless the Department Head determines that an employee will be paid travelling rates especially determined for the occasion, an employee required by the Department to travel overseas on official business will be paid the appropriate overseas travelling allowance rates as specified in the relevant Department of Customer Service Policy as issued from time to time.

**42. Exchanges**

- 42.1 The Department Head may arrange two way or one way exchanges with other organisations both public and private, if the Department or the employee will benefit from additional training and development which is intended to be used in the carrying out of the Department's business.
- 42.2 The conditions applicable to those employees who participate in exchanges will be determined by the Department Head according to the individual circumstances in each case (Item 11 of Table 1 - Allowances of Part B Monetary Rates).
- 42.3 The provisions of this subclause do not apply to the loan of services of employees to the Association. The provisions of clause 56, Conditions Applying to On Loan Arrangements, of this award apply to employees who are loaned to the Association.

#### **43. Room at Home Used as Office**

- 43.1 Where no Departmental office is provided in a particular location - Where it is impractical to provide an office in a particular location, employees stationed in such a location may be required to use a spare room at their home as an office. In such cases, the Department will be responsible for providing furniture, telephone and other equipment, as required. In addition, an allowance as specified in Item 12 of Table 1 - Allowances of Part B, Monetary Rates, is payable for the use of a room at home as an office.
- 43.2 Where an office exists in a particular location - Where a Departmental office or offices already exist in a particular location but the employee and the manager agree that the employee could work from home on a short term or longer term basis, the arrangement will be negotiated in accordance with the provisions of the Flexible Work Practices, Policy and Guidelines. The allowance set out in subclause 43.1 of this clause will not apply in these circumstances.
- 43.3 Requirements - Arrangements under subclauses 43.1 or 43.2 of this clause will be subject to:
  - 43.3.1 a formal agreement being reached in respect of the hours to be worked; and
  - 43.3.2 the work health and safety, provision of equipment requirements and any other relevant conditions specified in Part 2, Section 7 Working from Home in the Flexible Work Practices, Policy and Guidelines.

#### **44. Semi-Official Telephones**

- 44.1 Reimbursement of expenses associated with a private telephone service installed at the residence of an employee will be made as specified in this clause if the employee is required to be contacted or is required to contact others in connection with the duties of his/her role in the Department, as and when required.
- 44.2 The service must be located in the employee's principal place of residence and its telephone number communicated to all persons entitled to have out of hours contact with the employee.
- 44.3 The semi-official telephone allowance applies to employees who are required, as part of their duties to
  - 44.3.1 give decisions, supply information or provide emergency services; and/or
  - 44.3.2 be available for reasons of safety or security for contact by the public outside of normal office hours.
- 44.4 Unless better provisions already apply to an employee or an employee has been provided with an official telephone, reimbursement of expenses under this clause will be limited to the following:
  - 44.4.1 the connection fee for a telephone service, if the service is not already available at the employee's principal place of residence;

44.4.2 the full annual base rental charged for the telephone service regardless of whether any official calls have been made during the period; and

44.4.3 the full cost of official local, STD and ISD calls.

44.5 To be eligible for reimbursement, employees must submit their telephone account and a statement showing details of all official calls, including:

44.5.1 date, time, length of call and estimated cost;

44.5.2 name and phone number of the person to whom call was made; and

44.5.3 reason for the call.

#### **45. Flying Allowance**

Employees, other than those employed to fly aircraft, will be paid an allowance as specified in Item 14 of Table 1 - Allowances of Part B, Monetary Rates when required to work from an inflight situation. The flying allowance payable under this clause will be paid in addition to any other entitlement for the time actually spent working in the aircraft.

#### **46. Uniforms, Protective Clothing and Laundry Allowance**

46.1 Uniform, etc. provided by the Department – An employee who is required or authorised by the appropriate Department Head to wear a uniform, protective clothing or other specialised clothing in connection with the performance of official duties will be provided by the Department with such clothing and will be paid an allowance at the rate specified in Item 15 of Table 1 - Allowances of Part B Monetary Rates for laundering the uniform or protective clothing, unless the employee is entitled to receive a laundry allowance under another industrial instrument.

46.2 Where payment of the laundry allowance is not appropriate because of the specialised nature of the clothing, the cost of maintaining such clothing will be met by the Department.

46.3 Uniform, etc. provided by the employee - Where the uniform, protective clothing or other specialised clothing is provided by the employee, the employee will be reimbursed the cost of the uniform, protective clothing or other specialised clothing.

#### **47. Compensation for Damage to Or Loss of Employee's Personal Property**

47.1 Where damage to or loss of the employee's personal property occurs in the course of employment, a claim may be lodged under the *Workers Compensation Act 1987* and/or under any insurance policy of the Department covering the damage to or loss of the personal property of the employee.

47.2 If a claim under subclause 47.1 of this clause is rejected by the insurer, the Department Head may compensate an employee for the damage to or loss of personal property, if such damage or loss:

47.2.1 is due to the negligence of the Department, another employee, or both, in the performance of their duties; or

47.2.2 is caused by a defect in an employee's material or equipment; or

47.2.3 results from an employee's protection of or attempt to protect Departmental property from loss or damage.

47.3 Compensation in terms of subclause 47.2 of this clause will be limited to the amount necessary to repair the damaged item. Where the item cannot be repaired or is lost, the Department Head may pay the cost of a replacement item, provided the item is identical to or only marginally different from the damaged or lost item and the claim is supported by satisfactory evidence as to the price of the replacement item.

- 47.4 For the purpose of this clause, personal property means an employee's clothes, spectacles, hearing-aid, tools of trade, or similar items which are ordinarily required for the performance of the employee's duties.
- 47.5 Compensation for the damage sustained will be made by the Department where, in the course of work, clothing or items such as spectacles, hearing aids, etc, are damaged or destroyed by natural disasters or by theft or vandalism.

#### **48. Garage and Carport Allowance**

- 48.1 Where an employee garages a Departmental vehicle in their own garage or carport and the use of the garage or carport is considered essential by the Department Head, such employee will be paid an appropriate rate of allowance as specified in Item 16 of Table 1 - Allowances of Part B, Monetary Rates.
- 48.2 Payment of the garage or carport allowance will continue during periods when the employee is absent from headquarters.

#### **49. Forage for Horses**

- 49.1 Where in connection with the performance of official duties an employee is required to hand-feed a horse, out-of-pocket expenses for forage will be reimbursed by the Department.
- 49.2 The out-of-pocket expenses will continue to be paid in full to the employee during periods of leave.

#### **50. Community Language Allowance Scheme (CLAS)**

- 50.1 Employees who possess a basic level of competence in a community language and who work in locations where their community language is utilised at work to assist clients and such employees are not:
- 50.1.1 employed as interpreters and translators; and
- 50.1.2 employed in those roles where particular language skills are an integral part of essential requirements of the role,
- will be paid an allowance as specified in Item 17 of Table 1 - Allowances of Part B, Monetary Rates, subject to subclauses 50.2 and 50.3 of this clause.
- 50.2 The base level of the CLAS is paid to employees who:
- 50.2.1 are required to meet occasional demands for language assistance (there is no regular pattern of demand for their skill); and
- 50.2.2 have passed an examination administered by the Community Relations Commission, or who have a National Accreditation Authority for Translators and Interpreters (NAATI) language Recognition award.
- 50.3 The higher level of CLAS is paid to employees who meet the requirements for the base level of payment and:
- 50.3.1 are regularly required to meet high levels of customer demand involving a regular pattern of usage of the employee's language skills, as determined by the Department Head; or
- 50.3.2 have achieved qualifications of NAATI interpreter level or above. This recognises that employees with higher levels of language skill will communicate with an enhanced degree of efficiency and effectiveness.

#### **51. First Aid Allowance**

- 51.1 An employee appointed as a First Aid Officer will be paid a first aid allowance at the rate appropriate to the qualifications held by such employee as specified in Item 18 of Table 1 - Allowances of Part B, Monetary Rates.



- 51.2 The First Aid Allowance - Basic Qualifications rate will apply to an employee appointed as a First Aid Officer who holds a St John's Ambulance Certificate or equivalent qualifications (such as the Civil Defence or the Red Cross Society's First Aid Certificates) issued within the previous three years.
- 51.3 The Holders of current Occupational First Aid Certificate Allowance rate will apply to an employee appointed as a First Aid Officer who:
- 51.3.1 is appointed to be in charge of a First-Aid room in a workplace of 200 or more employees (100 for construction sites); and
- 51.3.2 holds an Occupational First-Aid Certificate issued within the previous three years.
- 51.4 The First Aid Allowance will not be paid during leave of one week or more.
- 51.5 When the First Aid Officer is absent on leave for one week or more and another qualified employee is selected to relieve in the First Aid Officer's position, the employee will be paid a pro rata first aid allowance for assuming the duties of a First Aid Officer.
- 51.6 First Aid Officers may be permitted to attend training and retraining courses conducted during normal hours of duty. The cost of training employees who do not already possess qualifications and who need to be trained to meet Departmental needs, and the cost of retraining First Aid Officers, are to be met by the Department.

## **52. Review of Allowances Payable in Terms of This Award**

- 52.1 Adjustment of Allowances - Allowances contained in this award will be reviewed as follows:
- 52.1.1 Allowances listed in this paragraph will be determined at a level consistent with the reasonable allowances amounts for the appropriate income year as published by the Australian Taxation Office (ATO):
- (a) clause 26, Travelling Compensation;
  - (b) clause 29, Meal Expenses on One Day Journeys;
  - (c) clause 94, Overtime Meal Allowances, for breakfast, lunch and dinner.
- 52.1.2 Allowances listed in this paragraph will be determined and become effective from 1 July each year at a level consistent with the reasonable allowances amounts as published at or before that time by the Australian Taxation Office (ATO):
- (a) clause 36, Allowances Payable for the Use of Private Motor Vehicle.
- 52.1.3 Allowances payable in terms of clauses listed in this paragraph will be adjusted on 1 July each year in line with the increases in the Consumer Price Index for Sydney during the preceding year (March quarter figures):
- (a) clause 34, Camping Allowances;
  - (b) clause 35, Composite Allowance;
  - (c) clause 38, Camping Equipment Allowance;
  - (d) clause 39, Allowance for Living in a Remote Area;
  - (e) clause 40, Assistance to Employees Stationed in a Remote Area When Travelling on Recreation Leave;
  - (f) clause 43, Room at Home Used as Office;

- (g) clause 46, Uniforms, Protective Clothing and Laundry Allowance;
- (h) clause 48, Garage and Carport Allowance; and
- (i) clause 94, Overtime Meal Allowances, for supper.

52.1.4 Allowances payable in terms of clauses listed in this paragraph increase in accordance with any percentage increase under an Award, Agreement or Determination and will be adjusted on and from the date or pay period the percentage increase takes effect:

- (a) clause 45, Flying Allowance;
- (b) clause 50, Community Language Allowance Scheme (CLAS);
- (c) clause 51, First Aid Allowance;
- (d) clause 92, On-Call (Stand-by) and On-Call Allowance.

## **SECTION 5 - UNION CONSULTATION, ACCESS AND ACTIVITIES**

### **53. Trade Union Activities Regarded as on Duty**

53.1 An Association delegate will be released from the performance of normal Departmental duty when required to undertake any of the activities specified below. While undertaking such activities the Association delegate will be regarded as being on duty and will not be required to apply for leave:

53.1.1 attendance at meetings of the workplace's Work Health and Safety Committee and participation in all official activities relating to the functions and responsibilities of elected Work Health and Safety Committee members at a place of work as provided for in the *Work Health and Safety Act 2011* and the Work Health and Safety Regulation 2011;

53.1.2 attendance at meetings with workplace management or workplace management representatives;

53.1.3 a reasonable period of preparation time, before -

- (a) meetings with management;
- (b) disciplinary or grievance meetings when an Association member requires the presence of an Association delegate; and
- (c) any other meeting with management,  
by agreement with management, where operational requirements allow the taking of such time;

53.1.4 giving evidence in court on behalf of the employer;

53.1.5 appearing as a witness before the Industrial Relations Commission;

53.1.6 representing the Association at the Industrial Relations Commission as an advocate or as a Tribunal Member;

53.1.7 presenting information on the Association and Association activities at induction sessions for new employees of the Department; and

53.1.8 distributing official Association publications or other authorised material at the workplace, provided that a minimum of 24 hours' notice is given to workplace management, unless otherwise

agreed between the parties. Distribution time is to be kept to a minimum and is to be undertaken at a time convenient to the workplace.

#### **54. Trade Union Activities Regarded as Special Leave**

- 54.1 The granting of special leave with pay will apply to the following activities undertaken by an Association delegate, as specified below:
- 54.1.1 annual or biennial conferences of the Association;
  - 54.1.2 meetings of the Association's Executive, Committee of Management or Councils;
  - 54.1.3 annual conference of Unions NSW and the biennial Congress of the Australian Council of Trade Unions;
  - 54.1.4 attendance at meetings called by Unions NSW involving the Association which requires attendance of a delegate;
  - 54.1.5 attendance at meetings called by the Secretary, as the employer for industrial purposes, as and when required;
  - 54.1.6 giving evidence before an Industrial Tribunal as a witness for the Association;
  - 54.1.7 reasonable travelling time to and from conferences or meetings to which the provisions of clauses 53, 54 and 55 apply.

#### **55. Trade Union Training Courses**

- 55.1 The following training courses will attract the grant of special leave as specified below: -
- 55.1.1 Accredited Work Health and Safety (WHS) courses and any other accredited WHS training for WHS Committee members. The provider(s) of accredited WHS training courses and the conditions on which special leave for such courses will be granted, will be negotiated between the Department Head and the Association under a local arrangement pursuant to clause 10, Local Arrangements of this award.
  - 55.1.2 Courses organised and conducted by the Trade Union Education Foundation or by the Association or a training provider nominated by the Association. A maximum of 12 working days in any period of 2 years applies to this training and is subject to:
    - (a) the operating requirements of the workplace permitting the grant of leave and the absence not requiring employment of relief employees;
    - (b) payment being at the base rate, i.e. excluding extraneous payments such as shift allowances/penalty rates, overtime, etc;
    - (c) all travelling and associated expenses being met by the employee or the Association;
    - (d) attendance being confirmed in writing by the Association or a nominated training provider.

#### **56. Conditions Applying to on Loan Arrangements**

- 56.1 Subject to the operational requirements of the workplace, on loan arrangements will apply to the following activities:
- 56.1.1 meetings interstate or in NSW of a Federal nature to which an Association member has been nominated or elected by the Association: -
    - (a) as an Executive Member; or

- (b) a member of a Federal Council; or
- (c) vocational or industry committee.

