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NEW SOUTH WALES  
**INDUSTRIAL GAZETTE**

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(043)

SERIAL C6545

**BOWLING AND GOLF CLUBS EMPLOYEES (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 1568 of 2007)

Before Commissioner Cambridge

4 March and 22 April 2008

**REVIEWED AWARD**

1. Insert in numerical order in the contents of the award published 15 April 2005 (350 I.G. 109), the following new clause number and subject matter:

4A. Secure Employment

2. Insert after clause 4, Terms of Engagement, the following new clause 4A.

**4A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of twelve months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part-time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) 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 staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) 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.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) 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
  - (4) 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.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) 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 established by the ANTA Ministerial Council.
3. Delete the second and third paragraph of clause 35, Area, Incidence and Duration and insert in lieu thereof the following:

This award applies to all employees classified in Clause 8, Rates of Pay, within the jurisdiction of the Bowling and Golf Clubs, &c., Employees (State) Industrial Committee, established 14 January 1993.

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 4 March 2008.

This award shall take effect from the first full pay period to commence on or after 21 July 2004 and shall remain in force for a period of 12 months

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

#### **Bowling and Golf Clubs, &c., Employees (State) Industrial Committee**

##### Industries and Callings

All persons engaged as greenkeepers, ground attendants, gardeners, propagators, lawn mower and motor roller drivers and general labourers in the construction and maintenance of bowling greens and golf courses in the State of New South Wales, excluding the County of Yancowinna;

excepting employees of -

Municipal and Shire and County Councils;

The Council of the City of Newcastle;

The Council of the City of Sydney;

Sydney Electricity;

Landscape Gardeners;

Master Gardeners;

excepting also persons within the jurisdiction of the -

Club Managers and Secretaries (State) Industrial Committee; Race Clubs, &c., Employees (State) Industrial Committee; Sydney Cricket and Sportsground Trust, &c., Employees (State) Industrial Committee; Club Employees (State) Industrial Committee.

I. W. CAMBRIDGE, Commissioner.

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(066)

SERIAL C6485

## BUILDING INDUSTRY - CONTRACT FLOOR LAYER MINIMUM RATE ORDER AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 1740 of 2007)

Before Commissioner Tabbaa

4 March 2008

### VARIATION

1. Delete clause 2, Rates of Payment, of the award published 29 April 2005 (350 I.G. 559), and insert in lieu thereof the following:

#### 2. Rates of Payment

##### Schedule Of Commercial Rates

	\$
Daily Minimum Charge	144.72
Hourly Rate	39.15
Fixing Rates	
Vinyl Tiles 20-49m <sup>2</sup>	6.78
50-100m <sup>2</sup>	5.41
100-249m <sup>2</sup>	4.06
250 and over	2.92
Sheet Vinyl (incl. Welding)	
20-49m <sup>2</sup>	7.67
50-249m <sup>2</sup>	5.26
250 and over	4.69
For Safety Vinyl and Corlon	1.69
For Safety Vinyl over 3mm	2.58
For Linoleum	2.58
Hardboard Underlay (including supply of staples by contractor)	
20-49m <sup>2</sup>	7.23
50m <sup>2</sup> and over	4.96
Restaple Hardboard m <sup>2</sup>	2.09
Hardboard Underlay on pineboard	
M2 Additional Rate	0.74
Decorative Tiles - VT rate + 50%	
Decorative Tiles - Borders and squares - Decorative Tile + 50%	
Cork Tile - laying out m <sup>2</sup>	9.10
PVC nosing Lin Metre	4.59
Aluminium Nosing to Timber per lm	6.21
Aluminium Nosing to Concrete per lm	10.55
Stair Treads per lm	5.60
Stair Risers per lm	5.60
Treads and Risers covered per lm	10.55
Ripple trims to timber per lm	3.11
Ripple trims to concrete per lm	5.60
100mm skirting per lm	2.43
150mm skirting per lm	3.04
100mm flat skirting over carpet or smoothedge - per lm	3.18

150mm flat skirting over carpet or smoothedge - per lm	3.57
Reducing and capping strip - per lm	2.76
Preform cove - per lm	2.12
Stringer to walls per lm	4.80
Stringer to stairs per lm	12.72
Cementuous skim coat 1mm	2.28
Smoothing compound (k15/k10)	2.76
Above two items include priming and sanding	
Cement based primer	2.25
Two pack primer	0.74
Grinding concrete - hourly rate	38.25
Acid etch etc - hourly rate	38.25
Fill expansion joints - hourly rate	38.25
Raking and cutting included in rates	
Cover sheet vinyl up to 100mm height per lm	5.60
Cover sheet vinyl over 100mm height per lm	6.21
Rubber tiles m2	10.48
Sheet Vinyl to walls (incl. Welding)	13.50
Bulletin Board m2	18.03
Take Ups	
Take up loose lay m2	1.73
Take up stuck m2	5.31
Take up PVA mr	8.77
Take up hardboard and coverings including removal of staples m2	
Take up stair tread nosing (PVC) - per lm	1.41
Take up stair tread nosing (Alum) - per lm	5.31
Bar Tops	43.73
Fares/Travel	
Travelling time outside metropolitan area per hour	32.47
Accommodation per day	103.79
Travelling per km return	0.97
Moving Furniture - Hourly Rate	38.25
Cancellation Fee	46.31

### SCHEDULE OF DOMESTIC FIXING RATES

Minimum Charge	\$
183cm x 2m vinyls (except inlaid) - 1m	19.57
183cm inlaid vinyl (if layer supplies template paper - 1m	24.01
274cm vinyl - 1m	27.15
366cm x 4m vinyl - 1m	32.43
Daytile with border and squares m2	14.63
Vinyl tiles m2	11.36
Hardboard m2	8.13
K10 and Ardit (labour only) m2	3.04
PVA (labour only) m2	12.01
Additional rate for stairs in addition to rate per metre - per stair	5.37
Cove skirting - 1m	4.81
Preform fillet - 1m	3.04
TAKE UPS:	22.58
Loose laid material per room	
Stuck down including hardboard m2	11.36
Direct to subfloor m2	15.07
Electrical appliances, removal and replace - per appliance	7.50
MINIMUM CHARGES (labour only) PVA:	
Laundry	141.41
Bathroom	141.41



Other areas (of total job etc)	80.80
Ardit Z8	80.80
Mastick K10	80.80
ACCESSORIES, TRIM ETC.	
Small - 1m	3.27
Large - 1m	3.11
To supply adhesive m2	1.05
CANCELLATION CHARGE: travel time to & from employers premises to site at hourly rate	
SERVICE CHARGE: If layer has to return to site to carry out rectification not own fault - hourly rate plus the service charge shown	46.31

2. Delete the amount of "\$36.99" appearing in paragraph 4.1(a), of clause 4, Compensation for Travel Patterns, Mobility Requirements of Contract Floor Layers and the Nature of Engagement in the Construction Work Covered by this Award, and insert in lieu thereof the following:
 

"\$39.15"
3. Delete amount of "\$98.05" appearing in subclause 5.1 of clause 5, Living Away from Home - Distant Work, and insert in lieu thereof the following:
 

"\$103.79"
4. Delete subclause 7.3 of clause 7, Adjustment of Rates, and insert in lieu thereof the following:
 

7.3 The rates of pay in this award include adjustments payable under the State Wage Case 2007. These adjustments may be offset against:

any equivalent overaward payments, and/or

award wage increases since May 1991 other than safety net, State Wage Case and minimum rates adjustments.
5. Delete the amount of "\$44.26" appearing in subclause 10.2 of clause 10, Rectification Work, and insert in lieu thereof the following:
 

"\$46.85"
6. Delete subclauses 17.4 and 17.5 of clause 17, Area, Incidence and Duration and insert in lieu thereof the following:
 

17.4 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 4 March 2008.

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

I. TABBAA, Commissioner.

**CLOTHING TRADES (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 1529 of 2007)

Before Commissioner Bishop

18 January 2008

**REVIEWED AWARD****PART A****Arrangement****PART A****1. Title**

This award shall be known as the Clothing Trades (State) Award.

**2. Arrangement**

Clause No.	Subject Matter
1.	Title
2.	Arrangement
3.	Locality
4.	Dispute Settlement Procedure
5.	Demarcation of Work
6.	Rates of Pay
7.	Absorption Commitment
8.	Skill Levels
9.	Apprentices or Improvers - Rates of Pay
10.	Apprenticeship and Improvership
11.	National Training Wage
12.	Aged, Infirm or Slow Workers
13.	Workers Eligible for a Supported Wage
14.	Hours of Employment
15.	Midday Meal Interval
16.	Overtime
17.	Meal Money
18.	Rest Period
19.	Mixed Functions
20.	Terms of Engagement
21.	Annual Leave
20A.	Deduction of Union Membership Fees
22.	Trade Union Training Leave
23.	Sick Leave
24.	Personal/Carer's Leave
25.	Payment by Results
26.	Casual Workers
26A.	Secure Employment
27.	Part-time Employees
28.	Holidays
29.	Payment for Work Done on Holidays

30. Payment for Work Done on Sundays
31. Contract Work
32. Outworkers
33. Registration of Employers
34. Entry and Inspection by Officers of Industrial Organisations
35. Time Book, Sheet or Records
36. Seating Accommodation
37. Amenities
38. First-aid Ambulance Chest
39. Award Posted
40. Industrial Committee
41. Shop Stewards and Representatives
42. Uniforms
43. Notice Boards
44. Protective Clothing
45. Tools of Trade
46. Disability Allowance
47. Bereavement Leave
48. Accident Pay
49. Jury Service
50. Blood Donors
51. Attendance at Hospital
52. Parental Leave
53. Introduction of Change
54. Redundancy
55. Superannuation
56. Enterprise Bargaining
57. Anti-Discrimination
58. Area, Incidence and Duration

Pseudo Clauses:

59. Appendix A - Form of Indenture of Apprenticeship
60. Appendix B - Form of Declaration - Amenities
61. Schedule A - Consultative Committees
62. Schedule B - Request to the Union by the Outworker to Reduce the Number of Hours Worked Part-time
63. Schedule C - Information to be Given to Outworkers
64. Schedule D - Broadbanding Arrangements\*

\*Former transitional wages classification system to facilitate the introduction of skill levels in 1994. Retained for historical reference only.

65. Schedule E - Procedure to be adopted in Developing an Enterprise Bargaining Agreement

PART B

MONETARY RATES

Table 1 - Rates of Pay

Table 2 - Other Rates and Allowances

**3. Locality**

This award shall apply in the State of New South Wales.

#### **4. Dispute Settlement Procedure**

Where a dispute arises, the following steps shall be taken:

- 4.1 Step One - As soon as practicable after the issue or claim has arisen, it shall be considered jointly by the appropriate supervisor, the worker or workers concerned and the Union delegate who shall attempt to settle the dispute.
- 4.2 Step Two - If the dispute is not resolved, the issue or claim shall be considered jointly by the appropriate senior management representative in conjunction with the Union delegate who shall attempt to settle the dispute.
- 4.3 Step Three - If the dispute is not resolved, the issue or claim shall be considered jointly by the employer and an official of the Union who shall attempt to settle the dispute.
- 4.4 Step Four - If the dispute is not resolved, the dispute may then be notified to the Industrial Relations Commission of New South Wales. The parties may request that the matter be dealt with in accordance with clause 40, Industrial Committee, or by a member of the Commission who shall resolve the dispute by conciliation or arbitration.

#### **5. Demarcation of Work**

##### 5.1

- 5.1.1 In the manufacture of knitted piece goods and (excepting babywear) the making up there from of suits, coats, trousers, culottes, frocks, dresses, dressing gowns, tracksuits, slack suits, blouses, shorts, and/or like garments:

Where the knitting and making up are carried out by one employer in the same establishment, the knitting work shall be subject to the Textile Industry (State) Award, and the work of making up to the Clothing Trades (State) Award.

- 5.1.2 In the manufacture of knitted piecegoods and the making up therefrom of all garments other than those specified in subclause 5.1.1:

Where the piecegoods are knitted by an employer and the making up is completed at the same or another establishment by that same employer, both the work of knitting of the piecegoods and making up shall be subject to the Textile Industry (State) Award.

- 5.1.3 In the manufacture of knitted piecegoods and the making up of all garments:

Where piecegoods are knitted by one employer and garments are made up by another employer the knitting shall be subject to the Textile Industry (State) Award and the work of making up shall be subject to the Clothing Trades (State) Award.

- 5.2 Provided that in an establishment where the making up of knitted piecegoods constitutes such a minor amount of the employer's total operations so as to render the observance of subclause 5.1.1 unreasonable the employer may, on application to the Industrial Relations Commission of New South Wales, be exempt from the obligation to observe the provisions of the Clothing Trades (State) Award.

#### **6. Rates of Pay**

- 6.1 Adult rates of pay shall be as set out in Table 1 - Rates of Pay, of Part B, Monetary Rates.
- 6.2 Where such an employee has been absent from duty in a week in circumstances entitling the employee's employer to deduct payment for the time of non-attendance, the employee shall be paid for the ordinary hours worked during such week at the rate of the said appropriate amount per week.

- 6.3 Calculations for overtime, payments by results rates, penalty rates, shift work and other payments under the award shall be made at the rate prescribed by subclause 6.1 for the classification in which the employee is employed.
- 6.4 For the purpose of this clause, "overaward payment" is defined as the amount (whether it be termed "overaward payment", "attendance bonus", "payment by results bonus", "service increment", or any term whatsoever) which an employee would receive in excess of the award rate specified in subclause 6.1.
- 6.5 Examiner - An examiner is an employee required to examine for faults in the construction of any garment or part of a garment made or being made by other employees.
- 6.6 An employee who is the head of a table or bench of machines in charge of 4 or more employees must be paid an amount above their skill level rate of pay as follows;
- 6.6.1 if working in connection with order tailoring or order dress making, the amount set out in Item 1 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates.
- 6.6.2 for all others, the amount set out in Item 2 of Table 2 - Other Rates and Allowances of Part B, Monetary Rates.

### **7. Absorption Commitment**

- 7.1 The rates of pay in this award include the adjustments payable under the State Wage Case 2007. These adjustments may be offset against:
- (i) any equivalent overaward payments; and/or
- (ii) award wage increases since 29 May 1991 other than safety net adjustments and minimum rates adjustments.
- 7.2 The rates in Table 1 - Rates of Pay, and the rates in Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, shall operate from the beginning of the first pay period to commence on or after 23 July 2007.

### **8. Skill Levels**

Trainee - Employees at this level:

- \* Shall be new entrants into the industry.
- \* Shall for a period of up to three months undergo approved (including induction) training so as to enable them to achieve the level of competence<sup>9</sup> required to be classified at Skill Level 1.
- \* Shall work under the following conditions:
  - Totally defined procedures and methods;
  - Constant direct supervision;
  - Constant direct training;
  - Progressive assessment and feedback.
- \* Training for new entrants will be determined in accordance with the needs of the enterprise, but shall involve instruction aimed at assisting trainees to achieve the range of competencies required at Skill Level 1, including:

- The knowledge and skills required to apply relevant Occupational Health and Safety practices and procedures.
- The knowledge and skills required to apply specified quality control<sup>20</sup> standards to their own work.
- The knowledge and skills required to apply specified operation practices and procedures and to meet efficiency requirements.
- The knowledge and skills required to apply minor equipment/machine maintenance<sup>17</sup> relevant to the equipment involved in the performance of their own work.

Skill Level 1 - Employees at this level:

1. Shall work to defined procedures/methods<sup>14</sup> either individually or in a team environment; and
2. Shall exercise skills to perform basic tasks<sup>1</sup>; and
3. Shall be aware of and apply basic quality control skills in the receipt and completion of their own work to the specified quality standards<sup>23</sup>  
In addition, according to the needs and operational requirements of the enterprise, employees at this level
4. May be required to exercise the skills necessary to assist in providing basic on-the-job instruction<sup>18</sup> by way of demonstration and explanation;
5. May be required to record basic information on production and/or quality indicators<sup>22</sup> as required;
6. May be required to work in a team environment<sup>24</sup>;
7. May be required to apply minor equipment/machine maintenance;
8. May be required to exercise key pad skills<sup>11</sup>;
9. May be required to exercise the level of English literacy and numeracy skills to effectively perform their tasks;
10. May commence training in additional skills required to advance to a higher skill level.

Skill Level 2 - Employees at this level exercise the skills required to be graded at Skill Level 1; and

1. Shall work to defined procedures/methods, either individually or in a team environment; and
2. Shall exercise the skills to perform intermediate tasks<sup>2</sup>; and
3. Shall understand and apply quality control skills in their own work and component parts<sup>10</sup> (including understanding of the likely cause(s) of deviations to specified quality standards in their own work).  
In addition, according to the needs and operational requirements of the enterprise, employees at this level:
4. May be required to exercise the skill necessary to assist in providing on-the- job instruction to employees in skills required at Skill Level 2 and below by way of demonstration and explanation;
5. May be required to record detailed information in production and/or quality indicators as required;
6. May be required to exercise team work skills;

7. May be required to identify and rectify minor equipment/machine faults, and report problems that cannot be rectified to a mechanic or supervisor;
8. May be required to exercise basic computer skills <sup>12</sup>;
9. May commence training in additional skills required to advance to a higher skill level.

Skill Level 3 - Employees at this level exercise the skills required to be graded at Skill Level 2; and

1. Shall exercise discretion, initiative and judgement on the job in their own work, either individually or in a team environment; and
2. Shall exercise skills to:
  - (a) perform a complex task(s) <sup>3</sup> or
  - (b) perform a series of different operations on a machine(s) <sup>4,5</sup> or
  - (c) use a variety of machine types <sup>6</sup> three of which require the exercise of level 2 skills and
3. (a) Shall be responsible for quality assurance<sup>19</sup> in their own work and assembly of component parts including having an understanding of how this work relates to subsequent production processes and its contribution to the final appearance of the garment.  
In addition, according to the needs and operational requirements of the enterprise, employees at this level:
  - (b) May be required to investigate causes of quality deviations <sup>21</sup> to specified standards and recommend preventative action.
4. May be required to exercise the skills necessary to assist in providing on-the-job instruction to employees in skills required at Skill Level 3 and below by way of demonstration and explanation.
5. May be required to record detailed information on, and recommend improvements to, production and/or quality.
6. May be required to take a co-ordinating role <sup>13</sup> for a group of workers or in a team environment (which includes contributing to the identification and resolution of the problems of others and assisting in defining work group procedures and methods), where the members of the group or team are at Skill Level 3 and below.
7. May be required to exercise advanced equipment maintenance and problem solving skills (including identification of major equipment faults).
8. May commence training in additional skills required to advance to a higher skill level.

Skill Level 4 - Employees at this level exercise the skills required to be graded at Skill Level 3 and have a comprehensive knowledge of product construction. Employees at this level shall also:

\* Apply skills and knowledge, equivalent to that of a qualified tradesperson, that have been acquired as a result of training or experience; or

\* Hold a relevant trade certificate; and

1. Shall work largely independently <sup>15</sup> (including developing and carrying out of a work plan to specifications), and
2. Shall exercise a range of skills involving planning, investigation and resolution of problems, and/or training and/or supervision, and/or specialised technical tasks, or shall make a whole garment to specifications, or exercise equivalent skills <sup>7</sup>.  
In addition, according to the needs and operational requirements of the enterprise, employees at this level:

3. May be required to apply quality control/assurance techniques to their work group or team.
4. May have designated responsibility<sup>16</sup> for the training of other employees (and if so shall be trained trainers).
5. May be responsible for quality and production records relating to their own work group or team.
6. May be required to take a co-ordinating role for a group of workers or in a team environment (which includes contributing to the identification and resolution of the problems of others and assisting in defining work group procedures and methods), where the members of the group or team are at Skill Level 4 and below.
7. May be required to exercise advanced equipment maintenance and problem solving skills (including identification of major equipment faults and organisation or performance of necessary repair).
8. May commence training in additional skills required to advance to a higher skill level.

#### Explanation of Terms -

1. **Basic Tasks** - Uncomplicated tasks which are easily learned and involve little decision making whether machine or non- machine.  
Basic machine tasks are those where the positioning of the work may be controlled by guidebars and sensor lights, or other such guiding devices or where there is uncomplicated feeding of the fabric.
2. **Intermediate Tasks** - Tasks which are more difficult to learn, involve more decision making than Skill Level 1 tasks and which may require fabric knowledge, whether machine or non-machine. Intermediate machine tasks require skill in positioning, feeding and handling of work involving directional changes, contouring or critical stopping points, or require feeding and handling skills beyond those of a Skill Level 1 operator because of fabric variation. Intermediate non-machine tasks require skills to perform a sequence of related tasks.
3. **Complex Tasks** - Tasks which are more difficult to learn and involve a higher level of decision making than Skill Level 2 tasks, whether machine or non-machine. Complex machine tasks require fabric manipulation skills and knowledge beyond those of a Skill Level 2 operator to perform more difficult tasks or to handle and align the sections while ensuring correct shaping of the end result because of the complexity of combining parts or because of frequent variation in fabrics.
4. **Series of different operations on a machine(s)** - Performing a sequence of different operations on a machine(s) to complete the majority of a complex garment.
5. **Machine** - Any piece of equipment which performs a significant part of an operation in:  
designing/grading of patterns;  
marker spreading;  
spreading of fabric;  
cutting, sewing, finishing, pressing and packaging of products,  
and which is powered by an external source, i.e., electricity, steam or compressed air or combinations of these.  
Hand tools are not machines and refer to those items which are primarily powered by the operator, e.g., scissors, shears, staplers, tagging guns and tape dispensers.
6. **Variety of machine types** - Three or more different types of machines which are sufficiently different in their operation to require the exercise of different skills (i.e., a button holer and a button sewer are the same machine type for this purpose, whereas a button holer and an overlocker are different machine types).



7. Whole garment machinist or equivalent skills - A machinist who works largely independently in producing a complex garment from written specifications and patterns. Examples of "equivalent skills" include:  
  
sample machinist;  
  
a machinist who performs each of the operations required to complete a complex whole garment from specifications;  
  
a fully multi-skilled machinist who is required to perform any of the operations involved in the making of a complex whole garment to specification.
8. Skill - The application of a combination of abilities, knowledge and attributes to competently perform a given activity or activities.
9. Competence - The ability to perform a particular activity or activities to a prescribed standard (or standards) and under a prescribed set of circumstances.
10. Component parts - The parts of the product which the operator receives in order to perform the operator's job.
11. Key pad skills - Ability to use a small panel of keys, either numerical or with symbols, to operate equipment.
12. Basic computer skills - Use of a computer to enter, retrieve and interpret data.
13. Co-ordinating role - A role which involves responsibility for organising and bringing together the work and resource requirements of a work group or team.
14. Defined procedures/methods - Specific instructions outlining how an operator is to do the operator's job.
15. Largely independently - Where the employee is accountable for the employee's own results including:  
  
carrying out assigned task;  
  
co-ordinating processes;  
  
setting and working to deadlines.
16. Designated responsibility - Identified by management as a person with a specific role or responsibility.
17. Minor equipment/machine maintenance - Includes cleaning and minor adjustments to the equipment involved. In the case of sewing machines, for example, it may include:  
  
changing needles;  
  
cleaning;  
  
lubrication;  
  
tension and stitch adjustment.
18. On-the-job instruction - Demonstrating, showing, explaining and/or guiding other employees as to how to perform a particular task or operation to a competent standard.

19. Quality assurance - The overall system and plans used to provide confidence that goods and services will satisfy given requirements.
20. Quality control - The activities used to check that materials and products meet quality specification; includes the grading of product into acceptable and unacceptable categories.
21. Quality deviations - Departures from a quality standard.
22. Quality indicators - Information used to determine whether a quality standard has been met.
23. Specified quality standards - Detailed standards against which quality is measured.
24. Team environment - An environment involving work arrangements in which a group of people work closely, flexibly and in co-operation with each other to ensure efficient and effective performance.

### 9. Apprentices Or Improvers - Rates of Pay

The minimum weekly rates of wages to be paid to apprentices or improvers shall be as follows:

#### 9.1 Apprentices - All groups in the industry -

	Percentage of Skill Level 4
1st year -	
1st six months	50
2nd six months	55
2nd year -	
1st six months	60
2nd six months	65
3rd year -	
1st six months	70
2nd six months	75
4th year -	
1st six months	80
2nd six months	85
Thereafter - the appropriate adult rate.	

#### 9.2 Improvers - All groups in the industry -

	Percentage of Skill Level 2
16 years and under	50
16.5 years	55
17 years	60
17.5 years	65
18 years	69
18.5 years	72
19 years	75
19.5 years	80
20 years	85

The percentage wages set out in subclauses 9.1 and 9.2 shall be calculated in multiples of 5 cents, amounts of 2 cents or less being taken to the lower multiple and amounts in excess of 2 cents being taken to the higher multiple. Provided that any improver:

- 9.2.1 with at least three years' and not more than four years' experience in the clothing trades industry shall be paid not less than the percentage of the appropriate rate for a 20 year old improver;
  - 9.2.2 after four years' experience in the clothing trades industry shall be paid the appropriate rate for an adult employee respectively in the classification in which the employee is employed;
  - 9.2.3 having attained 20 years of age and who has had more than two years' experience in the clothing trades industry shall be paid the appropriate adult rate.
- 9.3 Time served by an apprentice or improver in the clothing trades industry or similar experience in the textile industry or in any full-time government sponsored training course which is approved by the appropriate State Industry Training Committee shall be counted as experience for the purpose of apprenticeship or improvership, both as regards wages and the terms to be served in respect of the continuation of the employment of such apprentice or improver. Provided that such person having attained the age of 21 years shall, unless that person is the holder of a permit granted pursuant to clause 12, Aged, Infirm or Slow Workers, be paid the wage herein prescribed for an adult employee.
- 9.4 Limitation - only employees of skill level 3 or greater shall work on a Hoffman type manually operated press.

## **10. Apprenticeship and Improvership**

### 10.1 Apprenticeship

10.1.1 Subject to subclause 10.2 an employer shall not employ improvers in the following classifications of this award otherwise than under an indenture of apprenticeship as hereinafter provided:

Group A - Order Tailoring for Males - Adult Classification -  
Cutter marking in and/or cutting out  
Tailor or tailoress (as defined)

Group B - Order Tailoring for Females - Adult Classification -  
Cutter marking in and/or cutting out  
Tailor or tailoress (as defined)

10.1.2 Employees other than those referred to in subclause 10.1.1 may be apprenticed, and if engaged as apprentices shall be engaged under an indenture of apprenticeship.

10.1.3 Apprentices shall be indentured in accordance with Appendix "A" (Form of Indenture of Apprenticeship) and the said indenture shall be subject to any variation hereof. A copy of the indenture shall be lodged by the employer with the Industrial Registrar.

10.1.4 It shall be the duty of the employer to see that the form of indenture of any apprentice is duly completed and to deliver to the apprentice a complete original copy within seven days of it being signed by the parties.

10.1.5 The proportion of apprentices who may be taken on by an employer shall be one to each employee of the classification referred to in subclause 10.1.1 receiving the adult rate.

10.1.6 The term of an apprenticeship shall be four years.

10.1.7 Juniors may be taken on probation for three months and, if apprenticed, such time shall count as part of the term of apprenticeship.

- 10.1.8 An apprentice who cannot complete the full term of apprenticeship before reaching their twenty-second birthday may, by agreement with the employer, serve as an apprentice until the apprentice reaches the age of 23 years.
- 10.1.9 An indenture of apprenticeship may be assigned, suspended or cancelled:
- (i) by mutual consent of the parties after seven days' notice by either party; or
  - (ii) by the employer (subject to the approval of the Industrial Committee) if through lack of orders or financial difficulties:
    - (1) the employer is unable to find suitable employment for the employer's apprentice; or
    - (2) the employer is desirous of transferring the apprentice to another employer but such transfer cannot be arranged; or
  - (iii) by the Industrial Committee.
- 10.1.10 Where existing indentures are inconsistent with indentures herein prescribed the existing indentures shall be deemed to be amended accordingly.
- 10.1.11 Attendance at Technical Schools - Apprentices attending technical colleges or schools and presenting reports of satisfactory conduct shall be reimbursed all fees paid by them.
- 10.1.12 Operation of State Laws - In New South Wales any statute relating to apprentices or any authority with statutory power which has issued or may issue any regulations relating to apprentices, including any provisions relating to proficiency payments, shall operate provided that the provisions thereof are not inconsistent with this award.

The provisions of any statute, award or regulation relative to the attendance of apprentices at technical schools during ordinary working hours or to disciplinary powers of apprenticeship authorities over apprentices and employer shall not be deemed to be inconsistent with this award.

- 10.2 Improvership - Subject to subclause 10.1.1 improvers may be employed by an employer in any section of the industry. The proportion of improvers who may be employed by an employer shall be: two to each employee within that classification receiving the adult rate.
- 10.3 Calculation of Proportion - In calculating the proportion of the number of employees receiving the adult rate working proprietors shall be included. Each classification shall be considered separately and a proprietor shall be counted in only one classification.

## **11. State Training Wage**

The parties to this award shall observe the terms of the Training Wage (State) Award 2002, as amended. Each breach of the Training Wage (State) Award 2002 is a distinct and separate breach of this clause.

## **12. Aged, Infirm Or Slow Workers**

- 12.1 Any person who by reason of age, inability or infirmity is not capable of performing all the duties ordinarily required of the person's position may be employed at a rate less than the rate fixed in this award with the consent in writing of the Secretary of the Union or the Industrial Registrar or Deputy Industrial Registrar. The consent must state the name of the person to be employed, the nature of the proposed employment, the name of the employer, the wages to be paid and the grounds upon which the consent is given. Each consent shall relate to one employee only and shall state a term of not longer than six months.
- 12.2 When the Industrial Registrar or Deputy Industrial Registrar has issued a permit, the Industrial Registrar or Deputy Industrial Registrar (as the case may be) shall notify the Secretary of the Union.

### 13. Workers Eligible for a Supported Wage

13.1 This clause defines the conditions which will apply to employees who, because of the effects of a disability, are eligible for a supported wage under the terms of this award. In the context of this clause, the following definitions will apply:

13.1.1 "Supported Wage System" means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in "Supported Wage System: Guidelines and Assessment Process".

13.1.2 "Accredited assessor" means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's production capacity within the Supported Wage System.

13.1.3 "Disability support pension" means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.

13.1.4 "Assessment instrument" means the forms provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

13.2 Eligibility Criteria - Employees covered by this clause will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension. This clause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provisions of this award relating to the rehabilitation of employees who are injured in the course of their current employment.

This award does not apply to employers in respect of their facility, program, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under section 10 or section 12(A) of the *Disability Services Act 1986* or, if a part only has received recognition, that part.

13.3 Supported Wage Rates - Employees to whom this clause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award for the class of work which the person is performing, according to the following schedule:

Percentage Assessed Capacity (subclause 13.4)	Percentage of Prescribed Award Rate
*10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

(Provided that the minimum amount payable shall not be less than \$53 per week.)

\*Where a person's assessed capacity is 10 per cent, they shall receive a high degree of assistance and support.

- 13.4 Assessment of Capacity - For the purpose of establishing the percentage of the award rate to be paid to an employee under this award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:
- 13.4.1 the employer and the Union in conjunction with the employee or, if desired by any of these:
- 13.4.2 the employer and an accredited assessor from a panel agreed by the parties to the award and the employee.
- 13.5 Lodgement of Assessment Instrument
- 13.5.1 All assessment instruments under the conditions of this clause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Industrial Relations Commission of New South Wales.
- 13.5.2 All assessment instruments shall be agreed and signed by the parties to the assessment; provided that, where the Union is not a party to the assessment, it shall be referred by the said Registrar to the Union by certified mail and shall take effect unless an objection is notified to the Registrar within ten working days.
- 13.6 Review of Assessment - The assessment of the applicable percentage should be subject to annual review, or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.
- 13.7 Other Terms and Conditions of Employment - Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the provisions of this clause shall be entitled to the same terms and conditions of employment as all other workers covered by this award paid on a pro rata basis.
- 13.8 Workplace Adjustment - An employer wishing to employ a person under the provisions of this clause shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve redesign of job duties, working time arrangements and work organisation, in consultation with other workers in the area.
- 13.9 Trial Period -
- 13.9.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this clause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- 13.9.2 During the trial period, the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship will be determined.
- 13.9.3 The minimum amount payable to the employee during the trial period shall be no less than \$53 per week.
- 13.9.4 Work trials should include induction or training as appropriate to the job being trialled.
- 13.9.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under subclause 13.4.
- 13.10 Provided that any person currently employed under the provisions of clause 12, Aged, Infirm or Slow Workers, at a rate fixed with the consent of the Secretary of the Union or of the Industrial Committee should continue to be paid at that rate as if the insertion of this clause had not been made.

## 14. Hours of Employment

### 14.1

14.1.1 Subject to any clause of this award which prescribes otherwise, all employees other than casual employees and part-time employees shall be engaged by the week. Except where an arrangement has been made in accordance with 14.1.2, 38 hours shall constitute a week's work to be worked within five days, Monday to Friday, inclusive, and within the following hours: time of beginning 6.00 a.m. time of ending 6.00 p.m. No employee shall be rostered for duty for longer than eight hours without payment of overtime unless an arrangement has been made in accordance with the last proviso to this subclause. Provided further that any other starting and finishing times, other than those herein prescribed, and the number of hours in excess of eight on any day which may be worked without the payment of overtime, may be agreed upon by the employer and at least 75 per cent of the employees concerned and assented to by the Union in writing or as approved by the Industrial Committee.

14.1.2 Subject to the daily limitations prescribed in subclause 14.1.1, where the employer and a majority of employees agree, the hours of work may be arranged by any one of the following methods:

- (i) By working shorter hours on one or more days of each week.
- (ii) Fix a day on which all employees will be off during a particular work cycle.
- (iii) Roster employees off on various days of the week during a particular work cycle.
- (iv) Where employees are entitled to a rostered day or days off in accordance with subclauses 14.1.2(ii) or 14.1.2(iii), the employer shall notify such employees at least four weeks in advance of the weekday the employee is to take off. Where an employee has not accumulated a full day's entitlement when a rostered day off occurs, such employee shall for that day receive payment for the actual time accrued.
- (v) Where the employer and the employees agree, rostered days off may accumulate to a maximum of seven days which shall be taken in one or two continuous periods within one month of such accrual.

Notwithstanding this, accumulated rostered days off may be taken in more than two continuous periods by agreement in writing from the Secretary of the Union.

- (vi) Where an arrangement is made in accordance with this clause, starting and finishing times and the daily and weekly hours so determined shall constitute the ordinary working hours and work performed outside or in excess of such times and hours will constitute overtime for the purpose of this award.
- (vii)
  - (1) An employer, with the agreement of the majority of employees concerned, may substitute the day an employee is to take off in accordance with an arrangement pursuant to subclause 14.1.2 for another day in the case of a breakdown in machinery or a failure or shortage of electric power or to meet the requirements of the business in the event of rush orders or some other emergency situation.
  - (2) An individual employee, with the agreement of the employer, may substitute the day they are to take off for another day.
- (viii) Where an employer wishes to arrange working hours by fixing a day on which all employees will be off during a particular work cycle the employer shall approach the Secretary of the Union to seek the agreement of the Union. The Secretary shall not unnecessarily withhold such agreement.

- 14.2 Except in the case of an emergency, the employer shall give one week's notice of any alteration to the starting and ceasing times of ordinary work.
- 14.3 The ordinary working hours shall be prominently displayed in each workshop or factory.
- 14.4 Shift Work - Permanent Press Plant - Employees working as hot head press operators and curing oven attendants directly connected with the operation of permanent press plant may be employed on afternoon shifts, subject to the following conditions:
- 14.4.1 An afternoon shift shall only be introduced by an employer subject to the matter being referred to the Industrial Relations Commission of New South Wales and approval obtained.
- 14.4.2 "Afternoon shift" shall mean a shift finishing after 6.00 p.m. but not later than midnight.
- 14.4.3 An employee when working on such afternoon shift shall be paid as follows:
- (i) when on time work, at the employee's ordinary rate plus 15 per cent;
  - (ii) when under any system of payment by results, the employee's earnings under such system plus an additional amount of 15 per cent.
- 14.4.4 Any time worked by a shift worker in excess of eight hours in any one day or 38 hours in any one week, shall be paid for at the penalty rates prescribed in clause 16, Overtime.
- 14.4.5 Twenty minutes shall be allowed to afternoon shift workers each shift for crib which shall be counted as time worked and which shall be arranged at a convenient time as near as practicable to the middle of the shift.
- 14.4.6 Shift workers shall not receive the shift penalty prescribed in 14.4.3 in respect of payment for sick leave, public holidays or annual leave.
- 14.5
- 14.5.1 Shift Work - Adult employees employed by the employer(s) listed in subclause 14.5.2 may be employed on a weekly afternoon shift basis, subject to the following conditions which have been agreed between the Union and the aforesaid employer(s):
- (i) For the purpose of this subclause, "afternoon shift" shall mean a shift finishing after 5.00 p.m. but not later than 11.00 p.m.
  - (ii) Part-time employees may be employed to work on afternoon shift for a lesser number of hours per week than 38.
  - (iii) Part-time employees employed under subclause 14.5.1(ii) will be employed subject to the terms and conditions of clause 27, Part-time Employees.
  - (iv) An employee when working afternoon shift shall, in addition to the employee's ordinary rate, be paid in respect of each hour an amount equivalent to 22.5 per cent of the rate applicable to the work performed.
  - (v) Any time worked by a shift worker in excess of 7.6 hours in any one day or 38 hours in any one week shall be paid for at the penalty rates prescribed in clause 16, Overtime, provided that the number of hours worked on any day may exceed 7.6 hours without the payment of overtime if such hours are worked in accordance with a program of working hours agreed upon by the employer and the employees concerned and assented to by the Union in writing.



(vi)

- (1) For a shift of greater than five hours' duration, twenty minutes shall be allowed to employees on an afternoon shift for a break, which shall be counted as time worked, and which shall be arranged at a convenient time as near as practicable to the middle of the shift.
- (2) For a shift of five hours or less duration, fifteen minutes shall be allowed to employees on an afternoon shift for a break, which shall be counted as time worked, and which shall be arranged at a convenient time as near as practicable to the middle of the shift.

(vii)

- (1) In the case of absenteeism or other emergency situation, an employee who is not usually engaged on an afternoon shift basis, and who is required to work shift work on a temporary basis, shall, in addition to the employee's ordinary rate of pay, be paid one thirty-eighth of the rate prescribed in subclause 14.5.1(iv), for each hour worked on afternoon shift. Provided any time worked on any afternoon shift on that day by an employee who had already completed a shift on that day shall be paid for at the overtime penalty rates prescribed by the said clause 16 of this award.
- (2) An employee being recalled to work overtime in accordance with subclause 14.5.1(vii)(1) after leaving the employer's business premises shall be paid a minimum of four hours' work at the appropriate overtime rate for each time the employee is so recalled.
- (3) When an employee working overtime on a shift in accordance with subclauses 14.5.1(vii)(1) or 14.5.1(vii)(2) for which the employee has not been regularly rostered, finishes work at a time when the employee's usual or other reasonable means of transport are not available, the employer shall provide the employee with conveyance to the employee's home or pay the employee's ordinary wages for the time reasonably occupied in reaching the employee's home.

(viii) In relation to the matter of transfers between afternoon shift and ordinary working hours, the employer shall give preference to all employees who have notified in writing to the employer their desire for such transfer.

Provided that the employer shall be excused from the obligation to give preference in accordance with this paragraph in the case of any particular vacant situation where the employer has reasonable grounds to believe (and does believe) that the employee(s) desirous of transfer are unsuitable for performing the duties of that vacant position.

14.5.2 Employers the subject of this subclause are listed below:

(NOTE: None listed as at date of gazettal.)

14.5.3 Procedure to be followed by employers who wish to be covered by this clause is as follows:

- (i) An employer who wishes to employ employees on a weekly afternoon basis shall write to the Secretary of the Union seeking the agreement of the Union.

The Secretary of the Union shall deal expeditiously with the request for shiftwork and if agreement is reached shall confirm that agreement in writing to the employer.

### 15. Midday Meal Interval

- 15.1 An interval of not more than one hour and not less than 30 minutes shall be allowed for the midday meal.
- 15.2 The meal interval shall be observed between the hours of 11.30 a.m. and 2.00 p.m.
- 15.3 An employer shall be in breach of the award if they allow an employee to perform any work during that employee's meal time.