56.1.2 briefing counsel on behalf of the Association;

56.1.3 assisting Association officials with preparation of cases or any other activity outside their normal workplace at which the delegate is required to represent the interests of the Association;

56.1.4 country tours undertaken by a member of the executive or Council of the Association;

56.1.5 taking up of full time duties with the Association if elected to the office of President, General Secretary or to another full time position with the Association;;

56.1.6 financial Arrangements - The following financial arrangements apply to the occasions when an employee is placed "on loan" to the Association:-

- (a) the Department will continue to pay the delegate or an authorised Association representative whose services are on loan to the Association;
- (b) the Department will seek reimbursement from the Association at regular intervals of all salary and associated on costs, including superannuation, as specified by the NSW Treasury from time to time.
- (c) Agreement with the Association on the financial arrangements must be reached before the on loan arrangement commences and must be documented in a manner negotiated between the Department Head and the Association.

56.1.7 Recognition of "on loan" arrangement as service - On loan arrangements negotiated in terms of this clause are to be regarded as service for the accrual of all leave and for incremental progression.

56.1.8 Limitation - On loan arrangements may apply to full-time or part-time employees and are to be kept to the minimum time required. Where the Association needs to extend an on loan arrangement, the Association will approach the Department Head in writing for an extension of time well in advance of the expiration of the current period of on loan arrangement.

56.1.9 Where the Department Head and the Association cannot agree on the on loan arrangement, the matter is to be referred to the Secretary for determination after consultation with the Department Head and the Association.

### **57. Period of Notice for Trade Union Activities**

The Department Head must be notified in writing by the Association or, where appropriate, by the accredited delegate as soon as the date and/or time of the meeting, conference or other accredited activity is known.

### **58. Access to Facilities by Trade Union Delegates**

58.1 The workplace will provide accredited delegates with reasonable access to the following facilities for authorised Association activities:

58.1.1 telephone, facsimile, internet and email facilities;

58.1.2 a notice board for material authorised by the Association or access to employee notice boards for material authorised by the Association;

58.1.3 workplace conference or meeting facilities, where available, for meetings with member(s), as negotiated between local management and the Association.

### **59. Responsibilities of the Trade Union Delegate**

59.1 Responsibilities of the Association delegate are to:

- 59.1.1 establish accreditation as a delegate with the Association and provide proof of accreditation to the workplace;
- 59.1.2 participate in the workplace consultative processes, as appropriate;
- 59.1.3 follow the dispute settling procedure applicable in the workplace;
- 59.1.4 provide sufficient notice to the immediate supervisor of any proposed absence on authorised Association business;
- 59.1.5 account for all time spent on authorised Association business;
- 59.1.6 when special leave is required, to apply for special leave in advance;
- 59.1.7 distribute Association literature/membership forms, under local arrangements negotiated between the Department Head and the Association; and
- 59.1.8 use any facilities provided by the workplace properly and reasonably as negotiated at organisational level.

#### **60. Responsibilities of the Trade Union**

60.1 Responsibilities of the Association are to:

- 60.1.1 provide written advice to the Department Head about an Association activity to be undertaken by an accredited delegate and, if requested, to provide written confirmation to the workplace management of the delegate's attendance/participation in the activity;
- 60.1.2 meet all travelling, accommodation and any other costs incurred by the accredited delegate, except as provided in paragraph 61.1.3 of clause 61, Responsibilities of Workplace Management, of this award;
- 60.1.3 pay promptly any monies owing to the workplace under a negotiated on loan arrangement;
- 60.1.4 provide proof of identity when visiting a workplace in an official capacity, if requested to do so by management;
- 60.1.5 apply to the Department Head well in advance of any proposed extension to the "on loan" arrangement;
- 60.1.6 assist the workplace management in ensuring that time taken by the Association delegate is accounted for and any facilities provided by the employer are used reasonably and properly; and
- 60.1.7 advise employer of any leave taken by the Association delegate during the on loan arrangement.

#### **61. Responsibilities of Workplace Management**

61.1 Where time is required for Association activities in accordance with this clause the responsibilities of the workplace management are to:

- 61.1.1 release the accredited delegate from duty for the duration of the Association activity, as appropriate, and, where necessary, to allow for sufficient travelling time during the ordinary working hours;
- 61.1.2 advise the workplace delegate of the date of the next induction session for new employees in sufficient time to enable the Association to arrange representation at the session;

- 61.1.3 meet the travel and/or accommodation costs properly and reasonably incurred in respect of meetings called by the workplace management;
- 61.1.4 where possible, to provide relief in the role occupied by the delegate in the workplace, while the delegate is undertaking Association responsibilities to assist with the business of workplace management;
- 61.1.5 re-credit any other leave applied for on the day to which special leave or release from duty subsequently applies;
- 61.1.6 where an Association activity provided under this clause needs to be undertaken on the Association delegate's rostered day off or during an approved period of flexi leave, to apply the provisions of paragraph 61.1.5 of this subclause;
- 61.1.7 to continue to pay salary during an "on loan" arrangement negotiated with the Association and to obtain reimbursement of salary and on-costs from the Association at regular intervals, or as otherwise agreed between the parties if long term arrangements apply;
- 61.1.8 to verify with the Association the time spent by an Association delegate or delegates on Association business, if required; and
- 61.1.9 if the time and/or the facilities allowed for Association activities are thought to be used unreasonably and/or improperly, to consult with the Association before taking any remedial action.

## **62. Right of Entry Provisions**

The right of entry provisions will be as prescribed under the *Work Health and Safety Act 2011* and the *Industrial Relations Act 1996*.

## **63. Travelling and Other Costs of Trade Union Delegates**

- 63.1 Except as specified in paragraph 61.1.3 of clause 61, Responsibilities of Workplace Management, of this award, all travel and other costs incurred by accredited Association delegates in the course of Association activities will be paid by the Association.
- 63.2 In respect of meetings called by the workplace management in terms of paragraph 61.1.3 of clause 61, Responsibilities of Workplace Management of this award, the payment of travel and/or accommodation costs, properly and reasonably incurred, is to be made, as appropriate, on the same conditions as apply under clauses 26, Travelling Compensation, 29, Meal Expenses on One-Day Journeys, or 30, Restrictions on Payment of Travelling Allowances, of this award.
- 63.3 No overtime, leave in lieu, shift penalties or any other additional costs will be claimable by an employee from the Department or the Secretary, in respect of Association activities covered by special leave or on duty activities provided for in this clause.
- 63.4 The on loan arrangements will apply strictly as negotiated and no extra claims in respect of the period of on loan will be made on the Department by the Association or the employee.

## **64. Industrial Action**

- 64.1 Provisions of the *Industrial Relations Act 1996* will apply to the right of Association members to take lawful industrial action (note the obligations of the parties under clause 9, Grievance and Dispute Settling Procedures).
- 64.2 There will be no victimisation of employees prior to, during or following such industrial action.

## **65. Consultation and Technological Change**

- 65.1 There will be effective means of consultation, as set out in the Consultative Arrangements Policy and Guidelines document, on matters of mutual interest and concern, both formal and informal, between management and Association.
- 65.2 The Departmental management will consult with the Association prior to the introduction of any technological change.

#### **66. Deduction of Trade Union Membership Fees**

At the employee's election, the Department Head will provide for the employee's Association membership fees to be deducted from the employee's pay and ensure that such fees are transmitted to the employee's Association at regular intervals. Alternative arrangements for the deduction of Association membership fees may be negotiated between the Department Head and the Association in accordance with clause 10, Local Arrangements, of this award.

### **SECTION 6 - LEAVE**

#### **67. Leave - General Provisions**

- 67.1 The leave provisions contained in this Award apply to all employees other than those to whom arrangements apply under another industrial instrument or under a local arrangement negotiated between the Department Head and the Association in terms of clause 10, Local Arrangements of this award.
- 67.2 Unless otherwise specified, part-time employees will receive the paid leave provisions of this award on a pro rata basis, calculated according to the number of hours worked per week.
- 67.3 Unless otherwise specified in this award a temporary employee employed under Part 4, Division 5, Section 43 of the Act is eligible to take a period of approved leave during the current period of employment and may continue such leave during a subsequent period or periods of employment in the Public Service, if such period or periods of employment commence immediately on termination of a previous period or periods of employment.
- 67.4 Where paid and unpaid leave is available to be granted in terms of this award, paid leave will be taken before unpaid leave.

#### **68. Absence from Work**

- 68.1 An employee must not be absent from work unless reasonable cause is shown.
- 68.2 If an employee is to be absent from duty because of illness or other emergency, the employee must notify or arrange for another person to notify the supervisor as soon as possible of the employee's absence and the reason for the absence.
- 68.3 If a satisfactory explanation for the absence, is not provided, the employee will be regarded as absent from duty without authorised leave and the Department Head will deduct from the pay of the employee the amount equivalent to the period of the absence.
- 68.4 The minimum period of leave available to be granted will be a quarter day, unless local arrangements negotiated in the workplace allow for a lesser period to be taken.
- 68.5 Nothing in this clause affects any proceedings for a breach of discipline against an employee who is absent from duty without authorised leave.

#### **69. Applying for Leave**

- 69.1 An application by an employee for leave under this award will be made to and dealt with by the Department Head.

- 69.2 The Department Head will deal with the application for leave according to the wishes of the employee, if the operational requirements of the Department permit this to be done.

## **70. Extended Leave**

Extended leave will accrue and will be granted to employees in accordance with the provisions of Part 2, Division 3, Clause 16 Extended leave entitlements and Schedule 1 Public Service extended leave entitlements of the Government Sector Employment Regulation 2014.

## **71. Family and Community Service Leave**

- 71.1 The Department Head will grant family and community service (FACS) leave to an employee for unplanned and emergency family situations or other emergencies that may include but are not limited to the following: -
- 71.1.1 on compassionate grounds - such as the death or illness of a close member of the family or a member of the employee's household;
  - 71.1.2 emergency accommodation matters up to one day - such as attendance at court as defendant in an eviction action, arranging accommodation, or when required to remove furniture and effects;
  - 71.1.3 emergency or weather conditions - such as when flood, fire, snow or disruption to utility services etc, threatens an employee's property and/or prevents an employee from reporting for duty;
  - 71.1.4 attending to unplanned or unforeseen family responsibilities - such as attending child's school for an emergency reason or emergency cancellations by child care providers;
  - 71.1.5 attendance at court by an employee to answer a charge for a criminal offence, only if the Department Head considers the granting of FACS to be appropriate in a particular case.
- 71.2 The Department Head may also grant FACS leave for:
- 71.2.1 an absence during normal working hours to attend meetings, conferences or to perform other duties, for employees holding office in Local Government, and whose duties necessitate absence during normal working hours for these purposes, provided that the employee does not hold a position of Mayor of a Municipal Council, President of a Shire Council or Chairperson of a County Council; and
  - 71.2.2 attendance as a competitor in major amateur sport (other than Olympic or Commonwealth Games) for employees who are selected to represent Australia or the State.
- 71.3 Non-emergency appointments or duties will be scheduled or performed outside of normal working hours or through approved use of flexible working arrangements or other appropriate leave
- 71.4 For the purpose of FACS leave, the definition of "family" or "relative" in this clause is the same as that provided in paragraph 81.4.2 of clause 81, Sick Leave to Care for a Family Member, of this award.
- 71.5 FACS leave will accrue as follows:
- 71.5.1 two and a half days in the employee's first year of service;
  - 71.5.2 two and a half days in the employee's second year of service; and
  - 71.5.3 one day per year thereafter.
- 71.6 Where FACS leave is exhausted as a result of natural disasters, the Department Head will consider applications for additional FACS leave, if some other emergency arises.



- 71.7 Where FACS leave is exhausted, on the death of a family member or relative, additional paid FACS leave of up to 2 days may be granted on a discrete, per occasion basis to an employee.
- 71.8 In cases of illness of a family member for whose care and support the employee is responsible, paid sick leave in accordance with clause 81, Sick Leave to Care for a Sick Family Member of this award will be granted when paid FACS leave has been exhausted or is unavailable.
- 71.9 A Department Head may also grant employees other forms of leave such as accrued recreation leave, time off in lieu, flex leave and so on for FACS leave purposes.

## **72. Leave Without Pay**

- 72.1 The Department Head may grant leave without pay to an employee if good and sufficient reason is shown.
- 72.2 Leave without pay may be granted on a full-time or a part-time basis.
- 72.3 Where an employee is granted leave without pay for a period not exceeding 10 consecutive working days, the employee will be paid for any proclaimed public holidays falling during such leave without pay.
- 72.4 Where an employee is granted leave without pay which, when aggregated, does not exceed 5 working days in a period of twelve (12) months, such leave will count as service for incremental progression and accrual of recreation leave.
- 72.5 An employee who has been granted leave without pay must not engage in employment of any kind during the period of leave without pay, unless prior approval has been obtained from the Department Head.
- 72.6 An employee will not be required to exhaust accrued paid leave before proceeding on leave without pay but, if the employee elects to combine all or part of accrued paid leave with leave without pay, the paid leave must be taken before leave without pay.
- 72.7 No paid leave will be granted during a period of leave without pay.
- 72.8 An ongoing assignment may be made to the employee's role if:
  - 72.8.1 the leave without pay has continued or is likely to continue beyond the original period of approval and is for a total period of more than 12 months; and
  - 72.8.2 the employee is advised of the Department's proposal to permanently backfill their assigned role; and
  - 72.8.3 the employee is given a reasonable opportunity to end the leave without pay and return to their role; and
  - 72.8.4 the Department advised the employee at the time of the subsequent approval that the role will be filled on an ongoing basis during the period of leave without pay.
- 72.9 The role cannot be filled permanently unless the above criteria are satisfied.
- 72.10 The employee does not cease to be employed by the Department if their role is permanently backfilled.
- 72.11 Subclause 72.8 of this clause does not apply to full-time unpaid parental leave granted in accordance with subparagraph 75.9.1(a) of clause 75, Parental Leave or to military leave.

## **73. Military Leave**

- 73.1 During the period of 12 months commencing on 1 July each year, the Department Head may grant to an employee who is a volunteer part-time member of the Australian Defence Forces, military leave on full pay to undertake compulsory annual training and to attend schools, classes or courses of instruction or compulsory parades conducted by the employee's unit.

- 73.2 In accordance with the *Defence Reserve Service (Protection) Act 2001 (Cth)*, it is unlawful to prevent an employee from rendering or volunteering to render, ordinary Defence Reserve Service.
- 73.3 Up to 24 working days military leave per financial year may be granted by the Department Head to members of the Naval and Military Reserves and up to 28 working days per financial year to members of the Air Force Reserve for the activities specified in subclause 73.1 of this clause.
- 73.4 A Department Head may grant an employee special leave of up to 1 day to attend medical examinations and tests required for acceptance as volunteer part time members of the Australian Defence Forces.
- 73.5 An employee who is requested by the Australian Defence Forces to provide additional military services requiring leave in excess of the entitlement specified in subclause 73.3 of this clause may be granted Military Leave Top Up Pay by the Department Head.
- 73.6 Military Leave Top Up Pay is calculated as the difference between an employee's ordinary pay as if they had been at work, and the Reservist's pay which they receive from the Commonwealth Department of Defence.
- 73.7 During a period of Military Leave Top Up Pay, an employee will continue to accrue sick leave, recreation and extended leave entitlements, and Departments are to continue to make superannuation contributions at the normal rate.
- 73.8 At the expiration of military leave in accordance with subclause 73.3 or 73.4 of this clause, the employee must furnish to the Department Head a certificate of attendance and details of the employee's reservist pay signed by the commanding officer or other responsible officer.

#### **74. Observance of Essential Religious Or Cultural Obligations**

- 74.1 An employee of:
- 74.1.1 any religious faith who seeks leave for the purpose of observing essential religious obligations of that faith; or
- 74.1.2 any ethnic or cultural background who seeks leave for the purpose of observing any essential cultural obligations, may be granted recreation/extended leave to credit, flex leave or leave without pay to do so.
- 74.2 Applications for leave under this clause must be granted by the Department Head provided the employee gives adequate notice to the Department as to the need for leave and it is operationally convenient to release the employee from duty.
- 74.3 An employee of any religious faith who seeks time off during daily working hours to attend to essential religious obligations of that faith, will be granted such time off by the Department Head, subject to:
- 74.3.1 adequate notice being given by the employee;
- 74.3.2 prior approval being obtained by the employee; and
- 74.3.3 The time off being made up in the manner approved by the Department Head.
- 74.4 Notwithstanding the provisions of subclauses 74.1, 74.2 and 74.3 of this clause, arrangements may be negotiated between the Department and the Association in terms of clause 10, Local Arrangements of this award to provide greater flexibility for employees for the observance of essential religious or cultural obligations.

#### **75. Parental Leave**

- 75.1 Parental leave includes maternity, adoption and "other parent" leave.

- 75.2 Maternity leave will apply to an employee who is pregnant and, subject to this clause the employee will be entitled to be granted maternity leave as follows:
- 75.2.1 for a period up to 9 weeks prior to the expected date of birth; and
  - 75.2.2 for a further period of up to 12 months after the actual date of birth.
  - 75.2.3 an employee who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- 75.3 Adoption leave – will apply to an employee adopting a child and who will be the primary care giver, the employee will be granted adoption leave as follows:
- 75.3.1 for a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
  - 75.3.2 for such period, not exceeding 12 months on a full-time basis, as the Department Head may determine, if the child has commenced school at the date of the taking of custody.
  - 75.3.3 special Adoption Leave – An employee will be entitled to special adoption leave (without pay) for up to 2 days to attend interviews or examinations for the purposes of adoption. Special adoption leave may be taken as a charge against recreation leave, extended leave, flexitime or family and community service leave.
- 75.4 Where maternity or adoption leave does not apply, "other parent" leave is available to male and female employees who apply for leave to look after his/her child or children. Other parent leave applies as follows:
- 75.4.1 short other parent leave - an unbroken period of up to 8 weeks at the time of the birth of the child or other termination of the spouse's or partner's pregnancy or, in the case of adoption, from the date of taking custody of the child or children;
  - 75.4.2 extended other parent leave - for a period not exceeding 12 months, less any short other parental leave already taken by the employee as provided for in paragraph 75.4.1 of this subclause. Extended other parental leave may commence at any time up to 2 years from the date of birth of the child or the taking of custody of the child.
- 75.5 An employee taking maternity or adoption leave is entitled to payment at the ordinary rate of pay for a period of up to 14 weeks, an employee entitled to short other parent leave is entitled to payment at the ordinary rate of pay for a period of up to 1 week, provided the employee:
- 75.5.1 applied for parental leave within the time and in the manner determined set out in subclause 75.10 of this clause; and
  - 75.5.2 prior to the commencement of parental leave, completed not less than 40 weeks' continuous service.
  - 75.5.3 Payment for the maternity, adoption or short other parent leave may be made as follows:
    - (a) in advance as a lump sum; or
    - (b) fortnightly as normal; or
    - (c) fortnightly at half pay; or
    - (d) a combination of full-pay and half pay.
- 75.6 Payment for parental leave is at the rate applicable when the leave is taken. An employee holding a full time position who is on part time leave without pay when they start parental leave is paid:

- 75.6.1 at the full time rate if they began part time leave 40 weeks or less before starting parental leave; or
- 75.6.2 at the part time rate if they began part time leave more than 40 weeks before starting parental leave and have not changed their part time work arrangements for the 40 weeks; or
- 75.6.3 at the rate based on the average number of weekly hours worked during the 40 week period if they have been on part time leave for more than 40 weeks but have changed their part time work arrangements during that period.
- 75.7 An employee who commences a subsequent period of maternity or adoption leave for another child within 24 months of commencing an initial period of maternity or adoption leave will be paid:
- 75.7.1 at the rate (full time or part time) they were paid before commencing the initial leave if they have not returned to work; or
- 75.7.2 at a rate based on the hours worked before the initial leave was taken, where the employee has returned to work and reduced their hours during the 24 month period; or
- 75.7.3 at a rate based on the hours worked prior to the subsequent period of leave where the employee has not reduced their hours.
- 75.8 Except as provided in subclauses 75.5, 75.6 and 75.7 of this clause parental leave will be granted without pay.
- 75.9 Right to request
- 75.9.1 An employee who has been granted parental leave in accordance with subclause 75.2, 75.3 or 75.4 of this clause may make a request to the Department Head to:
- (a) extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months; and /or
  - (b) return from a period of full time parental leave on a part time basis until the child reaches school age (Note: returning to work from parental leave on a part time basis includes the option of returning to work on part time leave without pay);
- to assist the employee in reconciling work and parental responsibilities.
- 75.9.2 The Department Head will 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 Department Head's business. Such grounds might include cost, lack of adequate replacement employees, loss of efficiency and the impact on customer service.
- 75.10 Notification Requirements
- 75.10.1 When a Department is made aware that an employee or their spouse is pregnant or is adopting a child, the Department must inform the employee of their entitlements and their obligations under the award.
- 75.10.2 An employee who wishes to take parental leave must notify the department head in writing at least 8 weeks (or as soon as practicable before the expected commencement of parental leave:
- (a) that she/he intends to take parental leave, and
  - (b) the expected date of birth or the expected date of placement, and

- (c) if she/he is likely to make a request under subclause 75.9 of this clause.
- 75.10.3 At least 4 weeks before an employee's expected date of commencing parental leave they must advise:
- (a) the date on which the parental leave is intended to start, and
  - (b) the period of leave to be taken.
- 75.10.4 Employee's request and the Department Head's decision to be in writing
- The employee's request under paragraph 75.9.1 and the Department Head's decision made under paragraph 75.9.2 must be recorded in writing.
- 75.10.5 An employee intending to request to return from parental leave on a part time basis or seek an additional period of leave of up to 12 months must notify the Department Head in writing as soon as practicable and preferably before beginning parental leave. If the notification is not given before commencing such leave, it may be given at any time up to 4 weeks before the proposed return on a part time basis, or later if the Department Head agrees.
- 75.10.6 An employee on maternity leave is to notify her department of the date on which she gave birth as soon as she can conveniently do so.
- 75.10.7 An employee must notify the department as soon as practicable of any change in her intentions as a result of premature delivery or miscarriage.
- 75.10.8 An employee on maternity or adoption leave may change the period of leave or arrangement, once without the consent of the department and any number of times with the consent of the department. In each case she/he must give the department at least 14 days' notice of the change unless the Department head decides otherwise.
- 75.11 An employee has the right to her/his former role if she/he has taken approved leave or part time work in accordance with subclause 75.9 of this clause, and she/he resumes duty immediately after the approved leave or work on a part time basis.
- 75.12 If the role occupied by the employee immediately prior to the taking of parental leave has ceased to exist, but there are other positions available that the employee is qualified for and is capable of performing, the employee will be appointed to a role of the same grade and classification as the employee's former position.
- 75.13 An employee does not have a right to her/his former role during a period of return to work on a part time basis. If the Department Head approves a return to work on a part time basis then the role occupied is to be at the same classification and grade as the former role.
- 75.14 An employee who has returned to full time duty without exhausting their entitlement to 12 months' unpaid parental leave is entitled to revert back to such leave. This may be done once only, and a minimum of 4 weeks' notice (or less if acceptable to the department) must be given.
- 75.15 An employee who is sick during her pregnancy may take available paid sick leave or accrued recreation or extended leave or sick leave without pay. An employee may apply for accrued recreation leave, extended leave or leave without pay before taking maternity leave. Any leave taken before maternity leave, ceases at the end of the working day immediately preceding the day she starts her nominated period of maternity leave or on the working day immediately preceding the date of birth of the child, whichever is sooner.
- 75.16 An employee may elect to take available recreation leave or extended leave within the period of parental leave provided this does not extend the total period of such leave.

75.17 An employee may elect to take available recreation leave at half pay in conjunction with parental leave provided that:

75.17.1 accrued recreation leave at the date leave commences is exhausted within the period of parental leave;

75.17.2 the total period of parental leave is not extended by the taking of recreation leave at half pay;

75.17.3 when calculating other leave accruing during the period of recreation leave at half pay, the recreation leave at half pay will be converted to the full time equivalent and treated as full pay leave for accrual of further recreation, extended and other leave at the full time rate.

75.18 If, for any reason, a pregnant employee is having difficulty in performing her normal duties or there is a risk to her health or to that of her unborn child the Department Head, should, in consultation with the employee, take all reasonable measures to arrange for safer alternative duties. This may include but is not limited to greater flexibility in when and where duties are carried out, a temporary change in duties, retraining, multi-skilling, teleworking and role redesign.

75.19 If such adjustments cannot reasonably be made, the Department Head must grant the employee maternity leave, or any available sick leave, for as long as it is necessary to avoid exposure to that risk as certified by a medical practitioner, or until the child is born whichever is the earlier.

75.20 Communication during parental leave

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

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

(b) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the role the employee held before commencing parental leave.

75.20.2 The employee must take reasonable steps to inform the Department Head 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.

75.20.3 The employee must also notify the Department Head of changes of address or other contact details which might affect the Department's capacity to comply with paragraph 75.20.1 of this subclause.

## **76. Purchased Leave**

76.1 An employee may apply to enter into an agreement with the Department Head to purchase either 10 days (2 weeks) or 20 days (4 weeks) additional leave in a 12 month period.

76.1.1 Each application will be considered subject to operational requirements and personal needs and will take into account departmental business needs and work demands.

76.1.2 The leave must be taken in the 12 month period specified in the Purchased Leave Agreement and will not attract any leave loading.

76.1.3 The leave will count as service for all purposes.

76.2 The purchased leave will be funded through the reduction in the employee's ordinary rate of pay.

- 76.2.1 Purchased leave rate of pay means the rate of pay an employee receives when their ordinary salary rate has been reduced to cover the cost of purchased leave.
- 76.2.2 To calculate the purchased leave rate of pay, the employee's ordinary salary rate will be reduced by the number of weeks of purchased leave and then annualised at a pro rata rate over the 12 month period.
- 76.3 Purchased leave is subject to the following provisions:
- 76.3.1 The purchased leave cannot be accrued and will be refunded where it has not been taken in the 12 month period.
- 76.3.2 Other leave taken during the 12 month purchased leave agreement period i.e. sick leave, recreation leave, extended leave or leave in lieu will be paid at the purchased leave rate of pay.
- 76.3.3 Sick leave cannot be taken during a period of purchased leave.
- 76.3.4 The purchased leave rate of pay will be the salary for all purposes including superannuation and shift loadings.
- 76.3.5 Overtime and salary related allowances not paid during periods of recreation leave will be calculated using the employee's hourly rate based on the ordinary rate of pay.
- 76.3.6 Temporary Assignment Allowance will not be paid when a period of purchased leave is taken.
- 76.4 Specific conditions governing purchased leave may be amended from time to time by the Secretary in consultation with the Association. Departments may make adjustments relating to their salary administration arrangements.

## **77. Recreation Leave**

- 77.1 Accrual
- 77.1.1 Except where stated otherwise in this award, paid recreation leave for full time employees and recreation leave for employees working part time, accrues at the rate of 20 working days per year. Employees working part time will accrue paid recreation leave on a pro rata basis, which will be determined on the average weekly hours worked per leave year.
- 77.1.2 Additional recreation leave, at the rate of 5 days per year, accrues to an employee, employed in terms of the Act, who is stationed indefinitely in a remote area of the State, being the Western and Central Division of the State described as such in the Second Schedule to the *Crown Lands Consolidation Act 1913* before its repeal.
- 77.1.3 Recreation leave accrues from day to day.
- 77.2 Limits on Accumulation and Direction to Take Leave
- 77.2.1 At least two (2) consecutive weeks of recreation leave will be taken by an employee every 12 months, except by agreement with the Department Head in special circumstances.
- 77.2.2 Where the operational requirements permit, the application for leave will be dealt with by the Department Head according to the wishes of the employee.
- 77.2.3 The Department Head will notify the employee in writing when accrued recreation leave reaches 6 weeks or its hourly equivalent and at the same time may direct an employee to take at least 2 weeks' recreation leave within 3 months of the notification at a time convenient to the Department.