### 16. Overtime

- 16.1 All time worked by a weekly employee, including a part-time employee, in excess of the employee's normal number of daily hours or outside the daily limits prescribed in clause 14, Hours of Employment, shall be paid for at the rate of time and a half for the first three hours and double time thereafter. Each day shall stand alone for the purpose of calculating overtime and any overtime worked on any day of the week shall be paid for on a daily basis.
- 16.2 An employee paid under any system of payment by results, when working overtime, shall be paid, in addition to the ordinary earnings paid under such system for work done in excess time, such sum per hour as is equivalent to the award rate divided by 76. Provided that, for work in excess of three hours' overtime on any day, the employee shall be paid, in addition to ordinary earnings, such sum per hour as equivalent to the award rate divided by 38.
- 16.3 Requirement to work reasonable overtime
- 16.3.1 Subject to paragraph 16.3.2 an employer may require an employee to work reasonable overtime at overtime rates.
- 16.3.2 An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
- 16.3.3 For the purposes of paragraph 16.3.2 what is unreasonable or otherwise will be determined having regard to:
- (a) Any risk to employee health and safety;
  - (b) The employee's personal circumstances including any family and carer responsibilities;
  - (c) The needs of the workplace or enterprise;
  - (d) The notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it;
  - (e) Any other relevant matter.
- 16.3.4 The Union shall not in any way, whether directly or indirectly, be a party to or concerned in any ban, limitation or restriction upon the working of overtime in accordance with this subclause.
- 16.4 No employee under the age of 16 years shall be employed on overtime beyond 6.00 p.m.
- 16.5 An employee required to work for longer than one and a half hours after the usual ceasing time shall be allowed at least 30 minutes for a meal break. Provided that this provision shall not apply to employees on any day where there is an early ceasing time, unless a total of five and a half hours or more, inclusive of overtime, is to be worked following the midday meal break.
- 16.6 An employee, other than an employee subject to subclause 16.5, who is required to work overtime for more than one hour beyond the ordinary ceasing time on any day, other than on a working day of less than eight ordinary hours, shall be entitled to a rest period of ten minutes paid for at the appropriate rate.

### **17. Meal Money**

- 17.1 Subject to subclause 17.3, an employee required to work overtime for more than one hour after the employee's usual ceasing time or beyond 6.00 p.m. (whichever is the later) on any day, Monday to Friday inclusive, shall either be supplied with an adequate recognised evening meal by the employer from an established canteen on the premises or paid as set out in Item 3 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, in lieu thereof.
- 17.2 If the notice is given and overtime is not worked (except as a result of a breakdown in machinery or plant) the tea money prescribed herein shall be paid.
- 17.3 An employee who works under an arrangement set in accordance with subclause 14.1.2 which provides for that employee to cease ordinary hours of work early on a Friday, shall not be entitled to receive a meal allowance or be supplied with an adequate meal pursuant to this clause in respect of any period of overtime in excess of one hour carried out on that Friday where such overtime is completed before 6.00 p.m. on that day.

### **18. Rest Period**

- 18.1 Employees shall be entitled to two daily rest periods, each of ten minutes, without loss of pay.
- 18.2 These rest periods must be taken between the hours of 9.30 a.m. and 11.00 a.m., and 2.30 p.m. and 4.00 p.m., at the discretion of the employer.
- 18.3 In the circumstances where a rest period would otherwise occur after the cessation of an employee's daily work, such rest period will occur prior to the cessation of work.
- 18.4 During such rest periods, employees may leave their work stations but may not leave the premises.

### **19. Mixed Functions**

- 19.1 The following conditions shall apply to an employee engaged on time work and employed for various periods on duties carrying a higher rate than the employee's ordinary classification:
- 19.1.1 For two hours or less of one day, payment shall be at the higher rate for the time so worked.
- 19.1.2 For more than two hours of one day, payment shall be at the higher rate for such day.
- 19.1.3 For more than two days of a week, payment shall be at the higher rate for the full week.
- 19.2 Where an employee engaged on time work is employed on higher tasks than the employee is normally employed, the employer shall keep an accurate record of the time worked by such an employee on each class of work. In the absence of an accurate record, the employee shall be entitled to the higher rate of pay for the whole of the week.

### **20. Terms of Engagement**

- 20.1 Method of Engagement - Subject to the provisions of this award, employees may be engaged either on a weekly (including part-time) or a casual basis.
- 20.2 Termination of Employment -
- 20.2.1 Notice of termination by employer -
- (i)
- (1) In order to terminate the employment of an employee, the employer shall give to the employee the following notice (except where the employment is terminated in accordance with subclause 20.2.1(i)(2)):

Period of Continuous Service	Period of Notice
1 year or less	1 week
Over 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years	4 weeks

- (2) Where an employer terminates the employment of an employee for reasons arising from "technology" in accordance with subclause 53.1.1, and that employer employs more than 15 employees immediately prior to the termination of employment, the employer shall give to the employee three months' notice of termination. (This period of notice to be given shall be deemed to be service with the employer for the purposes of the *Long Service Leave Act 1955*, the *Annual Holidays Act 1944*, or any Act amending or replacing either of these Acts.)
- (ii) In addition to the notice in subclause 20.2.1(i), employees over 45 years of age at the time of the giving of the notice, with not less than two years' continuous service, shall be entitled to an additional week's notice (except where the employment is terminated in accordance with subclause 20.2.1(i)(2)).
- (iii) Payment in lieu of the notice prescribed in subclauses 20.2.1(i) and/or 20.2.1(ii), shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (iv) In calculating any payment in lieu of notice, the wages an employee would have received in respect of the ordinary time the employee would have worked during the period of notice, had the employee's employment not been terminated, shall be used.
- (v) The period of notice in this clause shall not apply in the case of dismissal for conduct that justifies instant dismissal, or in the case of casual employees, apprentices, or employees engaged for a specific period of time or for a specific task or tasks.
- (vi) For the purpose of this clause notice given not later than 10.00 a.m. on any day shall be regarded as a full day's notice, otherwise a further day's notice is required.
- (vii) For the purposes of this clause, continuity of service shall be calculated in the manner prescribed by 21.4, Calculation of Continuous Service, of clause 21, Annual Leave.
- (viii) When employment is terminated by an employer, the employer shall, upon the date of such termination, pay to the employee (weekly or piece worker) all monies due to him or her. When employment is terminated by an employee in accordance with the terms of this award the employer shall, upon the date of termination, pay the employee (weekly or piece worker) all monies due to him or her. Monies due shall include a payment in lieu for any time which may have accrued in accordance with an arrangement pursuant to 14.1.2, Hours of Employment.
- (ix) An employee shall not be given notice or dismissed, except for misconduct, whilst legitimately absent from duty on accrued sick leave or on annual leave, and the days on which an employee is absent from duty on account of such sick leave or annual leave shall not be counted as within a working week's notice for the purpose of this award, unless, in the case of sick leave, an employee had been given notice prior to the employer being informed that paid sick leave was to be taken. Alternatively, an employee shall not be entitled to give an employer notice while absent on account of paid sick leave and paid annual leave.
- (1) Notice of Termination by Employee - The notice of termination required to be given by an employee shall be the same as that required of an employer, save and except that there shall be no additional notice based on the age of the employee concerned. If an employee fails to give notice the employer shall have the right to withhold the monies due to the employee with a maximum amount equal to the

ordinary time rate of pay for the period of notice. Provided that where an employee, employer and the Union agree, the employee may be released prior to the expiry of the notice period, with payment of wages to the date of termination only.

- (2) Time Off During Notice Period - Where an employer has given notice of termination to an employee, the employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the employee after consultation with the employer.
- (3) Statement of Employment - The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.
- (4) Summary Dismissal - The provisions of this clause shall not affect the right of an employer to dismiss any employee without notice for conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty. Where an employee is so dismissed payment shall be made from time actually worked to the time of dismissal.
- (5) Unfair Dismissals - Termination of employment by an employer shall not be harsh, unjust or unreasonable.

For the purposes of this clause, termination of employment shall include terminations with or without notice.

Without limiting the above, except where a distinction, exclusion or preference is based on the inherent requirements of a particular position, termination on the ground of race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction and social origin shall constitute a harsh, unjust or unreasonable termination of employment.

- (6) Transmission of Business -
  - (A) Where a business is, before or after the date of this award, transmitted from an employer (in this subclause called "the transmitter") to another employer (in this subclause called "the transferee"), and an employee who at the time of such transmission was an employee of the transmitter in that business becomes an employee of the transferee:
    - (1) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
    - (2) the period of employment which the employee has had with the transmitter or any prior transmitter shall be deemed to be service of the employee with the transferee.
  - (B) In this subclause "business" includes trade, process, business or occupation and includes part of any such business, and "transmission" includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and "transmitted" has a corresponding meaning.

### 20.3 Other Terms of Employment -

- 20.3.1 In the event of the work of the factory or section of the factory or workshop being stopped by a breakdown of machinery or for any cause for which the employer cannot reasonably be held responsible other than on account of lack of orders and/or a shortage of material, all weekly

hands who present themselves for work shall be found work for that day or paid one day's wages in lieu thereof. However, an employer may, when such causes occur, give notice to an employee that their services will not be required on the following day or days, and the employee shall not be entitled to any further payment in respect of any further days that they are out of employment by reason of such causes.

Provided that, for any day upon which an employee cannot be usefully employed because of any strike or lockout by any persons whatsoever, or any failure or lack of power arising away from the premises of the employer, or any restriction or shortage of power for which an employer cannot justly be held responsible, all weekly employees who are required to attend for work and do so attend on that day shall be paid a minimum of two hours' pay at ordinary rates. If required to perform work or remain at work for longer than two hours, payment shall be made at ordinary rates for all time standing by and time worked.

20.3.2 During the first two weeks of employment, the services of an employee may be terminated by the giving of one hour's notice by either the employer or the employee, or by the payment or forfeiture of one hour's pay in lieu of notice. Provided that, after the first day and during the balance of the first two weeks of an employment, where on any day the employer terminates the services of an employee other than for malingering, neglect of duty or misconduct, the employer shall be required to pay the employee not less than a day's pay for that day.

20.3.3 No employee shall, without just cause, be absent from their employment during the prescribed hours whilst there is work ready to be done by them, and the employee must be available, ready and willing to work on the days and during the hours fixed by this award.

20.3.4 An employee not attending for duty shall, except as provided in clause 23, Sick Leave, lose their pay for the actual time of such non attendance.

20.3.5 Where at least 90 per cent of the employees in a factory, workshop or section reach agreement with an employer, and with the assent of the Union, to take a period of leave of absence without pay on the working day before or after a public holiday, the employer shall be entitled to stand down without pay for that day the remaining employees in such factory, workshop or section.

20.3.6 Payment of Wages - Subject to 32.2.5, Outworkers, which sets out the requirements for the payment of wages to outworkers, employees shall be paid in full all wages due to them during the ordinary working hours not later than two working days following the termination of the working week. Provided, however, that where at least 50 per cent of the employees in a factory, workshop or section agree, and with the consent in writing of the Secretary of the Union, payment in full of all wages due may be made in the form of a cash transfer to the employee's nominated account. Such transfer shall occur not later than during the forenoon of the second working day following the termination of the working week. Provided that where there are circumstances of genuine hardship caused by this method of payment the employer shall pay the wages due to the particular employee in cash.

Where an arrangement is made on the basis that ordinary working hours shall average 38 per week over a particular work cycle, wages may be paid on the basis of 38 ordinary hours worked in each week even though in some weeks during that cycle, the ordinary working hours may be more or less than 38 hours.

On or prior to pay day the employer shall state in writing to each employee details of the payment to which the employee is entitled, the amount of each deduction made therefrom and the net amount being paid to the employee.

#### **20A. Deduction of Union Membership Fees**

20A.1 The employer shall deduct Union membership fees (not including fines or levies) from the pay of any employee, provided that

- 20A.1.1 the employee has authorised the employer to make such deductions in accordance with subclause 20A.2 herein;
- 20A.1.2 the Union shall advise the employer of the amount to be deducted for each pay period applying at the employer's workplace and any changes to that amount;
- 20A.1.3 deduction of union membership fees shall only occur in each pay period in which payment has or is to be made to an employee; and
- 20A.1.4 there shall be no requirement to make deductions for casual employees with less than two months' service (continuous or otherwise).
- 20A.2 The employee's authorisation shall be in writing and shall authorise the deduction of an amount of Union fees (including any variation in that fee effected in accordance with the Union's rules) that the Union advises the employer to deduct. Where the employee passes any such written authorisation to the Union, the Union shall not pass the written authorisation on to the employer without first obtaining the employee's consent to do so. Such consent may form part of the written authorisation.
- 20A.3 Monies so deducted from employees' pay shall be remitted to the Union on either a weekly, fortnightly, monthly or quarterly basis at the employer's election, together with all necessary information to enable the reconciliation and crediting of subscriptions to employees' membership accounts, provided that:
- 20.A.3.1 where the employer has elected to remit on a weekly or fortnightly basis, the employer shall be entitled to retain up to five per cent of the monies deducted; and
- 20.A.3.2 where the employer has elected to remit on a monthly or quarterly basis, the employer shall be entitled to retain up to 2.5 per cent of the monies deducted.
- 20A.4 Where an employee has already authorised the deduction of Union membership fees in writing from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to commence or continue.
- 20A.5 The Union shall advise the employer of any change to the amount of membership fees made under its rules, provided that this does not occur more than once in any calendar year. Such advice shall be in the form of a schedule of fees to be deducted specifying either weekly, fortnightly or monthly as the case may be. The Union shall give the employer a minimum of two months' notice of any such change.
- 20A.6 An employee may at any time revoke in writing an authorisation to the employer to make payroll deductions of Union membership fees.
- 20A.7 Where an employee who is a member of the Union and who has authorised the employer to make payroll deductions of Union membership fees resigns his or her membership of the Union in accordance with the rules of the Union, the Union shall inform the employee in writing of the need to revoke the authorisation to the employer in order for payroll deductions of union membership fees to cease.

## **21. Annual Leave**

- 21.1 Period of Leave - A period of 28 consecutive days' leave shall be allowed annually to an employee, other than a casual or part-time employee, after 12 months continuous service (less the period of annual leave).
- 21.2 Annual Leave Exclusive of Public Holidays - The annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by clause 28, Holidays. If any such holiday falls within an employee's period of annual leave and is observed on a day which, in the case of that employee, would have been an ordinary working day, an amount equivalent to the ordinary time which the employee would have worked if such day had not been a holiday shall be added to the period of annual leave.

Where an employee without reasonable cause, proof whereof shall lie upon the employee, is absent from their employment on the working day or part of the working day prior to the commencement of their

annual leave, and fails to resume work at their ordinary starting time on the working day immediately following the last day of the period of their annual leave, the employee shall not be entitled to payment for the public holidays which fall within the employee's period of annual leave.

21.3 Broken Leave - The annual leave shall be given and taken in one or two continuous periods.

If the annual leave is given in two continuous periods, then one of those two periods must be of at least 12 working days, exclusive of public holidays.

Provided that if the employer and an employee so agree, then the employee's annual leave entitlement may be given and taken in three separate periods.

21.4 Calculation of Continuous Service - For the purpose of this clause, service shall be deemed to be continuous notwithstanding:

21.4.1 any interruption or termination of employment by the employer, if such interruption or termination has been made merely with the intention of avoiding the employer's obligations hereunder in respect of leave of absence;

21.4.2 any absence from work on account of personal sickness or accident or on account of leave granted by the employer or absence due to long service leave. Provided that any continuous period of unpaid leave in excess of four weeks shall not be deemed to be service for the calculation of annual leave; or

21.4.3 any absence with reasonable cause, proof whereof shall be upon the employee.

In cases of personal sickness or accident or absence with reasonable cause - For the employee to become entitled to the benefit of this subclause they shall inform the employer in writing, if practicable, within 48 hours of the commencement of such absence, of their inability to attend for duty and as far as practicable the nature of the illness, injury or cause and the estimated duration of their absence. A notification given by an employee pursuant to clause 23, Sick Leave, shall be accepted as a notification under this subclause.

Any absence from work by reason of any cause, not being a cause specified in this subclause, shall not be deemed to break the continuity of service for the purposes of this clause unless the employer, during the absence or within fourteen days of termination of the absence, notifies the employee in writing that such absence will be regarded as having broken the continuity of service.

In cases of individual absenteeism, such notice shall be given in writing to the employee concerned by delivering it to the employee personally or by posting it by registered or certified mail to the employee's last recorded address, in which case it will be deemed to have reached the employee in due course of post.

In cases of concerted or collective absenteeism, notice may be given to employees by the posting up of a notification in the factory in the manner in which general notifications to employees are usually made in the factory and by posting to each union whose members have participated in such concerted or collective absenteeism a copy thereof not later than the day it is posted up in the factory.

In calculating the period of twelve months' continuous service, any such absence as aforesaid (other than long service leave) shall not, except to the extent of not more than 25 days in a twelve-month period in the case of sickness or accident, be taken into account in calculating the period of twelve months' continuous service.

21.5 Calculation of Service - Service before the date of this award shall be taken into consideration for the purpose of calculating annual leave. However, an employee shall not be entitled to leave or payment in lieu thereof for any period in respect of which leave or a payment in lieu thereof has been allowed or made under the award hereby superseded. The annual leave shall be allowed at the rate of twelve and



two-thirds hours for each completed month of continuous service. The period of annual leave to be allowed under this subclause shall be calculated to the nearest day, with any broken part of a day in the result not exceeding half a day to be disregarded.

Where the employer is a successor or assignee or transmittee of a business, if an employee was in the employment of the employer's predecessor at the time when the employer became such successor or assignee or transmittee, the employee, in respect of the period during which the employee was in the service of the predecessor shall, for the purpose of this clause, be deemed to be in the service of the employer.

- 21.6 Calculation of Month - For the purpose of this clause the first completed month of service shall be reckoned as commencing with the beginning of the first working day of an engagement and as ending on a corresponding day so as to ensure that the employee concerned has completed four weeks of working time or time regarded as working time with an employer.
- 21.7 Leave to be Taken - The annual leave provided for by this clause shall be allowed and shall be taken and, except as provided by 21.11 and 21.12, payment shall not be made or accepted in lieu of annual leave.
- 21.8 Time of Taking Leave - Subject to the provisions of 21.3, 21.9, 21.11 and 21.12, annual leave shall be given at a time fixed by the employer within a period not exceeding three months from the date when the right to annual leave accrued and after at least three months' notice to the employee. Provided that where the leave is taken in two or three periods, the first period shall be taken within a period not exceeding three months, and the balance shall be taken not later than six months from the date when the right to leave accrued or 30 September next following, whichever is the later.
- 21.9 Leave Allowed before Due Date -
- 21.9.1 An employer may allow an employee who so agrees to take annual leave either wholly or partly in advance. In such case a further period of annual leave shall not commence to accrue until after the expiration of the twelve months in respect of which the annual leave or part thereof had been taken.
- 21.9.2 Where annual leave or part thereof has been granted pursuant to 21.9.1, before the right to annual leave has accrued, and the employee subsequently leaves or is discharged from the service of the employer before completing the twelve months' continuous service in respect of which the leave was granted, and the amount paid by the employer to the employee for the annual leave or part so taken in advance exceeds the amount which the employer is required to pay the employee under 21.11 of this clause, the employer shall not be liable to make any payment to the employee under 21.11, and shall be entitled to deduct the amount of excess from any remuneration payment to the employee upon the termination of employment.
- 21.10 Payment for Period of Leave -
- 21.10.1 Each employee before going on leave shall be paid all wages which would normally become due and payable during the period of leave. For the purposes of 21.11, wages shall, subject to the provisions hereinafter contained, be at the rate prescribed by clauses 6, Rates of Pay, and 9, Apprentices or Improvers - Rates of Pay, for the occupation in which the employee was ordinarily employed immediately prior to the commencement of the employee's leave or the termination of the employee's employment, as the case may be.
- 21.10.2 An employee who is not working under an incentive scheme based on production but who is receiving a weekly overaward payment shall be entitled to receive the whole of such weekly overaward payment for each week of annual leave to which they are entitled. Provided that all amounts paid in respect of overtime, shift work or penalty rates shall be excluded. Provided further that the overaward payment shall not apply where the employee receives pro rata payment in lieu of annual leave on termination of employment

with less than twelve months' service in any twelve-month qualifying period for annual leave, except in cases where an employee with more than six months' service with an employer is terminated by that employer other than for misconduct or where an employee terminates during the year on account of personal illness, substantiated by a medical certificate, or where an employee terminates on the day that the factory closes down for annual leave.

Where an employee has accrued a full entitlement to annual leave after a qualifying twelve-month period of service and their employment ceases for any reason before the whole or any part of such leave entitlement has been taken, the weekly overaward payment referred to in this paragraph shall apply in respect to that full entitlement or any remaining portion thereof.

21.10.3 Payment in the case of an employee under any system of payment by results shall be at the time rate, provided that:

- (i) When taking annual leave the employee, for the purpose of paid leave, shall, for each week or part thereof of annual leave to which the employee is entitled, receive an additional payment based on the average weekly incentive payment earned in excess of the appropriate award wage for the classification concerned. The average shall be calculated on a forty-week qualifying period and applied to ordinary hours only in respect of any incentive scheme based on production during the "qualifying period of employment" in each year.
- (ii) The "qualifying period of employment" means -
  - (1) In the case of an employee taking annual leave at Christmas, the period of 40 consecutive weeks commencing with the first pay period in February. If annual leave is taken in two or three periods the same average additional payment for the first period shall also apply to the second and/or third period.
  - (2) In the case of an employee taking annual leave at any other time, the first 40 consecutive weeks in the twelve months immediately preceding the date of the taking of annual leave.
  - (3) Where an employee is not employed during the whole of the "qualifying period" the employee shall still be eligible for such additional payment but the average incentive payments earned shall be calculated on the period of employment falling within the said 40 consecutive weeks.
- (iii) In the case of an employee absent on long service leave during any "qualifying period of employment" both the period of such leave and the payment in respect thereof shall be excluded from the calculation of average incentive payments earned.
- (iv) Payment of any bonus or incentive in respect of "unrated work" shall be regarded as payment in respect of an incentive scheme for the purpose of 21.10.3(i).
- (v) In calculating the average incentive payments earned, all amounts paid in respect of overtime, shift work or penalty rates shall be excluded.
- (vi) The additional payment as specified in 21.10.3(i) shall not apply to employees receiving pro rata payment in lieu of annual leave on termination of employment with less than twelve months' service in any twelve-month qualifying period for annual leave, except in the case where an employee with a total of 6 months' service with an employer is terminated by that employer, other than for misconduct, or where an employee terminates during the year on account of personal illness, substantiated by a medical certificate, or where an employee terminates on the day that the factory closes down for annual leave.

Where an employee has accrued a full entitlement to annual leave after a qualifying twelve-month period of service, and their employment ceases for any reason before the whole or any part of such leave entitlement has been taken, the additional payment referred to in 21.10.3(i) shall apply in respect of that full entitlement or any remaining portion thereof.

- 21.10.4 Loading on Annual Leave - During a period of annual leave (including any period of leave allowed before due date) an employee shall receive a loading calculated on the award rate of wage prescribed by clauses 6, Rates of Pay, and 9, Apprentices or Improvers - Rates of Pay, for the occupation in which the employee was ordinarily employed immediately prior to the commencement of the employee's leave.

This loading, applicable to both time workers and payment by results workers, shall be as follows:

- (i) Employees on Day Work - An employee who would have worked on day work had the employee not been on leave shall receive a loading of 17.5 per cent.
- (ii) Employees on shift work - An employee who would have worked on shift work had the employee not been on leave shall receive a loading of 17.5 per cent.

Provided that where the employee would have received a shift loading prescribed by 14.4 and 14.5, Hours of Employment, had the employee not been on leave during the relevant period and such shift loading would have entitled the employee to a lesser amount than the loading of 17.5 per cent, then such loading of 17.5 per cent shall be added to the award rate of wage prescribed herein in lieu of the shift loading.

The loading prescribed by this paragraph is payable when services terminate in the following circumstances and not otherwise:

- (1) in respect of any untaken part of a full entitlement to annual leave for which payment in lieu is made;
- (2) in respect of any uncompleted twelve-month period for which proportionate leave on termination is payable, if services are terminated by the employer for reasons other than malingering, inefficiency, neglect of duty or misconduct, after 25 August in any year, or in the case of an employee who would not normally be taking any annual leave over the Christmas/New Year period if such termination by the employer is within four calendar months of the date the employee would normally have taken the employee's annual leave; or
- (3) in respect of any employee entitled to payment pursuant to 21.11.3.

#### 21.11 Proportionate Leave -

- 21.11.1 If after one month's continuous service in any qualifying twelve-month period an employee leaves their employment or is discharged for malingering, inefficiency, neglect of duty or misconduct, they shall be paid at their ordinary rate of wage for twelve and two-thirds hours in respect of each completed month of continuous service with the employer as from the commencement of the employment and the service shall be service for which leave has not already been granted.

- 21.11.2 If after one month's continuous service in any part of a qualifying twelve-month period an employee is terminated by the employer except for malingering, inefficiency, neglect of duty or misconduct, the employee shall be paid for leave for 2.923 hours for each completed week of continuous service with the employer, the service being service in respect of which leave has not already been granted.

- 21.11.3 If during the second or any subsequent year of an employee's continuous service with an employer their service terminates for any reason at the close of business on the day on which the plant or that section thereof in which such employee is employed closes for the December annual close down and the employee was involved in a similar close down in the December of the previous year, then such employee shall be paid on termination the equivalent of four weeks' annual leave pay in respect of continuous service during the then current calendar year. Provided that such employee had not previously been allowed any annual leave in respect of service during that calendar year. Where any period of leave had already been allowed in respect of such service, the employee's entitlement upon termination shall be the difference between four weeks and the period so allowed. Any payment made pursuant to this paragraph shall be in substitution for and not cumulative upon any entitlement which would otherwise have arisen pursuant to 21.11.1 and 21.11.2 in respect of service during the then current calendar year. In addition, the employee shall be paid the annual leave loading prescribed by 21.10.4 applicable to the quantum of leave for which payment in lieu is to be made upon termination pursuant to this paragraph. In calculating the period of continuous service as aforementioned, reference should be made to subclause 21.4.
- 21.11.4 For the purposes of this subclause the rate of wage shall be calculated in accordance with 21.10.1, 21.10.2 and 21.10.3.
- 21.12 Annual Closedown - Where an employer closes down their plant, or a section or sections thereof, for the purpose of allowing annual leave to all or the bulk of the employees in the plant or section or sections concerned, the following shall apply:
- 21.12.1 The employer may, by giving at least three months' notice of their intention so to do, stand off for the duration of the closedown all employees in the plant or section or sections concerned and allow to those who are not then qualified for a full entitlement to annual leave paid leave on a proportionate basis of 2.923 hours for each completed week of continuous service, subject to and then including the initial qualifying period of one month of continuous service with the employer. Provided that where in any establishment a ballot indicates that at least 75 per cent of employees agree, and with the consent of the union, the period of closedown may be extended and all employees stood down without pay for a further period of not more than two days.
- 21.12.2 An employee who has then qualified for a full entitlement to annual leave for twelve months' continuous service pursuant to 21.1, and has also completed a further week or more of continuous service shall be allowed the employee's leave and shall, subject to 21.5, also be paid for 2.923 hours in respect of each completed week of continuous service performed since the close of the employee's last twelve-month qualifying period.
- 21.12.3 Except where annual leave is allowed before the due date in accordance with 21.12.1, the next twelve-month qualifying period for each employee affected by such close down shall commence from the day on which the plant or section concerned is re-opened for work. Provided that all time during which an employee is stood down without pay for the purposes of this subclause shall be deemed to be time of service in the next twelve-month qualifying period.
- 21.12.4 If, in the first year of the employee's service with an employer, an employee who is allowed proportionate leave under 21.12.1 subsequently within such year leaves their employment or their employment is terminated by the employer, they shall be entitled to the benefit of 21.11, subject to adjustment for any proportionate leave which the employee may have been allowed.
- 21.13 An outdoor worker subject to the qualifying period of one month's continuous service shall be paid on termination of employment or, when taking annual leave an amount equal to one-twelfth of the employee's total earnings for that period of employment in respect of which leave has not already been granted.

When taking annual leave there shall be added to the aforementioned amount a loading of 17.5 per cent. Provided, however, that the monetary amount of such loading shall not exceed the amount which an ordinary weekly employee in the same classification would receive by way of an annual leave loading in respect of the same period of employment.

- 21.14 Proportionate payment for annual leave shall be made by an employer in respect of each completed month of continuous service when the employee leaves their employment or, in accordance with 21.11.2, where an employee is terminated by the employer before the completion of any twelve-month qualifying period under this clause. Payment shall be made on the employee so leaving or on their employment being so terminated, as the case may be.
- 21.15 An employer may close down the plant or section thereof in two periods, for the purpose of granting annual leave. Provided that the longer of the two periods of leave shall be at least twelve working days exclusive of public holidays. Such longer period shall be granted by the employer during the December-January period unless otherwise agreed in writing by the employer and the Secretary of the union or, in the event of a dispute, as decided by the Industrial Relations Commission of New South Wales. Provided that the employer may close down the plant or section thereof in three separate periods, subject only to the following conditions:
- 21.15.1 That at least 75 per cent of the employees in the plant as a whole or a section thereof, as the case may be, mutually agree with an employer on three separate periods of leave and mutually agree upon the date when the third closure is to be made. An employer in conjunction with an accredited representative of the Union may seek such an agreement with their employees in the plant as a whole or a section thereof, as the case may be, by means of secret ballot and not otherwise.
- 21.15.2 That the employees concerned be given at least three months' notice of the proposed closures.
- 21.15.3 That the longest of the three periods of leave shall be at least twelve days exclusive of public holidays.
- 21.15.4 That the second and/or third closedown period shall take place not later than 30 September, in the year following the first close down period.
- 21.15.5 Subject to the special provisions contained in this subclause, all other provisions of the annual leave clause shall apply in respect to the obligations and rights of employers and employees.

## **22. Trade Union Training Leave**

- 22.1 Subject to 22.2, a Union delegate or elected employee work place representative shall, upon application in writing, be granted up to five days' leave with pay each calendar year, non-cumulative, to attend courses conducted or approved by the Australian Trade Union Training Authority which are designed to promote good industrial relations and industrial efficiency within the clothing industry.

This notice to the employer must include details of the type, content and duration of the course to be attended.

- 22.2 Employers may approve leave in accordance with this clause, subject to the following limitations:
- 22.2.1 Where the employer employs up to and including 49 employees in a workplace, 5 union delegates or elected workplace representatives may be granted 5 days' leave per calendar year.
- 22.2.2 Where the employer employs between 50 and 150 employees inclusive in a workplace, 10 union delegates or elected work place representatives may be granted 5 days' leave per calendar year.
- 22.2.3 Where the employer employs 150 or more employees in a workplace, 15 union delegates or elected workplace representatives may be granted 5 days' leave per calendar year.

- 22.2.4 The numbers contained in this clause may be varied by mutual agreement between the Union and an employer.
- 22.3 The granting of such leave shall be subject to the employee or the Union giving at least one calendar month's notice of the intention to attend such course, or such lesser period as may be agreed between the employer, the Union and the employee concerned.
- Provided that the taking of such leave shall be arranged so as to minimise any adverse effect on the employer's operations.
- 22.4 Leave of absence granted pursuant to this clause shall count as service for all purposes.
- 22.5 Each employee on leave approved in accordance with this clause shall be paid all ordinary time earnings which normally become due and payable during the period of the leave, such wages to be calculated in accordance with 21.10, Annual Leave.
- 22.6 All expenses (such as travel, accommodation and meals) associated with or incurred by the employee attending a training course during leave approved pursuant to this clause shall be the responsibility of the employee or the Union unless otherwise agreed between the employer, the Union and the employee concerned.
- 22.7 Should an employee granted leave pursuant to this clause fail to attend the nominated course, the employer shall be notified by the Union as soon as practicable, and no payment is to be made by the employer in respect of leave for the employee concerned.
- 22.8 In the event that a scheduled rostered day off resulting from a work arrangement established in accordance with clause 14, Hours of Employment, falls within a period of leave approved pursuant to this clause, no alternative day shall be substituted in lieu.
- 22.9 Employees granted leave pursuant to this clause shall inform their employer after the completion of the course of the nature of the course and their observations on it.

### **23. Sick Leave**

A weekly employee and a part-time employee (to the extent specified) who is absent from work on account of personal illness or on account of injury shall be entitled to leave of absence without deduction of pay, subject to the following conditions and limitations -

- 23.1 The employee shall not be entitled to paid leave of absence unless the employee has been in the service of the employer concerned for at least one month immediately prior to such absence.
- 23.2 The employee shall not be entitled to paid leave of absence for any period in respect of which the employee is entitled to workers' compensation.
- 23.3 The employee shall, no later than the working day following the commencement of such absence, inform the employer of the inability to attend for duty and, as far as practicable, state the nature of the illness or injury and the estimated duration of the absence.
- 23.4 In the case of an employee employed subject to 14.1, Hours of Employment, that employee shall, prior to the commencement of work or as soon as it is reasonably practicable and during the ordinary hours of the first day or shift, inform the employer of the employee's inability to attend for duty and, as far as practicable, state the nature of the injury or illness and the estimated duration of the absence. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence the employee shall inform the employer within 24 hours of the commencement of the absence.
- 23.5 The employee shall prove to the satisfaction of the employer that they were unable on account of such illness or injury to attend for duty on the day or days for which sick leave is claimed. For such purpose the employer may require the employee to make a statutory declaration or produce other reasonable evidence which is satisfactory to the employer, justifying the cause of absence.

## 23.6

23.6.1 An employee shall be entitled to paid leave of absence for not more than 38 hours of working time owing to such ill health or injury during their first sick leave year of continuous service with an employer. Such sick leave year shall be as defined in 23.12.

Provided that an employee, after one month's continuous service, shall only be entitled to paid sick leave proportionate to the period of employment from the date of engagement until 31 December next following calculated on the basis of 3.17 hours ordinary pay for each complete month or part thereof. If such employee subsequently leaves their employment of their own accord other than on account of personal illness substantiated by a medical certificate or is dismissed for misconduct the employer may deduct from any monies due to the employee an amount equivalent to the value of any paid sick leave allowed in excess of that to which the employee would be entitled if calculated on the basis of 3.17 hours ordinary pay for each completed month of service or part thereof.

23.6.2 The employee shall be entitled during the second sick leave year of continuous service with an employer to paid leave of absence for not more than 46 hours of working time, subject to any accumulated leave to which the employee may be entitled in accordance with 23.9.

23.6.3 The employee shall be entitled during the third or subsequent sick leave year of continuous service with an employer to paid leave of absence for not more than 61 hours of working time, subject to any accumulated leave to which the employee may be entitled in accordance with 23.9.

23.7 An employee under any system of payment by results entitled to paid leave of absence under this clause shall be paid at the time work rate applicable to the classification. The time work rate "applicable to the classification" is the award rate applicable to that classification defined in 6.1, Rates of Pay.

23.8 For the purpose of this clause, a month shall be reckoned as commencing with the beginning of the first day of the employment or period of employment in question and as ending at the beginning of the day which has the same day number as the commencing day. If there be no such day in the subsequent month, it shall be reckoned as ending at the end of the subsequent month.

23.9 For the purpose of this clause, where an employee is terminated by the employer and is re-employed by that employer within a period not exceeding three months, the service with the employer immediately prior to the dismissal shall be taken into account in calculating the employee's entitlement to sick leave. That is to say, the employee's entitlement to sick leave shall be calculated as though their period of service has been continuous, and any sick leave credits accrued to the employee at the time of termination shall not be affected to the detriment of the employee.

23.10 Cumulative Sick Leave - Sick leave shall accumulate from year to year and may be claimed by the employee and, shall be allowed by the employer in a subsequent year without diminution of the sick leave prescribed in respect of that year. Provided that sick leave which accumulated pursuant to this subclause shall be available to the employee for a period of eight years but not longer from the end of the year in which it accrues.

23.11 For the purpose only of sick leave entitlements provided in this clause, and where a clothing industry business is transmitted from an employer to another employer and a worker who at the time of such transmission was an employee of the transmitter in that business becomes an employee of the transmittee within two weeks of such transmission:

23.11.1 the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission;

23.11.2 the period of employment which the employee has had with the transmitter or any prior transmitter shall be deemed to be employment of the employee with the transmittee;

- 23.11.3 "transmission", for the purpose of this subclause, includes transfer, conveyance, assignment or succession (whether by agreement or by operation of law) and "transmitted" has a corresponding interpretation.
- 23.12 For the purpose of this clause, a year shall be deemed to be from the first day of January to the 31st day of December inclusive.
- 23.13 Sickness on Rostered Day Off - Where an employee is absent on account of illness or injury on the weekday they are to take off in accordance with an arrangement pursuant to 14.1.2, Hours of Employment, the employee shall not be entitled to sick pay nor shall the employee's sick pay entitlement be reduced as a result of their absence on that day.

#### **24. Personal/Carer's Leave**

##### **24.1 Use of Sick Leave -**

24.1.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 24.1.3(ii) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 23, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day

24.1.2 The employee shall, if required,

- (1) 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
- (2) establish by production of documentation acceptable to the employer 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, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

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

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



- (A) "relative" means a person related by blood, marriage or affinity;
- (B) "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other;
- (C) "household" means a family group living in the same domestic dwelling.

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

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 4, Dispute Settlement Procedure, should be followed.

#### 24.2 Unpaid Leave for Family Purpose -

24.2.1 An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 24.1.3(ii) above who is ill or who requires care due to an unexpected emergency.

#### 24.3 Annual Leave -

24.3.1 An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

24.3.2 Access to annual leave, as prescribed in 24.3.1, shall be exclusive of any shutdown period provided for elsewhere under this award.

24.3.3 An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

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

#### 24.4 Time Off in Lieu of Payment for Overtime -

24.4.1 An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.

24.4.2 Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.

24.4.3 If, having elected to take time as leave in accordance with 24.4.1, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.

24.4.4 Where no election is made in accordance with 24.4.1, the employee shall be paid overtime rates in accordance with the award.

**24.5 Make-up Time -**

24.5.1 An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.

24.5.2 An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

**24.6 Rostered Days Off -**

24.6.1 An employee may elect, with the consent of the employer, to take a rostered day off at any time.

24.6.2 An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.

24.6.3 An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.

24.6.4 This subclause is subject to the employer informing each union which is both party to the award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.

**24.7 Personal Carers Entitlement for casual employees -**

(1) Subject to the evidentiary and notice requirements in 24.1.2 and 24.1.4 casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 24.1.3(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

(2) The employer and the employee shall 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.

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

**25. Payment By Results**

25.1 Operation of PBR Systems - An employer may maintain, alter or institute a system of payment by results, subject only to the provisions and limitations set out in this clause.

The existence and operation of a system of payment by results shall be subject to the consultative mechanisms specified in this clause and, where appropriate or necessary, to the provisions of Schedule "A", Consultative Committees.

**25.2 Payment by Results Earnings -**

25.2.1 The employer shall pay an employee working under a payment by results system a minimum amount each week equal to the award wage appropriate to the employee's Skill Level.

25.2.2 The employer shall pay the employee for each hour worked an amount not less than one thirty-eighth of the award wage appropriate to the employee's Skill Level.

25.2.3 Where an employee does not work for thirty-eight hours in any week, the employer shall pay the employee a pro rata amount of money according to the number of hours worked by the employee appropriate to the employee's Skill Level.

25.2.4 The employer shall calculate the minute pay rate for each standard time minute by dividing the total award wage for skill Level 1 by 2280.

Where an employer is currently paying a higher rate than this the higher rate shall continue to be applied and shall not be increased until such time as the rate, as calculated by this subclause, meets or exceeds the higher rate.

25.2.5 An employer shall calculate the payment by results earnings of a worker by multiplying the minute pay rate by the excess of the standard time produced over real time worked under payment by results.

25.2.6 The employer shall pay the worker the worker's payment by results earnings calculated in accordance with subclause 25.2.4 in addition to the total award wage appropriate to the worker's Skill Level.

25.2.7 Where a worker earns payment by results earnings for work performed in any day, such earnings shall be credited to the worker and shall not be reduced because the worker fails to earn payment by results earnings in any other day.

25.2.8 An apprentice or improver employed pursuant to clause 10, Apprenticeship and Improvership, shall be deemed to be producing bonus minutes when they have produced that number of minutes in proportion to the ordinary daily adult number of minutes as their rate of pay is in proportion to the appropriate adult award rate.

25.2.9 An employer, subject to the provisions of subclause 25.3, may fix or alter a time standard in respect of any garment or part of a garment, or any article or part of an article, provided such time standard is set consistent with the objective that 75% of workers (excluding trainees being new entrants to the clothing industry employed as trainees for up to three months) in any given period earn at least 20% more than the total award wage for skill Level 1.

This subclause shall not act in any way to impose a guarantee on the amount of an individual worker's payment by results earnings.

25.3 Time Standards - An employer shall calculate the time standard allowed for the performance of work in accordance with the following:

25.3.1 An employer shall consult with the payment by results workers and union representative(s) prior to the finalisation of any time standard fixed in accordance with this clause and shall provide to the payment by results workers and the union representative(s) the basis upon which the payment by results system is calculated, including appropriate allowances and the likely weekly earnings on such time standard.

On application by the Secretary of the Union, the employer shall make available the basis of such a system.

25.3.2 The setting of a time standard shall take into account the nature and method of the work to be completed and the conditions under which it is performed, including appropriate allowances.

25.3.3 Time standards shall be set to provide the consistent and similar earnings by workers with similar training, instruction, skill method and performance in a work area in an enterprise using a system of payment by results.

25.3.4 Once a time standard has been fixed in accordance with this clause, it shall not be altered except where any of the following circumstances occur:

- \* there is a change in the manufacturing methods;
- \* there is a change in the materials used;
- \* there is a change in the machines or equipment used;
- \* there is a change in the quality requirements;
- \* to correct an agreed error in the existing time standard;
- \* by agreement between the employer, the payment by results workers, and union representative(s).

25.3.5 An employer shall clearly display a copy of the time standard for each payment by results operation in each work area in each enterprise. The copy of the time standard shall be updated within twenty-four hours of any changes to the time standards.

25.3.6 Once a time standard has been fixed in accordance with this clause, it shall be recorded in a register and signed and dated by the employer and union representative(s).

25.3.7 The employer shall also display in each work area in each enterprise a conversion table to enable a worker to convert time standards into monetary amounts.

25.4 Implementation, Review and Alteration of a PBR System - For the purpose of this clause, "workers affected" means a person or persons whose work is directly involved in any way whatsoever by the implementation of a payment by results system.

25.4.1 The existence and operation of a system of payment by results shall be subject to the consultative mechanism specified in this clause and, where appropriate or necessary, to the provisions of Schedule "A", Consultative Committees.

25.4.2 An employer may, with the agreement of seventy-five per cent of the workers affected, operate a payment by results system for the workers.

25.4.3 The employer shall, every six months, table a summary of the results of the payment by results system to allow the consultative committee and union representative(s) to assess whether the payment by results system meets the criteria of subclause 25.2.9 of this clause.

25.4.4 Every calendar year in the month of February the employer shall, in consultation with the workers whose work is directly involved in any way whatsoever, conduct a vote of such workers on whether the payment by results system will continue. If seventy-five per cent of such workers vote to discontinue the payment by results system, the employer shall do so. The outcome of this review shall be reported to the Secretary of the Union.

25.4.5 If, in accordance with the vote of workers whose work is directly involved in any way whatsoever, the payment by results system is discontinued, the employer may, after three months, in consultation with the consultative committee and the union representative(s), introduce a new payment by results system in accordance with the provisions of this subclause.

25.4.6 The consultative committee and the Union may seek the assistance of an agreed independent expert on payment by results systems and the employer shall engage the expert chosen and pay all expenses associated with the engagement of the expert.

25.5 Training - An employer implementing a payment by results system pursuant to this clause shall provide each worker with appropriate training to ensure that individual performance is the only variable distinguishing workers within a skill level as outlined clause 8, Skill Levels.

25.6 Work Records - An employee shall complete work records in accordance with the employer's directions. Any wilful falsification of such records will be sufficient ground for instant dismissal of the employee

concerned. Where necessary the employer shall make arrangements for collecting the work records without loss of time to the employee concerned.

## **26. Casual Workers**

- 26.1 An employer shall only engage a casual worker during one 8-week period in any 12-month period, unless in accordance with subclause 26.2.
- 26.2 An employer may engage a casual worker for a specific period of time to replace a designated person where the period of engagement does not exceed 13 weeks in aggregate in any 12-month period. The period of time for which the casual worker is engaged, together with any other special conditions of employment, shall be confirmed in writing at the time of engagement.
- 26.3 An employer shall pay a casual worker one thirty-eighth of the award wage for the worker's classification plus 33.33 per cent per hour.
- 26.4 An employer shall apply all the provisions of this award to a casual worker, including the provisions of clause 16, Overtime, with the exception of the following clauses:
- Clause 21, Annual Leave;  
Clause 23, Sick Leave;  
Clause 28, Holidays.
- 26.5 An employer shall not require a casual worker to attend for duty more than once on any one day.
- 26.6 The employment of a casual worker may be terminated by the employer or the casual worker by the giving of one hour's notice.

## **26A. Secure Employment**

### **26A.1 Occupational Health and Safety**

26A.1.1. For the purposes of this subclause, the following definitions shall 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 staff employed or engaged by it to another employer for the purpose of such staff 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.

26A.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 shall 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 occupational health and safety consultative arrangements;
- (b) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs 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.

26A.1.3. Nothing in this subclause 26A.3 is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

#### 26A.2. Disputes Regarding the Application of this Clause

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

26A.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 established by the ANTA Ministerial Council

### 27. Part-Time Employees

- 27.1 An employer may employ a part-time employee on a weekly basis in accordance with clause 20, Terms of Engagement.
- 27.2 For the purposes of this clause a part-time employee is a person who is employed for less than 38 hours per week.
- 27.3 An employer shall pay a part-time employee one thirty-eighth of the award wage for the employee's classification per hour.
- 27.4 An employer shall apply all the provisions of this award to a part-time worker, including the provisions of clause 21, Annual Leave, clause 23, Sick Leave, and clause 28, Holidays, on a pro rata basis according to the number of hours worked by the employee.
- 27.5 Provided that -
- 27.5.1 by agreement in writing signed by the employer and the employee, the provisions of clause 21, Annual Leave, clause 23, Sick Leave, and clause, 28, Holidays, shall not apply and in lieu of these provisions the employer shall pay the part-time employee an additional twenty per cent of the award wage for the employee's classification per hour;
  - 27.5.2 where, for a period not exceeding two calendar months or by an agreement in writing for a longer period, signed by the employer and the employee, the part-time employee genuinely works an irregular number of hours each week, the employer may pay the part-time employee in accordance with subclause 27.5.1.
- 27.6 An employer may employ a part-time employee within the ordinary spread of hours applicable to full-time employees. Where such part-time employee works for more hours in a day than the number of hours for which the part-time employee is ordinarily employed or is employed at a time outside the ordinary spread of hours, the hourly rate (exclusive of the 20 per cent loading, if paid) shall be increased in accordance with clause 16, Overtime.
- 27.7 An employer shall pay a part-time employee employed under a payment by results system in accordance with clause 25, Payment by Results, but in no case shall any part-time employee be paid less than the award wage for their classification as is proportionate to the time worked by them.

- 27.8 An employer shall calculate the payment or deduction of payment in lieu of notice, the entitlement to severance pay, the entitlement to annual leave and the entitlement to sick leave provided by this award on a proportionate basis. The basis for this calculation shall be the average weekly number of hours worked by the part-time employee during the preceding 12 months or, if there is not a 12-month period of the employment, then the average of the actual hours worked during the period of employment.
- 27.9 An employer shall grant a part-time employee the holidays provided in clause 28, Holidays, where such holiday falls on a day that the part-time employee would normally have worked. An employer shall pay a part-time employee for the number of hours the part-time employee would normally have worked on that day.
- 27.10 An employer shall not require a part-time employee to attend for duty more than once on any one day.
- 27.11 An employee who was engaged as a casual worker in accordance with clause 26, Casual Workers, prior to 1 May 1990, and who is now engaged as a part-time employee in accordance with clause 27, shall, for the duration of their employment, be paid 33.33 per cent loading in lieu of a twenty per cent loading as provided in this clause.

## 28. Holidays

- 28.1 All employees, other than casual employees, shall be granted the following holidays without deduction of pay, which is the ordinary rate of pay an employee would have received for the hours that they would have worked had the day not been a holiday: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Easter Tuesday, Labor Day, Anzac Day, Queen's Birthday, Christmas Day and Boxing Day.

Provided that if any other day is by State Act of Parliament or State Proclamation substituted for any of the said holidays, the day so substituted shall be observed.

Where a special public holiday is proclaimed by Order-in-Council or otherwise gazetted by the authority of the Australian Government or of a State Government under any State Act and generally observed throughout New south Wales, such day shall be deemed to be a holiday for the purpose of this award.

### 28.2

28.2.1 When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.

28.2.2 When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.

28.2.3 When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.

- 28.3 Where public holidays are declared or prescribed on days other than those as set out in subclauses 28.1 and 28.2 of this clause, those days shall constitute additional holidays for the purpose of this award.

### 28.4 Changing Public Holidays by Agreement -

28.4.1 An employer, with the agreement of the Union, may substitute another day for any prescribed in this clause.

#### 28.4.2

- (i) An employer and the employer's employees may agree to substitute another day for any prescribed in this clause. For this purpose, the consent of the majority of affected employees shall constitute agreement.

- (ii) An agreement pursuant to 28.4.1 shall be recorded in writing and be available to every affected employee.
- (iii) The Union shall be informed of an agreement pursuant to clause 28.4.2(i) and may, within seven days, refuse to accept it. The Union will not unreasonably refuse to accept the agreement.
- (iv) If the Union, pursuant to clause 28.4.2(iii), refuses to accept an agreement, the parties will seek to resolve their differences to the satisfaction of the employer, the employees and the Union.
- (v) If no resolution is achieved pursuant to clause 28.4.2(iv), the employer may apply to the Clothing Trades (State) Industrial Committee for approval of the agreement. Such an application must be made at least 14 days before the prescribed holiday. After giving the employer and the Union an opportunity to be heard, the Industrial Committee will determine the application.

28.5 Payment by Results Employees - An employee working under any system of payment by results shall be paid for such holidays at the ordinary rate payable to an employee working as a time worker doing the same class of work.

28.6 Rostered Day Off or Accumulated Time Off Falling on a Holiday - In the case of an employee whose ordinary hours of work are arranged in such a manner as to entitle the employee to a rostered day off, the weekday to be taken off shall not coincide with a holiday fixed in accordance with this clause. Provided that, in the event that a holiday is prescribed after an employee has been given or gives notice of a weekday off and the holiday falls on such weekday, the employer shall allow the employee to take an alternative weekday off in lieu of the holiday.

28.7 Termination Within 14 Days of a Holiday -

28.7.1 Where an employee, with at least one week's service with the employer, is terminated through no fault of their own within 14 days prior to a holiday, and is re-engaged by the same employer within three months of such holiday, the employee shall be paid for any such holiday the amount they would have received had they not been terminated.

28.7.2 Where an employee, with at least one month's service with the employer, is terminated through no fault of their own on or after the last working day of the last pay period in November each year or within 14 days prior to Good Friday, the employee shall receive payment for the relevant Christmas, New Year or Easter holidays.

28.7.3 No employee shall be entitled to be paid more than once for the same holiday whilst working in the industry and shall be in breach of the award in accepting a double payment without informing the employer in relation thereto.

28.8 Full-time Employees Working Non-standard Hours - Approved employers only - This subclause applies only to full-time employees employed by approved employers who do not regularly work a five-day, Monday to Friday week, as provided for elsewhere in this award.

28.8.1 When a prescribed holiday falls upon a day when the employee would not be working in any event, the employee shall receive:

- (i) a day's paid leave to be taken on another day or added to annual leave (to be mutually agreed between the employer and the employee); or
- (ii) an additional day's wage.

28.8.2 If an employee is rostered to work on the public holiday or its substitute day (except Christmas Day), the following provisions shall apply:



- (i) If the employee is not required to work on the public holiday, the employee shall receive the payment the employee would ordinarily receive for that day and is not entitled to the substituted day off.
- (ii) If the employee is required to work on the public holiday, the employee is entitled to receive the normal rates of pay for working that day and the substitute day as a holiday. (If the substitute day is a non- working day for the employee, the employee shall receive the compensation as set out in clause 28.8.1).
- (iii) If the employee is required to work on the substitute day, the employee shall receive the rates of pay for working on a public holiday.

28.8.3 If any employee is rostered and required to work on both the "actual" public holiday and its substituted day (this would only occur if the holiday was to fall on a Saturday or a Sunday) the employee would be entitled to:

- (i) a day's paid leave to be taken on another day or added to annual leave (to be mutually agreed between the employer and the employee); or
- (ii) payment at public holiday rates for the day's work for the substituted day, and payment at the normal rates for Saturday or Sunday for the actual public holiday.

28.8.4 Christmas Day Loading - If the employee is rostered to work on a Saturday or Sunday that is Christmas Day and is required to work, the employee shall receive the normal Saturday or Sunday rate, plus a loading of one-half of a normal day's wages for the full day's work and be entitled to the substitute day.

28.9 Permanent Part-time Employees (Non-casual) - Where the normal roster of a part-time employee includes a day that is a holiday, the employee shall receive the normal pay the employee would have received on that day, subject to subclause 28.5, and shall be granted the holiday or receive the appropriate public holiday rate for working whatever hours the employee worked.

28.9.1 For part-time employees whose normal roster includes a Saturday or Sunday that would be a prescribed holiday but for the substitution of an alternative day, the following shall apply:

- (i) The employee shall be granted leave with pay on the "actual day" without any substitution; or
- (ii) the employee works on the "actual day" at normal Saturday or Sunday rates (if the Saturday or Sunday is Christmas Day, the Christmas Day loading will apply) and is allowed to take another day with pay, which may or may not be the prescribed substitute day, as a holiday; or
- (iii) the employee works on the "actual day" at normal Saturday or Sunday rates (if the Saturday or Sunday is Christmas Day, the Christmas Day loading will apply) and receives, in addition, payment at ordinary- time rates for an additional day of equal length (with no substitution of an alternative day).

28.9.2 If any of these benefits applies, the employee who works on the prescribed substitute day should do so at ordinary-time rates.

28.10 Casual Employees Working on Public Holidays - A casual employee who works on the day prescribed as the public holiday shall be paid the appropriate public holiday pay as provided for elsewhere in this award. The employee should receive the ordinary casual rate plus the applicable penalty. That is, the casual loading of 33.33 percent and the prescribed holiday rate for non-casual employees of 2.5 times ordinary rates. The casual will be paid 2.833 times the ordinary rate for non-casual employees.

28.11 Absences Before or After Public Holidays - Where an employee is absent from employment on the working day or part of the working day before and the working day or part of the working day after a

public holiday without reasonable excuse or without the employer's consent, the employee shall not be entitled to payment for the relevant public holiday.

- 28.12 Unpaid Leave and Public Holidays - Any continuous period of unpaid leave in excess of four weeks shall not be deemed to be service and the employee shall not be entitled to payment for any holiday falling within this period of leave.

### **29. Payment for Work Done on Holidays**

- 29.1 Any weekly employee who works on any holiday provided for in clause 28, Holidays, shall, for all time worked on that day, be paid at the rate of double time and one-half of the ordinary rate.
- 29.2 Any employee working under any system of payment by results who works on any holiday provided for in the said clause 28 shall, for all time worked on that day, be paid the employee's ordinary earnings under such system of payment by results, and an amount calculated on the basis of half of the ordinary rate for the class of work being performed, in addition to the ordinary rate payable to employees on time work doing the same class of work.
- 29.3 The minimum payment for work performed on public holidays shall be four hours.

### **30. Payment for Work Done on Sundays**

- 30.1 Work in any factory or workshop is prohibited on Sundays unless in extraordinary circumstances and then only with the consent of the Secretary of the Union.
- 30.2 Any employee who works on a Sunday shall for that day be paid at the rate of double ordinary rates.

### **31. Contract Work**

- 31.1 Contract work may only be undertaken subject to the following conditions:
- 31.1.1 An employer may give out work to another employer provided that, where the employer undertaking such work causes some or all of such work to be performed outside a factory or workshop registered in compliance with the appropriate State Acts or regulations, the employer to whom work is given shall be a registered employer of outworkers pursuant to clause 33, Registration of Employers.
- 31.1.2 An employer giving out work to other employers shall, on the last working day of May and the last working day of November each year, file with the Industrial Registrar or Deputy Industrial Registrar in New South Wales, a list of the employers to whom work is given, and a copy of such list shall be forwarded to the Union.
- 31.1.3 The Industrial Registrar or the Deputy Industrial Registrar in New South Wales may allow an organisation with a legitimate interest in the clothing manufacturing industry to peruse the list submitted in accordance with clause 31.1.2.
- 31.2 Employer giving out work to another employer where the other employer does not employ outworkers:
- 31.2.1 An employer bound by this award may give out work to another employer, to be carried out in the other employer's workshop or factory registered in accordance with the appropriate State Acts and Regulations.
- 31.2.2 An employer giving out work pursuant to this subclause shall, on the following dates in each year, file with the Industrial Registrar or the Deputy Industrial Registrar in New South Wales, a list of the other employers to whom work has been given in each preceding three-month period, and a copy of such list shall be forwarded to the Union:

Last working day of February.

Last working day of May.

Last working day of August.  
Last working day of November.

31.2.3 The Industrial Registrar or the Deputy Industrial Registrar in New South Wales may allow an organisation with a legitimate interest in the clothing manufacturing industry to peruse the list submitted in accordance with clause 31.2.2.

31.3 Employer contracting with a person who alone will perform work - Employer giving out work to another employer or another person where the other employer or other person employs others outside a factory or workshop:

31.3.1 For the purpose of this subclause, "work" means hand or machine sewing in the construction of a garment or part thereof being work performed other than in a factory or workshop.

31.3.2 An employer shall:

- (i) not contract with any person pursuant to this subclause unless that employer is registered pursuant to clause 33, Registration of Employers;
- (ii) when desirous of contracting with any person pursuant to this subclause, make application for registration, in accordance with the said clause 33, to the Clothing Trades (State) Industrial Committee.

31.3.3

- (i) An employer contracting with a person who alone will perform work shall contract to provide and shall provide terms and conditions no less favourable than those prescribed by this award for persons engaged under a contract of service pursuant to clause 32, Outworkers.
- (ii) An employer contracting with another employer, or with another person who gives out the work, or with a person who alone will perform work shall make a record in writing of the following details:
  - (1) The name of the other employer (or the other person) who gives out the work and the registration number of the other employer (or the other person) who gives out the work.
  - (2) The address of the other employer (or the other person) who gives out the work.
  - (3) The name(s) and address(es) of the person(s) to whom the work is given.
  - (4) The address(es) where the work is to be performed.
  - (5) The date of giving out the work and the date for completion of the work.
  - (6) A description of the nature of the work to be performed (including construction, seam type, finishing and fabric type).
  - (7) A description and, where available, a rough drawn outline of the garments or articles of each type being given out to the other employer (or the other person) who gives out the work.
  - (8) The number of garments or articles of each type being given out to the person.
  - (9) The sewing time allowed for each type of garment or article to be done.
  - (10) The price to be paid for each garment or article. The Union shall not divulge any details concerning the price to be paid for each garment or article in any

circumstances to any party, save for enforcement proceedings in a court or industrial dispute proceedings in the Industrial Relations Commission of New South Wales.

- (11) Where the work is given to a person who alone will perform the work, the total amount to be paid to the person calculated in accordance with subclauses 31.3.3(ii)(8), (9) and (10).
- (iii) A copy of this record shall be given to the person doing the work and the employer's copy shall be available for inspection by a person duly authorised in accordance with clause 34, Entry and Inspection by Officers of Industrial Organisations, as if it was a record as described in clause 35, Time Book, Sheet or Records.

#### 31.3.4

- (i) No employer shall enter into any contract or arrangement with another person (hereinafter called "the second person") concerning the performance of work pursuant to which contract or arrangement the second person will not personally or alone perform the work unless the contract or arrangement is entered into on terms whereby any work to be performed by a person other than the second person is carried out pursuant to a written agreement made between the second person and the person who will actually perform the work, such written agreement to:
  - (1) specify the matters referred to in clause 31.3.3(ii); and
  - (2) provide for wages and conditions no less favourable than those provided by this award for persons engaged under a contract of service pursuant to clause 32, Outworkers.
- (ii) Any employer who enters into a contract pursuant to subclause 31.3.3(i) or pursuant to subclause 31.3.4(i) shall notify the Industrial Registrar or the Deputy Industrial Registrar in New South Wales and the Union, within seven days of the last working day of February, May, August and November of each year of the existence of such contract and the names and addresses of the persons who enter into the contract. The Industrial Registrar, or the Deputy Industrial Registrar in New South Wales may allow an organisation with a legitimate interest in the clothing manufacturing industry to peruse such records.

31.3.5 Where a person has performed work either directly for an employer pursuant to subclause 31.3.3 or for a second person (being work in respect of a contract or arrangement between the second person and an employer pursuant to subclause 31.3.4), such person may make a claim for payment for such work by serving upon the relevant employer a statutory declaration specifying the identity of the person performing the work, the work performed, the date or dates on which the work was performed and the payment claimed. Such statutory declaration, if served within six months of completion of that work, shall be accepted as proof of liability on the part of that employer to pay the sum claimed, unless that employer against whom the claim is made is able to prove:

- (i) that the work was not in fact done; and/or
- (ii) the payment claimed was not the correct payment due for the work that was actually done.

31.3.6 An employer shall not in any way, whether directly or indirectly, be a party to or concerned in conduct that:

- (i) hinders, prevents or discourages the observance of this clause; or
- (ii) causes or encourages, or is likely to cause or encourage, a breach or non-observance of this clause.

- 31.4 An employer contracting with a person who alone will perform work shall provide to that person, each time work is given out, information as to their entitlements as per Schedule "C" of this award.

### 32. Outworkers

- 32.1 For the purpose of this clause -

"Employer" means an employer bound by this award.

"Ordinary working week" means the hours and days occurring between midnight on Sunday and midnight on Friday in any week.

"Outworker" means a person who performs work as herein defined for an employer outside the employer's workshop or factory under a contract of service.

"Work" means hand or machine sewing in the construction of a garment or part thereof being work performed other than in a factory or workshop.

- 32.2 Employers bound by this award shall -

32.2.1 not employ any person to perform work covered by this award under a contract of service outside the employer's workshop or factory unless that respondent employer is a registered employer of outworkers, pursuant to clause 33, Registration of Employers;

32.2.2 when desirous of employing outworkers, make application to the Industrial Committee for registration in accordance with clause 33, Registration of Employers;

32.2.3 not employ a person to perform work covered by this clause outside the workshop or factory unless prior agreement in writing has been reached between that respondent and the person as to whether that person is to be employed on a full-time or part-time basis and if on a part-time basis, the agreed number of hours. Provided that nothing in this clause shall prevent the parties to any such agreement varying the same by consent from employment on a full-time basis to employment on a part-time basis or vice versa. Provided further that any such variation shall not take effect until the expiry of at least three days from the date of the agreement to that variation;

32.2.4 not employ more than 10 outworkers at any one time. Provided that an employer may employ a specified greater number of outworkers with the consent of the Union or if, in the absence of that consent, the Industrial Committee in the exercise of its discretion grants permission to the employer to employ a specified greater number of outworkers;

32.2.5 pay any outworkers employed at the rates prescribed by clauses 6, Rates of Pay, and 25, Payment by Results, (as appropriate) for the classification in which the outworker is engaged. Provided that working time allowed for work to be performed shall be fair and reasonable and that the time standards set for the work to be performed by outworkers will in every case be longer than the time standards that would be set for the same work if done in the factory to include a reasonable component to cover time spent on ancillary tasks, such as bundling and unbundling, sorting, packing and the like. Provided further that in the event that the employer has no factory, a factory undertaking the same or comparable work shall be used for the purpose of setting the time standards;

32.2.6 pay for outwork performed in the ordinary working week at the minute rate of:

- (i) 1/2280 of the weekly award rate for the classification in which the outworker is employed for the first 38 hours worth of work; and
- (ii) the minute rate in clause 32.2.6(i), multiplied by 1.5 for the classification in which the outworker is employed, for each hour thereafter;

32.2.7 pay for outwork performed or deemed to have been performed on a Saturday or Sunday or a public holiday, at the minute rate in clause 32.2.6(i), multiplied by 2 for the classification in which the outworker is employed. An outworker shall not be entitled to penalty payment for work performed on a Saturday, Sunday or award holiday unless there is prior agreement with the employer for the performance of work on any such day(s) in accordance with clause 32.2.13(xii);

32.2.8 apply all provisions of clause 25, Payment by Results, to outworkers working under any system of payment by results unless expressly excluded from such operation either in this clause or in the said clause 25;

32.2.9 provide sufficient work (that is, 38 hours worth of work each week for full-time outworkers and at least 20 hours worth of work each week for part-time outworkers) in the ordinary working week where the outworker is ready, willing and able to perform such work.

Provided that an outworker under any system of payment by results who is ready, willing and able to work:

(i) on a full-time basis (i.e., 38 hours or more) in the ordinary working week, but receives in any such week less than 38 hours worth of work from the employer, shall be paid in accordance with the following formula:

(1) if the employee receives no work at all, the weekly award rate for the classification in which the outworker is employed;

(2) if the employee receives less than 38 hours worth of work, the weekly award rate for the classification in which the outworker is employed;

(ii) on a part-time basis (i.e., at least 20 hours) in the ordinary working week (for one or more employers) but receives in any such week fewer hours worth of work than the number of hours for which the outworker was employed from any one such employer, shall be paid (by each employer) for the number of hours for which the outworker was employed. Such payment to be so much of the weekly award rate as is proportionate to the number of hours the worker was employed to work in any ordinary working week;

(iii) may be stood down by an employer without pay for up to ten days but for no more than two days in any four consecutive working weeks where no work can be offered as a result of circumstances beyond the employer's control, proof of which shall lie with the employer. In such circumstances the employer shall keep a record of the name and address of the outworker stood down, the commencing date and duration of the stand down and the reason for the stand down. A copy of this record shall be given to the person doing the work and the Union within two working days of the stand down and the employer's copy shall be available for inspection by a person duly authorised in accordance with clause 34, Entry and Inspection by Officers of Industrial Organisations, as if it was a record described in clause 35, Time Book, Sheet or Records.

32.2.10 not require any full-time outworker to complete more than 38 hours worth of work, or any part-time outworker to complete more hours worth of work than the number of hours for which the outworker was employed in any ordinary working week;

32.2.11 subject to clause 32.2.13 not require any outworker to perform work on a Saturday or a Sunday or on any public holidays;

32.2.12 pay the outworker for each public holiday prescribed by this award an amount equal to 1/5 of the applicable weekly award rate for full-time outworkers and on a proportionate basis for part-time outworkers;

32.2.13 at the time of delivery of any work to an outworker provide full details of the following matters and shall keep true and correct records thereof in writing:

- (i) the name of the employer bound by this award and the registration number of the employer;
- (ii) the address of the employer bound by this award;
- (iii) the name of the person to whom the work is given;
- (iv) the address where the work is to be done;
- (v) the date of delivery of the work;
- (vi) the description of the garments or articles upon which work is to be done (e.g., skirts, dresses, jeans);
- (vii) a description of the nature of the work to be performed (e.g., overlocking);
- (viii) the number of garments or articles of each description being given out to the person;
- (ix) full details of the appropriate time standard in accordance with subclause 32.2.5 which when considered with the minute rate set out in clause 32.2.6 will enable the price to be paid for each garment or article to be calculated;
- (x) the number of working hours that will therefore be necessary to be worked to complete the said garments or articles, and accordingly;
- (xi) the number of days that will therefore be needed to perform the work with such calculation being undertaken (consistent with subclause 32.2.10) on the basis of 7.6 hours worth of work being performed each day; and
- (xii) the appropriate time and date for the work to be picked up from the outworker. The pickup time and date shall be set on the basis that no work will need to be performed on any Saturday, Sunday or award holiday which may occur between delivery and pickup unless there is prior agreement between the employer and the outworker that work will be performed on any or all of such days. If there is such agreement, the written record referred to in this subclause must specify the actual date of any Saturday, Sunday or award holiday on which it has been agreed that work will be performed and the number of hours to be worked on any such day. In the absence of any specification as to the number of hours to be worked on a Saturday, Sunday or award holiday on which work has been authorised pursuant to this paragraph, the outworker shall be deemed to have worked and shall be entitled to payment in respect of any such day at the rate specified in clause 32.2.7.
- (xiii) The total amount to be paid to the outworkers shall be calculated in accordance with subclauses 32.2.13(viii), (ix) and (x).

Provided that a copy of this record shall be given to the person doing the work and the employer's copy shall be available for inspection at the employer's premises by a person duly authorised in accordance with clause 34, Entry and Inspection by Officers of Industrial Organisations, as if it was a record described in clause 35, Time Book, Sheet or Records.

Provided always that if the time period between delivery and pickup (arrived at via calculations under subclause 32.2.13(xi)) will necessarily include a Saturday and/or a Sunday and/or a public holiday(s) then the first agreed pickup date shall be reset (i.e., put back) to ensure, consistent with clause 32.2.10 and given the number of days needed to do the work arrived at in subclauses 32.2.13(xi) and (xii), that the employee will not be required to work on any of the days set out in this proviso that fall within the period set under subclause 32.2.13(xi) to complete the work delivered (the reset pickup date to be hereinafter referred to as "the second agreed pickup date").

Provided further that if an outworker who has work delivered to be performed in a time period that includes either a weekend day(s) or a public holiday(s) expressly agrees or simply elects to complete that work by the first agreed pickup date rather than by the second agreed pickup date then the worker will, for the purpose of payment, be deemed to have completed 7.6 hours (but no more) worth of the work on each of the weekend and/or public holiday days occurring in the period between delivery and pickup;

32.2.14 pay annual leave to outworkers in accordance with the provisions of clause 21, Annual Leave.

32.2.15 pay all wages due not later than two working days following the end of the working week, at a time and by a method mutually agreed between the outworker and employer.

On or before the pay day, the employer shall provide to the outworker in writing, details of the wage payment to which the outworker is entitled, the amount of each deduction made therefrom and the net amount being paid to the outworker;

32.2.16 except as otherwise provided in this clause, apply to outworkers the terms and conditions of employment provided by the award, excluding the following clauses:

14. Hours of Employment
15. Midday Meal Interval
16. Overtime
17. Meal Money
18. Rest Period
20. Terms of Engagement 20.3.6
23. Sick Leave
26. Casual Workers
34. Entry and Inspection by Officers of Industrial Organisations
35. Time Book, Sheet or Records
37. Amenities
38. First-aid Ambulance Chest
39. Award Posted
41. Shop Stewards and Representatives
43. Notice Boards
45. Tools of Trade
46. Disability Allowance
50. Blood Donors
51. Attendance at Hospital

32.2.17 provide outworkers with all necessary materials, trimmings and sewing threads.

32.3 Where a person has performed work for an employer as an outworker, such person may make a claim for payment for such work by serving upon the employer a statutory declaration specifying the identity of the person, the work performed and the payment claimed therefore. Such statutory declaration, if served within six months of completion of that work, shall be accepted as proof of liability on the part of the employer to pay the sum claimed, unless that employer against whom the claim is made is able to prove:

32.3.1 that the work for which the claim is made was not, in fact, done; and/or

32.3.2 the payment claimed as due was not the correct payment for the work that was actually done.

32.4 In any proceedings commenced concerning work performed pursuant to this clause, it lies upon any person alleging that the person performing such work was not an employee to prove that this was the case.

32.5 An employer bound by this clause shall not in any way, whether directly or indirectly, be a party to or concerned in conduct that:



- 32.5.1 hinders, prevents or discourages the observance of this clause; or
- 32.5.2 causes or encourages or is likely to cause or encourage, a breach of, or non-observance of, this clause.
- 32.6 An employer shall provide to the outworker, each time work is given out, information as to their entitlements as per Schedule "C" of this award.

### 33. Registration of Employers

- 33.1 Except as prescribed in clause 31.1, Contract Work, an employer bound by this award having or proposing to have work performed away from the employer's own factory or workshop pursuant to clauses 31, Contract Work, and 32, Outworkers, shall make application for registration to the Industrial Committee.
- 33.2 The Industrial Committee may register the employer on conditions as determined by it for a twelve-month period. The Industrial Committee may revoke the registration if any or all of such conditions have not been complied with.
- 33.3 Upon registration the employer will be given a registration number.
- 33.4 The Industrial Registrar shall maintain a record of employers registered pursuant to this clause.
- 33.5 Upon registration and at yearly intervals thereafter, such employer shall cause a notice to be placed in the public notices column of a metropolitan daily newspaper circulating throughout the State in which the work is to be performed, notifying such registration. Such notice shall:
- 33.5.1 specify the identity of the employer and the registration number; and
- 33.5.2 specify where all documents in the employer's possession or custody containing the terms of any agreement or contract to perform work made in accordance with the provisions of this award may be inspected by a person entitled under the award to do so.
- 33.6 An employer, by application to the Industrial Committee or (subject to any order by the said Committee or the Industrial Relations Commission of New South Wales) by agreement in writing with the Secretary of the Union, may be exempted from the requirement to comply with the provisions of clause 33.5. Where any such agreement is made a copy shall be lodged with the Industrial Registrar.

### 34. Entry and Inspection By Officers of Industrial Organisations

- 34.1 The *Industrial Relations Act* 1996 (New South Wales) ("the Act") provides for Right of Entry in the following terms:

#### 34.1.1 Definitions

- (i) In this Part:

authorised industrial officer means an officer or employee of an industrial organisation of employees who holds an instrument of authority for the purposes of this Part issued by the Industrial Registrar under section 299 of the Act

employees' records includes records of the remuneration of employees, part-time work agreements with the employees or other records relating to the employees that are required to be kept by the employer by or under the industrial relations legislation or an industrial instrument.

officer of an industrial organisation includes any person who is concerned in, or takes part in, the management of the organisation.

relevant employee, when used in connection with the exercise of a power by an authorised officer of an industrial organisation, means an employee who is a member of the organisation or who is eligible to become a member of the organisation.

- (ii) This Part does not confer authority on an authorised industrial officer to enter any premises for the purposes of holding discussions with employees or of an investigation if:
  - (1) the persons employed at that place are employed by a person who holds a certificate of conscientious objection under section 212 (3) of the Act because of membership of a religious society or order (such as the Brethren), and
  - (2) none of the persons employed at those premises are members of an industrial organisation, and
  - (3) there are no more than 20 persons employed at those premises.

34.2 Right of entry for discussion with employees - An authorised industrial officer may enter, during working hours, any premises where relevant employees are engaged, for the purpose of holding discussions with the employees at the premises in any lunch time or non-working time.

34.3 Right of entry for investigating breaches

34.3.1 An authorised industrial officer may enter, during working hours, any premises where relevant employees are engaged, for the purpose of investigating any suspected breach of the industrial relations legislation, or of any industrial instrument that applies to any such employees.

34.3.2 For the purpose of investigating any such suspected breach, the authorised industrial officer may:

- (i) require any employer of relevant employees to produce for the officer's inspection, during the usual office hours at the employer's premises or at any mutually convenient time and place, any employees' records and other documents kept by the employer that are related to the suspected breach, and
- (ii) make copies of the entries in any such records or other documents related to any such suspected breach.

34.3.3 An authorised industrial officer must, before exercising a power conferred by this section, give the employer concerned at least 24 hours' notice.

34.3.4 The Commission or the Industrial Registrar may, on the ex parte application of an authorised industrial officer, waive the requirement to give the employer concerned notice of an intended exercise of a power conferred by this section if the Commission or the Industrial Registrar is satisfied that to give such notice would defeat the purpose for which it is intended to be exercised.

34.3.5 If the requirement for notice is waived under subclause 34.3.4:

- (i) the Commission or Industrial Registrar is to give the authorised industrial officer a warrant authorising the exercise of the power without notice, and
- (ii) the authorised industrial officer must, after entering the premises and before carrying out any investigation, give the person who is apparently in charge of the premises the warrant or a copy of the warrant

34.4 Provisions relating to authorities issued to officers -

34.4.1 The Industrial Registrar may, on application, issue an instrument of authority for the purposes of this Part to an officer or employee of an industrial organisation of employees.

34.4.2 An authorised industrial officer is required to produce the authority:

- (i) if requested to do so by the occupier of any premises that the officer enters, or
- (ii) if requested to do so by a person whom the officer requires to produce anything or to answer any question.

34.4.3 The authority:

- (i) remains in force until it expires or is revoked under this section, and
- (ii) expires when the person to whom it was issued ceases to be an officer or employee of the industrial organisation of employees concerned.

34.4.4 The Industrial Registrar may, on application, revoke the authority if satisfied that the person to whom it was issued has intentionally hindered or obstructed employers or employees during their working time or has otherwise acted in an improper manner in the exercise of any power conferred on the person by this Part.

34.4.5 An application for the revocation of an authority is to set out the grounds on which the application is made.

34.4.6 A person to whom an authority has been issued under this section must, within 14 days after the expiry or revocation of the authority, return the authority to the Industrial Registrar for cancellation.

Maximum penalty: 20 penalty units.

34.5 No entry to residential premises without permission - An authorised industrial officer does not have authority under this Part to enter any part of premises used for residential purposes, except with the permission of the occupier.

34.6 Offences -

34.6.1 An authorised industrial officer must not deliberately hinder or obstruct the employer or employees during their working time.

34.6.2 A person must not deliberately hinder or obstruct an authorised industrial officer in the exercise of the powers conferred by this Part.

34.6.3 A person must not, without lawful excuse, fail to comply with a requirement of an authorised industrial officer under this Part.

34.6.4 A person must not purport to exercise the powers of an authorised industrial officer under this Part if the person is not the holder of a current authority issued by the Industrial Registrar under this Part.

Maximum penalty: 100 penalty units.

34.7 Powers of Commission - The Commission may deal with an industrial dispute about the operation of this Part, but does not have any jurisdiction to make an award or order conferring additional or inconsistent powers of entry or inspection.

Industrial relations legislation means any of the following Acts and the regulations made under any such Act:

*Industrial Relations Act 1996*  
*Annual Holidays Act 1944*  
*Employment Protection Act 1982*

*Long Service Leave Act 1955*

*Long Service Leave (Metalliferous Mining Industry) Act 1963.*

An industrial instrument means an award, an enterprise agreement, a public sector industrial agreement, a contract determination or a contract agreement.

### **35. Time Book, Sheet Or Records**

- 35.1 The employer shall provide in each factory, workshop or place where work is being performed, a time and wages book or sheet or records, which shall have correctly recorded in ink, or by other means except pencil and in the English language, the following particulars:
- 35.1.1 The initials and surname and classification or classifications (when engaged on mixed functions) of each employee.
- 35.1.2 The date of birth and experience and time work rate of pay of improvers in respect of new employees at the date of engagement.
- 35.1.3 The number of hours of ordinary time worked by each employee each day and each week and the amount of weekly superannuation contributions paid in accordance with clause 55, Superannuation.
- 35.1.4 The number of hours of overtime worked by each employee each day and each week.
- 35.1.5 The total amount of wages paid to each employee each week.
- 35.1.6 The actual name of the day and the date of each day of each week and also the name of the day and the date on which each week ends.
- 35.1.7 All holiday, annual leave, long service and sick leave payments.
- 35.2 Where any employee is employed under any system of payment by results, the employer shall keep a correct record of the rates and of the class and number of articles or parts of articles on which work is done by such employee each week.
- 35.3 For further information, see the *Industrial Relations Act 1996*.

### **36. Seating Accommodation**

- 36.1 When it is necessary for employees to sit at their work, seats shall be provided for the employees by the employer. Such seats shall be reasonably comfortable seats.
- 36.2 A seat provided for any employee shall have a back to it, unless the work of such employee cannot be conveniently done in such a seat, or unless the employee requests to be allowed to use a seat without a back to it.

### **37. Amenities**

- 37.1 Lighting and Heating - In connection with every factory or workshop, the employer shall make provision for adequate warmth during cold weather and cooling during hot weather where necessary (fans or the like) and adequate light for the employees to perform their work, and as far as possible artificial light shall be avoided.
- 37.1.1 For the purposes of this clause a factory or workshop shall include any building, establishment, depot or place where any person is employed upon any work to which this award is applicable.
- 37.1.2 The requirements specified by this subclause shall also apply to any dining room and/or rest room provided by the employer in accordance with the provisions of subclauses 37.6 or 37.7.

- 37.2 Floor Covering - The working areas of factory floors, when used by employees, shall be covered by suitable floor coverings, other than in passageways which hydraulic lifts and mechanical motorised equipment such as fork lifts traverse, to ensure that no employee shall be called upon to work on bare concrete, brick, stone or wooden floor. Such floors shall be covered in a manner to adequately ensure comfortable conditions. Provided that in the case of wooden floors, an employer may be exempted from such requirements by agreement of the Union in writing or as approved by the Industrial Relations Commission of New South Wales, if it is considered such wooden floor is in good condition, is well maintained and ensures comfortable working conditions.
- 37.2.1 The requirements specified by this subclause shall also apply to the dining room and/or rest room provided by the employer in accordance with the provisions of subclause 37.6. Linoleum or vinyl or rubber, all of a heavy weight, or materials with similar qualities shall be considered suitable. Seamless in situ composition floor surfacing of sufficient thickness fully covering the specified areas shall also be considered suitable.
- 37.3 Drinking Water - Refrigerated, clean and wholesome drinking water shall be provided in places easily accessible to all employees. Drinking water kept in a refrigerator shall constitute compliance with this subclause.
- 37.4 State Regulations - The laws and regulations in force on 1 February 1983 in New South Wales relating to factories and workshops in respect to sanitation, lavatories, factory cleanliness, heating and light and limitations as to the weights females shall be permitted to lift or carry, shall be incorporated into and be read as part of this award insofar as such laws and regulations do not conflict with this award. Provided, however, and it is hereby expressly declared that nothing in this clause shall be deemed to abrogate, effect, repeal, amend or in any degree render inoperative any State law except of any inconsistency of such State law with this award.
- 37.5 Toilet Accommodation - Notwithstanding the foregoing, a separate toilet shall be provided in factories where mixed sexes are employed, and approaches thereto properly separated for the sexes, shall be provided.
- 37.6 Dining Accommodation -
- 37.6.1 An employer of more than 10 employees shall provide a separate room (reasonably convenient to the working area) or portion of the factory or workshop as a dining room and keep the same and its facilities hygienically clean.
- (i) Dining room tables shall be of laminated plastic top construction or be covered by some material which can be kept hygienically clean.
  - (ii) The seating provided shall be fitted with backs.
  - (iii) An adequate supply of boiling water shall be made readily available to employees without charge at the time at which their meal break or rest period commences. The employer shall also provide a refrigerator and a facility for heating food.
  - (iv) The size of the dining room, the number of tables and its seating accommodation shall be adequate if at least three quarters of the employees taking a meal break at the one time are able to use the same in reasonable manner and without congestion.
  - (v) The dining room shall not be used for work room or work room storage purposes.
- The words "reasonably convenient to the working area" shall have the meaning set out in Appendix "B" Form of Declaration - Amenities to this award.
- 37.6.2 An employer of more than 10 employees may make an application to the Industrial Relations Commission of New South Wales for exemption from any of the provisions of clause 37.6.1 and the Commission may grant such exemption provided that it is satisfied either:

- 37.6.2.1 that it is impracticable for such employer to provide the said dining room and/or facilities; or
- 37.6.2.2 that for some other good reason exemption from the provisions of such paragraph ought to be granted to such employer

Provided that where such an exemption is obtained, the disability payments prescribed in clause 46, Disability Allowance, shall still be payable.