- 77.2.4 The Department Head will notify the employee in writing when accrued recreation leave reaches 8 weeks or its hourly equivalent and direct the employee to take at least 2 weeks' recreation leave within 6 weeks of the notification. Such leave is to be taken at a time convenient to the Department.
- 77.2.5 An employee must take their recreation leave to reduce all balances below 8 weeks or its hourly equivalent, and the Department must cooperate in this process. The Department may direct an employee with more than 8 weeks to take their recreation leave so that it is reduced to below 8 weeks by school term one 2010.
- 77.3 Conservation of Leave - If the Department Head is satisfied that an employee is prevented by operational or personal reasons from taking sufficient recreation leave to reduce the accrued leave below an acceptable level of between 4 and 6 weeks or its hourly equivalent, the Department Head will: -
- 77.3.1 specify in writing the period of time during which the excess will be conserved; and
- 77.3.2 on the expiration of the period during which conservation of leave applies, grant sufficient leave to the employee at a mutually convenient time to enable the accrued leave to be reduced to an acceptable level below the 8 week limit.
- 77.3.3 a Department Head will inform an employee in writing on a regular basis of the employee's recreation leave accrual.
- 77.4 Miscellaneous
- 77.4.1 Unless a local arrangement has been negotiated between the Department Head and the Association, recreation leave is not to be granted for a period less than a quarter-day or in other than multiples of a quarter day.
- 77.4.2 Recreation leave for which an employee is eligible on cessation of employment is to be calculated to a quarter day (fractions less than a quarter being rounded up).
- 77.4.3 Recreation leave does not accrue to an employee in respect of any period of absence from duty without leave or without pay, except as specified in paragraph 77.4.4 of this subclause.
- 77.4.4 Recreation leave accrues during any period of leave without pay granted on account of incapacity for which compensation has been authorised to be paid under the *Workers Compensation Act 1987*; or any period of sick leave without pay or any other approved leave without pay, not exceeding 5 full time working days, or their part time equivalent, in any period of 12 months.
- 77.4.5 The proportionate deduction to be made in respect of the accrual of recreation leave on account of any period of absence referred to in paragraph 77.4.4 of this subclause will be calculated to an exact quarter-day (fractions less than a quarter being rounded down).
- 77.4.6 Recreation leave accrues at half its normal accrual rate during periods of extended leave on half pay or recreation leave taken on half pay.
- 77.4.7 Recreation leave may be taken on half pay in conjunction with and subject to the provisions applying to adoption, maternity or parental leave - see clause 75, Parental Leave, of this award.
- 77.4.8 On cessation of employment, an employee is entitled to be paid, the monetary value of accrued recreation leave which remains untaken.
- 77.4.9 An employee to whom paragraph 77.4.8 of this subclause applies may elect to take all or part of accrued recreation leave which remains untaken at cessation of active duty as leave or as a lump sum payment; or as a combination of leave and lump sum payment.
- 77.5 Death - Where an employee dies, the monetary value of recreation leave accrued and remaining untaken as at the date of death, will be paid to the employee's nominated beneficiary.



- 77.6 Where no beneficiary has been nominated, the monetary value of recreation leave is to be paid as follows:  
-
- 77.6.1 to the widow or widower of the employee; or
  - 77.6.2 if there is no widow or widower, to the children of the employee or, if there is a guardian of any children entitled under this subclause, to that guardian for the children's maintenance, education and advancement; or
  - 77.6.3 if there is no such widow, widower or children, to the person who, in the opinion of the Department Head was, at the time of the employee's death, a dependent relative of the employee; or
  - 77.6.4 if there is no person entitled under paragraphs 77.6.1, 77.6.2 or 77.6.3 of this subclause to receive the monetary value of any leave not taken or not completed by an employee or which would have accrued to the employee, the payment will be made to the personal representative of the employee.
- 77.7 Additional compensation for rostered work performed by shift workers on Sundays and Public Holidays
- Shift workers who are rostered to work their ordinary hours on Sundays and/or Public Holidays during the period 1 December of one year to 30 November, of the following year, or part thereof, will be entitled to receive additional annual leave or payment as provided for in subclauses 87.7 or 87.8 respectively of clause 87, Shift Work, of this award.
- 77.8 Recreation leave does not accrue during leave without pay other than
- 77.8.1 military leave taken without pay when paid military leave entitlements are exhausted;
  - 77.8.2 absences due to natural emergencies or major transport disruptions, when all other paid leave is exhausted;
  - 77.8.3 any continuous period of sick leave taken without pay when paid sick leave is exhausted;
  - 77.8.4 incapacity for which compensation has been authorised under the *Workplace Injury Management and Workers Compensation Act 1998*; or
  - 77.8.5 periods which, when aggregated, do not exceed 5 working days in any period of 12 months.
- 77.9 An employee entitled to additional recreation leave under paragraph 77.1.2 of this clause, or under paragraphs 87.7.6 or 87.8.5 of clause 87, Shift Work of this award, can elect at any time to cash out the additional recreation leave.

## **78. Annual Leave Loading**

- 78.1 General - Unless more favourable conditions apply to an employee under another industrial instrument, an employee, other than a trainee who is paid by allowance, is entitled to be paid an annual leave loading as set out in this subclause. Subject to the provisions set out in subclauses 78.2 to 78.6 of this clause, the annual leave loading will be 17½% on the monetary value of up to 4 weeks recreation leave accrued in a leave year.
- 78.2 Loading on additional leave accrued - Where additional leave is accrued by an employee: -
- 78.2.1 as compensation for work performed regularly on Sundays and/or Public Holidays, the annual leave loading will be calculated on the actual leave accrued or on five weeks, whichever is the lower.
  - 78.2.2 if stationed in an area of the State of New South Wales which attracts a higher rate of annual leave accrual, the annual leave loading will continue to be paid on a maximum of 4 weeks leave.

- 78.3 Shift workers - Shift workers proceeding on recreation leave are eligible to receive the more favourable of:
- 78.3.1 the shift premiums and penalty rates, or any other allowances paid on a regular basis in lieu thereof, which they would have received had they not been on recreation leave; or
  - 78.3.2 17½% annual leave loading.
- 78.4 Maximum Loading - Unless otherwise provided in an Award or Agreement under which the employee is paid, the annual leave loading payable will not exceed the amount which would have been payable to an employee in receipt of salary equivalent to the maximum salary for a Grade 12 Clerk.
- 78.5 Leave year - For the calculation of the annual leave loading, the leave year will commence on 1 December each year and will end on 30 November of the following year.
- 78.6 Payment of annual leave loading - Payment of the annual leave loading will be made on the recreation leave accrued during the previous leave year and will be subject to the following conditions:
- 78.6.1 Annual leave loading will be paid on the first occasion in a leave year, other than the first leave year of employment, when an employee takes at least two (2) consecutive weeks recreation leave.  
  
Where an employee does not have at least 2 weeks recreation leave available, the employee may use a combination of recreation leave and any of the following: public holidays, flex leave, extended leave, leave without pay, time off in lieu, rostered day off. The employee will be paid the annual leave loading for such period, provided the absence is at least 2 weeks.
  - 78.6.2 If at least two weeks leave, as set out in paragraph 78.6.1 of this subclause, is not taken in a leave year, then the payment of the annual leave loading entitlement for the previous leave year will be made to the employee as at 30 November of the current year.
  - 78.6.3 While annual leave loading will not be paid in the first leave year of employment, it will be paid on the first occasion in the second leave year of employment when at least two weeks' leave, as specified in paragraph 78.6.1 of this subclause, is taken.
  - 78.6.4 An employee who has not been paid the annual leave loading for the previous leave year, will be paid such annual leave loading on resignation, retirement or termination by the employer for any reason other than the employee's serious and intentional misconduct.
  - 78.6.5 Except in cases of voluntary redundancy, proportionate leave loading is not payable on cessation of employment.

## **79. Sick Leave**

- 79.1 Illness in this clause and in clauses 80 and 81 of this award means physical or psychological illness or injury, medical treatment and the period of recovery or rehabilitation from an illness or injury.
- 79.2 Payment for sick leave is subject to the employee:
- 79.2.1 informing their supervisor as soon as reasonably practicable that they are unable to perform duty because of illness. This must be done as close to the employee's starting time as possible; and
  - 79.2.2 providing evidence of illness as soon as practicable if required by clause 80, Sick Leave - Requirements for Evidence of Illness of this award.
- 79.3 If the Department Head is satisfied that an employee is unable to perform duty because of the employee's illness or the illness of his/her family member, the Department Head:
- 79.3.1 will grant to the employee sick leave on full pay; and

- 79.3.2 may grant to the employee, sick leave without pay if the absence of the employee exceeds the entitlement of the employee under this award to sick leave on full pay.
- 79.4 The Department Head may direct an employee to take sick leave if they are satisfied that, due to the employee's illness, the employee:
- 79.4.1 is unable to carry out their duties without distress; or
- 79.4.2 risks further impairment of their health by reporting for duty; or
- 79.4.3 is a risk to the health, wellbeing or safety of other employees, Departmental clients or members of the public.
- 79.5 The Department Head may direct an employee to participate in a return to work program if the employee has been absent on a long period of sick leave.
- 79.6 Entitlements. An employee appointed after 13 November 2008 commenced accruing sick leave in accordance with this clause immediately. Existing employees at 13 November 2008 commenced accruing sick leave in accordance with this clause from 1 January 2009 onwards.
- 79.6.1 At the commencement of employment with the Public Service, a full-time employee is granted an accrual of 5 days sick leave.
- 79.6.2 After the first four months of employment, the employee will accrue sick leave at the rate of 10 working days per year for the balance of the first year of service.
- 79.6.3 After the first year of service, the employee will accrue sick leave day to day at the rate of 15 working days per year of service.
- 79.6.4 All continuous service as an employee in the NSW public service will be taken into account for the purpose of calculating sick leave due. Where the service in the NSW public service is not continuous, previous periods of public service will be taken into account for the purpose of calculating sick leave due if the previous sick leave records are available.
- 79.6.5 Notwithstanding the provisions of paragraph 79.6.4 of this subclause, sick leave accrued and not taken in the service of a public sector employer may be accessed in terms of Part 3, Division 2 Cross-government sector leave arrangements of the Government Sector Employment Regulation 2014.
- 79.6.6 Sick leave without pay will count as service for the accrual of recreation leave and paid sick leave. In all other respects sick leave without pay will be treated in the same manner as leave without pay.
- 79.6.7 When determining the amount of sick leave accrued, sick leave granted on less than full pay, will be converted to its full pay equivalent.
- 79.6.8 Paid sick leave will not be granted during a period of unpaid leave.
- 79.7 Payment during the initial 3 months of service - Paid sick leave which may be granted to an employee, other than a seasonal or relief employee, in the first 3 months of service will be limited to 5 days paid sick leave, unless the Department Head approves otherwise. Paid sick leave in excess of 5 days granted in the first 3 months of service must be supported by a satisfactory medical certificate.
- 79.8 Seasonal or relief staff - No paid sick leave will be granted to temporary employees who are employed as seasonal or relief staff for a period of less than 3 months.

#### **80. Sick Leave - Requirements for Evidence of Illness**

- 80.1 An employee absent from duty for more than 2 consecutive working days because of illness must furnish evidence of illness to the Department Head in respect of the absence.

- 80.2 In addition to the requirements under subclause 79.2 of clause 79, Sick Leave, of this award, an employee may absent themselves for a total of 5 working days due to illness without the provision of evidence of illness to the Department Head. Employees who absent themselves in excess of 5 working days in a calendar year may be required to furnish evidence of illness to the Department Head for each occasion absent for the balance of the calendar year.
- 80.3 As a general practice backdated medical certificates will not be accepted. However, if an employee provides evidence of illness that only covers the latter part of the absence, they can be granted sick leave for the whole period if the Department Head is satisfied that the reason for the absence is genuine.
- 80.4 If an employee is required to provide evidence of illness for an absence of 2 consecutive working days or less, the Department Head will advise them in advance.
- 80.5 If the Department Head is concerned about the diagnosis described in the evidence of illness produced by the employee, after discussion with the employee, the evidence provided and the employee's application for leave can be referred to the Department's Government or other nominated medical assessor for advice.
- 80.5.1 The type of leave granted to the employee will be determined by the Department Head based on the medical assessor's advice.
- 80.5.2 If sick leave is not granted, the Department Head will, as far as practicable, take into account the wishes of the employee when determining the type of leave granted.
- 80.6 The granting of paid sick leave will be subject to the employee providing evidence which indicates the nature of illness or injury and the estimated duration of the absence. If an employee is concerned about disclosing the nature of the illness to their manager they may elect to have the application for sick leave dealt with confidentially by an alternate manager or the human resources section of the Department.
- 80.7 The reference in this clause to evidence of illness will apply, as appropriate:
- 80.7.1 up to one week may be provided by a registered dentist, optometrist, chiropractor, osteopath, physiotherapist, oral and maxillo facial surgeon or, at the Department Head's discretion, another registered health services provider, or
- 80.7.2 where the absence exceeds one week, and unless the health provider listed in paragraph 80.7.1 of this subclause is also a registered medical practitioner, applications for any further sick leave must be supported by evidence of illness from a registered medical practitioner, or
- 80.7.3 at the Department Head's discretion, other forms of evidence that satisfy that an employee had a genuine illness.
- 80.8 If an employee who is absent on recreation leave or extended leave, furnishes to the Department Head satisfactory evidence of illness in respect of an illness which occurred during the leave, the Department Head may, subject to the provisions of this clause, grant sick leave to the employee as follows:
- 80.8.1 in respect of recreation leave, the period set out in the evidence of illness;
- 80.8.2 in respect of extended leave, the period set out in the evidence of illness if such period is 5 working days or more.
- 80.9 Subclause 80.8 of this clause applies to all employees other than those on leave prior to resignation or termination of services, unless the resignation or termination of services amounts to a retirement.

### **81. Sick Leave to Care for a Family Member**

- 81.1 Where family and community service leave provided for in clause 71 of this award is exhausted or unavailable, an employee with responsibilities in relation to a category of person set out in subclause 81.4 of this clause who needs the employee's care and support, may elect to use available paid sick leave,

subject to the conditions specified in this clause, to provide such care and support when a family member is ill.

81.2 The sick leave will initially be taken from the sick leave accumulated over the previous 3 years. In special circumstances, the Department Head may grant additional sick leave from the sick leave accumulated during the employee's eligible service.

81.3 If required by the Department Head to establish the illness of the person concerned, the employee must provide evidence consistent with subclause 80.6 of clause 80, Sick Leave - Requirements for Evidence of Illness, of this award.

81.4 The entitlement to use sick leave in accordance with this clause is subject to:-

81.4.1 the employee being responsible for the care and support of the person concerned; and

81.4.2 the person concerned being: -

- (a) a spouse of the employee; or
- (b) a de facto spouse being a person of the opposite sex to the employee who lives with the employee as her husband or his wife on a bona fide domestic basis although not legally married to that employee; or
- (c) 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 or legal guardian), grandparent, grandchild or sibling of the employee or of the spouse or de facto spouse of the employee; or
- (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or a relative of the employee who is a member of the same household, where for the purposes of this definition: -

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

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

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

## **82. Sick Leave - Workers Compensation**

82.1 The Department Head will advise each employee of the rights under the *Workers Compensation Act 1987*, as amended from time to time, and will give such assistance and advice, as necessary, in the lodging of any claim.

82.2 An employee who is or becomes unable to attend for duty or to continue on duty in circumstances which may give the employee a right to claim compensation under the *Workers Compensation Act 1987* will be required to lodge a claim for any such compensation.

82.3 Where, due to the illness or injury, the employee is unable to lodge such a claim in person, the Department Head will assist the employee or the representative of the employee, as required, to lodge a claim for any such compensation.