37.6.3 Without affecting the rights of any party before the Industrial Relations Commission of New South Wales, the Commission shall consider and, if necessary, make recommendations as to the suitability or otherwise of the dining room and/or dining room facilities of a particular employer before proceedings for breach of this clause or clause 46 may be taken.

### 37.7 Rest Room -

37.7.1 In any factory or workshop in which females are employed, a separate properly ventilated room (reasonably convenient to the working area) with seating and a couch or folding lounge shall be provided as a rest room.

An area enclosed by permanent partitioning of hardboard or the like, at least six feet high, with a door or curtained doorway shall be acceptable as a separate room. Where a folding lounge is provided, it shall be set up for immediate use. A pillow, blanket and hot water bottle shall be provided. The rest room and its facilities shall be kept ready for immediate use.

With the approval of the Union a common rest room may be provided for employees of two or more employers, subject to the stipulation contained in Appendix "B" to this award.

The rest room shall not be used for work room or work room storage purposes.

The words "reasonably convenient to the working area" shall have the meaning set out in Appendix "B".

37.7.2 An employer of less than 10 female employees may make an application to the Industrial Relations Commission of New South Wales for exemption from any of the provisions of clause 37.7.1 and such a tribunal may grant such exemption provided that it is satisfied either:

- 37.7.2.1 that it is impracticable for such employer to provide the said rest room and/or facilities; or
- 37.7.2.2 that for some other good reason an exemption from the provisions of such paragraph ought to be granted to such employer.

Provided that where such an exemption is obtained, the disability payments prescribed in clause 46, Disability Allowance, shall still be payable.

37.7.3 Without affecting the right of any party before the Industrial Relations Commission of New South Wales, the Commission shall consider and, if necessary, make recommendations as to the suitability or otherwise of the dining and/or rest room facilities of a particular employer before proceedings for breach of this clause and/or clause 46 may be taken.

37.8 Hanging Facilities - Each employer shall at some reasonably convenient place on the employer's premises provide proper hanging facilities which afford reasonable protection for employees' clothes.

### 38. First-Aid Ambulance Chest

Every factory or workshop shall have, in some accessible place, a first-aid ambulance chest which shall be a suitable dust-proof receptacle made of either metal or wood for the use of the employees. Such chest shall be

equipped and supplied with those articles prescribed by the Occupational Health and Safety Regulation 2001, as amended from time to time.

### **39. Award Posted**

A copy of this award and its amendments when available shall be posted and kept posted by the employer in a prominent place in the workshop or factory.

### **40. Industrial Committee**

- 40.1 For the purposes of this award, power is given to the Industrial Registrar to appoint an Industrial Committee.
- 40.2 An Industrial Committee shall consist of two representatives of the Union, two representatives of the employer and the Industrial Registrar or Deputy Industrial Registrar (as the case requires), or such other person as the Industrial Registrar or the Deputy Industrial Registrar may nominate as Chairperson of the Industrial Committee. In the event of the representative members of the Industrial Committee being equally divided in opinion, the Chairperson may cast a vote to give a majority decision.
- 40.3 Any person appointed a member of the Industrial Committee by the Registrar may appoint a substitute to act in that person's stead at any time.
- 40.4 Three members, one of whom may be the Registrar or Deputy Registrar or a Deputy therefore as provided in subclause 40.2, shall constitute a quorum.
- 40.5 An Industrial Committee may sit at such times and places as the members may agree or the Registrar or Deputy Registrar (as the case requires) may fix and may adjourn from time to time and from place to place.
- 40.6 The functions of the Industrial Committee shall be:
- 40.6.1 To settle disputes as to matters under this award.
- 40.6.2 To deal with any dispute affecting the amicable relations of the parties.
- 40.6.3 To hear and decide any dispute referred to it by the Industrial Relations Commission of New South Wales as to or arising out of the weekly output or task or any dispute referred to it by the Commission as to the fixation of the amount of work to be done by employees, or any dispute arising out of the fixation of the rates to be paid to payment-by-results workers or outdoor workers.
- 40.7 The decision of the Industrial Committee may be reviewed and altered by the Industrial Relations Commission of New South Wales on the application of any party to this award, provided that notice of an application to the Commission to review such decision be given within 14 days of such decision and an application be lodged with the Registrar or Deputy Registrar asking for such review within 21 days of such decision. The Commission may give extended time for such notice and application at any time.
- 40.8 Nothing in this clause shall take away from any party the right to apply to the Industrial Relations Commission of New South Wales or to the court, given by the Industrial Relations Act 1996, whether for a variation or an interpretation of this award.

### **41. Shop Stewards and Representatives**

Shop stewards and official union representatives shall be recognised by the employer and shall be allowed time off during working hours to interview the employer if there is any legitimate complaint. Shop stewards shall have reasonable access to a telephone during working hours.

#### **42. Uniforms**

If an employer requires an employee to wear a uniform they shall pay for the provision and cleaning of such uniform .

#### **43. Notice Boards**

The employer shall make facilities available in a prominent position in the workshop or factory, upon which representatives of the Union shall be allowed to post union notices. Any notice so posted shall be countersigned by the representative of the Union and, in the absence of a countersignature, may be removed by the Union representative or the employer.

#### **44. Protective Clothing**

Where any person is required to work under wet or dirty conditions, suitable protective clothing, including footwear, shall be supplied free of charge by the employer to the employee concerned.

Any dispute as to the necessity or suitability of such clothing shall be determined by the Industrial Committee.

#### **45. Tools of Trade**

The employer shall provide all necessary tools for employees in each workshop or factory.

#### **46. Disability Allowance**

- 46.1 Subject to subclauses 37.6.2 and/or 37.6.3 where a dining room and/or its facilities, in any establishment having more than ten employees, are inadequate in that they do not satisfy the provisions of subclause 37.6 the employer shall, in addition to the rates set out elsewhere in this award, pay to each employee in that establishment a disability allowance as set in Item 4 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, per day for each day worked by such employee whilst suffering such disability of inadequate conditions.

Where such dining room and its facilities are only adequate for a lesser number of employees than the required minimum prescribed by clause 37.6.1, the disability referred to shall be deemed to have been suffered by the balance of the total employees in that establishment taking a meal break at the one time. In such case the total amount of the disability payments due to the number of employees who suffered such disability shall be shared equally amongst all the employees in that establishment.

- 46.2 Subject to subclauses 37.7.2 and/or 37.7.3 where a rest room and/or its facilities, in an establishment, are inadequate in that they do not satisfy the provisions of clause 37.7 the employer shall, in addition to the rates set out elsewhere in this award, pay to each female employee in that establishment a disability allowance as set in Item 5 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, per day for each day worked by such employee whilst suffering such disability of inadequate conditions.

The disability referred to shall be deemed to have been suffered by all female employees in that establishment during that period of their respective employment when the rest room and its facilities were not of the prescribed standard.

Provided that an employer shall not be held liable for payment of such disability allowance should any of the equipment specified in subclause 37.7.1 supplied by the employer be subsequently missing through no fault of such employer.

- 46.3 Any excess wages payable to an employee on account of work performed or for any other reasons shall not be off-set against the disability payments prescribed in this clause.



#### 47. Bereavement Leave

- 47.1 An employee, other than a casual employee, shall be entitled to up to two days bereavement leave without deduction of pay up to and including the day of the funeral on each occasion of the death of a person prescribed in subclause 47.3.
- 47.2 The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will provide to the satisfaction of the employer proof of death.
- 47.3 Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of personal/carer's leave as set out in clause 24.1.3(ii), Personal Carers Leave, provided that for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- 47.4 An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
- 47.5 Bereavement leave may be taken in conjunction with other leave available under clauses 24.2, 24.3, 24.4, 24.5, and 24.6. In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.
- 47.6 Bereavement entitlements for casual employees
- 47.6.1 Subject to the evidentiary and notice requirements in 47.2 casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 24.1.3(ii) of clause 24, Personal/Carer's Leave.
- 47.6.2 The employer and the employee shall 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.
- 47.6.3 An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

#### 48. Accident Pay

- 48.1 An employer shall pay and an employee shall be entitled to receive accident pay in accordance with this clause.
- 48.2 Definitions - For the purposes of this clause and subject to the terms thereof the words hereunder shall bear the respective definitions set out hereunder:
- 48.2.1 *Workers' Compensation Act* - The Workers' Compensation Acts applicable in New South Wales are the *Workers' Compensation Act 1987* as amended from time to time, and the *Workplace Injury Management and Workers Compensation Act 1998* as amended from time to time.
- 48.2.2 Injury - Injury shall be given the same meaning and application as applying under the respective Workers' Compensation Acts. No injury occurring at the place of employment shall result in the application of accident pay unless an entitlement exists under such Acts .
- 48.2.3 Accident Pay -
- (i) Total Incapacity - In the case of an employee who is or is deemed to be totally incapacitated within the meaning of the *Workers Compensation Acts* means a weekly payment of an amount representing the difference between, on one hand, the total amount of compensation, including other allowances, paid to the employee during incapacity for the week in question and, on the other hand, the total weekly award rate and weekly

overaward payment, if any, being paid to such employee at the date of the injury. Provided that, in making such calculation, any payment for overtime earnings, shift premiums, attendance bonus, incentive earnings under any system of payment of results, fares and travelling time allowances, penalty rates and any other ancillary payments payable by the employer shall not be taken into account.

- (ii) Partial Incapacity - In the case of an employee partially incapacitated within the meaning of the Workers' Compensation Acts, means a weekly payment of an amount representing the difference between, on the one hand, the total amount of compensation paid to the employee during incapacity for the week in question, together with the average weekly amount the employee is earning or is able to earn in some suitable employment or business (as determined expressly or by implication by the appropriate Accident or Workers' Compensation Tribunal or its equivalent in the State or Territory of employment or as agreed between the parties) and, on the other hand, the total weekly award rate and weekly overaward payment, if any, being paid to such employee at the date of the injury. Provided that, in making such calculation, any payment for overtime earnings, shift premiums, attendance bonus, incentive earnings under any system of payment by results, fares and travelling time allowances, penalty rates and any other ancillary payments payable by the employer shall not be taken into account.

The total weekly award rate and weekly overaward payment abovementioned shall be the same as that applying for a total incapacity. Provided that, where an employee receives a weekly payment of compensation under the *Workers Compensation Acts* and subsequently such payment is reduced pursuant to the said Act, such reduction shall not increase the liability of the employer to increase the amount of accident pay in respect of that injury.

- (iii) Payment for Part of a Week - Where an employee receives accident pay and such pay is payable for incapacity for part of a week the amount shall be a direct pro rata.

48.3 Qualifications for Payment - Always subject to the terms of this clause, an employee covered by this award shall, upon receiving payment of compensation and continuing to receive such payment in respect of a weekly incapacity within the meaning of the *Workers' Compensation Acts*, be paid accident pay by their employer who is liable to pay compensation under the respective Acts. The liability by the employer for accident pay may be discharged by another person on the employer's behalf, provided that:

48.3.1 Accident pay shall only be payable to an employee whilst they remain in the employment of the employer by whom they were employed at the time of the incapacity. Provided that if an employee on partial incapacity cannot obtain suitable employment from their employer but such alternative employment is available with another employer then the relevant amount of accident pay shall still be payable.

Provided further that, in the case of the termination by an employer of an employee who is incapacitated and receiving accident pay, accident pay shall continue to apply subject to the provisions of this clause except in those cases where:

- (i) the termination is due to serious and/or wilful misconduct on the part of the employee; or
- (ii) arises from a declaration of liquidation of the company, in which case the employee's entitlement shall be determined by the appropriate New South Wales legislation.

In order to qualify for the continuance of accident pay on termination an employee shall, if required, provide evidence to their employer of the continuing payment of weekly workers' compensation payments.

48.3.2 Accident pay shall not apply in respect of any injury sustained during the first five normal working days of incapacity.

48.3.3 An employee on engagement may be required to declare all workers' compensation and/or accident claims made pursuant to the Acts as herein defined in the previous five years. In the

event of false or inaccurate information being deliberately and knowingly declared the employer may require the employee to forfeit their entitlement to accident pay under this award.

- 48.4 Maximum Period of Payment - The maximum period or aggregate of periods of accident pay to be made by an employer shall be a total of 26 weeks for any one injury as defined in clause 48.2.2
- 48.5 Absences on Other Paid Leave - An employee shall not be entitled to the payment of accident pay in respect of any period of paid annual leave or long service leave or for any paid public holiday in accordance with the appropriate award provisions.
- 48.6 Notice of Injury - An employee upon receiving an injury for which the employee claims to be entitled to receive accident pay shall give notice in writing of the injury to their employer and of its manner of happening as soon as practicable and shall provide in writing all other information as the employer may reasonably require.
- 48.7 Furnishing of Evidence - An employee who has suffered any injury for which they are receiving payment or payments for incapacity in accordance with the provisions of the respective Workers Compensation Acts shall furnish evidence to the employer from time to time as required by the employer of such payments. Compliance with this obligation shall be a condition precedent to any entitlement under this clause.

Any employee who is receiving or who has received accident pay in respect of any injury shall, if required by the employer or other person on the employer's behalf, authorise their employer to obtain any information required concerning such injury or compensation payable from the insurance company.

- 48.8 Medical Examination - Nothing in this clause shall in any way be taken as restricting or removing the employer's rights under the respective Workers Compensation Acts to require the employee to submit themselves to examination by a legally qualified medical practitioner, provided and paid by the employer. If the employee refuses to submit themselves to such examination or in any way obstructs the same, the employee's right to receive or continue to receive accident pay shall be suspended until such examination has taken place.

Where in accordance with the respective Workers Compensation Acts a medical referee gives a certificate as to the condition of the employee and the employee's fitness for work or specifies work for which the employee is fit and such work is made available by the employer and refused by the employee or the employee fails to commence the work, accident pay shall cease from the date of such refusal or failure to commence the work.

Where an employer is unable to provide work of the nature stipulated by the medical referee, an employee shall take all reasonable steps to obtain such work with another employer and, in the event of the employee's failure to do so, payment of accident pay shall cease.

- 48.9 Redemption or commutation of Weekly Payment - Where there is a redemption or commutation (as the case may be) of weekly compensation payments by the payment under the respective Act of a lump sum the employer's liability to pay accident pay shall cease as from the date of such redemption or commutation.
- 48.10 Insurance Against Liability - Nothing in this clause shall require an employer to insure against the employer's liability for accident pay nor shall it affect the right of an employer to terminate the employment of the employee.
- 48.11 Variation in Compensation Rates - Any changes in compensation rates under the respective Acts shall not increase the amount of accident pay above the amount that would have been payable had the rates of compensation remained unchanged.
- 48.12 Death of Employee - All rights to accident pay shall cease on the death of an employee.
- 48.13 Safety Regulations - Without prejudice to the terms of this clause the Union shall use its endeavours to have its members carry out all statutory and other regulations applicable to the employment of such

members and to further carry out any orders relating to the preservation of safety given by or on behalf of any employer of its members.

48.14 Superannuation - An employer shall pay superannuation contributions paid in accordance with clause 55, Superannuation, to an employee receiving accident pay in accordance with this clause.

#### **49. Jury Service**

An employee required to attend for jury service during their ordinary working hours shall be reimbursed by the employer, until discharged from such service, an amount equal to the difference between the amount paid in respect of the employee's attendance for such jury service and the amount of the award classification rate the employee would have received had the employee not been on jury service. An employee shall notify their employer as soon as possible of the date upon which they are required to attend for jury service. Further, the employee shall give their employer proof of their jury service, the duration of such service and the amount received in respect of such service.

Provided that where an employee is working on afternoon shift and is required to attend for jury service, and is empanelled or is required to remain until the afternoon session of Court, the employee shall not be required to attend for work on the shift occurring on that day and shall be entitled to reimbursement as indicated above.

#### **50. Blood Donors**

A weekly employee who is absent during ordinary working hours to attend a recognised clinic for the purpose of donating blood shall not suffer any deduction of ordinary pay, up to a maximum of two hours on each occasion and subject to a maximum of four separate absences each calendar year. Provided that such employee shall arrange, as far as practicable, for their absence to be as close as possible to the beginning or the ending of their ordinary working hours.

Proof of the attendance of the employee at a recognised place for the purpose of donating blood, and the duration of such attendance, shall first be furnished to the satisfaction of the employer. Further, the employee shall notify their employer as soon as possible of the time and date upon which they are requesting to be absent for the purpose of donating blood.

#### **51. Attendance at Hospital**

An employee suffering an injury through an accident arising out of and in the course of the employee's employment (not being an injury in respect of which the employee is entitled to workers' compensation) necessitating the employee's attendance during working hours at a doctor or at hospital, shall not suffer any deduction from their pay for the time (not exceeding four hours) so occupied on the day of the accident, and shall be reimbursed by the employer all expenses reasonably incurred in connection with such attendance.

#### **52. Parental Leave**

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
  - (a) the employee or employee's spouse is pregnant; or
  - (b) the employee is or has been immediately absent on parental leave.

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

- (3) Right to request
  - (a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

- (c) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made under 3(a)(ii) and 3(a)(iii) must be recorded in writing.

- (d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

#### (4) Communication during parental leave

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

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

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

### **53. Introduction of Change**

#### 53.1 Employer's Duty to Notify -

53.1.1 Where an employer is planning to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, whether or not a definite decision has been made, the employer shall notify the employees who may be affected by the proposed changes, the Consultative Committee and their union.

53.1.2 "Significant effects" include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs. Provided that where the award makes provisions for alterations of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

#### 53.2 Employer's Duty to Discuss Change -

53.2.1 The employer shall discuss with the employees affected, the Consultative Committee and their union, inter alia, the introduction of the changes referred to in clause 53.1.1, the effects the changes are likely to have on employees, measures to avert or mitigate the adverse effects of such changes on employees and shall give prompt consideration to matters raised by the employees, the Consultative Committee and/or their union in relation to the changes.

53.2.2 The discussions with employees affected, the Consultative Committee and their union shall commence as early as practicable after the activities referred to in subclause 53.1.1.

53.2.3 For the purposes of such discussion, the employer shall provide in writing to the Consultative Committee, and to the employees concerned and their union, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees; provided that any employer shall not be required to disclose confidential information the disclosure of which would be inimical to the employer's interests.

### 54. Redundancy

#### 54.1 Consultation and Provision of Information -

54.1.1 Where an employer has made a definite decision that the employee no longer wishes the job the employee has been doing to be done by anyone and this is not due to the ordinary and customary turnover of labour and that decision may lead to termination of employment, the employer shall hold discussions with the employees directly affected and with their Union.

54.1.2 The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provisions of clause 54.1.1 and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any terminations on the employees concerned.

54.1.3 For the purposes of the discussion the employer shall, as soon as practicable, provide in writing to the employees concerned and their Union, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of workers normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would be inimical to the employer's interests.

54.2 Transfer to Lower Paid Duties - Where an employee is transferred to lower paid duties for reasons set out in clause 54.1.1, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated, and the employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rates for the number of weeks of notice still owing.

54.3 Severance Pay - In addition to the period of notice prescribed for ordinary termination in clause 20.2, Terms of Engagement, and subject to further order of the Industrial Relations Commission of New South Wales, an employee whose employment is terminated for reasons set out in clause 54.1.1 shall be entitled to the following amount of severance pay in respect of a continuous period of service:

54.3.1 If an employee is under 45 years of age, the employer shall pay in accordance with the following scale:

Years of service	Under 45 years of age entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

54.3.2 Where an employee is 45 years of age or over, the entitlement shall be in accordance with the following scale:

Years of service	45 years of age and over entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

"Week's pay" means the all-purpose rate of pay for the employee concerned at the date of termination and shall include, in addition to the ordinary rate of pay, overaward payments, shift penalties and allowances paid in accordance with this award.

- 54.4 Employee Leaving During the Notice Period - An employee whose employment is terminated for reasons set out in subclause 54.1.1, may terminate the employee's employment during the period of notice and, if so, shall be entitled to the same benefits and payments under this clause had the employee remained with the employer until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.
- 54.5 Alternative Employment - An employer, in a particular redundancy case, may make application to the Industrial Relations Commission of New South Wales to have the general severance pay prescription varied if the employer obtains acceptable alternative employment for an employee.
- 54.6 Time Off During Notice Period -
- 54.6.1 During the period of notice of termination given by the employer for reasons set out in clause 54.1.1, an employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- 54.6.2 If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.
- 54.7 Notice to Centrelink - Where a decision has been made to terminate employees in the circumstances outlined in subclause 54.1.1, the employer shall notify Centrelink thereof as soon as possible, giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.
- 54.8 Superannuation Benefits - Award superannuation benefits payable upon termination shall not be used in lieu of any severance payments made in accordance with this clause. Any non-award superannuation benefit payable upon termination shall not be used in lieu of any severance payments made in

accordance with this clause, other than by further order of the Industrial Relations Commission of New South Wales.

#### 54.9 Transmission of Business -

54.9.1 Where a business is, before or after the date of this award, transmitted from an employer (in this subclause called "the transmittor") to another employer (in this subclause called "the transmittee") and an employee who at the time of such transmission was an employee of the transmittor in that business becomes an employee of the transmittee:

- (i) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
- (ii) the period of employment which the employee has had with the transmittor or any prior transmittor shall be deemed to be service of the employee with the transmittee.

54.9.2 In this subclause "business" includes trade, process, business or occupation and includes part of any such business, and "transmission" includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and "transmitted" has a corresponding meaning.

54.10 Employees with less than 12 Months Service - This clause shall not apply to employees with less than one year's continuous service and the general obligation on employers should be no more than to give the relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

54.11 Employees Exempted - This clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency, or neglect of duty or in the case of casual employees, apprentices, or employees engaged for a specific period of time or for a specified task or tasks.

54.12 Employers Exempted - Subject to an order of the Industrial Relations Commission of New South Wales, in a particular redundancy case, this clause shall not apply to employers who employ less than 15 employees.

54.13 Incapacity to Pay - An employer, in a particular redundancy case, may make application to the Industrial Relations Commission of New South Wales to have the general severance pay prescription varied, on the basis of the employer's incapacity to pay within eight weeks of the termination of the employee(s).

### 55. Superannuation

#### 55.1 Preamble - Superannuation Legislation -

55.1.1 The subject of superannuation is dealt with extensively by federal legislation, including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993*, the *Superannuation (Resolution of Complaints) Act 1993* and s.124 of the *Industrial Relations Act 1996*. This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.

55.1.2 Notwithstanding subclause 55.1.1, the following provisions shall also apply:

#### 55.2 Definitions -

55.2.1 "The Fund", for the purposes of this clause, shall mean the:

- (i) Australian Retirement Fund established and governed by a Trust Deed on 11 July 1986, as may be amended from time to time, and includes any superannuation scheme which may be made in succession thereto; or



- (ii) subject to the agreement of the Secretary of the Union and its members, an employer-sponsored fund established prior to 1 July 1987 which complies with the *Superannuation Industry (Supervision) Act 1993*, and as set out in clause 55.7.2.

55.2.2 "Ordinary-time Earnings" - For the purposes of this clause, all references to ordinary-time earnings will mean and include:

- (i) award skill level or classification rate;
- (ii) supplementary payment (where relevant);
- (iii) overaward payment;
- (iv) shift loading - including weekend and public holiday penalty rates earned by shift employees on normal rostered shifts forming the ordinary hours of duty, not when worked as overtime;
- (v) payment by results earnings;
- (vi) all non-reimbursable allowances payable under the award.

55.2.3 "The Table", for the purposes of this clause, means the following table:

Financial Year	Percentage	
	Column A	Column B
1992-93 (1 July - 31 December)	4	3
1992-93 (1 January - 30 June)	5	3
1993-94	5	3
1994-95	5	4
1995-96	6	5
1996-97	6	6
1997-98	6	6
1998-99	7	7
1999-2000	7	7
2000-01	8	8
2001-02	8	8
2002-03 and subsequent years	9	9

- (i) Column A in the table above specifies the charge percentages where the employer's national payroll for the base year (the 1991-92 financial year) exceeded \$1,000,000.
- (ii) Column B in the table above specifies the charge percentage where the employer's national payroll for the base year (the 1991-92 financial year) did not exceed \$1,000,000.
- (iii) Subject to amendments to the charge percentages prescribed in the *Superannuation Guarantee (Administration) Act 1992* (SGA Act), the above table is deemed to be changed to reflect amendments.

55.2.4 Red Circled Employee - For the purpose of this clause, a Red Circled Employee is an employee who was:

- (i) in the employ of an employer at 30 June 1995; and
- (ii) whose ordinary-time earnings were less than \$380.60 at 30 June 1995; and
- (iii) the employee's superannuation entitlements prior to 30 June 1995 were greater than the superannuation percentage requirements under the *Superannuation Guarantee (Administration) Act 1992*.

A Red Circled Employee's superannuation entitlements are detailed in subclause 55.5.

55.3 Employers to Become a Party to the Fund -

55.3.1 A respondent employer shall make application to the fund to become a participating employer in the fund and shall become a participating employer upon acceptance by the Trustee of the fund.

55.3.2 A respondent employer shall provide each employee who is not a member of the fund with a membership application form upon commencement of this clause and thereafter upon commencement of employment.

55.3.3 Each employee shall be required to complete the membership application and the employer shall forward the completed application to the fund by the end of the calendar month of commencement of this clause or commencement of employment.

55.4 Eligibility of Employees -

55.4.1 Each employee shall be eligible to join the fund upon commencement of employment.

55.4.2 Each employee shall be eligible to receive contributions from the date of eligibility, notwithstanding the date the membership application prescribed in clause 55.3.3 was forwarded to the fund.

55.5 Employer Contributions on Behalf of Each Employee -

55.5.1 Notwithstanding the provisions of subclause 55.5.2, and the legislation referred to therein, a respondent employer must contribute to the fund in respect of each employee, irrespective of the age and/or earnings of the employee, such contributions as required to comply with the *Superannuation Guarantee (Administration) Act 1992* and the *Superannuation Guarantee Charge Act 1992*. Failure to comply with this paragraph shall constitute a distinct and separate breach of this paragraph.

55.5.2 Red Circled Employee - A Red Circled Employee must not be disadvantaged in the provision of their superannuation entitlements by employers transferring from the Stage 1 system to the Stage 2 system of calculation of superannuation obligations outlined below.

For the purpose of this clause, an employee will be deemed to be a Red Circled Employee if:

- (i)
  - (1) in the employ of an employer at 30 June 1995; and
  - (2) whose ordinary-time earnings were less than \$380.60 at 30 June 1995; and
  - (3) the employee's superannuation entitlements prior to 30 June 1995 were greater than the superannuation percentage requirements under the *Superannuation Guarantee (Administration) Act 1992*.
- (ii) The system of calculating a Red Circled Employee's full superannuation entitlements must be the Stage 1 system outlined in clause 55.5.2 (iii)(1), until such time as the employee's full superannuation entitlements would be equal to or greater under the Stage 2 system of calculation outlined in clause 55.5.2(iii)(2).
- (iii)
  - (1) The Stage 1 system of calculating an employer's full superannuation obligations for an employee is by the provision of superannuation contributions as follows:

Full-time Adult	\$14.00 per week
Juniors and Apprentices	\$10.50 per week

## Part-time and Casual:

working up to 30 hours per week	\$10.50 per week
working 30 hours or more per week	\$13.50 per week; and

- (A) 1.32 per cent of ordinary-time earnings as defined in clause 55.2.2 if the employer's payroll was in excess of \$1,000,000 as at 1 July 1992; or
  - (B) 0.32 per cent of ordinary-time earnings as defined in clause 55.2.2 if the employer's payroll was less than \$1,000,000 as at 1 July 1992.
- (2) Subject to the provisions of clause 55.5.2(ii), the Stage 2 method of calculating an employer's full superannuation obligations for an employee is by applying the relevant percentage as outlined in the table located in clause 55.2.3 to the employee's ordinary-time earnings.

Failure to comply with this subclause shall constitute a distinct and separate breach of this subclause.

55.5.3 Such contribution shall be made monthly by the last day of the month following, the total of the weekly contribution amounts accruing in the previous month in respect of each employee.

The amount of contributions to the fund shall be calculated to the nearest ten cents, and any fraction below five cents shall be disregarded.

55.5.4 The fund and the amount of contributions paid in accordance with this clause and clause 55.6 shall be included in pay advice notices provided by employers to each employee.

55.5.5 Contributions shall continue to be paid in accordance with this subclause during any period in respect of which an employee is entitled to receive accident pay in accordance with clause 48, Accident Pay.

55.5.6 Unpaid Absences - Except as where specified in the rule of the fund, contributions by respondent employers in respect of unpaid absences will be proportional to the wage received by the employee concerned in a particular pay period. For the purpose of this clause, each pay period will stand alone. Accordingly, unpaid absences in one pay period will not carry over to another pay period.

55.5.7 Cessation of Contributions - A respondent employer's obligation to make contributions on behalf of the employee ceases on the last day of employment with the employer.

## 55.6 Employee Contributions -

55.6.1 An employee may make contributions to the fund in addition to those made by the respondent employer under clause 55.5.

55.6.2 An employee who wishes to make additional contributions must authorise the respondent employer in writing to pay into the fund, from the employee's wages, amounts specified by the employee in accordance with the fund's Trust Deed and Rules.

55.6.3 An employer who receives written authorisation from the employee must commence making payments into the fund on behalf of the employee within 14 days of receiving the authorisation.

55.6.4 An employer may vary the additional employee contributions by a written authorisation and the employer must alter the additional contributions within 14 days of receiving the authorisation. An employee may only vary the employee's additional contributions once each month.

55.6.5 Additional employee contributions to the fund, requested under this subclause, shall be expressed in whole dollars.

55.7 Exemptions -

55.7.1 An employer may make an application for exemption from subclause (f) of this clause in respect of contributions to the fund for employees who are not members of the Union.

Applications for exemption shall be determined in accordance with the Superannuation Test Case (Print L5100) and the December 1994 State Wage Case principles or any decision made in succession thereto.

55.7.2 It is recorded that the scheme specified in the first column hereunder is a scheme to which this paragraph applies and that the agreement of the Union and its members has effect on and after 1 July 1987.

(1)	(2)	(3)
Name of Scheme	Covered	Date of Effect of Union Agreement
Pacific Dunlop Superannuation Fund		1 July 1987

### 56. Enterprise Bargaining

56.1 The parties to this award are committed to co-operating positively to increase the efficiency, productivity and international competitiveness of the clothing industry to enhance the career opportunities, quality of working life and job security of workers in the industry.

56.2 An employer, employees and the Union may develop an enterprise bargaining agreement in accordance with the provisions of this clause and Schedule E or such other procedures that are agreed in writing between the employer and the Secretary of the Union. The agreement shall, to the extent of any inconsistency, take precedence over any provisions of this award.

56.3 In each workplace in the clothing industry seeking to develop an enterprise bargaining agreement, an employer, employees and the Union shall establish a consultative committee in accordance with Schedule E or such other procedures that are agreed in writing between the employer and the Secretary of the Union.

56.4 The basis for the work of the consultative committee shall be to consider matters raised by committee members which impact on employees and/or which contribute to the improved operation and efficiency of the enterprise as outlined in clause 56.1.

56.5 The matters raised for inclusion in an enterprise bargaining agreement may, amongst other things, involve:

- \* spread of hours
- \* shift work
- \* job redesign and work organisation
- \* work related childcare
- \* vocational training
- \* English language training
- \* foundation education training
- \* arrangement of leave
- \* operation of payment by results systems
- \* occupational health and safety
- \* leave for special purposes
- \* parental leave
- \* job sharing

- 56.6 An enterprise bargaining agreement shall not act to:
- 56.6.1 reduce the award rate in accordance with clause 6, Rates of Pay;
  - 56.6.2 increase the ordinary hours of work in any roster system beyond an average of 38 hours per week;
  - 56.6.3 reduce the quantum of meal money in accordance with clause 17, Meal Money;
  - 56.6.4 reduce the number or duration of rest periods contained in clause 18, Rest Period;
  - 56.6.5 reduce the quantum of period of notice in accordance with clause 20, Terms of Engagement;
  - 56.6.6 reduce the quantum of annual leave and annual leave loading in accordance with clause 21, Annual Leave;
  - 56.6.7 reduce the quantum of sick leave entitlement in accordance with clause 23, Sick Leave;
  - 56.6.8 reduce the quantum of holidays in accordance with clause 28, Holidays;
  - 56.6.9 affect the provisions of clauses 31, Contract Work, 32, Outworkers, and 33, Registration of Employers, for the purpose of clauses 31 and 32;
  - 56.6.10 reduce the quantum of bereavement leave in accordance with clause 47, Bereavement Leave;
  - 56.6.11 reduce the quantum of accident make up pay in accordance with clause 48, Accident Pay;
  - 56.6.12 reduce the quantum of unpaid leave in accordance with clause 52, Parental Leave;
  - 56.6.13 reduce the quantum of severance pay in accordance with clause 54, Redundancy;
  - 56.6.14 reduce the quantum of superannuation contributions in accordance with clause 55, Superannuation.

### **57. Anti- Discrimination**

- 57.1 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.
- 57.2 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.
- 57.3 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.
- 57.4 Nothing in this clause is to be taken to affect:
- 57.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;
  - 57.4.2 offering or providing junior rates of pay to persons under 21 years of age;

57.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;

57.4.4 a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

57.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

#### NOTES:

(a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

(b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in this 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".

### 58. Area, Incidence and Duration

58.1 This award is made following a review under section 19 of the *Industrial Relations Act 1996* and replaces the Clothing Trades (State) Award published 19 October 2001 (328 I.G. 952), and all variations thereof.

58.2 The award published 19 October 2001 took effect from the beginning of the first pay period to commence on or after 2 July 2001. The award remains in force until varied or rescinded, the period for which it was made having already expired.

58.3 It shall apply to employees referred to in clause 6, Rates of Pay, within the jurisdiction of the Clothing Trades (State) Industrial Committee.

58.4 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 18 January 2008.

### 59. Appendix A - Form of Indenture of Apprenticeship

This indenture, made the ..... day of ..... 20 ..... between employer, apprentice, and their executors, administrators or assignees, witnesses that the said employer does hereby covenant with the said apprentice, and the said parent or guardian, that he or she, the said employer will:

- (a) Take and receive the said apprentice as his or her apprentice for the full term of ..... years from the ..... day of ..... 20 .....
- (b) To the best of his or her power, knowledge and ability to teach and instruct, or cause to be taught and instructed, the said apprentice in the art and craft of .....
- (c) Pay to the said apprentice (during such time as he or she shall observe and perform the term of this indenture) at least the wage set forth in this award.
- (d) Pay to the said apprentice such further rates for overtime worked as may be fixed by this award.
- (e) Within 14 days from the date hereof, place the said apprentice under the direction of a qualified person.
- (f) On completion of the term herein named, hand over to the said apprentice a copy of this indenture, with a certificate to the effect that the said term has been served. Provided that this shall be conditional on the said apprentice serving the said term and observing and fulfilling the covenants herein,

and the said apprentice and parent or guardian does covenant with the said employer that he or she, the said apprentice, during the said term will:

- (a) Faithfully and honestly serve the said employer as an apprentice in his or her trade or business aforesaid.
- (b) Willingly obey the lawful order and commands of the said employer or such of his or her representatives as he or she, the said apprentice, shall be placed under the said business.
- (c) Not wilfully do or commit or wilfully suffer to be done or committed, any waste, damage or other injury to the property or goods of the employer or any firm or company of which he or she may be a member, or lend them to any person without the consent of the said employer.
- (d) Not unlawfully absent himself or herself from the services of the said employer during business hours.
- (e) Not by word or action induce other apprentices to disobedience, and it is hereby specially agreed by all parties to this indenture -
  - (i) That this indenture may be assigned, suspended or cancelled:
    - (1) by mutual consent of the parties after seven days notice by either party; or
    - (2) by the employer, subject to the approval of the Industrial Committee if, through lack of orders or through financial difficulties, he or she is unable either to find suitable employment for the apprentice or a transfer to another employer cannot be arranged; or
    - (3) by the Industrial Committee.
  - (ii) That the said apprentice shall not be paid for any time he or she shall be absent from his or her duties through his or her own wilful default and neglect or through illness, except as prescribed in clause 23, Sick Leave, or through absenting himself or herself from his or her employer's service without leave or licence, but in all other circumstances the said apprentice shall be paid his or her wage in full each week.
  - (iii) That the employer may (if authorised by the Industrial Committee) stand down the apprentice without pay at any time when no work is offering or may deduct payment for any time for which the apprentice cannot be usefully employed because of a strike by the Union or any other union, or because of any stoppage of work, or because of any failure or lack of power or any restrictions on the use of, or shortage of power, or for any cause for which the employer cannot reasonably be held responsible.
  - (iv) That the said apprentice shall not be entitled to a higher rate of pay until he or she has actually worked for a period of six months in the next preceding rate.
  - (v) That, in computing the period of six months, all time worked as overtime shall be allowed as a set-off against any absence during the said period.
  - (vi) On the completion of the term of apprenticeship created by the indenture of apprenticeship the employer shall forthwith endorse and sign the former apprentice's copy of the indenture with the notation that the apprenticeship was completed on the ..... day of..... 20 .....

And for the true performance of all and every of the said covenants and agreements each of the said parties binds himself or herself (as the case may be) to the others by these presents. Signed, sealed and delivered by the said

Witness:  
.....

Apprentice

Witness:

.....

Parent or Guardian

Witness:

.....

Employer

Assignment of the Within Indentures:

The within-named employer does hereby, with the consent of ..... (parent), assign the within indenture and the services thereunder of the within-named

apprentice, ..... unto .....

of ..... for .....the unexpired portion of the within-named terms of .....and the said ..... does hereby declare its acceptance of such apprentice, and acknowledge itself to be bound by the agreement, engagement, obligations and covenants on the part of the employer of such apprentice, to be done and performed as fully as if it had entered into the same as a party under that indenture.

In witness whereof the parties hereunto have set their hands and seals

this ..... day of ..... two thousand and .....

Signed, sealed and delivered by the said:

Witness:

.....

Employer

Witness:

.....

Parent

Witness:

.....

Apprentice

Witness:

.....

Assignee Employer

**60. Appendix B - Form of Declaration - Amenities**

60.1

60.1.1 The terms "reasonably convenient to the working area" as applied to dining rooms in clause 37.6, Amenities, and to rest rooms in subclause 37.7 shall mean that, in any building where no passenger lift is available to the employees, the dining and/or rest room may be located on the same floor as the working area or on the floor immediately above or below the working area.

60.1.2 Where the dining room and/or rest room is more than one floor but less than three floors removed either above or below the working area in any building where no passenger lift is available to the employees, the location shall be deemed to be reasonably convenient if it meets with the approval of the Union and a written declaration to this effect, signed by the employer concerned and by an authorised representative of the Union, in the form as hereinafter contained, is lodged with the



Industrial Registrar or a Deputy Industrial Registrar. In the event of the employer being unable to obtain the approval of the union the matter may be referred to the Industrial Relations Commission of New South Wales, which shall then determine whether or not the location is reasonably convenient. If the Commission determines that the location is reasonably convenient it shall make a written declaration to this effect.

60.1.3 Where the dining room and/or rest room is three or more floors removed either above or below the working area in any building where no passenger lift is available to the employees, the location shall be deemed not to be reasonably convenient.

60.2 Where a dining room is located so as to require employees to move in the open without shelter, or to require employees to traverse a considerable distance from the working area or part of the working area to the dining room, the Union or the employer concerned may apply to the Industrial Committee to determine whether or not the location of the dining room is reasonably convenient. If the Committee determines that the location is reasonably convenient, it shall make a written declaration to this effect. Provided that if the Committee determines that the location is not reasonably convenient, the disability allowance as provided in clause 46, Disability Allowance, shall only be payable as from the date of such decision of the Committee.

60.3 Where, pursuant to subclause 37.7.1 Amenities, a common rest room with the approval of the Union is provided for the employees of two or more employers, such rest room shall be deemed to be "reasonably convenient" to the working area and a written declaration to this effect signed by the employer concerned and a representative of the union in the form provided herein shall be lodged with the Industrial Registrar or a Deputy Industrial Registrar.

60.4 Where the Union considers the passenger lift facilities, where provided, to be unsatisfactory the matter may be referred to the Industrial Relations Commission of New South Wales for determination.

60.5 Any declaration made pursuant to the above provisions shall continue to apply until revoked by the parties, the Committee or the Industrial Relations Commission of New South Wales, in the event of a significant change in circumstances to those existing as at the date of the declaration.

**FORM OF DECLARATION - CLOTHING TRADES AWARD - AMENITIES**

This declaration made the ..... day of ..... 20 ..... by The Transport Workers' Union of New South Wales and employer(s) declares that the dining room(s) and/or rest room(s) at the premises of the above employer(s) situated at ..... as at the date of this declaration shall be deemed to be acceptable and "reasonably convenient" to the working area for the purpose of clause 37, Amenities, of the Clothing Trades (State) Award.

Signed:

..... For and on behalf of The Transport Workers' Union of New South Wales.

..... For and on behalf of the employer.

**61. Schedule A - Consultative Committees**

(Subject to the provisions of the *Industrial Relations Act* 1996)

61.1 Composition -

61.1.1 A consultative committee shall include:

at least 50% Union/employee representatives; and

at least one senior management representative.

61.1.2 Management, the Union and the employees will jointly determine the size of the committee. A committee shall consist of no fewer than four members and no more than ten.

61.1.3 The election/appointment of management representatives will be determined by management, and the election of Union/employee representatives will be determined by the Union. Where there is a Union delegate they must be a Union/employee representative.

61.1.4 In the determination of Union/employee representatives on the committee, consideration shall be given to:

- \* the makeup of the workforce, in particular the proportion of women, people from a non-English speaking background and juniors;
- \* the size of the workforce;
- \* the number of distinct operations at the workplace;
- \* shift arrangements;
- \* the corporate structure;
- \* other existing consultative mechanisms.

61.1.5 Where an enterprise is comprised of a number of sites or distinct workplaces, the number of committees to be established shall be determined jointly by management and the Union, depending on the size and operation of the enterprise and its separate components. Should more than one committee be established, a peak committee shall be established to ensure a co-ordinated approach.

61.1.6 The committee, once established, may invite persons to attend specific meetings.

61.1.7 An official of the Union shall have a right to be present and participate in the deliberation of the committee.

## 61.2 Term of Office -

61.2.1 Members elected or appointed to the committee shall hold office for a period of twelve months, and will be required to be re-elected or re-appointed each subsequent year. It is the responsibility of each committee member to attend meetings on a regular basis and to represent the views and opinions of those people they represent.

61.2.2 If a member of the committee ceases employment with the enterprise or resigns from the committee, a new election or appointment shall be made in accordance with 61.2.1.

61.3 Terms of Reference - The following matters shall form the basis for the work of the committees. Each committee will seek to reach agreement on the matters set out below and make recommendations to senior management who will take into account the views and the deliberations of the committee prior to making its final decisions:

61.3.1 To implement the restructured award in the workplace.

61.3.2 To review the implications and/or impact on the enterprise of major external influences, including the Australian Government textile, clothing and footwear industries development plan.

61.3.3 To consider the introduction of new or revised work methods/work arrangements.

61.3.4 To give consideration to the impact of technological change and other significant changes in the organisation or workplace, with regard to:

number of employees, job specifications and current skill base; and

acquisition of new skills and additional training requirements.

61.3.5 To develop a framework for skills development and provisions of training within the workplace, including English language training and the provision of foundation education.

61.3.6 To assess proposed changes in product or product orientation for possible impact on work method/work arrangements, employment and skill requirements.

61.3.7 To give consideration to equal employment opportunity principles in the context of award restructuring in the workplace.

61.3.8 To consider the provision of work related child care and, in particular, the Australian Government work based child care program.

61.3.9 To consider other matters raised by consultative committee members which impact on employees or which contribute to the improved operation and efficiency of the enterprise.

#### 61.4 Procedural Guidelines -

61.4.1 Chairperson - A chairperson shall be elected by the committee from within the committee and shall alternate each meeting between management and Union/employee representatives.

61.4.2 Secretary - A Secretary shall be appointed for the purposes of recording minutes, preparation and distribution of agendas and other administrative duties. The administrative requirements of this position shall be provided by the employer. The person appointed to this position shall not be a member of the committee.

61.4.3 Agenda - All members of the committee shall have a right and a responsibility to submit agenda items. The agenda, minutes and any relevant background documentation shall be circulated one week prior to the meetings.

61.4.4 Preparation - Reasonable time in working hours shall be provided to Union/employee representatives for the purpose of preparing for the meeting. Union/employee representatives and an official of the Union may, at a time convenient to the employer, during working hours, hold meetings with the workforce or part of the workforce prior to meetings of the committee.

61.4.5 Meetings - The committee shall meet at least every two months, unless the committee determines that it shall meet on a more frequent basis.

The meetings of the committee shall be held at a place and time convenient to management, but shall be held during normal working hours. Attendance at committee meetings shall be treated as and paid for as time worked.

A reasonable time limit shall be placed on the length of meetings. Enough time shall be provided to adequately deal with the agenda items. Meetings shall operate on a consensus basis.

61.4.6 Minutes - The Secretary of the committee shall minute the proceedings of each meeting of the committee. The minutes shall be circulated to each member of the committee within one week of the meeting, verified by committee members prior to the next meeting, and signed by the chairperson at the next meeting of the committee as a true and correct record of the proceedings of the committee.

61.4.7 Future Meetings - The date of the next meeting of the committee shall be set at the close of the previous meeting.

61.4.8 Confidentiality - All members of the Consultative Committee and the Secretary of the committee shall accept that, whilst the spirit of genuine consultation is to be paramount, at no time shall the

committee have placed before it any matter, the confidentiality of which is in the company's best interests, or where confidentiality has been specifically agreed with a third party.

61.4.9 Management Response - Senior management must formally respond to the committee's recommendations. Normally this will take place prior to the next meeting of the committee.

61.5 Feedback -

61.5.1 The minutes of the meetings of the committee shall be kept by the Secretary of the committee and shall be available upon request to any employee or any other person approved by the committee. As a matter of course, minutes shall be forwarded to the Secretary of the Union.

61.5.2 Minutes of the committee meeting shall be posted on the noticeboards after ratification by the meeting.

61.5.3 Reasonable time in working hours shall be provided to Union/employee representatives for the purpose of reporting back on items raised and agreements reached at the meeting. Union/employee representatives may, at a time convenient to the employer, during working hours, hold meetings with the workforce or part of the workforce following meetings of the committee.

A reasonable time limit shall be placed on the length of meetings. Enough time shall be provided to adequately deal with the agenda items. Meetings shall operate on a consensus basis.

61.6 Training - All members of the committee shall be entitled to training in meeting procedures and relevant related skills required to ensure that they are in a position to represent their constituents and play an active role in the operation of the committee. The nature, time and extent of training provided shall be determined between management and the Union.

61.7 Evaluation - A review of these procedures shall be conducted at the end of each twelve months' operation.

**62. Schedule B - Request to the Union By the Outworker to Reduce the Number of Hours Worked Part-Time**

Please complete in English

Outworker's Name: .....

Address:  
.....  
.....

Telephone:  
.....

Employer's Name: .....  
Address:  
.....  
.....

Telephone: .....

Registration Number: .....

I wish to reduce the number of hours I work on a part-time basis to a minimum of 15 hours per week over 12 months, starting on

.....

Outworker's Signature

.....  
Date

Please send this form to the Secretary of The Transport Workers' Union of New South Wales. A copy, signed by the Secretary of the Union, will be returned to the outworker.

.....  
Secretary's Signature

.....  
Date

**63. Schedule C - Information to be Given to Outworkers**

If you work at home or outside a factory making garments or parts of garments or sewing sheets, etc., you may be an outworker.

If you are an outworker, you are entitled to the same wages and conditions, in general, as workers in clothing factories.

The Clothing Trades (State) Award sets out legally enforceable rights and obligations. This applies to all outworkers, including employees, independent contractors, and holders of business name registrations.

According to this law, some of the entitlements outworkers must receive are set out below:

Hours of Work - An outworker may only be employed to work full-time, which is 38 hours a week, or part-time, which must be at least 15 hours per week. The hours must be agreed to in advance by the outworker and the employer. This means you are guaranteed payment for the agreed number of hours per week, even if you are not given any work, unless you are stood down in accordance with the award.

You cannot be required to work on Saturdays, Sundays or public holidays. You may agree to work on those days if asked to do so by your employer. You will have to be paid overtime rates if you do work on those days.

As a full-time or part-time worker, you can only be required to work seven hours and 36 minutes each day. If you are asked by your employer to work more than this number of hours, you must be paid overtime. This means that, even if you are paid by the piece, you cannot receive less than the hourly award rate of pay.

Overtime - If you agree to work more than seven hours and 36 minutes in a day, Monday to Friday, you must be paid one and a half times the normal hourly rate for each hour over the seven hours and 36 minutes. For every hour you agree to work on a Saturday, Sunday or public holiday, you must be paid double the normal hourly rate.

Wages - According to law, as at 23 July 2007 the usual weekly wage for 38 hours, Monday to Friday is \$563.60. The hourly rate is \$14.83. Remember, the law says you must not be paid less than the hourly rate according to the award.

Annual Leave (Holidays) - You are entitled to annual leave. You should get 20 working days paid leave for every year you work full-time. You should be paid before you go on holidays, and this holiday pay should include an extra amount - a holiday leave loading - of 17.5 per cent of your pay. This amount of annual leave for part-time workers depends on the hours you work in a 12-month period. The Transport Workers' Union of New South Wales or Department of Industrial Relations or Australian Business Industrial will help you to work this out. Payment for public holidays (such as Christmas or New Year's Day), which occur when you are on leave, should be added on to your holiday pay.

**Public Holidays** - If you normally work on a day on which a public holiday falls, you should receive a day's pay without working on that day. The public holidays that apply in New South Wales are New Year's Day (1 January), Australia Day (26 January), Good Friday, Easter Saturday, Easter Monday and Easter Tuesday in March or April, Labour Day, ANZAC Day (25 April), Queens Birthday in June, Christmas Day and Boxing Day (25 and 26 December).

**Superannuation** - By law, your employer has to make a superannuation contribution of up to eight per cent to an approved fund, for you. Normally this would be the Australian Retirement Fund, which is approved by both union and employer organisations. The Transport Workers' Union of New South Wales or Department of Industrial Relations or Australian Business Industrial will help you to work this out.

**Workers' Compensation** - If you become ill or suffer injury as a result of the work you do you may be entitled to workers' compensation, which helps you pay for any treatment you might need to get better, and for time off work. The laws covering workers' compensation in New South Wales are the *Workers' Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998*. It is important that you contact The Transport Workers' Union of New South Wales or Department of Industrial Relations or Australian Business Industrial for information and help to make a claim.

**Materials** - Your employer must provide all necessary materials, trimmings and sewing threads for the work you are doing.

**Delivery and Pick Up** - The employer must deliver and pick up the work free of charge to you.

**Record of Work** - Every time you receive work you should keep a record. This should show:

- \* employer's name, address and telephone number;
- \* the date you receive the work and the date the work was completed;
- \* the number of hours and days it took to do the work;
- \* the number of items, what the item is and how long it took to make each item;
- \* the total amount of money paid for the completed work.

For further information on your rights and entitlements, please contact one of the following organisations:

The Transport Workers' Union of New South Wales  
28 Anglo Road, Campsie NSW 2194. Tel. (02) 97895233.  
Fax (02) 9787 1561. Email: tcfuansw@tcfua.org.au

Australian Business Industrial, 140 Arthur Street, North  
Sydney NSW 2059. Tel. (02) 9548 7500.

Department of Industrial Relations, 1 Oxford Street, Darlinghurst NSW 2010. Tel. (02) 9243 8888.

#### **64. Schedule D - Broadbanding Arrangements\***

Former transitional wages classification system to facilitate the introduction of skill levels in 1994. Retained for historical reference only.

**Group A - Order Tailoring for Males** - The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or work incidental thereto of all male outer garments of any description (including dressing gowns) cut and made to chart measure or cut and made to an individual measure and garments that are fitted on shall be as follows

		Wage band No
1	Cutter, marking in and/or cutting out	5
2	Trimmer, marking in and/or cutting out linings and trimmings	3B

3	Fitter up and/or shaper	3B
4	Head of table or bench of machines in charge of four or more persons - above appropriate machinist rate	As set in Item 1 of Table 2 of Part B
5	Tailor or tailoress employed making and/or altering coats by hand or by machine and who in the ordinary course of employment is performing similar work to that ordinarily performed by an order tailor	4
6	Coat maker engaged on three of any of the following operations:	3B
	(a) canvassing fore-parts by hand;	
	(b) basting-under, basting out facings by hand;	
	(c) inserting pads, basting on undercollars and basting in sleeves for try on;	
	(d) hand felling top collars;	
	(e) basting-in sleeves by hand and working sleeve heads.	
7	Employees employed making and/or altering by hand or by machine any part of a dress coat, tuxedo, frock coat, dinner jacket, or body coats of all descriptions	3B
8	Coat table hand or coat machinist	2B
9	Trouser hand or trouser machinist	2A
10	Vest table hand or vest machinist	2A
11	Embosser, embroiderer, cornelli worker	2B
12	Presser, pressing off and/or underpressing	3A
13	Examiner examining for faults in construction	3B
14	All others not herein classified	3B

Group B - Order Tailoring for Females - The weekly wage for every description of work done in connection with order tailoring for females, which includes the making and/or altering and/or repairing and/or work incidental thereto of tailored female outer garments cut and made to chart measure or cut and made to an individual measure and garments that are fitted on, shall be as follows:

15	Cutter marking in and/or cutting out	5
16	Trimmer marking in and/or cutting out linings or trimmings	3B
17	Fitter up and/or shaper	3B
18	Head of a table or a bench of machines in charge of four or more persons - above appropriate machinist rate	As set in Item 1 of Table 2 of Part B
19	Tailor or tailoress employed making and/or altering coats by hand or by machine and who in the ordinary course of employment is performing similar work to that ordinarily performed by an order tailor	4
20	Coat maker engaged on three of any of the following operations:	3B
	(a) canvassing fore-parts by hand;	
	(b) basting-under, basting out facings by hand;	
	(c) inserting pads, basting on under collars and basting- in sleeves for try on;	
	(d) hand felling top collars;	
	(e) basting-in sleeves by hand and working sleeve heads.	
21	Coat table hand or coat machinist	2B
22	Skirt maker and/or machinist	2A
23	Outer leg wear maker and/or machinist	2A
24	Embosser, embroiderer, cornelli worker	2B
25	Presser pressing off and/or under-pressing	3A
26	Examiner examining for faults in construction	3B
27	All others not herein classified	1A

Group C - Ready Made Clothing for Males - The provisions contained in this group shall not apply to the making of cardigans, pullovers and knitted swimsuits in establishments of employers wherein the principal business of such employer consists of the knitting of materials and the making of garments so knitted. The weekly wage for every description of work done in connection with the making and/or altering and/or repairing

and/or work incidental thereto of all male outer garments of any description (including dressing gowns), excepting those specified in Groups A and I, shall be as follows -

28	Cutter laying up and/or marking in and/or using marker lay and/or cutting out	4
29	Die cutter in cutting room	4
30	Trimmer marking in and/or cutting out linings or trimmings	3B
31	Fitter up and/or shaper	3B
32	Head of a table or a bench of machines, in charge of four or more persons - above appropriate machinist rate	As set in Item 2 of Table 2 of Part B
33	Tailor or tailoress	4
34	Alteration or repair hand (tailor or tailoress)	4
35	Alteration hand (other than tailor or tailoress) in retail establishment	3A
36	Coat table hand or coat machinist	2B
37	Trouser table hand or trouser machinist	2A
38	Vest table hand or vest machinist	2A
39	Presser pressing off and/or under pressing garments other than the garment which the employee is making	3A
40	Durable crease setters and/or sprayers	2B
41	Seam presser and/or seam opener by machine or by hand	2A
42	Canvas fuser and/or air operated fusing machine operator other than on a Hoffman type press	2A
43	Embosser, embroiderer, cornelli worker	2B
44	Proofer	2A
45	Examiners examining for faults in construction:	
	(a) tailor or tailoress	3B
	(b) Others	2B
46	Brusher and folder	2A
47	Hand sewer of buttons, hooks, eyes, press studs and the like	2A
48	Operator, electronic welding machine	1B
49	Operator of press stud or riveting machine	1B
50	Transporter operator, i.e., employee operating console	2B
51	All others not herein classified	1A

Group D - Order Dressmaking - The weekly wage for every description of work done in connection with order dressmaking which includes the making and/or altering and/or repairing and/or adorning and/or work incidental thereto of all female outer garments of any description (including dressing gowns) cut and made to an individual measure and garments that are fitted on, other than such items of outer wearing apparel as are specified in Group B hereof, shall be as follows:

52	Cutter, marking in and/or cutting out	5
53	Head of a table or a bench of machines, in charge of four or more persons above appropriate machinist rate	As set in - Item 1 of Table 2 of Part B
54	Table hand or machinist	2B
55	Presser operating Hoffman type press or hand iron more than 3.63 kg (8 lbs) in weight (not counterbalanced)	3A
56	Presser pressing off and/or under- pressing - other	2B
57	Pleater making patterns and pleating by hand or by machine	3B
58	Pleater, rolling in by hand or machine and/or inserting pleat into pattern	2A
59	Embosser, embroiderer, cornelli worker	2B
60	Fitter-on trying on to a customer unfinished or finished garments	3A
61	Hand sewers of buttons, hooks, eyes, press studs and the like	2A
62	All others not herein classified	1A

Group E - Ready Made Dressmaking and Ready Made Tailoring for Females - The provisions contained in this group shall not apply to the making of cardigans, pullovers and knitted swimsuits in establishments of employers wherein the principal business of such employer consists of the knitting of materials and the making



of garments so knitted. The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or adorning and/or work incidental thereto of all descriptions of ready made garments or outer wearing apparel for females, excepting those specified in Groups B, D and I, which shall include tea, dressing or house gowns, blouses, fronts, collars, collarettes, cuffs and children's garments (other than those included in Group F), shall be as follows:

63	Cutter, marking in and/or cutting out	4
64	Die cutter in cutting room	4
65	Trimmer marking in and cutting out linings and/or trimmings	3B
66	Fitter up and/or shaper	3B
67	Head of a table or a bench of machines, in charge of four or more persons - above appropriate machinist rate	As set in Item 2 of Table 2 of Part B
68	Tailor or tailoress	4
69	Table hand, finisher or machinist including the making of fronts, collars, collarettes, cuffs or shoulder pads	2B
70	Embosser, embroiderer, cornelli worker	2B
71	Alteration hand (other than tailor or tailoress) in retail establishment	3A
72	Presser pressing off and/or under- pressing operating Hoffman type press or hand iron more than 3.63 kg.(8 lbs.) in weight (not counterbalanced)	3A
73	Presser pressing off and/or under- pressing - other	2B
74	Fusing machine operator	2B
75	Seam presser and/or seam opener by machine or hand	2A
76	Durable crease setter and/or sprayer	2B
77	Pleater making patterns and pleating by hand or by machine	3B
78	Pleater, rolling in by hand or by machine and/or inserting pleat into pattern	2A
79	Examiner, examining for faults in construction	2B
80	Hand sewer of buttons, hooks, eyes, press studs and the like	2A
81	Operator, electronic welding machine	1B
82	Operator of press stud or riveting machine	1B
83	Transporter operator, i.e., employee operating console	2B
84	All others not herein classified	1A

Group F - Underclothing - The provisions contained in this group shall not apply to establishments of employers wherein the principal business of such employers consists of the knitting of goods and making of garments from goods so knitted. The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or adorning and/or work incidental thereto of all descriptions of underclothing for females which includes corsets, brassieres, nightgowns, pyjamas, pinafores and aprons for females and sunsuits, playsuits and similar garments for children not exceeding eight years of age shall be as follows:

85	Cutter marking in and/or cutting out	4
86	Die cutter in cutting room	4
87	Head of a table or a bench of machines, in charge of four or more persons - above appropriate machinist rate	As set in Item 2 of Table 2 of Part B
88	Machinist	2A
89	Adornment worker	2A
90	Table hand and/or finisher	2A
91	Presser and/or ironer operating Hoffman type press or hand iron more than 3.63 kg. (8 lbs.) in weight (not counterbalanced)	3A
92	Presser and/or ironer - other	2A
93	Transferrer	2A
94	Examiner examining for faults in construction	2A
95	Hand sewer of buttons, hooks, eyes, press studs and the like	2A
96	Transporter operator, i.e., employee operating console	2A
97	All others not herein classified	1A

Group G - Whitework - The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or adorning and/or work incidental thereto of all descriptions of whitework which shall include all descriptions of napery and/or sheets and/or pillow slips and/or pillow shams and/or diapers and/or handkerchiefs and/or towels and/or chenille bedspreads and/or mosquito nets and/or chenille bathmats, and when made in clothing and whitework factories, toys and/or lamp shades and/or cot covers and/or blankets and/or bedspreads, shall be as follows:

98	Cutter marking in and/or cutting out	4
99	Die cutter in cutting room	4
100	Head of a table or a bench of machines, in charge of four or more persons - above appropriate machinist rate	As set in Item 2 of Table 2 of Part B
101	Machinist and/or table hand	2A
102	Transferrer and/or adornment worker	2A
103	Presser and/or ironer operating Hoffman type press or hand iron more than 3.63 kg (8 lbs) in weight (not counterbalanced)	3A
104	Presser and/or ironer - other	2A
105	Examiner	2A
106	Dyer and/or bleacher (chenille)	3A
107	Vat attendant (chenille)	2A
108	Divider of material	2A
109	All others not herein classified	1A

Group H - Collars, Shirts, Ties, Scarves and Pyjamas - The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or adorning and/or work incidental thereto of collars, ties, scarves, cuffs, shirts, shirt fronts, pyjamas for males, singlets or underpants (except knitted goods) shall be as follows:

110	Cutter marking in and/or cutting out	4
111	Die cutter in cutting room	4
112	Head of a table or a bench of machines, in charge of four or more persons - above appropriate machinist rate	As set in Item 2 of Table 2 of Part B
113	Machinist and/or table hand and/or adornment 2A Worker	2A
114	Presser and/or ironer operating Hoffman type press or hand iron more than 3.63 kg (8 lbs) in weight (not counterbalanced)	3A
115	Presser and/or ironer - other	2A
116	Fuser	2A
117	Examiner examining for faults in construction	2A
118	Transporter operator, i.e. employee operating console	2A
119	All others not herein classified	1A

Group I - Industrial Clothing - The weekly wage for every description of work done in the making and/or work incidental thereto of industrial clothing for males and females which includes industrial uniforms, overalls (excluding what are known in the trade as shaped garments), boiler suits, dust coats and industrial shorts, made from materials other than woollen or worsted shall be as follows:

120	Cutter marking in and/or cutting out	4
121	Die cutter in cutting room	4
122	Head of a table or a bench of machines, in charge of four or more persons - above machinist rate	As set in Item 2 of Table 2 of Part B
123	Machinist and/or table hand	2A
124	Presser and/or ironer operating Hoffman type press or hand iron more than 3.63kg. (8 lbs.) in weight (not counterbalanced)	3A
125	Presser and/or ironer - other	2A
126	Examiner	2A
127	Operator, electronic welding machine level 1 engaged in the manufacture of other industrial safety equipment or exercising skill with no requirement to reset machine or mould regularly	1B

127A	Operator electronic welding machine level 2 engaged in the manufacture of industrial safety clothing of whatever nature or constructing the whole of a garment or adapting setting of machine regularly to different tasks	2B
128	Operator of press stud or riveting machine	1B
129	Transport operator, i.e., employee operating console	2A
130	All others not herein classified	1A

Group J - Headwear - The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or adorning and/or work incidental thereto of any kind of hats, caps, bonnets, helmets, berets or any other kinds of headwear (except such hats as are made under the provision of the Felt Hatting Award) shall be as follows:

131	Cutter other than milliner	4
132	Head of a table or a bench of machines in charge of four or more persons - above machinist rate	As set in Item 2 of Table 2 of Part B
133	Hand blocker	4
134	Machine blocker	3A
135	Helmet maker	2B
136	Cap maker	2B
137	Machinist and/or table hand	2A
138	Model milliner designing original models	3A
139	Milliner	2A
140	Presser and/or ironer operating Hoffman type press or hand iron more than 3.63kg (8 lbs) in weight (not counterbalanced)	3A
141	Presser and/or ironer - other	2A
142	Operator, electronic welding machine	1B
143	All others not herein classified	1A

Group K - Umbrella - The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or work incidental thereto of any description of umbrellas, or parasols, or the like, shall be as follows -

144	Gore cutter, marking in and/or cutting out	3B
145	Machinist	2A
146	Examiner	2A
147	Hand ironer	2A
148	Frame maker	2A
149	Umbrella assembler, including rib assembling, band fixing, topping, clipping in, rolling, studding, pulling up and fitting handles, angle joints, runner, notches, bells and spikes	1B
150	All others not herein classified	1A

Group L - Fur Trade - The weekly wage for every description of work done in connection with the making and/or altering and/or remodelling and/or repairing and/or work incidental thereto of all types of garments or articles such as coats, jackets, capes, headwear, scarves, collars, cuffs, neckwear, muffs, rugs, mats and toys made in the establishment of a furrier from furred and/or haired and woollen skins shall be as follows:

151	Cutter marking in and/or cutting out	5
152	Head of a table or bench of machines in charge of four or more persons - above appropriate machinist rate	As set in Item 2 of Table 2 of Part B
153	Nailer	3A
154	Fur machinist	3A
155	Machinist (other than on fur machine) and/or table hand	2B
156	All others not herein classified	1A

Group M - Artificial Flowers and Brushed Silk Emblems - The weekly wage for every description of work done in connection with the making and/or work incidental thereto of all types of artificial flowers and brushed silk emblems shall be as follows:

157	Cutter and/or stamper	3A
158	Dyer	3A
159	Shaper of petals by hand, with aid of curling iron and/or bowler and assembling the petals so shaped	2B
160	Employee assembling and/or making and/or tying and/or pressing artificial flowers	2B
161	Tiers and/or cutters and/or brushers of emblems	2B
162	All others not herein classified	1A

### TRANSLATION PROCEDURE

#### 64.1 Step 1 - Getting Ready -

64.1.1 Arrange and conduct a meeting of the Translation Committee or Consultative Committee to:

- (1) Set date/s for Union/employee training and make the necessary arrangements.
- (2) Set date/s for joint training and make the necessary arrangements.

64.1.2 Conduct a survey of the language needs of the workforce.

64.1.3 Carry out an inspection of the factory/workplace to familiarise the committee with the different sections/work areas.

#### 64.2 Step 2 - Training and Planning -

64.2.1 Undertake Union/employee training.

64.2.2 Undertake joint training.

64.2.3 Set date/s for information session/s to workforce and make the necessary arrangements.

64.2.4 Set date/s for transferring the workforce to the new skill levels.

64.2.5 Arrange for suitable interpreters to be available for information sessions and completion of the questionnaire (and checklist where used).

64.2.6 Agree on the order in which different sections of the factory/workplace will be translated and establish and prominently display a timetable for translation, including the date/s for information sessions to the workforce and for the completion of the questionnaire (and checklist where used). Translation should commence as soon as possible after the delivery of training, and must be completed within the transition period.

64.2.7 Agree on how the completion of the questionnaire (and checklist where used) will be managed, e.g., sections, by language groups.

64.2.8 Select appropriate space within the factory/workplace to carry out translation procedures.

64.2.9 Obtain all the materials necessary.

64.2.10 Provide information to the whole of the workforce on the translation to the new Skill Based Classification Structure. This may be provided verbally and/or in written form and/or by way of a poster. This may be delivered in sections or language groups or to the workforce as a whole.

- 64.2.11 Arrange for the committee to brief supervisors on the translation process and provide copy of written materials.
- 64.3 Step 3 - Preparing the Skills Questionnaire (and checklist where used) -
- 64.3.1 In preparation for the Skills Based Classification Structure, an enterprise may, in consultation with the committee, choose to list machine types and then classify the operations performed on them into:
- (1) basic
  - (2) intermediate
  - (3) complex
- 64.3.2 This information can be used to assist in determining skill levels by identifying technical skills. It cannot be used without the questionnaire.
- 64.3.3 The checklist must be agreed to as accurate by the committee before it can be used in the translation process.
- 64.3.4 Arrange for the questionnaire (and checklist where used) to be copied for each member of the workforce.
- 64.3.5 Number each questionnaire (and its accompanying checklist, where used) consecutively beginning with number 1.
- 64.3.6 Every page of the same questionnaire (and accompanying checklist, where used) should be given the same number so that if pages of a completed questionnaire (and checklist, where used) become detached, they can be identified.
- 64.4 Step 4 - Completing the Questionnaire (and checklist where used) -
- 64.4.1 Responses to the questionnaire (and checklist where used) should relate to recurring activities which an employee is competent in and is expected to carry out. Activities which are carried out infrequently or at unpredictable times should be included as long as they are recurring activities which an employee is competent in and is expected to carry out during a normal twelve-month production cycle.
- 64.4.2 Activities which an employee has been called on to carry out only from time to time, because of extraordinary production requirements, would not be included. In this case, where employees are called on to exercise high level skills, they would be paid in accordance with clause 19, Mixed Functions.
- 64.4.3 For example, an employee called on to carry out the activities of another employee because that employee is temporarily absent for a short period of time would not include these activities in their responses to the questionnaire (and checklist where used).
- 64.4.4 However, if it is part of an employee's specific duties to relieve in the case of absence of other employees, as is the case for utility machinists, then those activities should be included.
- 64.4.5 Periods of training are not to be regarded as part of an employee's usual work.
- 64.4.6 Arrange for the questionnaire (and checklist where used) to be completed by each worker, in manageable groups, during working hours in the manner agreed by the committee, e.g., in section/work area, language group.

- 64.4.7 At least one Union and one employer representative of the committee, with the help of interpreters if necessary, will act as facilitators for each group and the facilitators shall explain the questionnaire (and checklist where used) and how to fill it out.
- 64.4.8 They will answer questions about the questionnaire (and checklist where used) and ensure that all of the relevant questions have been answered. The role of facilitators is to clarify the meaning of questions to enable employees to make their own responses.
- 64.4.9 An employee may request a supervisor to complete the checklist (where used) on behalf of the employee.
- 64.4.10 Facilitators should pay particular attention to filling in the name of the worker, the job title and the wage band number on the skill allocation form.
- 64.4.11 Facilitators should answer any question about what happens next.
- 64.5 Step 5 - Allocating Skill Levels - The committee shall meet and perform the following procedures:
- 64.5.1 Ensure a committee secretary is present and has a skill level allocation form for each worker.
- 64.5.2 Ensure that each member has a copy of the completed questionnaire (and checklist where used) for each worker in the same order and a copy of the skill based classification structure.
- 64.5.3 The committee shall then call in supervisors to endorse the employee responses to the questionnaire (and checklist where used).
- 64.5.4 Where supervisors disagree with certain responses they shall give their reasons for such differences and these shall be discussed with the employee concerned, with the assistance of an interpreter if necessary. The committee may seek any other information in an attempt to determine whether the disputed responses are acceptable and may view the employee at the employee's work station. Where the committee cannot make a decision, the employee's responses must be accepted.
- 64.5.5 For each worker:
- (1) Determine the minimum skill level of the worker by comparing the employee's wage band with the minimum skill level table appearing below. For example, a worker in wage band 2B will have a minimum skill level of Skill Level 2.

64.5.6 Minimum Skill Level Table

Wage Band	Skill Level
1A	1
1B	1
2A	2
2B	2
3A	3
3B	3
4	4
5*	5
*Wage Band	

- 64.5.7 Review the completed questionnaire (and checklist where used) for the worker.
- 64.5.8 Where a worker's questionnaire (and checklist where used) question/s are not answered clearly and members of a committee require clarification of an employee's response this should be sought from the employee and, if necessary, the employee's supervisor.

- 64.5.9 Compare the completed questionnaire (and checklist where used) with the skill level above the minimum skill level for the worker.
- 64.5.10 If the worker cannot be allocated to the skill level above the employee's minimum skill level then the employee remains on the employee's minimum skill level.
- 64.5.11 If the worker can be allocated to the skill level above the employee's minimum skill level then compare the completed questionnaire (and checklist where used) with the next skill level and so on until the worker can be allocated.
- 64.5.12 The skill level allocated is the highest level in which the employee satisfies all the necessary requirements.
- 64.5.13 The committee secretary should record the skill level and key reasons for the decision on the skill allocation form.
- 64.5.14 The questionnaires (and checklists where used) and the skill level allocation forms should be kept in a safe place and be available for any subsequent review processes.
- 64.6 Step 6 - Where consensus on the appropriate skill level is reached -
- 64.6.1 Notify management and the worker of the recommended skill level.
- 64.6.2 If both the management and worker accept the recommendation it becomes the confirmed skill level and shall remain so until at least the expiry of the transition period.
- 64.7 Step 7 - Where consensus on the appropriate skill level cannot be reached or where it is reached but the recommendation is not acceptable to management and/or the worker -
- 64.7.1 The committee will meet with management and the worker separately. It will then review its decision, taking into consideration the additional information it has obtained and attempt to reach a consensus, which will be notified to management and the workers.
- 64.7.2 If consensus still cannot be reached within the committee or its recommendation is still not acceptable to management and/or the worker, the matter shall be referred to senior management and a Union official who shall endeavour to reach agreement.

#### **65. Schedule E - Procedure to be Adopted in Developing an Enterprise Bargaining Agreement**

The procedures to be followed in developing an enterprise bargaining agreement are as follows:

- 65.1 Step One - The party raising a measure or measures for consideration shall place the matter on the agenda of a forthcoming meeting of the Consultative Committee.
- 65.2 Step Two - The party raising the measure or measures for consideration shall outline the proposal at a meeting of the Consultative Committee and the outline shall be recorded in the minutes of the meeting. The party receiving the proposal shall not be required to respond to the proposal at that meeting. At the same time a written outline of the proposal shall be forwarded to the Secretary of the Union.
- 65.3 Step Three - The Consultative Committee shall post the proposal on the noticeboards. They shall endeavour to express the proposal in a manner that enables the proposal to be understood by the workforce. In particular, where there are a number of non-English speaking workers the Consultative Committee shall consider having the proposal translated into the main languages spoken in the workplace so that all employees fully understand the proposal.
- 65.4 Step Four - The Union/employee Consultative Committee representatives shall be granted one day's leave with pay to attend a briefing session conducted by the union to equip them to negotiate each enterprise bargaining agreement with the employer. Where an employee has used the employee's full

entitlement to Trade Union Training Leave in accordance with clause 22, Trade Union Training Leave, the one day's leave shall be in addition to the employee's entitlement.

- 65.5 Step Five - The Union/employee Consultative Committee representatives and the relevant official of the Union shall consult with the whole of the workforce or section of the workforce affected by the proposal. An employer shall grant the whole of the workforce reasonable time off with pay to attend a meeting conducted by the union/employee representatives and the relevant official of the Union for the purpose of consultation. In the case of a workplace where there are a number of non-English speaking workers the employer shall favourably consider a request from the Union/employee Consultative Committee representatives or the relevant official of the Union for the engagement of interpreter/s to assist in the meeting so that non-English speaking workers fully understand the proposal. In such cases, reasonable time to conduct the meeting will be longer than in the case where an interpreter/s is not used.
- 65.6 Step Six - The Consultative Committee shall then consider the proposal and the views of the workforce and attempt to reach an enterprise bargaining agreement. As necessary, the employee/Union Consultative Committee representatives will refer the draft to the workforce for comment.
- 65.7 Step Seven - If the Consultative Committee reaches agreement it shall record the agreement in writing and forward it to the Secretary of the Union who shall arrange with the employer to jointly conduct a vote of the workforce affected.
- 65.8 Step Eight - In the case of a proposal which does not affect the provisions of the award, if a majority of the workforce affected are in favour of the proposal, the proposal shall be forwarded as a recommendation to senior management.
- 65.8.1 In the case of a proposal which does affect the provisions of the award, if 75% of the workforce affected are in favour of the proposal, the proposal shall be forwarded as a recommendation to senior management.
- 65.9 Step Nine - If the recommendation is accepted then senior management shall refer the proposed agreement in writing to the Secretary of the Union for approval or otherwise. The union shall not unreasonably withhold agreement.
- 65.10 Step Ten - If the proposed agreement in writing is approved by the Secretary of the Union, then it shall be signed by senior management and the Secretary of the Union.
- 65.11 Step Eleven - The agreement shall then be submitted to the Industrial Relations Commission of New South Wales for approval.

## PART B

### MONETARY RATES

**Table 1 - Rates of Pay**

Clause 6 - Rates of Pay

Adult Rates of Pay from the beginning of the first pay period to commence on or after 23 July 2007.

Skill Level	Award Rate \$
Trainee	524.40
1	541.10 *
2	563.60
3	584.50
4	618.20
5#	659.90**



- \* Calculation for minute pay rate for PBR purposes  
 \*\* Note yet determined as to relativity  
 # Not a skill level

**Table 2 - Other Rates and Allowances**

Allowances payable from the beginning of the first pay period to commence on or after 23 July 2007.

Item No.	Clause No.	Brief Description	Amount \$
1	6.6.1	Head of table or bench of machines, in charge of four or more persons - above appropriate machinist rate	15.40
2	6.6.2	Head of table or bench of machines, in charge of four or more persons - above appropriate machinist	11.30
3	17.1	Meal Money	8.95
4	46.1	Disability allowances - Inadequate dining facilities	3.80
5	46.2	Disability Allowances - Inadequate rest facilities	3.80

### **Clothing Trades (State) Industrial Committee**

#### Industries and Callings

All persons engaged in -

- (a) making and/or repairing and/or altering the whole or any part of any male or female garment or of any article of wearing apparel whatsoever, made from material of any description, including all articles of neckwear and excluding only boots, shoes, slippers, gloves and headwear, except as provided in (b);
- (b) making and/or trimming and/or blocking and/or repairing and/or altering and/or remodelling all articles of women's and girls' headwear, excepting male employees engaged in blocking by hand or machines;
- (c) making and/or repairing and/or altering any description of umbrella other than canvas umbrellas;
- (d) making and/or repairing and/or altering any description of handkerchiefs, serviettes, pillowslips, pillowshams, sheets, tablecloths, towels, quilts, aprons, mosquito nets, bed valances, or bed curtains;
- (e) embroidering or otherwise ornamenting any of the abovementioned articles, including the making and/or manufacturing of such ornamentations as are made of textiles, felts or similar fabrics;
- (f) in or in connection with the manufacture of artificial flowers;
- (g) making and/or altering and/or remodelling and/or repairing of all types of garments or articles, other than toys, made in the establishment of a furrier;
- (h) the making of chenille and the making and/or repairing and/or altering of articles of all descriptions as are made of chenille;

in the State of New South Wales, excluding the County of Yancowinna;

excepting employees employed in the making and/or repairing of furnishing drapery and/or quilts in a furniture or furnishing drapery factory or establishment, including retail store or warehouse;

and excepting employees within the jurisdiction of the Rubber Workers (State), the Plastic Moulding (State) and the Textile Workers (State) Industrial Committees.

E. A. R. BISHOP, Commissioner

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Printed by the authority of the Industrial Registrar.

# **CROWN EMPLOYEES (HOME CARE SERVICE OF NEW SOUTH WALES - ADMINISTRATIVE STAFF - TRAINING WAGE) AWARD 2007**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 1703 of 2007)

Before Commissioner Ritchie

3 March 2008

## **REVIEWED AWARD**

### **Arrangement**

#### PART A

Clause No.	Subject Matter
1.	Title
2.	Application
3.	Objective
4.	Definitions
5.	Training Conditions
6.	Employment Conditions
7.	Wages
8.	Part-time Traineeships
9.	School-Based Traineeships
10.	Wage Rates for Part-Time and School-Based Traineeships
11.	Grievance and Dispute Settling Procedures
12.	Anti-Discrimination
13.	Area, Incidence and Duration

#### PART B

#### MONETARY RATES

Table 1 - Full-time weekly wage rates

Table 2 - Hourly wage rates

Appendix A - Skill Levels

### **PART A**

#### **1. Title**

This award shall be known as the Crown Employees (Home Care Service of New South Wales - Administrative Staff - Training Wage) Award 2007.

#### **2. Application**

- (a) This award applies to persons who are undertaking an approved traineeship and is to be read in conjunction with the *Home Care Service Act 1988* and the Crown Employees (Home Care Service of

New South Wales - Administrative Staff) Award 2007 and the Crown Employees (Public Service Training Wage) Award 2005.