82.4 The Department Head will ensure that, once received by the Department, an employee's workers compensation claim is lodged by the Department with the workers compensation insurer within the statutory period prescribed in the *Workers Compensation Act 1987*.

82.5 Pending the determination of that claim and on production of an acceptable medical certificate, the Department Head will grant sick leave on full pay for which the employee is eligible followed, if

necessary, by sick leave without pay or, at the employee's election by accrued recreation leave or extended leave.

82.6 If liability for the workers compensation claim is accepted, then an equivalent period of any sick leave taken by the employee pending acceptance of the claim will be restored to the credit of the employee.

82.7 An employee who continues to receive compensation after the completion of the period of 26 weeks referred to in section 36 of the *Workers Compensation Act 1987* may use any accrued and untaken sick leave to make up the difference between the amount of compensation payable under that Act and the employee's ordinary rate of pay. Sick leave utilised in this way will be debited against the employee.

Note: Following the decision in *Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales v Industrial Relations Secretary* [2017] NSWSC 1473, this clause only applies to firefighters to whom cl 25 of Pt 16H of Sch 6 of the *Workers Compensation Act 1987* applies, whilst they are engaged in firefighting duties.

82.7.1 Before approving the use of sick leave in this subclause, the Department Head must be satisfied that the employee is complying with the obligations imposed by the *Workplace Injury Management and Workers Compensation Act 1998* which requires that the employee must:

- (a) participate and cooperate in the establishment of the required injury management plan for the employee;
- (b) comply with obligations imposed on the employee by or under the injury management plan established for the employee;
- (c) when requested to do so, nominate as their treating doctor for the purposes of the injury management plan a medical practitioner who is prepared to participate in the development of, and in the arrangements under, the plan;
- (d) authorise the nominated treating doctor to provide relevant information to the insurer or the Department Head for the purposes of the injury management plan; and
- (e) make all reasonable efforts to return to work as soon as possible, having regard to the nature of the injury.

82.8 If an employee notifies the appropriate Department Head that he or she does not intend to make a claim for any such compensation, the Department Head will consider the reasons for the employee's decision and will determine whether, in the circumstances, it is appropriate to grant sick leave in respect of any such absence.

82.9 An employee may be required to submit to a medical examination under the *Workers Compensation Act 1987* in relation to a claim for compensation under that Act. If an employee refuses to submit to a medical examination without an acceptable reason, the employee will not be granted available sick leave on full pay until the examination has occurred and a medical certificate is issued indicating that the employee is not fit to resume employment.

82.10 If the Department Head provides the employee with employment which meets the terms and conditions specified in the certificate of currency issued under the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998* and, without good reason, the employee fails, to resume or perform such duties, the employee will be ineligible for all payments in accordance with this clause from the date of the refusal or failure.

82.11 Nothing in this clause prevents an employee from appealing a decision or taking action under other legislation made in respect of:-

82.11.1 the employee's claim for workers compensation;

82.11.2 the conduct of a medical examination by a Government or other Medical Officer;

- 82.11.3 a medical certificate issued by the examining Government or other Medical Officer; or
- 82.11.4 action taken by the Department Head either under the *Workers Compensation Act 1987* or any other relevant legislation in relation to a claim for workers compensation, medical examination or medical certificate.

### **83. Sick Leave - Claims Other Than Workers Compensation**

- 83.1 If the circumstances of any injury to or illness of an employee give rise to a claim for damages or to compensation, other than compensation under the *Workers Compensation Act 1987*, sick leave on full pay may, subject to and in accordance with this clause, be granted to the employee on completion of an acceptable undertaking that: -
- 83.1.1 any such claim, if made, will include a claim for the value of any period of paid sick leave granted by the Department to the employee; and
- 83.1.2 in the event that the employee receives or recovers damages or compensation pursuant to that claim for loss of salary or wages during any such period of sick leave, the employee will repay to the Department the monetary value of any such period of sick leave.
- 83.2 Sick leave on full pay will not be granted to an employee who refuses or fails to complete an undertaking, except in cases where the Department Head is satisfied that the refusal or failure is unavoidable.
- 83.3 On repayment to the Department of the monetary value of sick leave granted to the employee, sick leave equivalent to that repayment and calculated at the employee's ordinary rate of pay, will be restored to the credit of the employee.

### **84. Special Leave**

- 84.1 Special Leave - Jury Service
- 84.1.1 An employee must, as soon as possible, notify the Department Head of the details of any jury summons served on the employee.
- 84.1.2 An employee who, during any period when required to be on duty, attends a court in answer to a jury summons will, upon return to duty after discharge from jury service, provide to the Department Head a certificate of attendance issued by the Sheriff or by the Registrar of the court giving particulars of attendances by the employee during any such period and the details of any payment or payments made to the employee under section 72 of the *Jury Act 1977* in respect of any such period.
- 84.1.3 When a certificate of attendance on jury service is received in respect of any period during which an employee was required to be on duty, the Department Head will grant, for the period for which the employee has been paid out-of-pocket expenses only, special leave on full pay. In any other case, the Department Head will grant, at the sole election of the employee, available recreation leave on full pay, flex leave or leave without pay.
- 84.2 Witness at Court - Official Capacity - When an employee is subpoenaed or called as a witness in an official capacity, the employee will be regarded as being on duty. Salary and any expenses properly and reasonably incurred by the employee in connection with the employee's appearance at court as a witness in an official capacity will be paid by the Department.
- 84.3 Witness at Court - Other than in Official Capacity - Crown Witness – An employee who is subpoenaed or called as a witness by the Crown (whether in right of the Commonwealth or in right of any State or Territory of the Commonwealth) will:
- 84.3.1 be granted, for the whole of the period necessary to attend as such a witness, special leave on full pay; and

- 84.3.2 pay into the Treasury of the State of New South Wales all money paid to the employee under or in respect of any such subpoena or call other than any such money so paid in respect of reimbursement of necessary expenses properly incurred in answer to that subpoena or call.
- 84.3.3 Association witness – an employee called by the Association to give evidence before an Industrial Tribunal or in another jurisdiction will be granted special leave by the Department for the required period.
- 84.4 Called as a witness in a private capacity – An employee who is subpoenaed or called as a witness in a private capacity will, for the whole of the period necessary to attend as such a witness, be granted at the employee's election, available recreation leave on full pay or leave without pay.
- 84.5 Special Leave - Examinations -
- 84.5.1 Special leave on full pay up to a maximum of 5 days in any one year will be granted to employees for the purpose of attending at any examination approved by the Department Head.
- 84.5.2 Special leave granted to attend examinations will include leave for any necessary travel to or from the place at which the examination is held.
- 84.5.3 If an examination for a course of study is held during term or semester within the normal class timetable and study time has been granted to the employee, no further leave is granted for any examination.
- 84.6 Special Leave - Union Activities - Special leave on full pay may be granted to employees who are accredited Association delegates to undertake Association activities as provided for in clause 54, Trade Union Activities Regarded as Special Leave of this award.
- 84.7 Return Home When Temporarily Living Away from Home - Sufficient special leave will be granted to an employee who is temporarily living away from home as a result of work requirements. The employee will be granted sufficient special leave once a month before or after a weekend or a long weekend or, in the case of a shift worker before or after rostered days off to return home to spend two days and two nights with the family. If the employee wishes to return home more often, such employee may be granted recreation leave, extended leave or flex leave to credit or leave without pay, if the operational requirements allow.
- 84.8 Return Home When Transferred to New Location - Special leave will be granted to an employee who has moved to the new location ahead of dependants, to visit such dependants, subject to the conditions specified in the Crown Employees (Transferred Employees Compensation) Award.
- 84.9 An employee who identifies as an Indigenous Australian will be granted up to one day special leave per year to enable the employee to participate in the National Aborigines and Islander Day of Commemoration Celebrations. Leave can be taken at any time during NAIDOC week, or in the weeks leading up to and after NAIDOC week as negotiated between the supervisor and employee.
- 84.10 Special Leave - Other Purposes - Special leave on full pay may be granted to employees by the Department Head for such other purposes, subject to the conditions specified in the Public Service Industrial Relations Guide at the time the leave is taken.
- 84.11 Matters arising from domestic violence situations.

When the leave entitlements referred to in clause 84A, Leave for Matters Arising from Domestic Violence, have been exhausted, the Department Head will grant up to five days per calendar year to be used for absences from the workplace to attend to matters arising from domestic violence situations.

#### **84A. Leave for Matters Arising from Domestic Violence**

- 84A.1 The definition of domestic violence is found in clause 3.17 of this award.



- 84A.2 Leave entitlements provided for in clause 71, Family and Community Service Leave, clause 79, Sick Leave and clause 81, Sick Leave to Care for a Family Member, may be used by employees experiencing domestic violence.
- 84A.3 Where the leave entitlements referred to in subclause 84A.2 are exhausted, Department Heads will grant Special Leave as per subclause 84.11.
- 84A.4 The Department Head will need to be satisfied, on reasonable grounds, that domestic violence has occurred and may require proof presented in the form of an agreed document issued by the Police Force, a Court, a Doctor, a Domestic Violence Support Service or Lawyer.
- 84A.5 Personal information concerning domestic violence will be kept confidential by the agency.
- 84A.6 The Department Head, where appropriate, may facilitate flexible working arrangements subject to operational requirements, including changes to working times and changes to work location, telephone number and email address.

## **SECTION 7 – TRAINING AND PROFESSIONAL DEVELOPMENT**

### **85. Employee Development and Training Activities**

- 85.1 For the purpose of this clause, the following will be regarded as employee development and training activities:
- 85.1.1 all employee development courses conducted by a NSW Public Sector organisation;
  - 85.1.2 short educational and training courses conducted by generally recognised public or private educational bodies; and
  - 85.1.3 conferences, conventions, seminars, or similar activities conducted by professional, learned or other generally recognised societies, including Federal or State Government bodies.
- 85.2 For the purposes of this clause, the following will not be regarded as employee development and training activities: -
- 85.2.1 activities for which study assistance is appropriate;
  - 85.2.2 activities to which other provisions of this award apply (e.g. courses conducted by the Association); and
  - 85.2.3 activities which are of no specific relevance to the NSW Public Sector.
- 85.3 Attendance of an employee at activities considered by the Department Head to be:
- 85.3.1 essential for the efficient operation of the Department; or
  - 85.3.2 developmental and of benefit to the NSW public sector
- will be regarded as on duty for the purpose of payment of salary if an employee attends such an activity during normal working hours.
- 85.4 The following provisions will apply, as appropriate, to the activities considered to be essential for the efficient operation of the Department:
- 85.4.1 recognition that the employee is performing normal duties during the course;
  - 85.4.2 adjustment for the hours so worked under flexible working hours;
  - 85.4.3 payment of course fees:

- 85.4.4 payment of all actual necessary expenses or payment of allowances in accordance with this award, provided that the expenses involved do not form part of the course and have not been included in the course fees; and
- 85.4.5 payment of overtime where the activity could not be conducted during the employee's normal hours and the Department Head is satisfied that the approval to attend constitutes a direction to work overtime under clause 88, Overtime – General, of this award.
- 85.5 The following provisions will apply, as appropriate, to the activities considered to be developmental and of benefit to the Department:
  - 85.5.1 recognition of the employee as being on duty during normal working hours whilst attending the activity;
  - 85.5.2 payment of course fees;
  - 85.5.3 reimbursement of any actual necessary expenses incurred by the employee for travel costs, meals and accommodation, provided that the expenses have not been paid as part of the course fee; and
  - 85.5.4 such other conditions as may be considered appropriate by the Department Head given the circumstances of attending at the activity, such as compensatory leave for excess travel or payment of travelling expenses.
- 85.6 Where the training activities are considered to be principally of benefit to the employee and of indirect benefit to the public service, special leave of up to 10 days per year will be granted to an employee. If additional leave is required and the Department Head is able to release the employee, such leave will be granted as a charge against available flex leave, recreation/extended leave or as leave without pay.
- 85.7 Temporary Assignment Allowance – Payment of a temporary assignment allowance is to continue where the employee attends a training or developmental activity whilst on duty in accordance with this clause.

## **86. Study Assistance**

- 86.1 The Department Head will have the power to grant or refuse study time.
- 86.2 Where the Department Head approves the grant of study time, the grant will be subject to:
  - 86.2.1 the course being a course relevant to the Department and/or the public service;
  - 86.2.2 the time being taken at the convenience of the Department; and
  - 86.2.3 paid study time not exceeding a maximum of 4 hours per week, to accrue on the basis of half an hour for each hour of class attendance.
- 86.3 Study time may be granted to both full and part-time employees. Part-time employees however will be entitled to a pro-rata allocation of study time to that of a full-time employee.
- 86.4 Study time may be used for:
  - 86.4.1 attending compulsory lectures, tutorials, residential schools, field days etc., where these are held during working hours; and/or
  - 86.4.2 necessary travel during working hours to attend lectures, tutorials etc., held during or outside working hours; and/or
  - 86.4.3 private study; and/or
  - 86.4.4 accumulation, subject to the conditions specified in subclauses 86.6 to 86.10 of this clause.

- 86.5 Employees requiring study time must nominate which of the following type(s) of study time are preferred at the time of application and prior to the proposed commencement of the academic period: -
- 86.5.1 face-to-Face - Employees may elect to take weekly and/or accrued study time, subject to the provisions for its grant.
  - 86.5.2 distance education - Employees may elect to take weekly and/or accrued study time, or time off to attend compulsory residential schools.
  - 86.5.3 accumulation - Employees may choose to accumulate part or all of their study time as provided in subclauses 86.6 to 86.10 of this clause.
- 86.6 Accumulated study time may be taken in any manner or at any time, subject to operational requirements of the Department.
- 86.7 Employees on rotating shifts may accumulate study time so that they can take leave for a full shift, where this would be more convenient to both the employee and the Department.
- 86.8 Where at the commencement of an academic year/semester an employee elects to accrue study time and that employee has consequently foregone the opportunity of taking weekly study time, the accrued period of time off must be granted even if changed work circumstances mean absence from duty would be inconvenient.
- 86.9 Employees attempting courses which provide for annual examinations, may vary the election as to accrual, made at the commencement of an academic year, effective from 1st July in that year.
- 86.10 Where an employee is employed after the commencement of the academic year, weekly study time may be granted with the option of electing to accrue study time from 1st July in the year of entry on duty or from the next academic year, whichever is the sooner.
- 86.11 Employees studying in semester based courses may vary their election as to accrual or otherwise from semester to semester.
- 86.12 Distance education courses - Study time for employees studying by distance education accrues on the basis of half an hour for each hour of lecture/tutorial attendance involved in the corresponding face-to-face course, up to a maximum grant of 4 hours per week. Where there is no corresponding face-to-face course, the training institution should be asked to indicate what the attendance requirements would be if such a course existed.
- 86.13 Distance education students may elect to take weekly study time and/or may accrue study time and take such accrued time when required to attend compulsory residential schools.
- 86.14 Repeated subjects - Study time will not be granted for repeated subjects.
- 86.15 Expendable grant - Study time if not taken at the nominated time will be forfeited. If the inability to take study time occurs as a result of a genuine emergency at work, study time for that week may be granted on another day during the same week.
- 86.16 Examination Leave - Examination leave will be granted as special leave for all courses of study approved in accordance with this clause.
- 86.17 The period granted as examination leave will include:
- 86.17.1 time actually involved in the examination;
  - 86.17.2 necessary travelling time, in addition to examination leave,

but is limited to a maximum of 5 days in any one year. Examination leave is not available where an examination is conducted within the normal class timetable during the term/semester and study time has been granted to the employee.