- (b) The terms and conditions of any relevant industrial instrument apply, except where inconsistent with this award.
- (c) This award does not apply to employees who were employed under any industrial instrument prior to the date of approval of a traineeship relevant to the Home Care Service of NSW, except where agreed upon between the Executive Director and the Public Service Association and Professional Officers' Association Amalgamated Union of NSW.
- (d) This award does not apply to the apprenticeship system.

### 3. Objective

The objective of this award is to assist with the establishment of a system of approved traineeships which provide nationally recognised training in conjunction with employment in order to enhance the skill levels and future employment prospects of trainees, particularly young people, and the long-term unemployed.

The system is neither designed nor intended for those who are already trained and job ready. It is not intended that existing employees will be displaced from employment by trainees.

This award does not replace the prescription of training requirements in any relevant industrial instrument.

### 4. Definitions

"Approved Traineeship" means a traineeship arrangement applicable to a group or class of employees or to an industry or sector of an industry or enterprise by agreement between the parties under the terms of this award. Approved traineeships include fulltime, part-time and school-based traineeships and are defined by the provisions of the *Apprenticeship and Traineeship Act 2001*.

"Approved Training Course or Training Program" means the training course or training program identified in the vocational training order of a recognised traineeship vocation.

"Appropriate State Legislation" means the *Apprenticeship and Traineeship Act 2001* or any successor legislation.

"Employee" means a person employed pursuant to this award.

"Employer" means the Home Care Service of NSW as constituted by the *Home Care Service Act 1988*.

"Parties to an Approved Traineeship" means the Home Care Service of NSW and the Public Service Association and Professional Officers' Association Amalgamated Union of NSW.

"Recognised Traineeship Vocation" means a vocation that is the subject of an order in force under section 5 of the *Apprenticeship and Traineeship Act 2001*.

"School-Based Trainee" is a student enrolled in the Higher School Certificate, or equivalent qualification, who is undertaking a traineeship which forms a recognised component of their Higher School Certificate or, where permitted, their School Certificate curriculum, and is endorsed by the State Training Authority and the NSW Board of Studies.

"State Training Authority" is the NSW Department of Education and Training.

"Trainee" means an employee who is signatory to the training contract registered with the State Training Authority. The trainee is bound by a training contract and employed in terms of the *Home Care Service Act 1988*. The trainee is involved in paid work and structured training which may be on or off the job.

"Training" for the purposes of this award means training directed at the achievement of key competencies required for successful participation in the workplace (e.g. literacy, numeracy, problem solving, team work, using technology) and an Australian Qualification Framework Certificate Level I and/or an Australian Qualification Framework Certificate Level II or above.

"Training Contract" means a contract made subject to the terms of this award between the Executive Director Home Care Service of NSW and the trainee for a traineeship which is registered with the State Training Authority, under the provisions of the *Apprenticeship and Traineeship Act 2001*. A training contract is made in accordance with the relevant Vocational Training Order and does not operate unless this condition is met.

"Training plan" means a plan prepared in accordance with the relevant Vocational Training Order indicating the arrangements for the provision of training agreed to by the Executive Director Home Care Service of NSW and the registered training organisation, and qualification to be awarded to the trainee. The training plan is lodged with the training contract and the application to establish the traineeship with the State Training Authority.

"Union" means the Public Service Association and Professional Officers' Association Amalgamated Union of NSW.

"Vocational Training Order" means an order in force under section 6 of the *Apprenticeship and Traineeship Act 2001* that sets out the terms and conditions of a recognised traineeship vocation. The Vocational Training Order includes details of the term, probationary period, qualifications and other training as appropriate. The State Training Authority must consult with the Public Service Association and Professional Officers' Association Amalgamated Union of NSW before making a Vocational Training Order.

## 5. Training Conditions

- (a) The trainee must undertake an approved training course or training program prescribed in the training contract and training plan and outlined in the Vocational Training Order or as notified to the trainee by the State Training Authority.
- (b) Prior to the commencement of the trainee, the relevant training contract, made in accordance with the relevant Vocational Training Order, must be signed by the Executive Director Home Care Service of NSW and the trainee and lodged, with the training plan, for registration with the State Training Authority, prior to the commencement of the trainee. If the training contract is not in a standard format, the trainee cannot commence until the training contract has been registered with the State Training Authority.
- (c) The Executive Director must ensure that the trainee is permitted to attend the approved training course or training program provided for in the training contract and training plan and must ensure that the trainee receives the appropriate on-the-job training.
- (d) The Executive Director must provide a level of supervision in accordance with the training contract and training plan during the traineeship period.
- (e) The Executive Director agrees that officers of the State Training Authority will monitor the training contract and training plan and that training records or workbooks may be utilised as part of this monitoring process.
- (f) Training is directed at the achievement of competencies as specified in the relevant vocational training order.

## 6. Employment Conditions

- (a)
  - (i) A trainee is engaged as a full-time employee for a maximum of two years duration, subject to a satisfactory probation period of up to one month which may be reduced at the discretion of the Executive Director Home Care Service of NSW.

- (ii) A trainee/cadet undertaking a traineeship at Diploma Level is engaged as a full-time employee for a nominal period of 12 months, or until achievement of the relevant competencies that will qualify the trainee/cadet for specialist qualifications established at Diploma Level by the relevant training package.
  - (iii) By agreement in writing, and with the consent of the State Training Authority, the Executive Director and the trainee may vary the duration of the traineeship and the extent of approved training, provided that any agreement to vary is in accordance with the Vocational Training Order.
  - (iv) If the trainee completes the approved training course or training program earlier than the time specified in the training contract, then the traineeship may be concluded by mutual agreement by application to the State Training Authority under the provisions of the *Apprenticeship and Traineeship Act 2001*.
  - (v) Unless the State Training Authority otherwise directs, the maximum duration for a part-time traineeship is 36 months.
- (b) The training contract can only be terminated by application to the State Training Authority under the provisions of the *Apprenticeship and Traineeship Act 2001*.
- (c) The trainee will be permitted to be absent from work without loss of continuity of employment or wages to attend the training in accordance with the training contract and training plan.
- (d) If the employment of a trainee by the Executive Director is continued after the completion of the period, such period is counted as service for the purposes of any relevant industrial instrument or any other legislative entitlements.
- (e)
- (i) The training contract may restrict the circumstances under which the trainee may work overtime and shift work in order to ensure that the training program is successfully completed.
  - (ii) A trainee is not to work overtime or shift work on their own unless consistent with the provisions of the relevant industrial instrument.
  - (iii) A trainee is not to work shift work unless the parties to an approved traineeship are satisfied that shift work makes satisfactory provision for approved training. Such training may be applied over a cycle in excess of a week, but must average over the relevant period no less than the amount of training required for non-shift work trainees.
  - (iv) The trainee wage is the basis for the calculation of overtime or shift penalty rates prescribed by the relevant industrial instrument, unless otherwise agreed by the parties to an approved traineeship. If the relevant industrial instrument makes specific provision for a trainee to be paid at a higher rate, then the higher rate applies.
- (f) All other terms and conditions of the relevant industrial instruments apply unless specifically varied by this award.
- (g) A trainee who fails to either complete the traineeship or who cannot for any reason be placed in full-time employment with the Home Care Service NSW on successful completion of the traineeship is not entitled to any severance payments.

## 7. Wages

- (a)
- (i) The weekly wages payable to trainees are as provided in Table 1 - Full time weekly wage rates, of Part B, Monetary Rates.

- (ii) These wage rates will only apply to trainees while they are undertaking an approved traineeship which includes an approved training course or training program as defined in this award.
  - (iii) The wage rates prescribed by this clause do not apply to complete trade level training covered by the apprenticeship system.
  - (iv) The rates of pay in this award include the adjustments payable under the State Wage Case 2007. These adjustments may be offset against any equivalent overaward payments and/or award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.
- (b) Appendix A of Part B sets out the general skill levels for traineeships. The determination of the appropriate skill level for each approved traineeship is based on the following criteria:
- (i) any agreement of the parties;
  - (ii) the nature of the industry;
  - (iii) the total training plan;
  - (iv) recognition that training can be undertaken in stages; and
  - (v) the exit skill level in the relevant industrial instrument contemplated by the training contract.

If the parties disagree with such determination, any party to the award may seek to have the matters in dispute determined by the Industrial Relations Commission of New South Wales.

- (c) For the purposes of this award, "out of school" refers only to periods out of school beyond Year 10, and is deemed to:
- (i) include any period of schooling beyond Year 10 which was not part of nor contributed to a completed year of schooling;
  - (ii) include any period during which a trainee repeats in whole or part a year of schooling beyond Year 10; and
  - (iii) not include any period during a calendar year in which a year of schooling is completed
  - (iv) have effect on an anniversary date, being 1 January in every year.
- (d) For the purposes of this award, any person leaving school before completing Year 10 is deemed to have completed Year 10.
- (e) At the conclusion of the traineeship, this award ceases to apply to the employment of the trainee and the Crown Employees (Home Care Service of NSW - Administrative Staff) Award 2007 applies to the former trainee.

#### **8. Part-Time Traineeships**

- (a) Trainees who undertake traineeships on a part-time basis work less than full-time ordinary hours and undertake the approved training course or training program at the same or lesser training time than a full-time trainee.
- (b) A part-time trainee receives, on a pro rata basis, all employment conditions applicable to a full-time trainee. All the provisions of this award apply to part-time trainees except as specified in this clause.
- (c) A part-time trainee may, by agreement, transfer to a full-time traineeship position if one becomes available.

- (d) The minimum daily engagement periods specified in the Crown Employees (Home Care Service of New South Wales - Administrative Staff) Award 2007 are also applicable to part-time trainees.

If there is no provision for a minimum daily engagement period in the relevant industrial instrument applying to part-time employees, then the minimum start is three continuous hours. By agreement, a part-time trainee may work a minimum start of two continuous hours, on two or more days per week, provided that:

- (i) a two hour start is sought by the trainee to accommodate the trainee's personal circumstances, or  
 (ii) the place of work is within a distance of 5 km from the trainee's place of residence.

### 9. School-Based Traineeships

- (a) School-based trainees undertake traineeships on a part-time basis in accordance with the requirement to balance their school and work commitments. The Executive Director must set hours of work consistent with the trainee's obligation to attend school.
- (b) School-based trainees are not required to attend work during the interval starting four weeks prior to the commencement of the final year Higher School Certificate Examination period and ending upon the completion of the trainee's last HSC examination paper.
- (c) School-based trainees must not work on their own.
- (d) For the purposes of this award, a school-based trainee becomes either a full-time or part-time trainee as at 1 January of the year following the year in which they ceased to be a school student.

### 10. Wage Rates for Part-Time and School-Based Trainees

Weekly wage rates:

- (a) The wage rate calculation is based on the full-time wage rate varied by the amount of training and/or the amount of work over the period of the training contract. The formula is:

$$\text{Weekly Wage} = \frac{\text{Full-time wage rate} \times (\text{trainee hours} - \text{average weekly training time})}{28}$$

NOTE: 28 in the above average formula represents 35 ordinary full time hours minus the average training time for full-time trainees (i.e. 20 per cent).

- (b) "Full-time wage rate" means the appropriate rate as set out in Table 1 - Full-time weekly wage rates, of Part B, Monetary Rates.
- (c) "Trainee hours" are the hours worked per week including the time spent in the approved training course or training program. For the purposes of this definition the time spent in the approved training course or training program may be taken as an average for that particular year of the traineeship.
- (d) "Average weekly training time" is based upon the length of the traineeship specified in the training contract. The formula is:

$$\text{Average weekly training time} = \frac{7 \times 12}{\text{Length of the traineeship in months}}$$

NOTE 1: 7 in the above formula represents the average weekly training time for a full-time trainee whose ordinary hours are 35 per week.

NOTE 2: The parties note that the training contract will require a trainee to be employed for sufficient hours to complete all requirements of the recognised traineeship vocation, including the on-the-job work component and



demonstration of competencies. The parties also note that this would normally result in the equivalent of a full day's on-the-job work per week.

EXAMPLE of the calculation for the wage rate for a part-time traineeship:

A school student commences a traineeship in Year 11. The ordinary hours of work in the relevant industrial instrument are 35. The training contract specifies two years (24 months) as the length of the traineeship.

$$\text{"Average weekly training time" is therefore} \quad \frac{7 \times 12}{24} = 3.5 \text{ hours}$$

"Trainee hours" total 15 hours, made up of 11 hours work over two days of the week plus 1½ hours on-the-job training plus 2½ hours off-the-job approved training at school and at TAFE.

So the wage rate in Year 11 is:

$$\frac{\$237}{28} \times (15 - 3.5) = \$97.34 \text{ plus any applicable penalty rates under the relevant industrial}$$

The wage rate varies when the student completes Year 11 and passes the anniversary date of 1 January the following year to begin Year 12 and/or if "trainee hours" changes.

Hourly wage rates:

Due to the variation in hours worked each week for some part-time trainees, especially school-based trainees, it may be appropriate to pay an hourly wage rate as provided in Table 2 - Hourly wage rates, of Part B, Monetary Rates. The hourly rates as set out in Table 2 are based on a 35 hour week.

The hours for which payment is made are determined as follows:

- (a) Where the approved training for a traineeship (including a school-based traineeship) is provided off-the-job by a registered training organisation, for example at school or at TAFE, these rates only apply to the total hours worked by the part-time trainee on-the-job.
- (b) Where the approved training is undertaken on-the-job or in a combination of on-the-job and off-the-job, and the average proportion of time to be spent in approved training is 20% (i.e. the same as for the equivalent full time traineeship):
  - (i) if the training is solely on-the-job, then the total hours on-the-job are multiplied by the applicable hourly rate, and then 20% is deducted.
  - (ii) if the training is partly on-the-job and partly off-the-job, then the total of all hours spent in work and training are multiplied by the applicable hourly rate, and then 20% is deducted.

Note: 20% is the average proportion of time spent in approved training which has been taken into account in setting the wage rates for most full-time traineeships.

## 11. Grievance and Dispute Settling Procedures

- (a) In general, matters relating to trainees are dealt with under the provisions of the *Apprenticeship and Traineeship Act 2001*.
- (b) In accordance with the grievance and dispute settling procedures, the trainee notifies the supervisor of the substance of any grievance or dispute and requests a meeting with the supervisor to discuss the matter and, if possible, states the remedy sought.
- (c) 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

staff member to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Executive Director Home Care Service of NSW or delegate.

- (d) The immediate manager, or other appropriate officer, shall convene a meeting in order to resolve the grievance, dispute or difficulty within two (2) working days, or as soon as practicable, of the matter being brought to attention.
- (e) If no remedy is found, the trainee seeks further discussions and attempts to resolve the grievance or dispute at a higher level of authority, where appropriate.
- (f) Reasonable time limits must be allowed for discussion at each level of authority, having regard to the nature of the grievance or dispute.
- (g) At the conclusion of the discussion, the trainee must be provided with a response to their grievance or dispute if the matter has not been resolved, including reasons for not implementing any proposed remedy.
- (h) Any party to the traineeship can refer the matter to the NSW Vocational Training Tribunal under the provisions of the *Apprenticeship and Traineeship Act 2001*.
- (i) If no resolution can be found, any party to the grievance or dispute or their representatives may refer the matter to the Industrial Relations Commission of NSW.
- (j) The trainee may involve a representative, including the Union, and the employer may be represented by more senior management or other appropriate person or body for the purposes of each procedure.
- (k) While the dispute procedure is being followed, normal work continues.

## 12. Anti-Discrimination

- (a) 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 identify, age and responsibilities as a carer.
- (b) It follows that in fulfilling their obligations under clause 11, Grievance and Dispute Settling Procedures of 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.
- (c) 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.
- (d) Nothing in this clause is to be taken to affect:
  - Any conduct or act which is specifically exempted from anti-discrimination legislation;
  - Offering or providing junior rates of pay to persons under 21 years of age.
  - Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - A party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

**13. Area, Incidence and Duration**

- (i) This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Crown Employees (Home Care Service of New South Wales - Administration Staff - Training Wage) Award 2004 published 25 February 2005 (348 I.G 695) and all variations thereof.
- (ii) The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 IG 359) take effect on and from 3 March 2008.
- (iii) The award remains in force until varied or rescinded, the period for which it was made having already expired.

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

Effective from the first full pay period to commence on or after 8 September 2007.

**Table 1 - Full-Time Weekly Wage Rates****Diploma**

Where the accredited training courses and work performance are for the purposes of generating skills that have been defined for work at Diploma level.

Classification	
Trainee	\$
Diploma level	537.00

**Skill Level A**

Where the accredited training course and work performance are for the purpose of generating skills which have been defined for work at Skill level A:

	Highest Year of Schooling Completed		
	Year 10 \$	Year 11 \$	Year 12 \$
School Leaver	185.00 (50%)* 216.00 (33%)	232.00 (33%) 261.00 (25%)	313.00
Plus 1 year out of School	261.00	313.00	364.00
Plus 2 years out of school	313.00	364.00	424.00
Plus 3 years out of school	364.00	424.00	485.00
Plus 4 years out of school	424.00	485.00	485.00
Plus 5 years or more	485.00	485.00	485.00

## Skill Level B

Where the accredited training course and work performed are for the purpose of generating skills which have been defined for work at Skill level B

	Highest Year of Schooling Completed		
	Year 10 \$	Year 11 \$	Year 12 \$
School Leaver	185.00 (50%)* 216.00 (33%)	232.00 (33%) 261.00 (25%)	303.00
Plus 1 year out of School	261.00	303.00	349.00
Plus 2 years out of school	303.00	349.00	410.00
Plus 3 years out of school	349.00	410.00	467.00
Plus 4 years out of school	410.00	467.00	467.00
Plus 5 years or more	467.00	467.00	467.00

## Skill Level C

Where the accredited training course and work performed are for the purpose of generating skills which have been defined for work at Skill level C:

	Highest Year of Schooling Completed		
	Year 10 \$	Year 11 \$	Year 12 \$
School Leaver	185.00 (50%)* 216.00 (33%)	232.00 (33%) 261.00 (25%)	300.00
Plus 1 year out of School	261.00	300.00	338.00
Plus 2 years out of school	300.00	338.00	377.00
Plus 3 years out of school	338.00	377.00	422.00
Plus 4 years out of school	377.00	422.00	422.00
Plus 5 years or more	422.00	422.00	422.00

Figures in bracket indicate the average proportion of time spent in approved training to which the associated wage rate is applicable. Where not specifically indicated, the average proportion of time spent in structured training that has been taken into account in setting the rate is 20%.

## School Based Traineeships

	Year 11 \$	Year 12 \$
School based traineeships Skill levels A, B and C	237.00*	261.00*

\* Assumes that the average proportion of time spent in structured training is 20%.

**Table 2 - Hourly Wage Rates**

Set out below are the hourly rates of pay for part-time or school-based trainees where the training is either fully off-the-job or where 20% of time is spent in approved training. These rates are derived from a 35 hour week.

Trainees who have left school:

Diploma

Where the accredited training courses and work performance are for the purposes of generating skills that have been defined for work at Diploma level.

Classification	
Trainee Diploma level - part-time	\$ 19.18

#### Skill Level A

Where the accredited training course and work performance are for the purpose of generating skills which have been defined for work at Skill level A:

	Highest Year of Schooling Completed		
	Year 10 \$	Year 11 \$	Year 12 \$
School Leaver	8.46	9.31	11.19
Plus 1 year out of School	9.31	11.19	13.00
Plus 2 years out of school	11.19	13.00	15.15
Plus 3 years out of school	13.00	15.15	17.32
Plus 4 years out of school	15.15	17.32	17.32
Plus 5 years or more	17.32	17.32	17.32

#### Skill Level B

Where the accredited training course and work performance are for the purpose of generating skills which have been defined for work at Skill level B:

	Highest Year of Schooling Completed		
	Year 10 \$	Year 11 \$	Year 12 \$
School Leaver	8.46	9.31	10.84
Plus 1 year out of School	9.31	10.84	12.46
Plus 2 years out of school	10.84	12.46	14.64
Plus 3 years out of school	12.46	14.64	16.68
Plus 4 years out of school	14.65	16.68	16.68
Plus 5 years or more	16.68	16.68	16.68

#### Skill Level C

Where the accredited training course and work performance are for the purpose of generating skills which have been defined for work at Skill level C:

	Highest Year of Schooling Completed		
	Year 10 \$	Year 11 \$	Year 12 \$
School Leaver	8.46	9.31	10.73
Plus 1 year out of School	9.31	10.73	12.06
Plus 2 years out of school	10.73	12.06	13.48
Plus 3 years out of school	12.06	13.48	15.07
Plus 4 years out of school	13.48	15.07	15.07
Plus 5 years or more	15.07	15.07	15.07

## School-Based Trainees

	Year 11 \$	Year 12 \$
School based traineeships Skill levels A, B and C	8.46	9.31

**APPENDIX A****SKILL LEVELS**

## Skill Level A

Arts Administration

Business (Office Administration)

Clerical Administrative Skills

Communications (Call Centres)

Financial Services

Information Technology

Public Administration

Sport and Recreation

## Skill Level B

Laboratory Operations

Horticulture

Tourism Operations

Retail Operations

Hospitality Operations

## Skill Level C

Rural Skills

D. W. RITCHIE, Commissioner.

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## **CROWN EMPLOYEES (PARLIAMENT HOUSE CONDITIONS OF EMPLOYMENT) AWARD 2007**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 1686 of 2007)

Before Commissioner Ritchie

18 February 2008

### **REVIEWED AWARD**

#### **PART A**

##### **1. Arrangement**

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Area Incidence and Duration
4.	Terms of Employment
5.	Local Arrangements
6.	Hours of Duty and Attendance
7.	Notification of Absence from Duty
8.	Public Holidays
9.	Standard Hours
10.	Flexible Working Hours Scheme
11.	38-Hour Week Workers - Rostered Days Off
12.	Non-Compliance with Hours of Duty and Attendance
13.	Existing Determinations and Agreements - Hours of Duty
14.	Travel Allowances
15.	Allowance Payable for the Use of Private Motor Vehicles
16.	Overseas Travel Allowance
17.	Staff Exchanges
18.	Community Language Allowance Scheme (CLAS)
19.	First Aid Allowance
20.	Semi-Official Telephone Reimbursement
21.	On-Call Allowance
22.	Service Increments Allowance
23.	Uniforms, Protective Clothing and their maintenance
24.	Compensation for Damage to or Loss of Staff Members' Personal Property
25.	Monitoring of Computerised Building Maintenance System Allowance
26.	Leading Hand Allowance
27.	Adjustment of Allowances
28.	Leave - General
29.	Leave for Casual Employees
30.	Recreation Leave
31.	Annual Leave Loading
32.	Sick Leave
33.	Sick Leave - Workers Compensation

34. Sick Leave - Other than Workers Compensation
35. Sick Leave - Requirements for Medical Certificate
36. Sick Leave to Care for a Family Member
37. Parental Leave
38. Family and Community Service Leave
39. Observance of Essential Religious or Cultural Obligations
40. Extended Leave
41. Leave Without Pay
42. Military Leave
43. Special Leave
44. Study Assistance
45. Staff Development and Training Activities
46. Trade Union Activities
47. Shiftwork
48. Overtime
49. Grievance and Dispute Settling Procedures
50. Anti-Discrimination
51. Existing Entitlements
52. Deduction of Union Membership Fees
53. Secure Employment

## PART B

### MONETARY RATES

Table 1 - Allowances.

#### 2. Definitions

"Act" means *Public Sector Employment and Management Act 2002*.

"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.

"Agreement" means an agreement as defined in the *Industrial Relations Act 1996*.

"Approved Course" means a course which is relevant to the employment of the staff member in the department or the public service and one which has been approved by the Clerk(s).

"Association" means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

"At the convenience of" means the operational requirements permit the staff member's release from duty or that satisfactory arrangements are able to be made for the performance of the staff member's duties during the absence.

"Award" means an award as defined in the *Industrial Relations Act 1996*.

"Birth" means the birth of a child and includes stillbirth.

"Capital City rate" means the travelling allowance rate applicable within the Sydney Telephone District or within a corresponding area in the Capital City of another State and Territory.

"Casual rate" means the appropriate rate payable in respect of a motor vehicle maintained by the staff member for private purposes but which the staff member may elect to use with the approval of the Clerk(s) for occasional travel on official business, subject to the allowance paid for such travel not exceeding the cost of travel by public or other available transport.



"Clerk(s)" means the Clerk of the Legislative Assembly or the Clerk of the Legislative Council or both or a person authorised by the Clerk(s).

"Contract hours for the day" for a full time staff member, means one fifth of the full time contract hours, as defined in this award. For a part time staff, contract hours for the day means the hours usually worked on the day.

"Daily rate" or "Rate per day" means the rate payable for 24 hours, unless otherwise specified.

"Daily span of hours", means, for a staff member required to work standard hours, the full time standard hours defined in this award. For a staff member 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 staff member and which do not attract the payment of overtime, unless otherwise prescribed in this award.

"Dayworker" means a staff member, other than a shift worker, who works the ordinary hours from Monday to Friday inclusive between the hours of 7.30 am and 6.00 pm or as negotiated under a local arrangement.

"Department" means a unit under the administrative control of the Clerk of the Parliaments in respect of the Legislative Council and the Clerk of the Legislative Assembly in respect of the Legislative Assembly, or both of them in respect of jointly administered departments.

"DPE" means the Director of Public Employment which has the same meaning as in the *Public Sector Employment and Management Act 2002*.

"Electorate Officers" means employees of the Speaker of the Legislative Assembly employed in the Electorate Offices of Members of the Legislative Assembly.

"Expected date of birth", in relation to a staff member who is pregnant, means a date specified by her medical practitioner to be the date on which the medical practitioner expects the staff member to give birth as a result of the pregnancy.

"Extended leave" means extended (long service) leave to which a staff member is entitled equivalent to Schedule 3 to the *Public Sector Employment and Management Act 2002*.

"Flexible working hours credit" means the time exceeding the contract hours for a settlement period and is able to be banked under a local arrangement negotiated pursuant to clause 5, Local Arrangements of this award or carried over into the next settlement period.

"Flexible working hours debit" means the contract hours not worked by a staff member and not covered by approved leave during the settlement period, as well as any debit carried over from the previous settlement period or periods.

"Flexible working hours scheme" means the scheme outlined in clause 10, Flexible Working Hours Scheme of this award which enables staff members, subject to operational requirements, to select their starting and finishing times.

"Flexible Work Practices, Policy and Guidelines" means the document negotiated between the Public Employment Office, the Labour Council of New South Wales and affiliated unions which enables staff members to rearrange their work pattern.

"Flexleave" means a period of leave available to be taken by a staff member as specified in subclause (xv) of clause 10, Flexible Working Hours Scheme of this award.

"Full day" means the standard full time contract hours for the day, i.e., 7 or 8 hours depending on the classification of the staff member.

"Full pay" or "half pay" means the staff member's ordinary rate of pay or half the ordinary rate of pay respectively.

"Full-time contract hours" means the standard weekly hours, i.e., 35 or 38 hours per week, depending on the classification, required to be worked as at the date of this award.

"Full-time position" means a position, which is occupied, or if not for being vacant, would be occupied, by a full-time staff member.

"Full-time staff member" means a staff member 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 job classification.

"Government accommodation" means accommodation owned, leased or arranged by the Government where a staff member may be directed to reside for a specified period of time.

"Half day" means half the standard contract hours for the day.

"Headquarters" means the centre to which a staff member is attached or from which a staff member is required to operate on a long term basis.

"Industrial action" means industrial action as defined in the *Industrial Relations Act 1996*.

"Local Arrangement" means an agreement reached at the organisational level between the Clerk(s) and the relevant trade union in terms of clause 5, Local Arrangements of this award.

"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.

"Members' staff" means staff employed by the President of the Legislative Council employed as personal staff to a Member of the Legislative Council and staff employed by the Speaker of the Legislative Assembly as electorate office staff to a Member of the Legislative Assembly

"Normal hours of duty" means:

for a staff member working standard hours - the fixed hours of duty, with an hour for lunch, worked in the absence of flexible working hours;

for a staff member working under a flexible working hours scheme or local arrangement hours of duty the Clerk(s) requires a staff member to work within the bandwidth specified under the flexible working hours scheme or local arrangement.

"Normal work", for the purposes of clause 49, Grievance and Dispute Settling Procedures of this award, means the work carried out in accordance with the staff member's position or job description at the location where the staff member was employed, at the time the grievance or dispute was notified by the staff member.

"Official business rate" means the appropriate rate of allowance payable for the use of a private motor vehicle where no other transport is available and such use is directed by the Clerk(s) and agreed to by the staff member or where the staff member is unable to use other transport due to a disability.

"Official overseas travel" means authorised travel out of Australia by a staff member where the staff member proceeds overseas on official business.

"On duty" means the time required to be worked for the department. In terms of clause 46, Trade Union Activities of this award, trade union activities regarded as "on duty" means the time off with pay given by the department to the accredited union delegate to enable the union delegate to carry out legitimate trade union activities during ordinary work hours without being required to lodge an application for leave.

"On loan" means an arrangement between the department and the trade union where a staff member is given leave of absence from the workplace to take up employment with the staff member's trade union for a specified period of time during which the trade union is required to reimburse the department for the staff member's salary and associated on-costs.

"On special leave" means the staff member 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.

"Overtime" means all time worked, whether before or after the ordinary daily hours of duty, at the direction of the Clerk(s), which, due to its character or special circumstances, cannot be performed during the staff member's ordinary hours of duty. Where a flexible working hours scheme is in operation, overtime shall 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 staff member shall not be required by the Clerk(s) to work more than 7 hours after finishing overtime or before commencing overtime.

"Parliamentary Reporting Staff" are employees classified as Reporters, Subeditors, Senior Subeditor and Deputy Editor of the Parliamentary Reporting Services Department.

"Part-time entitlement", unless specified otherwise in this award, means pro rata of the full-time entitlements calculated according to the number of hours a staff member works in a part-time position or under a part-time arrangement.

"Part-time hours" means the hours, which are less than the hours, which constitute full-time work under the relevant industrial instrument.

"Part-time position" means a designated part-time position and, unless otherwise specified, includes any position, which is filled on a part-time basis.

"Part-time staff member" means a staff member 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.

"Prescribed ceasing time" means, for a staff member working standard hours, the conclusion of daily standard hours for that staff member. For a staff member working under a flexible working hours scheme, "prescribed ceasing time" means the conclusion of bandwidth of the scheme applying to that staff member.

"Prescribed starting time" means, for a staff member not working under a flexible working hours scheme, the commencement of standard daily hours of that staff member. For a staff member working under a flexible working hours scheme, "prescribed starting time" means the commencement of bandwidth of the scheme applying to that staff member.

"Presiding Officers" means the Speaker of the Legislative Assembly or the President of the Legislative Council or both.

"Public holiday" means a day proclaimed under the *Banks and Bank Holidays Act 1912* as a bank or public holiday. This definition does not include a Saturday which is such a holiday by virtue of section 15A of that Act, and 1 August or such other day that is a bank holiday instead of 1 August.

"Recall to duty" means those occasions when a staff member is directed to return to duty outside the staff member's ordinary hours or outside the bandwidth in the case of a staff member working under a flexible working hours scheme.

"Relief staff" means staff employed on a temporary basis to provide relief in a position until the return from authorised leave of the substantive occupant or in a vacant position until it is filled substantively.

"Remote area" means for the purpose of clause 30, Recreation Leave, the Western and Central Division of the State described as such in the Second Schedule to the *Crown Lands Consolidation Act 1913* before the Acts repeal.

"Residence", in relation to a staff member, means the ordinary and permanent place of abode of the staff member.

"Rostered Day Off" means, for the purposes of clause 11, 38 Hour Week Workers Rostered Days Off, a day off in a regular cycle at a time operationally convenient.

"Seasonal staff" means staff employed on a temporary basis for less than three months to meet seasonal demands which cannot be met by staff already employed in the department and which, because of their seasonal nature, do not justify employment of staff on a long-term basis.

"Secondment" means an arrangement agreed to by the Clerk(s), the staff member and a public service department, a public sector organisation or a private sector organisation, which enables the staff member 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.

"Section" means a small unit under the administrative control of the Clerk of the Parliaments in respect of the Legislative Council and the Clerk of the Legislative Assembly in respect of the Legislative Assembly, or both of them in respect of jointly administered sections.

"Security Officer" means a staff member employed by Parliamentary Security Services on a 24 hour 7 days per week continuous roster.

"Sessional Staff" means an officer as defined from time to time by the Clerk of the Parliaments in respect of the Legislative Council and the Clerk of the Legislative Assembly in respect of the Legislative Assembly, or both of them in respect of jointly administered departments or sections. Staff members shall be designated as Sessional Staff by 1 December each leave year and shall as part of the duties of their position be regularly required to work at least two sitting nights in every sitting period.

"Shift worker - Continuous Shifts" means a staff member 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 Clerk(s).

"Shift worker - Non-continuous Shifts" means a staff member who is not a "day worker" or a "shift worker - continuous shifts", as defined above.

"Short leave" means the leave which was available to be granted to staff in the case of pressing necessity and which was replaced by family and community service leave from 20 September 1994.

"Sitting Day" is a period of time representing any day, being a 24-hour period, or days where:

- (a) in respect of Officers of the Legislative Council, the Legislative Council sits or is scheduled to sit;
- (b) in respect of officers of the Legislative Assembly, the Legislative Assembly sits or is scheduled to sit;
- (c) officers in any joint department or section are required to work and where either or both Houses sit or are scheduled to sit.

"Sitting Period" is a period of time representing a full working week, Monday to Friday, inclusive:

- (a) for officers of the Legislative Council during which that House is scheduled to sit;
- (b) for officers of the Legislative Assembly during which that House is scheduled to sit;
- (c) for officers in any joint department or section during which either or both Houses are scheduled to sit.

"Staff member" means an officer or a temporary employee and, unless otherwise specified in this award, includes both full-time and part-time staff. For the purposes of maternity leave, as set out in clause 37, Parental Leave of this award, "staff member" means a female staff member.

"Standard hours" are set and regular hours of operation as determined by the Presiding Officer(s), or by the Clerk(s) in accordance with any direction of the Presiding Officer(s). 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.

"Standby" means an instruction given by the Clerk(s) to a staff member to be available for immediate contact in case of an authorised call-out requiring the performance of duties.

"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 Clerk(s), if the activities to be undertaken are considered to be of relevance or value to the department and/or the public service.

"Study Time" means the time allowed off from normal duties on full pay to a staff member who is studying in a part-time course which is of relevance to the department.

"Supervisor" means the immediate supervisor or manager of the area in which a staff member is employed or any other staff member authorised by the Clerk(s) to fulfil the role of a supervisor or manager, other than a person employed as a consultant or contractor.

"Temporary work location" means the place at or from which a staff member temporarily performs official duty if required to work away from headquarters.

"Trade Union" or "Union" means a registered trade union, as defined in the *Industrial Relations Act 1996*.

"Trade Union Delegate" means an accredited union delegate responsible for his/her workplace; and/or a person who is elected by the trade union as its representative, an executive member or a member of the union's Council.

"Trade Union Official" means a person who is employed by the union to carry out duties of an official in a permanent or temporary capacity, including elected full-time officials and/or staff members placed on loan to the union for an agreed period of time.

"Workplace" means the whole of the organisation or, as the case may be, a branch or section of the organisation in which the staff member is employed.

"Workplace Management" means the Clerk(s) or any other person authorised by the Clerk(s) 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.

### **3. Area Incidence and Duration**

- (i) This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Crown Employees (Parliament House Conditions of Employment 2004) Award published 11 February 2005 (348 I.G. 445) and all variations thereof.
- (ii) 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 18 February 2008.
- (iii) The award remains in force until varied or rescinded, the period for which it was made having already expired.

### **4. Terms of Employment**

- (i) Staff members shall be paid fortnightly.
- (ii) Notwithstanding anything contained in this award employment may be terminated by two weeks' notice given at any time by the Presiding Officer(s) in writing or such longer period as the Presiding Officer(s) may have contracted with any individual staff member. A staff member desiring to terminate their employment with the Presiding Officer(s) shall give two weeks' notice in writing to the Presiding Officer(s) or such longer period as the Presiding Officer(s) may have contracted with any individual staff member.

- (iii) Provided that nothing contained in this clause shall prevent a staff member's employment being terminated without notice on the grounds of the staff member's serious wilful misconduct.

### 5. Local Arrangements

- (i) Local arrangements, as specified in this award, may be negotiated between the Clerk(s) and the relevant trade union in respect of the whole department or section.
- (ii) All local arrangements negotiated between the Clerk(s) and the Association must be:
  - (a) approved in writing by the General Secretary of the Association; and
  - (b) contained in a formal document, such as a co-lateral agreement, a memorandum of understanding, an enterprise agreement or other industrial instrument.
- (iii) Subject to the provisions of subclause (ii) of this clause, nothing in this clause shall prevent the negotiation of local arrangements between the Clerk(s) and the Association in respect of the provisions contained in clause 10, Flexible Working Hours Scheme 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.

### 6. Hours of Duty and Attendance

- (i) Hours of attendance on duty
  - (a) The hours of attendance on duty by members of staff and the manner of recording the attendance, shall be as determined from time to time by the Clerk(s).
  - (b) The staff member in charge of a department or section will be responsible to the Clerk(s) for the proper observance of the hours of work and the proper recording of such attendance.
  - (c) The Clerk(s) may require a staff member to perform duty beyond the hours determined under paragraph (a) of subclause (i) of this clause but only if it is reasonable for the staff member to be required to do so. A staff member may refuse to work additional hours in circumstances where the working of such hours would result in the staff member working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
    - the staff member's prior commitments outside the workplace, particularly the staff member's family and carer responsibilities, community obligations or study arrangements,
    - any risk to the staff member's health and safety,
    - 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,
    - the notice (if any) given by the Clerk(s) regarding the working of the additional hours, and by the staff member of their intention to refuse the working of additional hours, or
    - any other relevant matter.
  - (d) The application of hours of work is subject to the provisions of this clause.
- (ii) Working Hours
  - (a) The ordinary hours may be standard or flexible and may be worked on a full time or part-time basis.

- (b) The Clerk(s) shall ensure that all staff members 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.
- (c) Morning and Afternoon Breaks - Staff members 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. Staff members, 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.
- (d) Meal breaks - meal breaks must be given to and taken by staff members. No staff member shall be required to work continuously for more than 5 hours without a meal break, provided that:
  - (1) where the prescribed break is more than 30 minutes, the break may be reduced to not less than 30 minutes if the staff member agrees. If the staff member requests to reduce the break to not less than 30 minutes, the reduction must be operationally convenient; and
  - (2) where the nature of the work of a staff member or a group of staff members 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 Clerk(s) and the Association to provide for payment of a penalty.
- (e) Variation of Hours - If the Clerk(s) is satisfied that a staff member 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 Clerk(s) may vary the staff member's hours of attendance on a one off, short or long term basis, subject to the following:
  - (1) the variation does not adversely affect the operational requirements;
  - (2) there is no reduction in the total number of daily hours to be worked;
  - (3) variation is not more than an hour from the commencement or finish of the span of usual commencing and finishing time;
  - (4) a lunch break of one hour is available to the staff member, unless the staff member elects to reduce the break to not less than 30 minutes;
  - (5) no overtime or meal allowance payments are made to the staff member, as a result of an agreement to vary the hours;
  - (6) ongoing arrangements are documented; and
  - (7) the relevant trade union is consulted, as appropriate, on any implications of the proposed variation of hours for the work area.
- (f) Natural emergencies and major transport disruptions - A staff member prevented from attending work at a normal work location by a natural emergency or by a major transport disruption may:
  - (1) apply to vary the working hours as provided in paragraph (e) of subclause (ii) of this clause and/or
  - (2) take available family and community service leave and/or flex leave, recreation or extended leave or leave without pay according to the provisions of this award to cover the period concerned.
- (g) Assistance with transport - The extent of any assistance by the department with transport of a staff member between the workplace and residence or part of the distance involved, shall be determined by the Clerk(s) according to the provisions contained in clause 48, Overtime of this award.

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

- (i) If a staff member is to be absent from duty, other than on authorised leave, the staff member must notify the supervisor, or must arrange for the supervisor to be notified, as soon as possible, of the reason for the absence.
- (ii) If a staff member is absent from duty without authorised leave and does not provide an explanation of the absence to the satisfaction of the appropriate Clerk(s), the amount representing the period of absence shall be deducted from the staff member's pay.

### **8. Public Holidays**

- (i) Unless directed to attend for duty by the Clerk(s), a staff member is entitled to be absent from duty on any day which is:
  - (a) a public holiday throughout the State; or
  - (b) a local holiday in that part of the State at or from which the staff member performs duty; or
  - (c) day between Boxing Day and New Year's Day determined by the appropriate Clerk(s) as a public service holiday.
- (ii) A staff member, who is required by the Clerk(s) 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.
- (iii) If a local holiday falls during a staff member's absence on leave, the staff member is not to be credited with the holiday.

### **9. Standard Hours**

- (i) Standard hours are set and regular with an hour for lunch and, if worked by the staff member 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.
- (ii) Urgent Personal Business - Where a staff member requires to undertake urgent personal business, appropriate leave or time off may be granted by the Clerk(s). Where time off has been granted, such time shall be made up as set out in subclause (iv) of this clause.
- (iii) Late Attendance - If a staff member is late for work, such staff member must either take appropriate leave or, if the Clerk(s) approves, make the time up in accordance with subclause (iv) of this clause.
- (iv) Making up of Time - The time off taken in circumstances outlined in subclause (ii) and (iii) 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 staff member and the Clerk(s).

### **10. Flexible Working Hours Scheme**

- (i) Unless local arrangements have been negotiated as provided in clause 5, Local Arrangements of this award, a flexible working hours scheme in terms of this clause may operate in a department or a section of a department, subject to operational requirements, as determined by the Clerk(s).
- (ii) Where the operational requirements allow, the working of flexible hours under a flexible working hours scheme operating in a department shall be extended to a staff member working under a part time work arrangement. Except for provisions contained in subclauses (x) and (xiv) of this clause, all other provisions under this clause shall be applied pro rata to a staff member working under a part time work arrangement.



- (iii) Exclusions - Flexible working hours shall not apply to staff members who work:

a 38 hour week and are entitled to a rostered day off in a regular cycle; or

permanent standard hours; or

according to a shift roster; or

under another award, Enterprise Agreement or other agreement that prescribes the hours of attendance.

Members' staff as defined in clause 2, Definitions of this award.

Sessional staff will not work under the flexible hours scheme on any sitting day and shall revert to standard hours for sitting days

Parliamentary Reporting Staff as defined in clause 2, Definitions of this award.

- (iv) Attendance - A staff member's attendance outside the hours of a standard day but within the bandwidth shall be subject to the availability of work.
- (v) Bandwidth - The bandwidth is the period during the day when staff may record time worked. Time shall not be credited to an officer for attendance outside the bandwidth. The bandwidth shall be between the hours of 7.30 am. and 6.00 pm, unless a different time span has been negotiated under a local arrangement in terms of clause 5, Local Arrangements of this award.
- (vi) Coretime - Coretime is the period during the day when staff are required to be on duty, unless on authorised leave. The coretime shall be between the hours of 10.00a.m. and 4.00p.m, excluding the lunch break, unless other arrangements have been negotiated under a local arrangement in terms of clause 5, Local Arrangements of this award.
- (vii) Lunch break - The standard lunch period shall be 1 hour. With the approval of the supervisor, the lunch period may be extended by the staff member up to 2 hours or reduced to not less than 30 minutes within the span of hours 12.00 noon and 2.30 pm or as other span of hours determined by the Clerk(s). Where a local arrangement has been negotiated in terms of clause 5, Local Arrangements of this award, the lunch break shall be taken in accordance with such local arrangement.
- (viii) Settlement period - Unless a local arrangement has been negotiated in terms of clause 5, Local Arrangements of this award, the settlement period shall be four weeks.
- (a) For time recording purposes the settlement period and flex leave must coincide.
- (b) Where exceptional circumstances apply, eg prolonged transport strikes, adverse weather conditions and the like, the Clerk(s) may extend the affected settlement period by a further 4 weeks.
- (ix) Contract hours - The contract hours for a settlement period shall be calculated by multiplying the staff member's weekly contract hours by the number of weeks in a settlement period.
- (x) Flexible working hours credit - A staff member may carry a maximum of 10 hours credit into the next period. Time accumulated in excess of 10 hours at the end of a settlement period shall be forfeited. Local arrangements in terms of clause 5, Local Arrangements of this award may be negotiated in respect of the carry over of the maximum flexible hours credit and the banking of any accumulated time.
- (xi) Departments shall ensure that a staff member does not constantly forfeit excess credit hours at the conclusion of settlement periods as a result of reasonable requests for flex leave being refused or the staff member being directed by the supervisor to work long hours within the bandwidth.

- (xii) Cessation of duty - Except as provided in subclause (xiii) of this clause, a staff member may receive payment for a flex day accrued and remaining untaken or not forfeited on the last day of service:
- (a) where the staff member's services terminate without a period of notice for reasons other than misconduct; or
  - (b) 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
  - (c) in such other circumstances as have been negotiated between the Clerk(s) and the relevant trade union(s) under a local arrangement in terms of clause 5, Local Arrangements of this award.
- (xiii) Where a staff member ceases duty in the department in order to take up employment in another public service or public sector organisation, the same provisions as apply to recreation leave under the Public Sector Staff Mobility policy shall apply to the accrued but untaken or not forfeited flex leave.
- (xiv) Flexible Working Hours Debit - The following provisions shall apply to the carry over of flexible working hours debits, unless a local arrangement has been negotiated in terms of clause 5, Local Arrangements of this award:
- (a) A debit of up to 10 hours at the end of a settlement period may be carried over into the next period.
  - (b) Where the debit exceeds 10 hours, the excess will be debited as leave without pay, unless the staff member elects to be granted available recreation or extended leave to offset the excess.
  - (c) Any debit of hours outstanding on a staff member'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 under the Public Sector Staff Mobility policy.
- (xv) Flex leave - Subject to operational requirements, a staff member may take off one full day or two half days in a settlement period of 4 weeks. Flex leave may be taken on consecutive working days. Half day absences may be combined with other periods of authorised leave. Local arrangements in respect of the taking of flex leave may be negotiated in terms of clause 5, Local Arrangements of this award.
- (xvi) Absence during coretime - Where a staff member needs to take a short period of authorised leave within core time, including late attendances, other than flex leave, the quantum of leave to be granted shall be determined according to the provisions contained in paragraph (d) subclause (ii) of clause 28, Leave General of this award.
- (xvii) Standard hours - Notwithstanding the provisions of this clause, the Clerk(s) may direct the staff member to work standard hours and not flexible hours be worked:
- (a) where the Clerk(s) decides that the working of flexible hours by a staff member or members does not suit the operational requirements of the department or section of the department, the relevant union shall be consulted, where appropriate; or
  - (b) as remedial action in respect of a staff member who has been found to have deliberately and persistently breached the flexible working hours scheme.
- (xviii) Easter concession - Staff members 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.

## (xix) Flexible Work Practices

- (a) Nothing in this award shall affect the hours of duty of a staff member who is covered by a written flexible working hours agreement negotiated under Flexible Work Practices, Policy and Guidelines.
- (b) Flexible working hours agreements negotiated in terms of the Flexible Work Practices, Policy and Guidelines after the effective date of this award shall be subject to the conditions specified in this award and in consultation with the relevant trade union.

**11. 38 Hour Week Workers - Rostered Days Off**

- (i) The provisions of this clause apply only to those staff members who work a 38-hour week and are entitled to a rostered day off in a regular cycle.
- (ii) Time for a rostered day off accrues at 0.4 of an hour each 8 hour day.
  - (a) Except as provided in paragraph (b) of this subclause, all paid ordinary working time and paid leave count towards accrual of time for the rostered day off.
  - (b) 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 staff member resumes duty.
  - (c) Exception - Notwithstanding the provisions of paragraph (b) of this subclause, where more generous provisions apply to the accrual of rostered days off, such provisions shall continue to apply until renegotiated.
- (iii) 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.
- (iv) Where seasonal or school vacation considerations affect departmental operations, rostered days off may be accrued and taken during a less active period.
- (v) A rostered day off is not to be re-credited if the staff member is ill or incapacitated on a rostered day off.
- (vi) Payment of higher duties is not to be made to another staff member for undertaking some or all of the duties of the staff member who is absent on a rostered day off.
- (vii) An employee who has not worked a complete cycle and has not accrued a full rostered day off shall receive a pro-rata accrued entitlement in respect of the Rostered day off which may be taken in conjunction with other leave to make up an absence for a whole shift
- (viii) On the cessation of employment any accrued time toward a rostered day off will be paid to the employee.
- (ix) Security Officers working a continuous shift roster:
  - (a) The ordinary hours of duty shall be an average of 38 per week and not exceed 8 in any one day
  - (b) A shift will not be more than 8 hours inclusive of crib time.
  - (c) Meal Break - Security Officers shall take a paid crib break of 30 minutes during each shift. In addition a crib break of 15 minutes shall be taken within the first four hours of each shift. Security Officers shall take their crib breaks at their post if required to do so by Parliament House management.

## 12. Non-Compliance With Hours of Duty and Attendance

In the event of any persistent failure by a staff member to comply with the hours of duty required to be worked, the Clerk(s), shall investigate such non-compliance as soon as it comes to notice and shall take appropriate remedial action according to the management of unsatisfactory performance guidelines.

## 13. Existing Determinations and Agreements - Hours of Duty

Any existing Determinations and Agreements on local arrangements in respect of the hours of duty, which operated in a department or part of a department as at the effective date of this award, shall continue to apply until renegotiated.

## 14. Travel Allowances

### (i) Travel Allowance General

- (a) Any authorised official travel and associated expenses, properly and reasonably incurred by a staff member required to perform duty at a location other than their normal headquarters shall be met by the department.
- (b) The Clerk(s) shall require staff members to obtain an authorisation for all official travel prior to incurring any travel expense.
- (c) Where available at a particular centre or location, the overnight accommodation to be occupied by staff members who travel on official business shall be the middle of the range standard, referred to generally as three star or three diamond standard of accommodation.
- (d) Where payment of a proportionate amount of an allowance applies in terms of this clause, the amount payable shall be the appropriate proportion of the daily rate. Any fraction of an hour shall be rounded off to the nearest half-hour.

### (ii) Excess Travelling Time

- (a) Excess Travelling Time - A staff member directed by the Department Head to travel on official business outside the usual hours of duty is entitled to apply and to be compensated for such time either by:
  - (1) payment calculated in accordance with the provisions contained in this subclause; or
  - (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.
- (b) Compensation under subparagraphs (1) or (2) of paragraph (a) of this subclause, shall be subject to the following conditions:
  - (1) on a non-working day - all time spent travelling on official business;
  - (2) on a working day - subject to the provisions of paragraph (e) of this subclause, all additional time spent travelling before or after the staff member's normal hours of duty.
  - (3) Period for which compensation is being sought is more than a half an hour on any one day.
- (c) No compensation for travelling time shall be given in respect of travel between 11.00p.m. on any one day and 7.30a.m. on the following day where the staff member has travelled overnight and sleeping facilities have been provided for the staff member.
- (d) Compensation for travelling time shall be granted only in respect of the time that might reasonably have been taken by the use of the most practical and economic means of transport.

- (e) Compensation for excess travelling time shall exclude the following:
- (1) time normally taken for the periodic journey from home to headquarters and return;
  - (2) any periods of excess travel of less than 30 minutes on anyone day;
  - (3) travel to new headquarters on permanent transfer, if special leave has been granted for the day or days on which travel is to undertaken;
  - (4) time from 11.00p.m. on one day to 7.30a.m. on the following day if sleeping facilities have been provided.
  - (5) travel not undertaken by the most practical available route;
  - (6) working on board ship where meals and accommodation are provided;
  - (7) any travel undertaken by a member of staff whose salary includes an "all incidents of employment" component;
  - (8) travel overseas.
- (f) Waiting Time - When a staff member is required to wait for transport in order to commence a journey to another location or to return to headquarters and such time is outside the normal hours of duty, such waiting time shall be treated and compensated in the same manner as travelling time.
- (g) Payment - Payment for travelling time calculated in terms of this subclause shall be at the staff member's ordinary rate of pay on an hourly basis calculated as follows:

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

- (h) The rate of payment for travel or waiting time on a non-working day shall be the same as that applying to a working day.
- (i) Staff members whose salary is in excess of the maximum rate for Clerk, Grade 5 shall 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.
- (j) Time off in lieu or payment for excess travelling time or waiting time will not be granted or made for more than eight hours in any period of 24 consecutive hours.
- (k) Meal Allowances - A staff member who is authorised by the Clerk(s) to undertake a one day journey on official business which does not require the staff member to obtain overnight accommodation, shall be paid the following allowances as set out in Item 1 of Table 1 of Part B Rates for:
- (1) breakfast when required to commence travel at or before 6.00a.m. and at least 1 hour before the prescribed starting time;
  - (2) an evening meal when required to travel until or beyond 6.30p.m.; and
  - (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 staff member's normal headquarters at the time of taking the normal lunch break.

## (iii) Accommodation and Allowances (Non Government Accommodation)

- (a) A staff member who performs official duty at or from a temporary work location and, as a result, is required to obtain temporary accommodation at the temporary work location, shall be compensated for the expenses properly and reasonably incurred during the time actually spent away from the staff member's residence in order to perform that duty.
- (b) For the first 35 days the allowance shall be either
  - (1) The appropriate rate of allowance specified in Item 2 of table 1 Allowance of Part B Monetary Rates for every period of 24 hours absence by the staff member from their residence; and actual meal expenses properly and reasonably incurred (excluding morning and afternoon teas) for any residual part day travel; or
  - (2) if the staff member elects, 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 3 of Table 1 Allowances of Part B Monetary Rates.
- (c) Payment of the appropriate allowance for an absence of less than 24 hours may be made only where the staff member satisfies the Clerk(s) that, despite the period being of less than 24 hours duration, expenditure for accommodation and three meals has been incurred. Where a staff member is unable to so satisfy the Clerk(s) or where part day travel at the end of the trip is involved, the allowance payable for part days of travel shall be limited to the actual expenses incurred during such part day travel.
- (d) A claim under this subclause shall not be made at the set rate for part of the absence (see paragraph (b) of this subclause) and then on the basis of actual expenses for the other part of the absence, except as provided for in paragraph (c) of this subclause.
- (e) After the first 35 days - If a staff member is required by the Clerk(s) to work in the same temporary work location for more than 35 days, such staff member shall be paid the appropriate rate of allowance as specified in item 4 of Table 1 allowances of part B Monetary Rates.
- (f) Long term arrangements - as an alternative to the provisions after the first 35 days set out in paragraph (e) above the Clerk(s) could make alternative arrangements for meeting the additional living expenses, properly and reasonably incurred by a staff member working from a temporary work location.
- (g) The return of a staff member 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 temporary work arrangements.

## (iv) Travel allowances when staying in Government Accommodation.

When a staff member working from a temporary work location and is provided with accommodation by the Government shall be entitled to claim the incidental expenses allowance set out in Item 5 of the table - Allowances of Part B monetary rates for the same period. If meals are not provided by the Government at the temporary work location, the staff member shall be entitled to claim also the reimbursement of any meal expenses properly and reasonably incurred during the time spent at the temporary work location.

## (v) An allowance under subclauses (iii) or (iv) of this clause is not payable in respect of:

- (a) any period during which the staff member 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;

- (b) any period of leave, except with the approval of the Department Head or as otherwise provided by this subclause; or
  - (c) any other period during which the staff member is absent from the staff member's temporary work location otherwise than on official duty.
  - (d) Notwithstanding paragraphs (a), (b) or (c) of this subclause, a staff member in receipt of an allowance under subclauses (iii) or (iv) of this clause who is granted special leave to return to their residence at a weekend, shall be entitled to an allowance under subclause (iii) in respect of the necessary period of travel for the journey from the temporary work location to the staff member's residence; and for the return journey from the staff member's residence to the temporary work location, but is not entitled to any allowance under this subclause, or any other allowance, in respect of the same period.
  - (e) Notwithstanding subparagraphs (a), (b) or (c) of this paragraph, a staff member in receipt of an allowance under this subclause who, on ceasing to perform duty at or from a temporary work location, leaves that location shall be entitled to an allowance in accordance with subclause (iii) of this clause in respect of the necessary period of travel to return to the staff member'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.
- (vi) Increase or reduction on payment of travelling Allowances - Where the Clerk(s) is satisfied that an allowance under subclause (iii) or (iv) is:
- (a) insufficient to adequately reimburse the staff member for expenses properly and reasonably incurred, a further amount may be paid to reimburse the staff member for the additional expenses incurred; or
  - (b) in excess of the amount which would adequately reimburse the staff member for expenses properly and reasonably incurred, the Clerk(s) may reduce the allowance to an amount which would reimburse the staff member for expenses incurred properly and reasonably.
- (vii) Production of Receipts - As and when required by the Clerk(s), payment of travelling expenses shall be subject to the production of receipts or other acceptable evidence of expenditure.
- (viii) Travelling distance - The need to obtain overnight accommodation shall be determined by the Clerk(s) having regard to the safety of the staff member or members travelling on official business and local conditions applicable in the area. Where staff members are required to attend conferences or seminars which involve evening sessions or staff members are required to make an early start at work in a location away from their normal workplace, overnight accommodation shall be appropriately granted by the Clerk(s).

#### **15. Allowance Payable for the Use of Private Motor Vehicles**

- (i) The Clerk(s) may authorise a staff member to use a private motor vehicle for work where:
  - (a) such use will result in greater efficiency or involve the department in less expense than if travel were undertaken by other means; or
  - (b) where the staff member is unable to use other means of transport due to a disability.
- (ii) As defined in clause 2, Definitions of this award, there shall be different classes of allowance payable for the use of a private motor vehicle for work. The appropriate rate of allowance shall be paid depending on the circumstances and the purpose for which the vehicle is used.
- (iii) The staff member 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 Clerk(s).

- (iv) A staff member who, with the approval of the Clerk(s), uses a private motor vehicle for work shall be paid an appropriate rate of allowance specified in Item 6 of Table 1 of Part B Rates for the use of such private motor vehicle.
- (v) Where a private vehicle is damaged while being used for work any normal excess insurance charges prescribed by the insurer shall be reimbursed by the department, provided:
  - (a) the damage is not due to negligence by the staff member; and
  - (b) the charges claimed by the staff member are not the charges prescribed by the insurer as punitive excess charges.
- (vi) Provided the damage is not the fault of the staff member, the department shall reimburse to a staff member the costs of repairs to a broken windscreen, if the staff member can demonstrate that:
  - (a) the damage was sustained on approved work activities; and
  - (b) the costs cannot be met under the insurance policy due to excess clauses.
- (vii) Expenses such as tolls etc. shall be refunded to staff members where the charge was incurred during approved work related travel.
- (viii) Where a staff member tows a trailer or horse-float during travel resulting from approved work activities while using a private vehicle, the staff member shall be entitled to an additional allowance as prescribed in Item 6 of Table 1 of Part B Rates.
- (ix) Except as otherwise specified in this award, a staff member shall bear the cost of ordinary daily travel by private motor vehicle between the staff member's residence and headquarters.

#### **16. Overseas Travel Allowance**

Unless the Clerk(s) determines that a staff member shall be paid travelling rates especially determined for the occasion, a staff member who is required by the department to travel overseas on official business, shall be paid the appropriate travelling rates as specified in the relevant Premier's Department Circular as issued from time to time.

#### **17. Staff Exchanges**

- (i) The Clerk(s) may arrange two way or one way exchanges with other organisations both public and private, if the department or the staff member will benefit from additional training and development which is intended to be used in the carrying out of the department's business.
- (ii) The conditions applicable to those staff members who participate in exchanges will be determined by the Clerk(s) according to the individual circumstances in each case.
- (iii) The provisions of this subclause do not apply to the loan of services of staff members to trade unions. The provisions of subclause (iv) of clause 46, Trade Union Activities of this award apply to staff members who are loaned to their trade union.

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

- (i) Staff members 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 staff members are not:
  - (a) employed as interpreters and translators; and



- (b) employed in those positions where particular language skills are an integral part of essential requirements of the position, shall be paid an allowance as specified in Item 7 of Table 1 of Part B Rates.

### **19. First Aid Allowance**

- (i) A staff member appointed as a First Aid Officer shall be paid a first aid allowance at the rate appropriate to the qualifications held by such staff member as specified in Item 8 of Table 1 of Part B Rates.
- (ii) The First Aid Allowance shall not be paid during extended leave or any other continuous period of leave which exceeds four weeks.
- (iii) When the First Aid Officer is absent on leave for one week or more and another qualified staff member is selected to relieve in the First Aid Officer's position, such staff member shall be paid a pro rata first aid allowance for assuming the duties of a First Aid Officer.

### **20. Semi-Official Telephone Reimbursement**

- (i) Reimbursement of expenses associated with a private telephone service installed at the residence of a staff member shall be made as specified in this subclause if the staff member is required to be contacted or is required to contact others in connection with the duties of his/her position in the department, as and when required.
- (ii) The service must be located in the staff member's principal place of residence and its telephone number communicated to all persons entitled to have out of hours contact with the staff member.
- (iii) The semi-official telephone allowance applies to staff who are required, as part of their duties to:
  - (a) give decisions, supply information or provide emergency services; and/or
  - (b) be available for reasons of safety or security for contact by the public outside of normal office hours.
- (iv) Unless better provisions already apply to a staff member or a staff member has been provided with an official telephone, reimbursement of expenses under this clause shall be limited to the following:
  - (a) the connection fee for a telephone service, if the service is not already available at the staff member's principal place of residence;
  - (b) the full annual base rental charged for the telephone service regardless of whether any official calls have been made during the period; and
  - (c) the full cost of official local, STD and ISD calls.
- (v) To be eligible for reimbursement, staff must submit their telephone account and a statement showing details of all official calls, including:
  - (a) date, time, length of call and estimated cost;
  - (b) name and phone number of the person to whom call was made; and
  - (c) reason for the call.

### **21. On-Call Allowance**

Unless already eligible for an on-call allowance under another industrial instrument, a staff member shall be:

- (i) entitled to be paid the on call allowance set out in Item 9 of Table 1 of Part B Rates when directed by the department to be on call outside the staff member's working hours;

- (ii) if a staff member who is on call, is called out by the department, the overtime provisions as set out in Clause 48, Overtime of this award shall apply to the time worked;
- (iii) where work problems are resolved without travel to the place of work whether on a weekday, weekend or public holiday, work performed shall be compensated at ordinary time for the time actually worked, calculated to the next 15 minutes.

## **22. Service Increments Allowance**

- (i) Staff members defined as Security Officers who at the time of this award are in receipt of a long service increment shall continue to receive long service increment as an allowance on a personal basis. The service increment allowance will be paid at the rate specified in Item 10 of Table 1 of Part B Rates
- (ii) Service increments are not payable to staff members other than under subclause (i) above.

## **23. Uniforms, Protective Clothing and Their Maintenance**

- (i) Uniform, etc. provided by the department - A staff member who is required or authorised by the appropriate Clerk(s) to wear a uniform, protective clothing or other specialised clothing in connection with the performance of official duties shall be provided by the department with such clothing and, except as specified in subclause (iii) of this clause, shall be paid an allowance at the rate specified in Item 11 of Table 1 of Part B Rates for laundering the uniform or protective clothing.
- (ii) Uniform, etc. provided by the staff member - Where the uniform, protective clothing or other specialised clothing is provided by the staff member, such staff member shall be reimbursed the cost of the uniform, protective clothing or other specialised clothing.
- (iii) Payment of laundry allowance - Unless the staff member is entitled to receive a laundry allowance under another industrial instrument, or the Parliament provides the cleaning and laundry service, the staff member to whom subclause (i) or (ii) of this clause apply, shall be paid an allowance at the rate specified in Item 11 of Table 1 of Part B Rates for laundering the uniform or protective clothing.
- (iv) Where payment of the laundry allowance is not appropriate because of the specialised nature of the clothing, the cost of maintaining such clothing shall be met by the department.

## **24. Compensation for Damage to Or Loss of Staff Member's Personal Property**

- (i) Where damage to or loss of the staff member'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 staff member.
- (ii) If a claim under subclause (i) of this clause is rejected by the insurer, the Clerk(s) may compensate a staff member for the damage to or loss of personal property, if such damage or loss:
  - (a) is due to the negligence of the department, another staff member, or both, in the performance of their duties; or
  - (b) is caused by a defect in a staff member's material or equipment; or
  - (c) results from a staff member's protection of or attempt to protect departmental property from loss or damage.
- (iii) Compensation in terms of subclause (ii) of this clause shall be limited to the amount necessary to repair the damaged item. Where the item cannot be repaired or is lost, the Clerk(s) 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.

- (iv) For the purpose of this clause, personal property means a staff member's clothes, spectacles, hearing-aid, tools of trade or similar items which are ordinarily required for the performance of the staff member's duties.
- (v) Compensation for the damage sustained shall 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.

#### **25. Monitoring Computerised Building Management System Allowance**

Staff members defined as Security Officers who are authorised to undertake responsibilities associated with the operation of the computerised building management system (R-Tec system) shall be paid an allowance at the rate specified in Item 12 of Table 1 of Part B Rates for the operation of the computerised building management system.

#### **26. Leading Hand Allowance**

Staff members defined as Security Officers who perform the duty of leading hand on a shift shall be paid an allowance at the rate specified in Item 13 of Table 1 Allowances of Part B Monetary Rates for leading hand.

#### **27. Adjustment of Allowances**

- (i) Allowances contained in clauses 14 to 21, clause 23, and meal allowances contained in clause 48, Overtime of this award, will be adjusted over the life of this award in line with any increases in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006.
- (ii) Allowances contained in clauses 25, 26 and paragraph (xi) (b) of clause 48, Overtime, will be adjusted in line with the Crown Employees (Public Sector - Salaries 2007) Award or any variation or replacement award.

#### **28. Leave General**

- (i) **General**
  - (a) The leave provisions contained in this award apply to all staff members other than those to whom arrangements apply under another industrial instrument or under a local arrangement negotiated between the Clerk(s) and the relevant trade union in terms of clause 5, Local Arrangements of this award.
  - (b) Unless otherwise specified, part-time staff members will receive the conditions of this clause on a pro rata basis, calculated according to the number of hours worked per week.
  - (c) The leave provisions of this award do not apply to an apprentice, except in respect of recreation leave if the entitlement to recreation leave under the apprenticeship award is less favourable than the recreation leave provisions under this clause.
  - (d) A temporary employee 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 Parliament, if such period or periods of employment commence immediately on termination of a previous period or periods of employment.
  - (e) Where paid and unpaid leave available to be granted under this clause are combined, paid leave shall be taken before unpaid leave.
- (ii) **Absence from Duty**
  - (a) A staff member must not be absent from work unless reasonable cause is shown.

- (b) If a staff member is absent from duty because of illness or other emergency, the staff member shall notify or arrange for another person to notify the supervisor as soon as possible of the staff member's absence and the reason for the absence.
  - (c) If a satisfactory explanation for the absence is not provided, the staff member will be regarded as absent from duty without authorised leave and the Clerk(s) shall deduct from the pay of the staff member the amount equivalent to the period of the absence.
  - (d) The minimum period of leave available to be granted shall be a quarter day, unless local arrangements negotiated in the workplace allow for a lesser period to be taken.
  - (e) Nothing in this clause affects any proceedings for a breach of discipline against a staff member who is absent from duty without authorised leave.
- (iii) Application for Leave
- (a) An application by a staff member for leave under this award shall be made to and dealt with by the Clerk(s).
  - (b) the Clerk(s) shall deal with the application for leave according to the wishes of the staff member, if the operational requirements of the department permit this to be done.

### 29. Leave for Casual Employees

- (i) Other than as described under subclauses (iv), (v) and (vii) of this clause, casual employees are not entitled to any other paid or unpaid leave.
- (ii) Casual employees will be paid 1/12th in lieu of annual leave.
- (iii) Casual employees will be entitled to long service leave in accordance with the provisions of the *Long Service Leave Act 1955*.
- (iv) Casual employees are entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, section 54, Entitlement to Unpaid Parental leave, in accordance with the *Industrial Relations Act 1996*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
  - (a) The Clerk(s) must not fail to re-engage a regular casual employee because:
    - (A) the employee or employee's spouse is pregnant; or
    - (B) the employee is or has been immediately absent on parental leave.

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

- (v) Personal Carers Entitlement for casual employees
- (a) 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 subclause (vi) of this clause 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 below in paragraph (d), and the notice requirements set out in paragraph (e).
  - (b) The Clerk(s) and the casual employee shall 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.

- (c) The Clerk(s) 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.
- (d) The casual employee shall, 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 employer 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.

- (e) 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 employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.
- (vi) A family member for the purposes of paragraph (v)(a) of this clause is:
- (a) a spouse of the staff member; or
  - (b) a de facto spouse, being a person of the opposite sex to the staff member who lives with the staff member as her husband or his wife on a bona fide domestic basis although not legally married to that staff member; or
  - (c) child or an adult child (including an adopted child, a stepchild, a foster child or an ex nuptial child), parent (including a foster parent or legal guardian), grandparent, grandchild or sibling of the staff member or of the spouse or de facto spouse of the staff member; or
  - (d) a same sex partner who lives with the staff member as the de facto partner of that staff member on a bona fide domestic basis; or a relative of the staff member 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.

- (vii) Bereavement entitlements for casual employees
- (a) 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).
  - (b) The Clerk(s) and the casual employee shall 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.
  - (c) The Clerk(s) 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.

- (d) 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 employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.

### 30. Recreation Leave

- (i) Accrual
  - (a) Except where stated otherwise in this award, paid recreation leave for full time staff members and recreation leave for staff members working part time, accrues at the rate of 20 working days per year.
  - (b) Staff members working part time shall accrue paid recreation leave on a pro rata basis, which will be determined on the average weekly hours worked per leave year.
  - (c) Additional recreation leave, at the rate of 5 days per year, accrues to a staff member, who is stationed indefinitely in a remote area of the State, as defined in clause 2, Definitions of this award.
  - (d) Additional recreation leave, at the rate of 10 days per year, accrues to a staff member, who is Sessional Staff as defined in clause 2, Definitions.
  - (e) Additional recreation leave, at the rate of 5 days per year, accrues to a staff member defined as a Security Officer who regularly works Saturday, Sunday and Public Holidays as part of a continuous roster.
  - (f) A staff member who is not defined as Sessional Staff who at 12 March 1992 was in receipt of 6 weeks leave each year will continue to receive six (6) weeks leave each year maintained on a personal basis.
  - (g) Recreation leave accrues from day to day.
- (ii) Limits on Accumulation of recreation leave and direction to take leave
  - (a) At least two (2) consecutive weeks of recreation leave (or a combination of recreation leave and public holidays, flex leave, extended leave or, if the staff member elects, leave without pay) shall be taken by a staff member every 12 months for recreation purposes, except by agreement with the Clerk(s) in special circumstances.
  - (b) Where the operational requirements permit, the application for leave shall be dealt with by the Clerk(s) according to the wishes of the staff member.
  - (c) The Clerk(s) shall notify the staff member in writing when accrued recreation leave reaches 6 weeks or its hourly equivalent, and at the same time may direct a staff member to take at least 2 weeks recreation leave within 3 months of the notification at a time convenient to the Department or Section.
  - (d) The Clerk(s) shall notify the staff member in writing when accrued recreation leave reaches 8 weeks or its hourly equivalent and may direct the staff member 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 or section.
  - (e) Staff defined as Sessional Staff, in paragraph (c) 8 weeks substitutes for 6 weeks and in paragraph (d) 10 weeks substitutes for 8 weeks.
- (iii) Conservation of recreation leave - If the Clerk(s) is satisfied that a staff member is prevented by operational or personal reasons from taking sufficient recreation leave to reduce the accrued leave below an acceptable level of less than 8 weeks, or its hourly equivalent the Clerk(s) shall:

- (a) specify in writing the period of time during which the excess shall be conserved; and
  - (b) on the expiration of the period during which conservation of leave applies, grant sufficient leave to the staff member at a mutually convenient time to enable the accrued leave to be reduced to an acceptable level below the 8 week level specified.
  - (c) The Clerk(s) will inform a staff member in writing on a regular basis of the staff member's recreation leave accrual.
- (iv) Recreation Leave - Other provisions
- (a) Unless a local arrangement has been negotiated between the Clerk(s) and the relevant trade union, recreation leave is not to be granted for a period less than a quarter-day or in other than multiples of a quarter day.
  - (b) Recreation leave for which a staff member is eligible on cessation of employment is to be calculated to a quarter day (fraction less than a quarter being rounded up).
  - (c) Recreation leave does not accrue to a staff member in respect of any period of absence from duty without leave or without pay, except as specified in paragraph (d) of this subclause.
  - (d) 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.
  - (e) 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 (d) of this subclause above shall be calculated to an exact quarter day (fractions less than a quarter being rounded down).
  - (f) Recreation leave accrues at half its normal accrual rate during periods of extended leave on half pay.
  - (g) On cessation of employment, a staff member is entitled to be paid the money value of accrued recreation leave, which remains untaken.
  - (h) A staff member to whom paragraph (g) 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.
  - (i) Death - Where a staff member dies, the monetary value of recreation leave accrued and remaining untaken as at the date of death shall be paid to the staff member's nominated beneficiary.
  - (j) Where no beneficiary has been nominated, the monetary value of recreation leave is to be paid as follows:
    - (1) to the widow, widower or de facto partner of the staff member; or
    - (2) if there is no widow, widower or de facto partner, to the children of the staff member 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
    - (3) if there is no such widow, widower or de facto partner or children, to the person who, in the opinion of the Clerk(s) was, at the time of the staff member's death, a dependent relative of the staff member; or
    - (4) if there is no person entitled under subparagraphs (1) or (2) or (3) of this paragraph to receive the money value of any leave not taken or not completed by a staff member or

which would have accrued to the staff member, the payment shall be made to the personal representative of the staff member.

### 31. Annual Leave Loading

- (i) General - Unless more favourable conditions apply to a staff member under another industrial instrument, a staff member, other than a trainee who is paid by allowance, is entitled to be paid an annual leave loading as set out in this subparagraph. Subject to the provisions set out in subclauses (ii) to (vi) of this clause the annual leave loading shall be 17½% on the monetary value of up to 4 weeks recreation leave accrued in a leave year.
- (ii) Loading on additional leave accrued - Where additional leave is accrued by a staff member:-
  - (a) as compensation for work performed regularly on Sundays and/or Public Holidays, the annual leave loading shall be calculated on the actual leave accrued or on five weeks, whichever is the higher.
  - (b) 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 shall continue to be paid on a maximum of 4 weeks leave.
- (iii) Shift workers - Shift workers proceeding on recreation leave are eligible to receive the more favourable of:
  - (a) 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
  - (b) 17½% annual leave loading.
- (iv) Maximum Loading - Unless otherwise provided in an Award or Agreement under which the staff member is paid, the annual leave loading payable shall not exceed the amount which would have been payable to a staff member in receipt of salary equivalent to the maximum salary for a Grade 12 Clerk.
- (v) Leave year - For the calculation of the annual leave loading, the leave year shall commence on 1 December each year and shall end on 30 November of the following year.
- (vi) Payment of annual leave loading - Payment of the annual leave loading shall be made on the recreation leave accrued during the previous leave year and shall be subject to the following conditions:
  - (a) annual leave loading shall be paid on the first occasion in a leave year, other than the first leave year of employment, when a staff member takes at least two consecutive weeks leave for recreation purposes. Such leave may be 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.
  - (b) if at least two weeks leave as set out in paragraph (a) of this subclause is not taken in a leave year, then the payment of the annual leave loading entitlement for the previous leave year shall be made to the staff member as at 30 November of the current year.
  - (c) while annual leave loading shall not be paid in the first leave year of employment, it shall be paid on the first occasion in the second leave year of employment when at least two weeks leave, as specified in subparagraph (a) of this subclause is taken.
  - (d) a staff member who has not been paid the annual leave loading for the previous leave year, shall be paid such annual leave loading on resignation, retirement or termination by the employer for any reason other than the staff member's serious and intentional misconduct.
  - (e) Except in cases of Voluntary Redundancy, proportionate level Loading is not payable on cessation of employment.



### 32. Sick Leave

- (i) If the Clerk(s) is satisfied that a staff member is unable to perform duty because of the staff member's illness or the illness of his/her family member, the Clerk(s):
  - (a) shall grant to the staff member sick leave on full pay; and
  - (b) may grant to the staff member, sick leave without pay if the absence of the staff member exceeds the entitlement of the staff member under this Award to sick leave on full pay.
- (ii) Entitlements
  - (a) Sick leave on full pay accrues to a staff member at the rate of 15 days each calendar year. Any leave accrued and not taken accumulates.
  - (b) Sick leave on full pay accrues at the beginning of the calendar year. If a staff member is appointed after 1 January, sick leave on full pay accrues on a proportionate basis for the year in which employment commences.
  - (c) All continuous service as a staff member in the NSW public service shall 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 shall be taken into account for the purpose of calculating sick leave due if the previous sick leave records are available.
  - (d) Notwithstanding the provisions of paragraph (c) of this subclause, sick leave accrued and not taken in the service of a public sector employer may be accessed in terms of the Public Sector Staff Mobility Policy.
  - (e) Sick leave without pay shall count as service for the accrual of recreation leave and paid sick leave. In all other respects sick leave without pay shall be treated in the same manner as leave without pay.
  - (f) When determining the amount of sick leave accrued, sick leave granted on less than full pay, shall be converted to its full pay equivalent.
  - (g) Paid sick leave shall not be granted during a period of unpaid leave.
- (iii) Payment during the initial 3 months of service - Paid sick leave which may be granted to a staff member, other than a seasonal or relief staff member, in the first 3 months of service shall be limited to 5 days paid sick leave, unless the Clerk(s) approves otherwise. Paid sick leave in excess of 5 days granted in the first 3 months of service shall be supported by a satisfactory medical certificate.
- (iv) Seasonal or relief staff - No paid sick leave shall be granted to temporary employees who are employed as seasonal or relief staff for a period of less than 3 months.

### 33. Sick Leave - Workers Compensation

- (i) The Clerk(s) shall advise each staff member of the rights under the *Workers Compensation Act 1987*, as amended from time to time, and shall give such assistance and advice, as necessary, in the lodging of any claim.
- (ii) A staff member who is or becomes unable to attend for duty or to continue on duty in circumstances which may give the staff member a right to claim compensation under the *Workers Compensation Act 1987* shall be required to lodge a claim for any such compensation.
- (iii) Where, due to the illness or injury, the staff member is unable to lodge such a claim in person, the Clerk(s) shall assist the staff member or the representative of the staff member, as required, to lodge a claim for any such compensation.

- (iv) The Clerk(s) will ensure that, once received by the department, a staff member's worker's compensation claim is lodged by the department with the workers compensation insurer within the statutory period prescribed in the *Workers Compensation Act 1987*.
- (v) Pending the determination of that claim and on production of an acceptable medical certificate, the Clerk(s) shall grant sick leave on full pay for which the staff member is eligible followed, if necessary, by sick leave without pay or, at the staff member's election by accrued recreation leave or extended leave.
- (vi) If liability for the workers compensation claim is accepted, then an equivalent period of any sick leave taken by the staff member pending acceptance of the claim shall be restored to the credit of the staff member.
- (vii) A staff member 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 staff member's ordinary rate of pay. Sick leave utilised in this way shall be debited against the staff member.
- (viii) If a staff member notifies the Clerk(s) that he or she does not intend to make a claim for any such compensation, the Clerk(s) shall consider the reasons for the staff member's decision and shall determine whether, in the circumstances, it is appropriate to grant sick leave in respect of any such absence.
- (ix) A staff member 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 a staff member refuses to submit to a medical examination without an acceptable reason, the staff member shall not be granted available sick leave on full pay until the examination has occurred and a medical certificate is issued indicating that the staff member is not fit to resume employment.
- (x) If the Clerk(s) provides the staff member with employment which meets the terms and conditions specified in the medical certificate issued under the *Workers Compensation Act 1987* and *Workplace Injury Management and Workers Compensation Act 1998* and, without good reason, the staff member fails to resume or perform such duties, the staff member shall be ineligible for all payments in accordance with this clause from the date of the refusal or failure.
- (xi) No further sick leave shall be granted on full pay if there is a commutation of weekly payments of compensation by the payment of a lump sum pursuant to section 51 of the *Workers Compensation Act 1987*.
- (xii) Nothing in this clause prevents a staff member from appealing a decision or taking action under other legislation made in respect of:-
  - (a) the staff member's claim for workers' compensation;
  - (b) the conduct of a medical examination by a Government or other Medical Officer;
  - (c) a medical certificate issued by the examining Government or other Medical Officer; or
  - (d) action taken by the Clerk(s) 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.

#### **34. Sick Leave - Other Than Workers Compensation**

- (i) If the circumstances of any injury to or illness of a staff member 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 staff member on completion of an acceptable undertaking that:-

- (a) 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 staff member; and
  - (b) in the event that the staff member receives or recovers damages or compensation pursuant to that claim for loss of salary or wages during any such period of sick leave, the staff member will repay to the department the monetary value of any such period of sick leave.
- (ii) Sick leave on full pay shall not be granted to a staff member who refuses or fails to complete an undertaking, except in cases where the Clerk(s) is satisfied that the refusal or failure is unavoidable.
  - (iii) On repayment to the department of the monetary value of sick leave granted to the staff member, sick leave equivalent to that repayment and calculated at the staff member's ordinary rate of pay, shall be restored to the credit of the staff member.