- 86.18 The examination leave will be granted for deferred examinations and in respect of repeat studies.
- 86.19 Study Leave - Study leave for full-time study is granted to assist those employees who win scholarships/fellowships/awards or who wish to undertake full-time study and/or study tours. Study leave may be granted for studies at any level, including undergraduate study.
- 86.20 All employees are eligible to apply and no prior service requirements are necessary.
- 86.21 Study leave will be granted without pay, except where the Department Head approves financial assistance. The extent of financial assistance to be provided will be determined by the Department Head according to the relevance of the study to the workplace and may be granted up to the amount equal to full salary.
- 86.22 Where financial assistance is approved by the Department Head for all or part of the study leave period, the period will count as service for all purposes in the same proportion as the quantum of financial assistance bears to full salary of the employee.
- 86.23 Scholarships for Part-Time Study - In addition to the study time/study leave provisions under this clause, the Department may choose to identify courses or educational programmes of particular relevance or value and establish a Departmental scholarship to encourage participation in these courses or programmes. The conditions under which such scholarships are provided should be consistent with the provisions of this clause.

## **SECTION 8 - SHIFT WORK AND OVERTIME**

### **87. Shift Work**

- 87.1 Shift Loadings - A shift worker employed on a shift will be paid, for work performed during the ordinary hours of any such shift, ordinary rates plus the following additional shift loadings depending on the commencing times of shifts:

Day - at or after 6am and before 10am	Nil
Afternoon - at or after 10am and before 1pm	10.0%
Afternoon - at or after 1pm and before 4pm	12.5%
Night - at or after 4pm and before 4am	15.0%
Night - at or after 4am and before 6am	10.0%

- 87.2 The loadings specified in subclause 87.1 of this clause will only apply to shifts worked from Monday to Friday.
- 87.3 Weekends and Public Holidays - For the purpose of this clause any shift, the major portion of which is worked on a Saturday, Sunday or Public Holiday will be deemed to have been worked on a Saturday, Sunday or Public Holiday and will be paid as such.
- 87.4 Saturday Shifts - Shift workers working on an ordinary rostered shift between midnight on Friday and midnight on Saturday which is not a public holiday, will be paid for such shifts at ordinary time and one half.
- 87.5 Sunday Shifts - Shift workers working on an ordinary rostered shift between midnight on Saturday and midnight on Sunday which is not a public holiday, will be paid for such shifts at ordinary time and three quarters.
- 87.6 Public Holidays - With the exception of classifications listed in subclauses 87.7 and 87.8 of this clause, the following will apply:

87.6.1 where a shift worker is required to and does work on a Public Holiday, the shift worker will be paid at two and a half times the rate for time worked. Such payment will be in lieu of weekend or shift allowances which would have been payable if the day had not been a Public Holiday;

87.6.2 a shift worker rostered off duty on a Public Holiday can elect to be paid one day's pay for that Public Holiday or to have one day added to his/her annual holidays for each such day;

87.7 Shift workers employed in the classifications of:

Regulatory Officers, Biosecurity Act - Department of Planning, Industry and Environment

Security Officers - Art Gallery of NSW

Attendants - Australian Museum

Clinical Neuro Psychologist - Department of Communities and Justice

Clerks, Psychologists, Welfare Officers - Metropolitan Remand and Reception Centre (IDS) - Department of Communities and Justice

Gallery Service Officers - Art Gallery of NSW

Staff Resource Units – Disability Services - Department of Communities and Justice

will receive the following:

87.7.1 For ordinary rostered time worked on a Saturday - ordinary salary and an additional payment at the rate of half time.

87.7.2 For ordinary rostered time worked on a Sunday - ordinary salary and an additional payment at the rate of three quarter time.

87.7.3 When rostered off on a public holiday - ordinary salary and an additional day's pay.

87.7.4 When rostered on and works on a public holiday - ordinary salary and an additional payment at the rate of time and a half.

87.7.5 Annual leave at the rate of four weeks per year, that is 20 working days plus 8 rest days.

87.7.6 Additional leave on the following basis:

Number of ordinary shifts worked on Sunday and/or public holiday during a qualifying period of 12 months from 1 December one year to 30 November the next year	Additional leave
4-10	1 additional day
11-17	2 additional days
18-24	3 additional days
25-31	4 additional days
32 or more	5 additional days

87.8 Shift workers employed in the classifications of:

Prison Officers - Department of Communities and Justice

Transitional Centre Workers - Department of Communities and Justice

Rangers - Department of Planning, Industry and Environment

Field Officer - Department of Planning, Industry and Environment

Nurses – Disability Operations – Department of Communities and Justice

Helpline Staff - Department of Communities and Justice

will receive the following:

87.8.1 For ordinary rostered time worked on a Saturday - ordinary salary and an additional payment at the rate of half time.

87.8.2 For ordinary rostered time worked on a Sunday - ordinary salary and an additional payment at the rate of three quarter time.

87.8.3 When rostered off on a public holiday - no additional compensation or payment.

87.8.4 When rostered on and works on a public holiday - ordinary salary and an additional payment at the rate of half time.

87.8.5 Annual leave at the rate of six weeks per year, that is, 30 working days plus 12 rest days.

87.8.6 Additional payment on the following basis:

Number of ordinary shifts worked on Sundays and/or public holidays during a qualifying period of payment 12 months from 1 December one year to 30 November the next year	Additional payment
4-10	1/5th of one week's ordinary salary
11-17	2/5ths of one week's ordinary salary
18-24	3/5ths of one week's ordinary salary
25-31	4/5ths of one week's ordinary salary
32 or more	one week's ordinary salary

87.8.7 The additional payment in terms of paragraph 87.8.6 of this subclause will be made after 1 December each year for the preceding 12 months.

87.8.8 Where the shift worker retires or resigns, or the employment of a shift worker is terminated by the employer, any payment that has accrued from the preceding 1 December until the last day of service will be paid to the shift worker;

87.8.9 Payment will be made at the rate applicable as at 1 December each year or at the salary rate applicable at the date of retirement, resignation or termination.

87.9 Rosters - Rosters covering a minimum period of 28 days, where practicable, will be prepared and issued at least 7 days prior to the commencement of the rosters. Each roster will indicate the starting and finishing time of each shift. Where current or proposed shift arrangements are incompatible with the shift worker's family, religious or community responsibilities, every effort to negotiate individual alternative arrangements will be made by the Department Head.

87.10 Notice of Change of Shift - A shift worker who is required to change from one shift to another shift will, where practicable, be given forty eight (48) hours' notice of the proposed change.

87.11 Breaks between Shifts - A minimum break of eight (8) consecutive hours between ordinary rostered shifts will be given.

87.12 If a shift worker resumes or continues to work without having had eight (8) consecutive hours off duty, the shift worker will be paid overtime in accordance with clause 89, Overtime Worked by Shift Workers of this award, until released from duty for eight (8) consecutive hours. The shift worker will then be

entitled to be off duty for at least eight (8) consecutive hours without loss of pay for ordinary working time which falls during such absence.

87.13 Time spent off duty may be calculated by determining the amount of time elapsed after: -

87.13.1 the completion of an ordinary rostered shift; or

87.13.2 the completion of authorised overtime; or

87.13.3 the completion of additional travelling time, if travelling on duty, but does not include time spent travelling to and from the workplace.

87.14 Daylight Saving - In all cases where a shift worker works during the period of changeover to and from daylight saving time, the shift worker will be paid the normal rate for the shift.

### **88. Overtime - General**

88.1 An employee may be directed by the Department Head to work overtime, provided it is reasonable for the employee to be required to do so. An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working unreasonable hours. In determining what is unreasonable, the following factors will be taken into account:

88.1.1 the employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements;

88.1.2 any risk to the employee's health and safety;

88.1.3 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;

88.1.4 the notice (if any) given by the Department Head regarding the working of the overtime, and by the employee of their intention to refuse overtime; or

88.1.5 any other relevant matter.

88.2 Payment for overtime will be made only where the employee works directed overtime.

88.3 Where a flexible working hours scheme is in operation, overtime will be deemed as the hours directed to be worked before or after bandwidth or before or after the time specified in a local arrangement made pursuant to the provisions of clause 10, Local Arrangements of this award provided that, on the day when overtime is required to be performed, the employee will not be required by the Department Head to work more than 7 hours after finishing overtime or before commencing overtime.

88.4 Payment for overtime worked and/or on-call (standby) allowance will not be made under this clause if the employee is eligible, under any other industrial instrument, to:

88.4.1 compensation specifically provided for overtime and/or on-call (standby) allowance; or

88.4.2 be paid an allowance for overtime and/or on-call (standby) allowance; or

88.4.3 a rate of salary which has been determined as inclusive of overtime and/or on-call (standby) allowance.

### **89. Overtime Worked by Shift Workers**

89.1 The following rates are payable for any overtime worked by shift workers and will be in substitution of and not cumulative upon the rates payable for shift work performed on Monday to Friday, Saturday, Sunday or Public Holiday:

- 89.1.1 Monday-Friday - All overtime worked by shift workers Monday to Friday inclusive, will be paid for at the rate of time and one half for the first two hours and double time thereafter.
- 89.1.2 Saturday - All overtime worked by shift workers on Saturday, will be paid for at the rate of time and one half for the first two hours and double time thereafter.
- 89.1.3 Sunday - All overtime worked by shift workers on a Sunday will be paid for at the rate of double time.
- 89.1.4 Public Holidays - All overtime worked on a public holiday will be paid for at the rate of double time and one half.
- 89.2 Eight Consecutive Hours Break on Overtime - When overtime is necessary, wherever reasonably practicable, it will be arranged so that shift workers have at least eight (8) consecutive hours off duty.
- 89.3 The rest period off duty will be not less than eight (8) consecutive hours when the overtime is worked for the purpose of changing shift rosters except where an arrangement between shift workers alters the ordinary rostered shift and such alteration results in a rest period of less than eight (8) hours.

### **90. Overtime Worked by Day Workers**

- 90.1 The provisions of this clause will not apply to:
  - 90.1.1 shift workers as defined in clause 3, Definitions of this award and to whom provisions of clause 87, Shift Work and clause 89, Overtime Worked by Shift Workers, of this award apply;
  - 90.1.2 employees covered by formal local arrangements in respect of overtime negotiated between the Department Head and the Association;
  - 90.1.3 employees to who overtime provisions apply under another industrial instrument;
  - 90.1.4 employees whose salary includes compensation for overtime;
  - 90.1.5 employees who receive an allowance in lieu of overtime; and
  - 90.1.6 Duty Officers, State Emergency Services during flood alerts on weekends and public holidays except as provided in clause 97, Compensation for Additional Hours worked by Duty Officer, State Emergency Services of this award.
- 90.2 Rates - Overtime will be paid at the following rates:
  - 90.2.1 weekdays (Monday to Friday inclusive) - at the rate of time and one-half for the first two hours and at the rate of double time thereafter for all directed overtime worked outside the employee's normal hours of duty, if working standard hours, or outside the bandwidth, if working under a flexible working hours scheme, unless local arrangements negotiated in terms of clause 10, Local Arrangements, of this award apply;
  - 90.2.2 Saturday - All overtime worked on a Saturday at the rate of time and one-half for the first two hours and at the rate of double time thereafter;
  - 90.2.3 Sundays - All overtime worked on a Sunday at the rate of double time;
  - 90.2.4 Public Holidays - All overtime worked on a public holiday at the rate of double time and one half.
- 90.3 If an employee is absent from duty on any working day during any week in which overtime has been worked the time so lost may be deducted from the total amount of overtime worked during the week unless the employee has been granted leave of absence or the absence has been caused by circumstances beyond the employee's control.



90.4 An employee who works overtime on a Saturday, Sunday or public holiday will be paid a minimum payment as for three (3) hours work at the appropriate rate.

90.5 Rest Periods

90.5.1 An employee who works overtime will be entitled to be absent until eight (8) consecutive hours have elapsed.

90.5.2 Where an employee, at the direction of the supervisor, resumes or continues work without having had eight (8) consecutive hours off duty then the employee will be paid at the appropriate overtime rate until released from duty. The employee will then be entitled to eight (8) consecutive hours off duty and will be paid for the ordinary working time occurring during the absence.

**91. Recall to Duty**

91.1 An employee recalled to work overtime after leaving the employer's premises will be paid for a minimum of three (3) hours work at the appropriate overtime rates.

91.2 The employee will not be required to work the full three (3) hours if the job can be completed within a shorter period.

91.3 When an employee returns to the place of work on a number of occasions in the same day and the first or subsequent minimum pay period overlap into the next call out period, payment will be calculated from the commencement of the first recall until either the end of duty or three (3) hours from the commencement of the last recall, whichever is the greater. Such time will be calculated as one continuous period.

91.4 When an employee returns to the place of work on a second or subsequent occasion and a period of three (3) hours has elapsed since the employee was last recalled, overtime will only be paid for the actual time worked in the first and subsequent periods with the minimum payment provision only being applied to the last recall on the day.

91.5 A recall to duty commences when the employee starts work and terminates when the work is completed. A recall to duty does not include time spent travelling to and from the place at which work is to be undertaken.

91.6 An employee recalled to duty within three (3) hours of the commencement of normal hours of duty will be paid at the appropriate overtime rate from the time of recall to the time of commencement of such normal work.

91.7 This clause will not apply in cases where it is customary for an employee to return to the Department's premises to perform a specific job outside the employee's normal hours of duty, or where overtime is continuous with the completion or commencement of normal hours of duty. Overtime worked in these circumstances will not attract the minimum payment of three (3) hours unless the actual time worked is three (3) or more hours.

**92. On-Call (Stand-By) and On-Call Allowance**

92.1 Unless already eligible for an on-call allowance under another industrial instrument, an employee will be:

92.1.1 entitled to be paid the on call allowance set out in Item 13 of Table 1 - Allowances of Part B, Monetary Rates when directed by the Department to be on call or on standby for a possible recall to duty outside the employee's working hours;

92.1.2 if an employee who is on call and is called out by the Department, the overtime provisions as set out in clause 89, Overtime Worked by Shift Workers or clause 90, Overtime Worked by Day Workers, of this award, whichever is appropriate, will apply to the time worked;

92.1.3 where work problems are resolved without travel to the place of work whether on a weekday, weekend or public holiday, work performed will be compensated at ordinary time for the time actually worked, calculated to the next 15 minutes.

### **93. Overtime Meal Breaks**

- 93.1 Employees not working flexible hours – an employee required to work overtime on weekdays for an hour and a half or more after the employee’s normal hours of duty on weekdays, will be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked.
- 93.2 Employees working flexible hours – An employee required to work overtime on weekdays beyond 6.00 p.m. and until or beyond eight and a half hours after commencing duty plus the time taken for lunch, will be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked.
- 93.3 Employees Generally - An employee required to work overtime on a Saturday, Sunday or Public Holiday, will be allowed 30 minutes for a meal after every five hours of overtime worked. An employee who is unable to take a meal break and who works for more than five hours will be given a meal break at the earliest opportunity.

### **94. Overtime Meal Allowances**

- 94.1 If an adequate meal is not provided by the Department, a meal allowance will be paid by the Department at the appropriate rate specified in Item 19 of Table 1 - Allowances of Part B, Monetary Rates, provided the Department Head is satisfied that:
- 94.1.1 the time worked is directed overtime;
- 94.1.2 the employee properly and reasonably incurred expenditure in obtaining the meal in respect of which the allowance is sought;
- 94.1.3 where the employee was able to cease duty for at least 30 minutes before or during the working of overtime to take the meal, the employee did so; and
- 94.1.4 overtime is not being paid in respect of the time taken for a meal break.
- 94.2 Where an allowance payable under this clause is insufficient to reimburse the employee the cost of a meal, properly and reasonably incurred, the Department Head will approve payment of actual expenses.
- 94.3 Where a meal was not purchased, payment of a meal allowance will not be made.
- 94.4 Receipts will be provided to the Department Head or his/her delegate in support of any claims for additional expenses or when the employee is required to substantiate the claim.
- 94.5 Notwithstanding the above provisions, nothing in this clause will prevent the Department Head and the Association from negotiating different meal provisions under a local arrangement.

### **95. Rate of Payment for Overtime**

An employee whose salary, or salary and allowance in the nature of salary, exceeds the maximum rate for Clerk Grade 8, as varied from time to time, will be paid for working directed overtime at the maximum rate for Clerk, Grade 8 plus \$1.00, unless the Department Head approves payment for directed overtime at the employee’s salary or, where applicable, salary and allowance in the nature of salary.

### **96. Payment for Overtime or Leave in Lieu**

96.1 The Department Head will grant compensation for directed overtime worked either by payment at the appropriate rate or, if the employee so elects, by the grant of leave in lieu in accordance with subclause 96.2 of this clause.

96.2 The following provisions will apply to the leave in lieu:

96.2.1 The employee will advise the supervisor before the overtime is worked or as soon as practicable on completion of overtime, that the employee intends to take leave in lieu of payment.

96.2.2 The leave will be calculated at the same rate as would have applied to the payment of overtime in terms of this clause.

96.2.3 The leave must be taken at the convenience of the Department, except when leave in lieu is being taken to look after a sick family member. In such cases, the conditions set out in clause 81, Sick Leave to Care for a Sick Family Member, of this award apply.

96.2.4 The leave will be taken in multiples of a quarter day, unless debiting of leave in hours or in fractions of an hour has been approved in the employee's Department or section.

96.2.5 Leave in lieu accrued in respect of overtime will be given by the Department and taken by the employee within three months of accrual unless alternate local arrangements have been negotiated between the Department Head and the Association.

96.2.6 An employee will be paid for the balance of any overtime entitlement not taken as leave in lieu.

**97. Compensation for Additional Hours Worked by Duty Officer, State Emergency Services**

97.1 The time spent at home as Duty Officer, State Emergency Services during flood alerts on weekends and public holidays, will be compensated by: -

97.1.1 payment at the rate of one third of one day's pay for each tour of duty; or

97.1.2 if so desired by the employee concerned, the granting of time off in lieu of payment calculated in accordance with clause 96, Payment for Overtime or Leave in Lieu, of this award.

**98. Calculation of Overtime**

98.1 Unless a minimum payment in terms of subclause 90.4 of clause 90, Overtime Worked by Day Workers, of this award applies, overtime will not be paid if the total period of overtime worked is less than a quarter of an hour.

98.2 The formula for the calculation of overtime at ordinary rates for staff members employed on a five (5) day basis will be:

$$\frac{\text{Annual salary}}{1} \times \frac{5}{260.89} \times \frac{1}{\text{No of ordinary hours of work per week}}$$

98.3 The formula for the calculation of overtime at ordinary rates for staff members employed on a seven (7) day basis will be: -

$$\frac{\text{Annual salary}}{1} \times \frac{7}{365.25} \times \frac{1}{\text{No of ordinary hours of work per week}}$$

- 98.4 To determine time and one half, double time or double time and one half, the hourly rate at ordinary time will be multiplied by 3/2, 2/1 or 5/2 respectively, calculated to the nearest cent.
- 98.5 Overtime is not payable for time spent travelling.

### **99. Provision of Transport in Conjunction with Working of Overtime**

- 99.1 For the purpose of this clause, departure or arrival after 8.00 p.m. will determine whether the provisions of this clause apply.

Departure or arrival after 8.00 p.m. of an employee on overtime or a regular or rotating shift roster does not in itself warrant the provision of transport. It needs to be demonstrated that the normal means of transport, public or otherwise, is not reasonably available and/or that travel by such means of transport places the safety of the employee at risk.

The responsibility of deciding whether the provision of assistance with transport is warranted in the circumstances set out above rests with administrative units of Departments where knowledge of each particular situation will enable appropriate judgements to be made.

- 99.2 Arrangement of Overtime

Where overtime is required to be performed, it should be arranged, as far as is reasonably possible, so that the employee can use public transport or other normal means of transport to and from work.

- 99.3 Provision of Taxis

Where an employee:

99.3.1 ceases overtime duty after 8.00 p.m., or

99.3.2 ceases or commences duty performed as part of a regular or rotating roster of shift duty after 8.00 p.m.,

and public transport or other normal means of transport is not reasonably available, arrangements may be made for transport home or to be provided by way of taxi.

## **SECTION 9 - MISCELLANEOUS**

### **100. Anti-Discrimination**

- 100.1 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.
- 100.2 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.
- 100.3 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.
- 100.4 Nothing in this clause is to be taken to affect:
- 100.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;

- 100.4.2 offering or providing junior rates of pay to persons under 21 years of age;
  - 100.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - 100.4.4 a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- 100.5 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.
- 100.5.1 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
  - 100.5.2 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."

### **101. Secure Employment**

#### 101.1 Work Health and Safety

- 101.1.1 For the purposes of this subclause, the following definitions will apply:
- (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply employees employed or engaged by it to another employer for the purpose of such employees performing work or services for that other employer.
  - (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- 101.1.2 Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises will do the following (either directly, or through the agency of the labour hire or contract business):
- (a) consult with employees of the labour hire business and/or contract business regarding the workplace work health and safety consultative arrangements;
  - (b) provide employees of the labour hire business and/or contract business with appropriate work health and safety induction training including the appropriate training required for such employees to perform their roles safely;
  - (c) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (d) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- 101.1.3 Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Work Health and Safety Act 2011* or the *Workplace Injury Management and Workers Compensation Act 1998*.

### 101.2 Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter will be dealt with pursuant to the disputes settlement procedure of this award.

101.3 This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations.

## 102. Existing Entitlements

The provisions of this award will not affect any entitlements existing in a Department or section of a Department at the time this award is made, if such provisions are better than the provisions contained in this award. Such entitlements are hereby expressly preserved until renegotiated with the Association.

## 103. Area, Incidence and Duration

103.1 The provisions of this award will apply to those employees as set out in clause 6.

103.2 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 I.G. 359) take effect on and from 17 October 2022.

103.3 Changes made to this award subsequent to it first being published on 31 July 2009 (368 I.G. 884) have been incorporated into this award as part of the review.

103.4 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 - Rates and Allowances**

NB: In adjusting expense related and salary related allowances, annual rates are adjusted to the nearest dollar, weekly and daily rates are rounded to the nearest 5 cents, and hourly rates are moved to the nearest cent (except for the flying allowance which is moved to the nearest 10 cents).

**Effective 1 July 2022**

Item No	Clause No	Description	Amount
1		<b>Meal expenses on one day journeys</b>	
		<b>Capital cities and high cost country centres</b> (see list in item 2)	
	29.1.1	Breakfast	\$29.90
	29.1.2	Dinner	\$57.30
	29.1.3	Lunch	\$33.65
		<b>Tier 2 and other country centres</b> (see list in item 2)	
	29.1.1	Breakfast	\$26.80
	29.1.2	Dinner	\$52.75

<b>Item No</b>	<b>Clause No</b>	<b>Description</b>	<b>Amount</b>
	29.1.3	Lunch	\$30.60
<b>2</b>		<b>Travelling allowances</b>	

	26.8.2	<b>Capital cities</b>	<b>Per day (inclusive of accommodation, meals, and incidental expenses allowance)</b>
		Adelaide	\$299.15
		Brisbane	\$317.15
		Canberra	\$310.15
		Darwin	\$362.15
		Hobart	\$289.15
		Melbourne	\$315.15
		Perth	\$322.15
		Sydney	\$340.15
	26.8.2	<b>High cost country centres</b>	<b>Per day (inclusive of accommodation, meals, and incidental expenses allowance)</b>
		Albany (WA)	\$321.15
		Alice Springs (NT)	\$292.15
		Armidale (NSW)	\$289.15
		Ballarat (VIC)	\$301.15
		Bathurst (NSW)	\$283.15
		Bega (NSW)	\$287.15
		Benalla (VIC)	\$285.15
		Bendigo (VIC)	\$282.15
		Bordertown (SA)	\$291.15
		Bourke (NSW)	\$307.15
		Bright (VIC)	\$309.15
		Broken Hill (NSW)	\$294.15
		Broome (WA)	\$362.15
		Bunbury (WA)	\$299.15
		Bundaberg (QLD)	\$289.15
		Burnie (TAS)	\$306.15
		Cairns (QLD)	\$305.15
		Carnarvon (WA)	\$298.15

	Castlemaine (VIC)	\$288.15
	Chinchilla (QLD)	\$285.15
	Christmas Island (WA)	\$340.15
	Cobar (NSW)	\$286.15
	Cocos (Keeling) Islands (WA)	\$473.15
	Coffs Harbour (NSW)	\$290.15
	Colac (VIC)	\$280.15
	Dalby (QLD)	\$319.15
	Dampier (WA)	\$317.15
	Derby (WA)	\$312.15
	Devonport (TAS)	\$300.15
	Dubbo (NSW)	\$290.15
	Emerald (QLD)	\$298.15
	Esperance (WA)	\$304.15
	Exmouth (WA)	\$332.15
	Geelong (VIC)	\$291.15
	Geraldton (WA)	\$307.15
	Gladstone (QLD)	\$297.15
	Gold Coast (QLD)	\$351.15
	Gosford (NSW)	\$287.15
	Griffith (NSW)	\$280.15
	Halls Creek (WA)	\$312.15
	Hervey Bay (QLD)	\$299.15
	Horn Island (QLD)	\$437.15
	Horsham (VIC)	\$296.15
	Jabiru (NT)	\$358.15
	Kalgoorlie (WA)	\$314.15
	Karratha (WA)	\$357.15
	Katherine (NT)	\$304.15
	Kununurra (WA)	\$346.15
	Launceston (TAS)	\$285.15
	Lismore (NSW)	\$286.15
	Mackay (QLD)	\$303.15
	Maitland (NSW)	\$305.15
	Mount Gambier (SA)	\$284.15
	Mount Isa (QLD)	\$310.15
	Mudgee (NSW)	\$306.15
	Muswellbrook (NSW)	\$299.15
	Newcastle (NSW)	\$327.15
	Newman (WA)	\$381.15
	Nhulunbuy (NT)	\$372.15
	Norfolk Island (NSW)	\$332.15



		Northam (WA)	\$331.15
		Nowra (NSW)	\$289.15
		Orange (NSW)	\$318.15
		Port Hedland (WA)	\$317.15
		Port Lincoln (SA)	\$312.15
		Port Macquarie (NSW)	\$312.15
		Port Pirie (SA)	\$292.15
		Queanbeyan (NSW)	\$281.15
		Queenstown (TAS)	\$278.15
		Rockhampton (QLD)	\$281.15
		Roma (QLD)	\$288.15
		Shepparton (VIC)	\$292.15
		Swan Hill (VIC)	\$296.15
		Tennant Creek (NT)	\$288.15
		Toowoomba (QLD)	\$286.15
		Thursday Island (QLD)	\$400.15
		Townsville (QLD)	\$285.15
		Wagga Wagga (NSW)	\$296.15
		Wangaratta (VIC)	\$300.15
		Weipa (QLD)	\$332.15
		Whyalla (SA)	\$287.15
		Wilpena-Pound (SA)	\$335.15
		Wollongong (NSW)	\$300.15
		Wonthaggi (VIC)	\$302.15
		Yulara (NT)	\$582.15
	26.8.2	<b>Tier 2 country centres</b>	<b>Per day (inclusive of accommodation, meals, and incidental expenses allowance)</b>
		Albury (NSW)	\$265.45
		Ararat (VIC)	\$265.45
		Ayr (QLD)	\$265.45
		Bairnsdale (VIC)	\$265.45
		Ceduna (SA)	\$265.45
		Charters Towers (QLD)	\$265.45
		Cooma (NSW)	\$265.45
		Cowra (NSW)	\$265.45
		Echuca (VIC)	\$265.45
		Goulburn (NSW)	\$265.45
		Grafton (NSW)	\$265.45
		Gunnedah (NSW)	\$265.45
		Hamilton (VIC)	\$265.45

		Innisfail (QLD)	\$265.45
		Inverell (NSW)	\$265.45
		Kadina (SA)	\$265.45
		Kingaroy (QLD)	\$265.45
		Maryborough (QLD)	\$265.45
		Mildura (VIC)	\$265.45
		Nambour (QLD)	\$265.45
		Naracoorte (SA)	\$265.45
		Narrabri (NSW)	\$265.45
		Port Augusta (SA)	\$265.45
		Portland (VIC)	\$265.45
		Renmark (SA)	\$265.45
		Sale (VIC)	\$265.45
		Seymour (VIC)	\$265.45
		Tamworth (NSW)	\$265.45
		Taree (NSW)	\$265.45
		Tumut (NSW)	\$265.45
		Warrnambool (VIC)	\$265.45
		Wodonga (VIC)	\$265.45
	26.8.2	<b>Other country centres</b>	\$249.45
	26.8.2	<b>Incidental expenses when claiming actual expenses - all locations</b>	\$21.30
	26.11	<b>Daily allowance payable after 35 days and up to 6 months in the same location - all locations</b>	50% of the appropriate location rate
<b>3</b>	26.8.1	<b>Incidental expenses</b>	\$21.30
<b>4</b>		<b>Camping allowance</b>	<b>Per night</b>
	34.2.1	Established camp	\$35.90
	34.2.2	Non- established camp	\$47.45
		Additional allowance for staff who camp in excess of 40 nights per year	\$11.40
<b>5</b>	35.2	<b>Composite allowance (per day)</b>	\$171.20
<b>6</b>		<b>Use of private motor vehicle</b>	<b>Cents per kilometre</b>
	36.3	<b>Official business</b>	78.0
	36.3	<b>Casual rate (40% of official business rate)</b>	31.2
		<b>Motorcycle allowance (50% of the official business rate)</b>	39.0

	36.7	<b>Towing trailer or horse float</b> (13% of the official business rate)	10.14
<b>7</b>		<b>Camping equipment allowance</b>	<b>Per night</b>
	38.2	Camping equipment allowance	\$35.60
	38.3	Bedding and sleeping bag	\$5.95
<b>8</b>		<b>Remote areas allowance</b>	<b>Per annum</b>
		<b>With dependants</b>	
	39.2.1	- Grade A	\$2,271 pa
	39.2.2	- Grade B	\$3,013 pa
	39.2.3	- Grade C	\$4,023 pa
		<b>Without dependants</b>	
	39.2.1	- Grade A	\$1,586 pa
	39.2.2	- Grade B	\$2,041 pa
	39.2.3	- Grade C	\$2,818 pa
<b>9</b>	40.1	<b>Assistance to staff members stationed in a remote area when travelling on recreation leave</b>	
		<b>By private motor vehicle</b>	Appropriate casual rate up to a maximum of 2850 kms less \$56.00
		<b>Other transport - with dependants</b>	Actual reasonable expenses in excess of \$56.00 and up to \$375.05
		<b>Other transport - without dependants</b>	Actual reasonable expenses in excess of \$56.00 and up to \$185.25
		<b>Rail travel</b>	Actual rail fare less \$56.00
<b>10</b>	41	<b>Insurance cover</b>	Up to \$1,173
<b>11</b>	42.2	<b>Exchanges</b>	Actual cost
<b>12</b>	43.1	<b>Room at home used as office</b>	\$1,036 pa
<b>13</b>	92.1.1	<b>On-call (stand-by) and on-call allowance</b> (effective ffpp on or after 1 July 2022)	\$1.06 per hour
<b>14</b>	45	<b>Flying allowance</b> (effective ffpp on or after 1 July 2022)	\$22.80 per hour
<b>15</b>	46.1	<b>Uniforms, protective clothing, and laundry allowance</b>	\$5.40 per week
<b>16</b>	48.1	<b>Garage and carport allowance</b>	<b>Per annum</b>

		- Garage allowance	\$732 pa
		- Carport allowance	\$162 pa
<b>17</b>	50.1	<b>Community language allowance scheme</b> (effective ffpp on or after 1 July 2022)	<b>Per annum</b>
		- Base Level Rate	\$1,519 pa
		- Higher Level Rate	\$2,285 pa

<b>18</b>	51.1	<b>First aid allowance</b> (effective ffpp on or after 1 July 2022)	<b>Per annum</b>
		- Holders of basic qualifications	\$979 pa
		- Holders of current occupational first aid certificate	\$1,470 pa
<b>19</b>	94.1	<b>Overtime meal allowances</b>	<b>Effective 1 July 2022</b>
		Breakfast	\$33.25
		Lunch	\$33.25
		Dinner	\$33.25
		Supper	\$12.40

**Effective 1 July 2021**

<b>Item No</b>	<b>Clause No</b>	<b>Description</b>	<b>Amount</b>
<b>1</b>		<b>Meal expenses on one day journeys</b> <b>Capital cities and high cost country centres</b> (see list in item 2)	
	29.1.1	Breakfast	\$29.20
	29.1.2	Dinner	\$56.00
	29.1.3	Lunch	\$32.85
		<b>Tier 2 and other country centres</b> (see list in item 2)	
	29.1.1	Breakfast	\$26.15
	29.1.2	Dinner	\$51.50
	29.1.3	Lunch	\$29.85
<b>2</b>		<b>Travelling allowances</b>	
	26.8.2	<b>Capital cities</b>	<b>Per day</b> <b>(inclusive of accommodation, meals, and incidental expenses allowance)</b>
		Adelaide	\$295.65
		Brisbane	\$313.65

<b>Item No</b>	<b>Clause No</b>	<b>Description</b>	<b>Amount</b>
		Canberra	\$306.65
		Darwin	\$358.65
		Hobart	\$285.65
		Melbourne	\$311.65
		Perth	\$318.65
		Sydney	\$336.65

	26.8.2	<b>High cost country centres</b>	<b>Per day (inclusive of accommodation, meals, and incidental expenses allowance)</b>
		Albany (WA)	\$317.65
		Alice Springs (NT)	\$288.65
		Armidale (NSW)	\$ 285.65
		Ballarat (VIC)	\$292.65
		Bathurst (NSW)	\$279.65
		Bega (NSW)	\$283.65
		Benalla (VIC)	\$280.65
		Bendigo (VIC)	\$278.65
		Bordertown (SA)	\$287.65
		Bourke (NSW)	\$303.65
		Bright (VIC)	\$305.65
		Broken Hill (NSW)	\$290.65
		Broome (WA)	\$358.65
		Bunbury (WA)	\$293.65
		Burnie (TAS)	\$302.65
		Cairns (QLD)	\$301.65
		Carnarvon (WA)	\$294.65
		Castlemaine (VIC)	\$284.65
		Chinchilla (QLD)	\$281.65
		Christmas Island (WA)	\$336.65
		Cobar (NSW)	\$282.65
		Cocos (Keeling) Islands (WA)	\$469.65
		Coffs Harbour (NSW)	\$286.65
		Colac (VIC)	\$276.65
		Dalby (QLD)	\$315.65
		Dampier (WA)	\$313.65
		Derby (WA)	\$308.65

	Devonport (TAS)	\$296.65
	Emerald (QLD)	\$294.65
	Esperance (WA)	\$300.65
	Exmouth (WA)	\$328.65
	Geraldton (WA)	\$303.65
	Gladstone (QLD)	\$293.65
	Gold Coast (QLD)	\$347.65
	Gosford (NSW)	\$283.65
	Halls Creek (WA)	\$308.65
	Hervey Bay (QLD)	\$295.65
	Horn Island (QLD)	\$338.65
	Horsham (VIC)	\$292.65
	Jabiru (NT)	\$354.65
	Kalgoorlie (WA)	\$310.65
	Karratha (WA)	\$353.65
	Katherine (NT)	\$296.65
	Kununurra (WA)	\$342.65
	Launceston (TAS)	\$279.65
	Lismore (NSW)	\$282.65
	Mackay (QLD)	\$299.65
	Maitland (NSW)	\$293.65
	Mount Gambier (SA)	\$278.65
	Mount Isa (QLD)	\$306.65
	Mudgee (NSW)	\$297.65
	Muswellbrook (NSW)	\$295.65
	Newcastle (NSW)	\$323.65
	Newman (WA)	\$308.65
	Nhulunbuy (NT)	\$368.65
	Norfolk Island (NSW)	\$328.65
	Northam (WA)	\$283.65
	Nowra (NSW)	\$284.65
	Orange (NSW)	\$294.65
	Port Hedland (WA)	\$313.65
	Port Lincoln (SA)	\$308.65
	Port Macquarie (NSW)	\$308.65
	Port Pirie (SA)	\$288.65
	Queanbeyan (NSW)	\$277.65
	Queenstown (TAS)	\$274.65
	Roma (QLD)	\$280.65
	Shepparton (VIC)	\$288.65
	Swan Hill (VIC)	\$274.65
	Tennant Creek (NT)	\$284.65

		Toowoomba (QLD)	\$282.65
		Thursday Island (QLD)	\$338.65
		Townsville (QLD)	\$281.65
		Wagga Wagga (NSW)	\$290.65
		Wangaratta (VIC)	\$282.65
		Weipa (QLD)	\$276.65
		Whyalla (SA)	\$283.65
		Wilpena-Pound (SA)	\$331.65
		Wollongong (NSW)	\$293.65
		Wonthaggi (VIC)	\$290.65
		Yulara (NT)	\$578.65

	26.8.2	<b>Tier 2 country centres</b>	<b>Per day (inclusive of accommodation, meals, and incidental expenses allowance)</b>
		Albury (NSW)	\$262.10
		Ararat (VIC)	\$262.10
		Ayr (QLD)	\$262.10
		Bairnsdale (VIC)	\$262.10
		Bundaberg (QLD)	\$262.10
		Ceduna (SA)	\$262.10
		Charters Towers (QLD)	\$262.10
		Cooma (NSW)	\$262.10
		Cowra (NSW)	\$262.10
		Dubbo (NSW)	\$262.10
		Echuca (VIC)	\$262.10
		Geelong (VIC)	\$262.10
		Goulburn (NSW)	\$262.10
		Grafton (NSW)	\$262.10
		Griffith (NSW)	\$262.10
		Gunnedah (NSW)	\$262.10
		Hamilton (VIC)	\$262.10
		Innisfail (QLD)	\$262.10
		Inverell (NSW)	\$262.10
		Kadina (SA)	\$262.10
		Kingaroy (QLD)	\$262.10
		Maryborough (QLD)	\$262.10
		Mildura (VIC)	\$262.10
		Naracoorte (SA)	\$262.10
		Narrabri (NSW)	\$262.10
		Port Augusta (SA)	\$262.10
		Portland (VIC)	\$262.10

		Renmark (SA)	\$262.10
		Rockhampton (QLD)	\$262.10
		Sale (VIC)	\$262.10
		Seymour (VIC)	\$262.10
		Tamworth (NSW)	\$262.10
		Taree (NSW)	\$262.10
		Tumut (NSW)	\$262.10
		Warrnambool (VIC)	\$262.10
		Wodonga (VIC)	\$262.10
	26.8.2	<b>Other country centres</b>	\$246.10
	26.8.2	<b>Incidental expenses when claiming actual expenses - all locations</b>	\$20.60

	26.11	<b>Daily allowance payable after 35 days and up to 6 months in the same location - all locations</b>	50% of the appropriate location rate
<b>3</b>	26.8.1	<b>Incidental expenses</b>	\$20.60
<b>4</b>		<b>Camping allowance</b>	<b>Per night</b>
	34.2.1	Established camp	\$34.40
	34.2.2	Non- established camp	\$45.45
		Additional allowance for staff who camp in excess of 40 nights per year	\$10.90
<b>5</b>	35.2	<b>Composite allowance (per day)</b>	\$164.00
<b>6</b>		<b>Use of private motor vehicle</b>	<b>Cents per kilometre</b>
	36.3	<b>Official business</b>	72.0
	36.3	<b>Casual rate (40% of official business rate)</b>	28.8
		<b>Motorcycle allowance (50% of the official business rate)</b>	36.0
	36.7	<b>Towing trailer or horse float (13% of the official business rate)</b>	9.36
<b>7</b>		<b>Camping equipment allowance</b>	<b>Per night</b>
	38.2	Camping equipment allowance	\$34.10
	38.3	Bedding and sleeping bag	\$5.70
<b>8</b>		<b>Remote areas allowance</b>	<b>Per annum</b>
		<b>With dependants</b>	
	39.2.1	- Grade A	\$2,175 pa
	39.2.2	- Grade B	\$2,886 pa
	39.2.3	- Grade C	\$3,853 pa
		<b>Without dependants</b>	
	39.2.1	- Grade A	\$1,519 pa



	39.2.2	- Grade B	\$2,023 pa
	39.2.3	- Grade C	\$2,699 pa
<b>9</b>	40.1	<b>Assistance to staff members stationed in a remote area when travelling on recreation leave</b>	
		<b>By private motor vehicle</b>	Appropriate casual rate up to a maximum of 2850 kms less \$53.65
		<b>Other transport - with dependants</b>	Actual reasonable expenses in excess of \$53.65 and up to \$359.25
		<b>Other transport - without dependants</b>	Actual reasonable expenses in excess of \$53.65 and up to \$177.45
		<b>Rail travel</b>	Actual rail fare less \$53.65
<b>10</b>	41	<b>Insurance cover</b>	Up to \$1,173
<b>11</b>	42.2	<b>Exchanges</b>	Actual cost
<b>12</b>	43.1	<b>Room at home used as office</b>	\$992 pa
<b>13</b>	92.1.1	<b>On-call (stand-by) and on-call allowance</b> (effective ffpp on or after 1 July 2021)	\$1.02 per hour
<b>14</b>	45	<b>Flying allowance</b> (effective ffpp on or after 1 July 2021)	\$22.20per hour
<b>15</b>	46.1	<b>Uniforms, protective clothing, and laundry allowance</b>	\$5.15 per week
<b>16</b>	48.1	<b>Garage and carport allowance</b>	<b>Per annum</b>
		- Garage allowance	\$701 pa
		- Carport allowance	\$155 pa
<b>17</b>	50.1	<b>Community language allowance scheme</b> (effective ffpp on or after 1 July 2021)	<b>Per annum</b>
		- Base Level Rate	\$1,482 pa
		- Higher Level Rate	\$2,229 pa
<b>18</b>	51.1	<b>First aid allowance</b> (effective ffpp on or after 1 July 2021)	<b>Per annum</b>
		- Holders of basic qualifications	\$955 pa
		- Holders of current occupational first aid certificate	\$1,434 pa
<b>19</b>	94.1	<b>Overtime meal allowances</b>	<b>Effective 1 July 2021</b>
		Breakfast	\$32.50

		Lunch	\$32.50
		Dinner	\$32.50
		Supper	\$11.90

J. V. MURPHY, Commissioner  
D. SLOAN, Commissioner.  
J. WEBSTER, Commissioner.

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