### **35. Sick Leave - Requirements for Medical Certificate**

- (i) A staff member absent from duty for more than 3 consecutive working days because of illness must furnish a medical certificate to the Clerk(s) in respect of the absence.
- (ii) A staff member shall be put on notice in advance if required by the Clerk(s) to furnish a medical certificate in respect of an absence from duty for 3 consecutive working days or less because of illness.
- (iii) If there is any concern about the reason shown on the medical certificate, the Clerk(s), after discussion with the staff member, may refer the medical certificate and the staff member's application for leave to Healthquest for advice.
- (iv) The nature of the leave to be granted to a staff member shall be determined by the Clerk(s) on the advice of Healthquest.
- (v) If sick leave applied for is not granted, the Clerk(s) must, as far as practicable, take into account the wishes of the staff member when determining the nature of the leave to be granted.
- (vi) A staff member may elect to have an application for sick leave dealt with confidentially by Healthquest in accordance with the general public service policy on confidentiality, as applies from time to time.
- (vii) If a staff member who is absent on recreation leave or extended leave, furnishes to the Clerk(s) a satisfactory medical certificate in respect of an illness which occurred during the leave, the Clerk(s) may, subject to the provisions of this clause, grant sick leave to the staff member as follows:-
  - (a) in respect of recreation leave, the period set out in the medical certificate;
  - (b) in respect of extended leave, the period set out in the medical certificate if such period is 5 working days or more.
- (viii) Paragraph (vii) above applies to all staff members other than those on leave prior to resignation or termination of services, unless the resignation or termination of services amounts to a retirement.
- (ix) The reference in subclause (i) of this clause to a medical certificate shall apply, as appropriate, to the certificates of up to one week provided by a registered dentist, optometrist, chiropractor, osteopath, physiotherapist, oral and maxillo facial surgeon or, at the Clerk(s)'s discretion, another registered health services provider. Where the absence exceeds one week, and unless the health provider listed above is also a registered medical practitioner, applications for any further sick leave must be supported by a medical certificate from a registered medical practitioner.

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

When family and community service leave provided for in clause 38, Family and Community Service Leave of this award is exhausted, a staff member with responsibilities in relation to a category of person set out in subclause (iii) of this clause who needs the staff member's care and support, may elect to use available paid sick

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

- (i) The sick leave shall initially be taken from the current leave year's entitlement followed, if necessary, by the sick leave accumulated over the previous 3 years. In special circumstances, the Clerk(s) may grant additional sick leave from the sick leave accumulated during the staff member's eligible service.
- (ii) If required by the Clerk(s), the staff member must establish by production of a medical certificate or statutory declaration, the illness of the person concerned.
- (iii) The entitlement to use sick leave in accordance with this subclause is subject to:

- (a) the staff member being responsible for the care and support of the person concerned; and
- (b) the person concerned being:-

a spouse of the staff member; or

a de facto spouse being a person of the opposite sex to the staff member who lives with the staff member as her husband or his wife on a bona fide domestic basis although not legally married to that staff member; or

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 staff member or of the spouse or de facto spouse of the staff member; or

a same sex partner who lives with the staff member as the de facto partner of that staff member on a bona fide domestic basis; or a relative of the staff member 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.

### **37. Parental Leave**

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

- (i) Maternity leave shall apply to a staff member who is pregnant and, subject to this clause the staff member shall be entitled to be granted maternity leave as follows:
  - (a) For a period up to 9 weeks prior to the expected date of birth; and
  - (b) For a further period of up to 12 months after the actual date of birth.
  - (c) A staff member who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- (ii) Adoption leave shall apply to a staff member adopting a child and who will be the primary care giver, the staff member shall be granted adoption leave as follows:
  - (a) For a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or

- (b) For such period, not exceeding 12 months on a full-time basis, as the Clerk(s) may determine, if the child has commenced school at the date of the taking of custody.
  - (c) Special Adoption Leave - A staff member shall 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.
- (iii) Where maternity or adoption leave does not apply, "other parent" leave is available to male and female staff who apply for leave to look after his/her child or children. Other parent leave applies as follows:
- (a) 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;
  - (b) Extended other parent leave - for a period not exceeding 12 months, less any short other parental leave already taken by the staff member as provided for in paragraph (a) 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.
- (iv) A staff member taking maternity or adoption leave is entitled to payment at the ordinary rate of pay for a period of 14 weeks, a staff member 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 staff member:
- (a) Applied for parental leave within the time and in the manner determined set out in subclause (ix) of this clause; and
  - (b) Prior to the commencement of parental leave, completed not less than 40 weeks' continuous service.
  - (c) Payment for the maternity, adoption or short other parent leave may be made as follows:
    - (1) in advance as a lump sum; or
    - (2) fortnightly as normal; or
    - (3) fortnightly at half pay; or
    - (4) a combination of full-pay and half pay.
- (v) Payment for parental leave is at the rate applicable when the leave is taken. A member of staff holding a full time position who is on part time leave without pay when they start parental leave is paid:
- (a) at the full time rate if they began part time leave 40 weeks or less before starting parental leave;
  - (b) 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;
  - (c) 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.
- (vi) A staff member who has taken no more than 12 months full time parental leave or its part time equivalent is entitled to be paid at their normal rate (ie the rate at which they were paid before proceeding on parental leave) for another period of such leave regardless of whether they resume their normal hours of work before proceeding on leave for another pregnancy or adoption.
- (vii) Except as provided in subclauses (iv), (v) and (vi) of this clause parental leave shall be granted without pay.

## (viii) Right to request

- (a) A staff member who has been granted parental leave in accordance with subclause (i), (ii) or (iii) may make a request to the Clerk(s) to:
  - (1) extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
  - (2) 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 staff member in reconciling work and parental responsibilities.

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

## (ix) Notification Requirements

- (a) When the Clerk(s) is made aware that a staff member or their spouse is pregnant, or a staff member's spouse is pregnant or is adopting a child, the Clerk(s) must inform the staff member of their entitlements and their obligations under the award.
- (b) A staff member who wishes to take parental leave must notify the Clerk(s) in writing at least 8 weeks (or as soon as practicable) before the expected commencement of parental leave:
  - (1) that she/he intends to take parental leave, and
  - (2) the expected date of birth or the expected date of placement, and
  - (3) if she/he is likely to make a request under subclause (viii).
- (c) At least 4 weeks before a staff member's expected date of commencing parental leave they must advise:
  - (1) the date on which the maternity, adoption or other parent leave is intended to start, and
  - (2) the period of leave to be taken.
- (d) Staff member's request and the Clerk(s)' decision to be in writing  

The staff member's request under paragraph (viii)(a) and the Clerk(s)' decision made under paragraph (viii)(b) must be recorded in writing.
- (e) A staff member 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 Clerk(s) 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 Clerk(s) agrees.
- (f) A staff member on maternity leave is to notify the Clerk(s) of the date on which she gave birth as soon as she can conveniently do so.
- (g) A staff member must notify the Clerk(s) as soon as practicable of any change in her intentions as a result of premature delivery or miscarriage.

- (h) A staff member on maternity or adoption leave may change the period of leave or arrangement, once without the consent of the Clerk(s) and any number of times with the consent of the Clerk(s). In each case she/he must give the Clerk(s) at least 14 days notice of the change unless the Clerk(s) decides otherwise.
- (x) A staff member has the right to her/his former position if she/he has taken approved leave or part time work in accordance with subclause (viii), and she/he resumes duty immediately after the approved leave or work on a part time basis.
- (xi) If the position occupied by the staff member immediately prior to the taking of parental leave has ceased to exist, but there are other positions available that the staff member is qualified for and is capable of performing, the staff member shall be appointed to a position of the same grade and classification as the staff member's former position.
- (xii) A staff member does not have a right to her/his former position during a period of return to work on a part time basis. If the Clerk(s) approves a return to work on a part time basis then the position occupied is to be at the same classification and grade as the former position.
- (xiii) A staff member 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 Clerk(s)) must be given.
- (xiv) A staff member who is sick during her pregnancy may take available paid sick leave or accrued recreation or extended leave or sick leave without pay. A staff member 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.
- (xv) A staff member 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.
- (xvi) A staff member may elect to take available recreation leave at half pay in conjunction with parental leave subject to:
  - (a) accrued recreation leave at the date leave commences is exhausted within the period of parental leave
  - (b) the total period of parental leave, is not extended by the taking of recreation leave at half pay
  - (c) When calculating other leave accruing during the period of recreation leave at half pay, the recreation leave at half pay shall 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
- (xvii) If, for any reason, a pregnant staff member is having difficulty in performing her normal duties or there is a risk to her health or to that of her unborn child the Clerk(s), should, in consultation with the member of staff, 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 job redesign.
- (xviii) If such adjustments cannot reasonably be made, the Clerk(s) must grant the staff member 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 which ever is the earlier.
- (xix) Communication during parental leave
  - (a) Where a staff member is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Clerk(s) shall take reasonable steps to:

- (1) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the staff member held before commencing parental leave; and
  - (2) provide an opportunity for the staff member to discuss any significant effect the change will have on the status or responsibility level of the position the staff member held before commencing parental leave.
- (b) The staff member shall take reasonable steps to inform the Clerk(s) about any significant matter that will affect the staff member's decision regarding the duration of parental leave to be taken, whether the staff member intends to return to work and whether the staff member intends to request to return to work on a part time basis.
  - (c) The staff member shall also notify the Clerk(s) of changes of address or other contact details which might affect the Clerk(s)' capacity to comply with paragraph (a).

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

- (i) The Clerk(s) shall, in the case of emergencies or in personal or domestic circumstances, grant to a staff member some or all of the available family and community service leave on full pay.
- (ii) Such cases may include but not be limited to the following:-
  - (a) compassionate grounds - such as the death or illness of a close member of the family or a member of the staff member's household;
  - (b) 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;
  - (c) emergency or weather conditions - such as when flood, fire or snow etc. threaten property and/or prevent a staff member from reporting for duty;
  - (d) other personal circumstances - such as citizenship ceremonies, parent/teacher interviews or attending child's school for other reasons;
- (iii) attendance at court by a staff member to answer a charge for a criminal offence, if the Clerk(s) considers the granting of family and community service leave to be appropriate in a particular case.
- (iv) staff members who are selected to represent Australia or the State as competitors in major amateur sport (other than Olympic or Commonwealth Games).
- (v) staff who hold office in Local Government other than as a Mayor of a Municipal Council, President of a Shire Council or Chairperson of a County Council, to attend meetings, conferences or other duties associated with that office where those duties necessitate absence during normal working hours.
- (vi) The maximum amount of family and community service leave on full pay which may, subject to this award, be granted to a staff member shall be the greater of the leave provided in paragraphs (a) or (b) below:
  - (a) 2½ of the staff member's working days in the first year of service and, on completion of the first year's service, 5 of the staff member's working days in any period of 2 years; or
  - (b) After the completion of 2 years continuous service, the available family and community service leave is determined by allowing 1 day's leave for each completed year of service less the total amount of short leave or family and community service leave previously granted to the staff member.
- (vii) If available family and community service leave is exhausted as a result of natural disasters, the Clerk(s) shall consider applications for additional family and community service leave, if some other emergency



arises. On the death of a person defined in subclause (iii) of clause 36, Sick Leave to Care for a Family Member, additional paid Family and Community Service leave of up to 2 days may be granted on a discrete, per occasion basis to a staff member.

- (viii) In cases of illness of a family member for whose care and support the staff member is responsible, paid sick leave in accordance with clause 36, Sick Leave to Care for a Family Member, shall be granted when paid family and community service leave has been exhausted.

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

- (i) A staff member of:
- (a) any religious faith who seeks leave for the purpose of observing essential religious obligations of that faith; or
  - (b) 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, RDO or leave without pay to do so.

- (ii) Provided adequate notice as to the need for leave is given by the staff member to the department and it is operationally convenient to release the staff member from duty, the Clerk(s) must grant the leave applied for by the staff member in terms of this subclause.
- (iii) A staff member of any religious faith who seeks time off during daily working hours to attend to essential religious obligations of that faith, shall be granted such time off by the Clerk(s), subject to:
- (a) adequate notice being given by the staff member;
  - (b) prior approval being obtained by the staff member; and
  - (c) the time off being made up in the manner approved by the Clerk(s).
- (iv) Notwithstanding the provisions of subclauses (i), (ii) and (iii) of this clause, arrangements may be negotiated between the department and the relevant trade union(s) in terms of clause 5, Local Arrangements of this award to provide greater flexibility for staff members for the observance of essential religious or cultural obligations.

### **40. Extended Leave**

Extended leave shall accrue and shall be granted to staff members in accordance with the provisions of Schedule 3 of the *Public Sector Employment and Management Act 2002*.

### **41. Leave Without Pay**

- (i) The Clerk(s) may grant leave without pay to a staff member if good and sufficient reason is shown.
- (ii) Leave without pay may be granted on a full-time or a part-time basis.
- (iii) Where a staff member is granted leave without pay for a period not exceeding 10 consecutive working days, the staff member shall be paid for any proclaimed public holidays falling during such leave without pay.
- (iv) Where a staff member is granted leave without pay which, when aggregated, does not exceed 5 working days in a period of twelve (12) months, such leave shall count as service for incremental progression and accrual of recreation leave.
- (v) A staff member who has been granted leave without pay, shall not engage in private employment of any kind during the period of leave without pay, unless prior approval has been obtained from the Clerk(s).

- (vi) A staff member shall not be required to exhaust accrued paid leave before proceeding on leave without pay but, if the staff member elects to combine all or part of accrued paid leave with leave without pay, the paid leave shall be taken before leave without pay.
- (vii) No paid leave shall be granted during a period of leave without pay.

#### **42. Military Leave**

- (i) During the period of 12 months commencing on 1 July each year, the Clerk(s) may grant to a staff member who is a volunteer part-time member of the Defence Forces, military leave on full pay to undertake compulsory annual training and to attend schools, classes or courses of instruction conducted by the staff member's unit.
- (ii) Up to 24 working days military leave per year may be granted by the Clerk(s) to members of the Naval and Military Reserves and up to 28 working days per year to members of the Air Force Reserve for the activities specified in subclause (i) of this clause.
- (iii) At the expiration of military leave, the staff member shall furnish to the Clerk(s) a certificate of attendance signed by the commanding officer or other responsible officer.

#### **43. Special Leave**

- (i) Witness at Court - Official Capacity - When a staff member is subpoenaed or called as a witness in an official capacity, the staff member shall be regarded as being on duty.
  - (a) Salary and any expenses properly and reasonably incurred by the staff member in connection with the staff member's appearance at Court as a witness in an official capacity shall be paid by the department.
- (ii) Witness at Court - Other than in Official Capacity - Crown Witness - A staff member 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) shall:
  - (a) be granted, for the whole of the period necessary to attend as such a witness, special leave on full pay; and
  - (b) pay into the Parliament of the State of New South Wales all money paid to the staff member 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.
  - (c) Union Witness - a staff member called by their union to give evidence before an Industrial Tribunal or in another jurisdiction, shall be granted special leave by the department for the required period.
- (iii) Called as a witness in a private capacity - A staff member who is subpoenaed or called as a witness in a private capacity shall, for the whole of the period necessary to attend as such a witness, be granted at the staff member's election, available recreation/extended leave on full pay or leave without pay.
- (iv) Special Leave - Examinations - Special leave on full pay up to a maximum of 5 days in any one year shall be granted to staff members for the purpose of attending at any examination approved by the Clerk(s).
  - (a) Special leave granted to attend examinations shall include leave for any necessary travel to or from the place at which the examination is held.
  - (v) Special Leave - Union Activities - Special leave on full pay may be granted to staff members who are accredited trade union delegates to undertake trade union activities as provided for in Clause 47, Trade Union Activities of this award.

- (vi) A staff member who identifies as an Aborigine or a Torres Strait Islander may be granted up to one day's special leave per year to enable the staff member to participate in the National Day celebrations.
- (vii) Special Leave - Other Purposes - Special leave on full pay may be granted to staff members by the Clerk(s) for such other purposes, during such periods and subject to the conditions specified in the New South Wales Public Service Personnel Handbook at the time the leave is taken.

#### 44. Study Assistance

- (i) Study Time - The Clerk(s) shall have the power to grant or refuse study time.
- (ii) Where the Clerk(s) approves the grant of study time, the grant shall be subject to:
  - (a) the course being a course relevant to the department and/or the Parliament; and
  - (b) the time being taken at the convenience of the department or section.
  - (c) Study time not exceeding a maximum of 4 hours per week
- (iii) Study time may be granted to both full and part-time staff. Part-time staff however shall be entitled to a pro-rata allocation of study time to that of a full-time staff.
- (iv) Study time may be used for:
  - (a) attending compulsory lectures, tutorials, residential schools, field days etc., where these are held during working hours; and/or
  - (b) necessary travel during working hours to attend lectures, tutorials etc., held during or outside working hours; and/or private study; and/or accumulation, subject to the conditions specified in subclauses (vi) to (x) of this clause.
- (v) Staff requiring study time must nominate the type(s) of study time preferred at the time of application and prior to the proposed commencement of the academic period. The types of study time are as follows:-
  - (a) Face-to-Face - Staff may elect to take weekly and/or accrued study time, subject to the provisions for its grant.
  - (b) Correspondence - Staff may elect to take weekly and/or accrued study time, or time off to attend compulsory residential schools.
  - (c) Accumulation - Staff may choose to accumulate part or all of their study time as provided in paragraphs (vi) to (x) of this clause.
- (vi) Accumulated study time may be taken in any manner or at any time, subject to operational requirements of the department.
- (vii) Staff 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 staff and the department.
- (viii) Where at the commencement of an academic year/semester staff elects to accrue study time and that staff member 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.
- (ix) Staff 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.

- (x) Where a staff member 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.
- (xi) Staff studying in semester based courses may vary their election as to accrual or otherwise from semester to semester.
- (xii) Correspondence Courses - Study time for staff studying by correspondence 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.
- (xiii) Correspondence 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..
- (xiv) Repeated subjects - Study time shall not be granted for repeated subjects.
- (xv) Expendable grant - Study time if not taken at the nominated time shall 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.
- (xvi) Examination Leave - Examination leave shall be granted as special leave for all courses of study approved in accordance with this clause.
- (xvii) The period granted as examination leave shall include:
  - (a) time actually involved in the examination;
  - (b) 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 staff member.
- (xviii) The examination leave shall be granted for deferred examinations and in respect of repeat studies.
- (xix) Study Leave - Study leave for full-time study is granted to assist those staff members 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.
- (xx) All staff members are eligible to apply and no prior service requirements are necessary.
- (xxi) Study leave shall be granted without pay, except where the Clerk(s) approves financial assistance. The extent of financial assistance to be provided shall be determined by the Clerk(s) according to the relevance of the study to the workplace and may be granted up to the amount equal to full salary.
- (xxii) Where financial assistance is approved by the Clerk(s) for all or part of the study leave period, the period shall count as service for all purposes in the same proportion as the quantum of financial assistance bears to full salary of the staff member.
- (xxiii) Scholarships for Part-Time Study - In addition to the study time/study leave provisions under this subclause, 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.

**45. Staff Development and Training Activities**

- (i) For the purpose of this subclause, the following shall be regarded as staff development and training activities:
  - (a) all staff development courses conducted by a NSW Public Sector organisation;
  - (b) short educational and training courses conducted by generally recognised public or private educational bodies; and
  - (c) conferences, conventions, seminars, or similar activities conducted by professional, learned or other generally recognised societies, including Federal or State Government bodies.
  
- (ii) For the purposes of this subclause, the following shall not be regarded as staff development and training activities:-
  - (a) activities for which study assistance under clause 44 is appropriate, including university or TAFE courses;
  - (b) activities to which other provisions of this award apply (e.g. courses conducted by trade unions); and
  - (c) activities which are of no specific relevance to the NSW Parliament.
  
- (iii) Attendance of a staff member at activities considered by the Clerk(s) to be:
  - (a) essential for the efficient operation of the department; or
  - (b) developmental and of benefit to the NSW Parliament

shall be regarded as on duty for the purpose of payment of salary if a staff member attends such an activity during normal working hours.
  
- (iv) The following provisions shall apply, as appropriate, to the activities considered to be essential for the efficient operation of the department:
  - (a) recognition that the staff members are performing normal duties during the course;
  - (b) adjustment for the hours so worked under flexible working hours;
  - (c) payment of course fees;
  - (d) 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
  - (e) payment of overtime where the activity could not be conducted during the staff member's normal hours and the Clerk(s) is satisfied that the approval to attend constitutes a direction to work overtime under clause 48, Overtime of this award.
  
- (v) The following provisions shall apply, as appropriate, to the activities considered to be staff developmental and of benefit to the department or section
  - (a) recognition of the staff member as being on duty during normal working hours whilst attending the activity;
  - (b) payment of course fees;

- (c) reimbursement of any actual necessary expenses incurred by the staff member for travel costs, meals and accommodation, provided that the expenses have not been paid as part of the course fee; and
  - (d) such other conditions as may be considered appropriate by the Clerk(s) given the circumstances of attending at the activity, such as compensatory leave for excess travel or payment of travelling expenses.
- (vi) Where the training activities are considered to be principally of benefit to the staff member and of indirect benefit to the department or section, special leave of up to 10 days per year shall be granted to a staff member. If additional leave is required and the Clerk(s) is able to release the staff member, such leave shall be granted as a charge against available flex leave, recreation/extended leave or as leave without pay.
- (vii) Higher Duties Allowance - Payment of a higher duties allowance is to continue where the staff member attends a training or developmental activity whilst on duty in accordance with this subclause.

#### 46. Trade Union Activities

- (i) A trade union delegate will be released from the performance of normal departmental duty in respect of activities specified below. While undertaking such activities the trade union delegate will be regarded as being on duty and will not be required to apply for leave:
- (a) Attendance at meetings of the workplace's Occupational Health and Safety Committee and participation in all official activities relating to the functions and responsibilities of elected Occupational Health and Safety Committee members at a place of work as provided for in the *Occupational Health and Safety Act 2000* and the *Occupational Health and Safety Regulation 2001*;
  - (b) Attendance at meetings with workplace management or workplace management representatives;
  - (c) A reasonable period of preparation time, before
    - (1) meetings with management
    - (2) disciplinary or grievance meetings when a trade union member requires the presence of a trade union delegate; and
    - (3) any other meeting with management, by agreement with management, where operational requirements allow the taking of such time;
  - (d) Giving evidence in court on behalf of the employer;
  - (e) Appearing as a witness before the Government and Related Employees Appeal Tribunal;
  - (f) Representing their trade union at the Government and Related Employees Appeal Tribunal as an advocate or as a Tribunal Member;
  - (g) Presenting information on the trade union and trade union activities at induction sessions for new staff of the department; and
  - (h) Distributing official trade union 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.

## (ii) Trade Union Activities regarded as Special Leave.

The granting of special leave with pay will apply to the following activities undertaken by a trade union delegate, as specified below:-

- (a) annual or biennial conferences of the delegate's union;
- (b) meetings of the union's Executive, Committee of Management or Councils;
- (c) annual conference of Unions NSW and the biennial Congress of the Australian Council of Trade Unions;
- (d) attendance at meetings called by Unions NSW involving a public sector trade union which requires attendance of a delegate;
- (e) attendance at meetings called by the Presiding Officer(s), as the employer for industrial purposes, as and when required;
- (f) giving evidence before an Industrial Tribunal as a witness for the trade union;
- (g) reasonable travelling time to and from conferences or meetings to which the provisions of subclauses (i), (ii) and (iii) of this clause apply.

## (iii) Trade Union Training Courses - The following training courses will attract the grant of special leave as specified below:-

- (a) accredited Occupational Health and Safety (OH&S) courses and any other accredited OH&S training for OH&S Committee members.

The provider(s) of accredited OH&S training courses and the conditions on which special leave for such courses will be granted, shall be negotiated between the Clerk(s) and the relevant trade union under a local arrangement pursuant to clause 5, Local Arrangements of this award.

- (b) courses organised and conducted by the Trade Union Education Foundation or by the member's trade union or a training provider nominated by the member's trade union. A maximum of 12 working days in any period of 2 years applies to this training and is subject to:
  - (1) the operating requirements of the workplace permitting the grant of leave and the absence not requiring employment of relief staff;
  - (2) payment being at the base rate, i.e. excluding extraneous payments such as shift allowances/penalty rates, overtime, etc;
  - (3) all travelling and associated expenses being met by the staff member or his/her union;
  - (4) attendance being confirmed in writing by the member's trade union or a nominated training provider.

## (iv) Trade Union On Loan Arrangements - Subject to the operational requirements of the workplace, on loan arrangements will apply to the following activities:

- (a) meetings interstate or in NSW of a Federal nature to which a representative or member has been nominated or elected by the union:-
  - (1) as an Executive Member; or
  - (2) a member of a Federal Council; or
  - (3) vocational or industry committee.

- (b) briefing counsel on behalf of the union;
- (c) assisting union officials with preparation of cases or any other activity outside their normal workplace at which the delegate is required to represent the interests of their trade union;
- (d) country tours undertaken by a member of the Executive or Council of the trade union;
- (e) taking up of full time duties with the trade union if elected to the office of President, General Secretary or to another full time position with the trade union.
- (f) Financial Arrangements - The following financial arrangements apply to the occasions when a staff member is placed "on loan" to his/her trade union:-
  - (1) the department will continue to pay the delegate or an authorised union representative whose services are on loan to their trade union;
  - (2) the department will seek reimbursement from the trade union at regular intervals of all salary and associated on costs, including superannuation, as specified by the NSW Treasury from time to time.
  - (3) Agreement with the trade union on the financial arrangements must be reached before the on loan arrangement commences and must be documented in a manner negotiated between the Clerk(s) and the trade union.
- (g) 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.
- (h) Limitation - On loan arrangements may apply to full-time or part-time staff and are to be kept to the minimum time required. Where the trade union needs to extend an on loan arrangement, the trade union shall approach the Clerk(s) in writing for an extension of time well in advance of the expiration of the current period of on loan arrangement.
- (i) Where the Clerk(s) and the relevant trade union cannot agree on the on loan arrangement, the matter is to be referred to the Presiding Officer(s) for consultation with the Clerk(s) and the trade union.
- (v) Period of Notice for Trade Union Activities - The Clerk(s) must be notified in writing by the trade union 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.
- (vi) Access to Facilities by Trade Union Delegates - The workplace shall provide accredited delegates with reasonable access to the following facilities for authorised union activities:
  - (a) telephone, facsimile and, where available, E-mail facilities;
  - (b) a notice board for material authorised by the union or access to staff notice boards for material authorised by the union;
  - (c) workplace conference or meeting facilities, where available, for meetings with member(s), as negotiated between local management and the relevant trade union.
- (vii) Responsibilities of the Trade Union Delegate - Responsibilities of the union delegate are to:
  - (a) establish accreditation as a delegate with the union and provide proof of accreditation to the workplace;
  - (b) participate in the workplace consultative processes, as appropriate;



- (c) follow the dispute settling procedure applicable in the workplace;
  - (d) provide sufficient notice to the immediate supervisor of any proposed absence on authorised union business;
  - (e) account for all time spent on authorised union business;
  - (f) when special leave is required, to apply for special leave in advance;
  - (g) distribute union literature/membership forms, under local arrangements negotiated between the Clerk(s) and the relevant trade union; and
  - (h) use any facilities provided by the workplace properly and reasonably as negotiated at organisational level.
- (viii) Responsibilities of the Trade Union - Responsibilities of the Trade Union are to:
- (a) provide written advice to the Clerk(s) about a Trade Union 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;
  - (b) meet all travelling, accommodation and any other costs incurred by the accredited delegate, except as provided in paragraph (c) of subclause (ix) of this clause;
  - (c) pay promptly any monies owing to the workplace under a negotiated on loan arrangement;
  - (d) provide proof of identity when visiting a workplace in an official capacity, if requested to do so by management;
  - (e) apply to the Clerk(s) well in advance of any proposed extension to the "on loan" arrangement; and
  - (f) assist the workplace management in ensuring that time taken by the union delegate is accounted for and any facilities provided by the employer are used reasonably and properly;
  - (g) advise the employer of any leave taken by the trade union delegate during the on loan arrangement.
- (ix) Responsibilities of Workplace Management - Where time is required for union activities in accordance with this clause the responsibilities of the workplace management are to:
- (a) release the accredited delegate from duty for the duration of the union activity, as appropriate, and, where necessary, to allow for sufficient travelling time during the ordinary working hours;
  - (b) meet the travel and/or accommodation costs properly and reasonably incurred in respect of meetings called by the workplace management;
  - (c) where possible, provide relief in the position occupied by the delegate in the workplace, while the delegate is undertaking union responsibilities to assist with the business of workplace management;
  - (d) recredit any other leave applied for on the day to which special leave or release from duty subsequently applies;
  - (e) where a union activity provided under this clause needs to be undertaken on the trade union delegate's rostered day off or during an approved period of flex leave, apply the provisions of paragraph (d) of this subclause;

- (f) continue to pay salary during an "on loan" arrangement negotiated with the relevant union and to obtain reimbursement of salary and on-costs from the union at regular intervals, or as otherwise agreed between the parties if long term arrangements apply;
  - (g) verify with the union the time spent by a union delegate or delegates on union business, if required; and
  - (h) if the time and/or the facilities allowed for union activities are thought to be used unreasonably and/or improperly, consult with the trade union before taking any remedial action.
  - (i) Advise the accredited delegate of the date of the next induction session for new staff members in sufficient time to enable the trade union to arrange representation at the session
- (x) Right of Entry - The right of entry provisions shall be as prescribed under the *Occupational Health and Safety Act 2000* and the *Occupational Health and Safety Regulation 2001* and the *Industrial Relations Act 1996*.
- (xi) Travelling and Other Costs of Trade Union Delegates
- (a) Except as specified in paragraph (c) of subclause (ix) of this clause, all travel and other costs incurred by accredited union delegates in the course of trade union activities will be paid by their union.
  - (b) In respect of meetings called by the workplace management in terms of paragraph (c) of subclause (ix) of this clause, the payment of travel and/or accommodation costs, properly and reasonably incurred, is to be paid, as appropriate, on the same conditions as apply under clause 14, Travel Allowances and clause 15, Allowance payable for the Use of Private Motor Vehicles of this award.
  - (c) No overtime, leave in lieu, shift penalties or any other additional costs will be claimable by a staff member from the department, in respect of union activities covered by special leave or on duty activities provided for in this clause.
  - (d) The on loan arrangements shall apply strictly as negotiated and no extra claims in respect of the period of on loan shall be made on the department by the union or the staff member.
- (xii) Industrial Action
- (a) Provisions of the *Industrial Relations Act 1996* shall apply to the right of union members to take lawful industrial action.
  - (b) There will be no victimisation of staff members prior to, during or following such industrial action.
- (xiii) Consultation and Technological Change
- (a) There shall 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 the trade unions represented in the department or section.
  - (b) Management shall consult with the relevant trade union prior to the introduction of technological change.

#### 47. Shiftwork

- (i) Shift Loadings - A shift worker employed on a shift shall 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%
- Afternoon - at or after 1pm and before 4pm 12½%
- Night - at or after 4pm and before 4am 15%
- Night - at or after 4am and before 6am 10%
- (ii) The loadings specified in subclause (i) of this clause shall only apply to shifts worked from Monday to Friday, except:
- (a) The loadings specified in subclause (i) shall not be paid to staff members employed as Security Officers who receive a salary inclusive of a 10.3 percent loading for shifts worked Monday to Friday.
- (iii) 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 shall be deemed to have been worked on a Saturday, Sunday or Public Holiday and shall be paid as such.
- (iv) Saturday Shifts - Shift workers working on an ordinary rostered shift between midnight on Friday and midnight on Saturday which is not a public holiday, shall be paid for such shifts at ordinary time and one half.
- (v) Sunday Shifts - Shift workers working on an ordinary rostered shift between midnight on Saturday and midnight on Sunday which is not a public holiday, shall be paid for such shifts at two times the rate for time worked.
- (vi) Public Holidays -
- (a) where a shift worker is required to and does work on a Public Holiday, the shift worker shall be paid at two and a half times the rate for time worked. Such payment shall be in lieu of weekend or shift allowances which would have been payable if the day had not been a Public Holiday;
- (b) a shift worker rostered off duty on a Public Holiday shall be paid one day's pay for that Public Holiday or have one day added to his/her annual holidays for each such day;
- (vii) Rosters - Rosters covering a minimum period of 28 days, where practicable, shall be prepared and issued at least 7 days prior to the commencement of the rosters. Each roster shall 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 shall be made by the Clerk(s).
- (viii) Notice of Change of Shift - A shift worker who is required to change from one shift to another shift shall, where practicable, be given forty eight (48) hours notice of the proposed change.
- (ix) Breaks between Shifts - A minimum break of eight (8) consecutive hours between ordinary rostered shifts shall be given.
- (x) If a shift worker resumes or continues to work without having had eight (8) consecutive hours off duty, the shift worker shall be paid overtime 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.
- (xi) Time spent off duty may be calculated by determining the amount of time elapsed after:-
- (a) the completion of an ordinary rostered shift; or

- (b) the completion of authorised overtime; or
  - (c) the completion of additional travelling time, if travelling on duty, but shall not include time spent travelling to and from the workplace.
- (xii) Eight Consecutive Hours Break on Overtime -
- (a) When overtime is necessary, wherever reasonably practicable, it shall be arranged so that shift workers have at least eight (8) consecutive hours off duty.
  - (b) For Security Officers 10 hours will substitute for 8 hours in this clause except when overtime is worked.
    - (1) for the purpose of changing shift rosters; or
    - (2) where a shift worker does not report for duty and another shift worker is required to replace such shift worker; or
    - (3) where a shift is worked by arrangements between the staff members themselves
- (xiii) The rest period off duty shall 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.
- (xiv) Daylight Saving - In all cases where a shift worker works during the period of changeover to and from daylight saving time, the shift worker shall be paid the normal rate for the shift.
- (xv) In the event of a failure of a Security Officer to attend for duty on a shift on which they are rostered, a Security Officer who has completed the previous shift may be required to stand in for the absent staff member. The staff member to stand in will be the Leading Hand on the previous shift unless other arrangements are agreed between the parties.

#### 48. Overtime

- (i) General
- (a) A staff member may be directed by the Clerk(s) or their delegate to work overtime, provided it is reasonable for the staff member to be required to do so. A staff member may refuse to work overtime in circumstances where the working of such overtime would result in the staff member working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
    - the staff member's prior commitments outside the workplace, particularly their family and carer responsibilities, community obligations or study arrangements,
    - any risk to the staff member's health and safety,
    - 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,
    - the notice (if any) given by the Clerk(s) or their delegate regarding the working of the overtime, and by the staff member of their intention to refuse overtime, or
    - any other relevant matter.
  - (b) Payment for overtime shall be made only where the staff member works directed overtime.
  - (c) Payment for overtime worked and/or on-call (standby) allowance shall not be made under this clause if the staff member is eligible, under any other industrial instrument, to:

- (1) compensation specifically provided for overtime and/or on-call (standby) allowance; or
  - (2) be paid an allowance for overtime and/or on-call (standby) allowance; or
  - (3) a rate of salary which has been determined as inclusive of overtime and/or on-call (standby) allowance,
- (d) Payment of overtime will not be made to staff defined as Members' staff in clause 2, Definitions who receive an all incidence of employment allowance.
- (ii) Overtime
- (a) The provisions of this clause shall not apply to:
- (1) shift workers as defined in clause 2, Definitions of this award and to whom provisions of subclauses (iii) of this clause apply;
  - (2) staff members covered by formal local arrangements in respect of overtime negotiated between the Clerk(s) and the relevant trade union;
  - (3) staff members to whom overtime provisions apply under another industrial instrument;
  - (4) staff members whose salary includes compensation for overtime; and
  - (5) staff members who receive an allowance in lieu of overtime.
- (b) Rates - Overtime shall be paid at the following rates:
- (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 staff member's ordinary 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 5, Local Arrangements of this award apply;
  - (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;
  - (3) Sundays - All overtime worked on a Sunday at the rate of double time;
  - (4) Public Holidays - All overtime worked on a public holiday at the rate of double time and one half.
- (iii) Overtime Worked by Shift Workers
- (a) The following rates are payable for any overtime worked by shift workers and shall be in substitution of and not cumulative upon the rates payable for shift work performed on Monday to Friday, Saturday, Sunday or Public Holiday.
- (1) Monday-Friday - All overtime worked by shift workers Monday to Friday inclusive, shall be paid for at the rate of time and one half for the first two hours and double time thereafter.
  - (2) Saturday - All overtime worked by shift workers on Saturday, shall be paid for at the rate of time and one half for the first two hours and double time thereafter.
  - (3) Sunday - All overtime worked by shift workers on a Sunday shall be paid for at the rate of double time.

- (4) Public Holidays - All overtime worked on a public holiday shall be paid for at the rate of double time and one half.
- (iv) If a staff member 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 staff member has been granted leave of absence or the absence has been caused by circumstances beyond the staff member's control.
- (v) A staff member who works overtime on a Saturday, Sunday or public holiday, shall be paid a minimum payment as for three (3) hours work at the appropriate rate.
- (vi) Rest Periods
- (a) A staff member who works overtime shall be entitled to be absent until eight (8) consecutive hours have elapsed.
- (b) Where a staff member, at the direction of the supervisor, resumes or continues work without having had eight (8) consecutive hours off duty then such staff member shall be paid at the appropriate overtime rate until released from duty. The staff member shall then be entitled to eight (8) consecutive hours off duty and shall be paid for the ordinary working time occurring during the absence.
- (c) The provision of this clause, Rest periods, will not apply to sessional staff where the overtime and attendance at work and rest period of less than 8 hours is the result of a sitting of the Legislative Assembly or the Legislative Council.
- (d) For Security Officers, the provision of clause 47, Shift Work applies.
- (vii) Recall to Duty
- (a) A staff member recalled to work overtime after leaving the employer's premises shall be paid for a minimum of three (3) hours work at the appropriate overtime rates.
- (1) For Security Officers, 4 hours will substitute for 3 hours in this clause.
- (b) The staff member shall not be required to work the full three (3) hours if the job can be completed within a shorter period.
- (c) When a staff member 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 callout period, payment shall 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 shall be calculated as one continuous period.
- (d) When a staff member returns to the place of work on a second or subsequent occasion and a period of three (3) hours has elapsed since the staff member was last recalled, overtime shall 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.
- (e) A recall to duty commences when the staff member 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.
- (f) A staff member recalled to duty within three (3) hours of the commencement of usual hours of duty shall be paid at the appropriate overtime rate from the time of recall to the time of commencement of such normal work.
- (g) This subclause shall not apply in cases where it is customary for a staff member to return to the department's premises to perform a specific job outside the staff member's ordinary hours of

duty, or where overtime is continuous with the completion or commencement of ordinary hours of duty. Overtime worked in these circumstances shall not attract the minimum payment of three (3) hours unless the actual time worked is three (3) or more hours.

(viii) On call (Standby)

When a staff member is directed to be on call or on standby for a possible recall to duty, payment of an on call allowance shall be made. Where a rate of on call allowance has not already been determined for the staff member as at the date of the making of this award, the rate shown in item 11 of Table 1 - Allowances, of Part B Monetary Rates shall be made for the duration of on call (standby).

(ix) Meal Breaks on Overtime

- (a) Staff members not working flexible hours - A staff member required to work overtime on weekdays for an hour and a half or more after the staff member's ordinary hours of duty on weekdays, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked.
- (b) Staff member working flexible hours - A staff member 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, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked.
- (c) Staff Members Generally - A staff member required to work overtime on a Saturday, Sunday or Public Holiday, shall be allowed 30 minutes for a meal after every five hours of overtime worked. A staff member who is unable to take a meal break and who works for more than five hours shall be given a meal break at the earliest opportunity.

(x) Meal Allowances for Overtime

- (a) If an adequate meal is not provided by the department, a meal allowance shall be paid by the department for meal breaks taken pursuant to subclause (ix) Meal Breaks on Overtime of this clause, provided the Clerk(s) is satisfied that:
  - (1) the time worked is directed overtime;
  - (2) the staff member properly and reasonably incurred expenditure in obtaining the meal in respect of which the allowance is sought;
  - (3) where the staff member was able to cease duty for at least 30 minutes before or during the working of overtime to take the meal, the staff member did so; and
  - (4) overtime is not being paid in respect of the time taken for a meal break.
- (b) The amount of the allowance for the meal shall be at the rate specified in Item 14 of Table 1 - Allowances of Part B, Monetary Rates, as appropriate.
- (c) Notwithstanding the above provisions, nothing in this clause shall prevent the Clerk(s) and the relevant trade union(s) from negotiating different meal provisions under a local arrangement.

(xi) Senior Staff payments:

- (a) A staff member 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, shall be paid for working directed overtime at the maximum rate for Clerk, Grade 8 plus \$1.00, unless the Clerk(s) approves payment for directed overtime at the staff member's salary or, where applicable, salary and allowance in the nature of salary.

- (b) Sessional Staff as defined in clause 2, Definitions, whose salary, or salary and allowance in the nature of salary, exceeds an amount equivalent to the rate prescribed as the maximum for a clerk grade 8, as varied from time to time, shall be entitled to payment of an allowance as set in item 15 Part B, Table 1 Allowances in lieu of overtime on each occasion they are required to work beyond 8.00 pm in sitting periods.
- (xii) The Clerk(s) shall grant compensation for directed overtime worked either by payment at the appropriate rate or, if the staff member so elects, by the grant of leave in lieu in accordance with subclause (xiii) of this clause.
- (xiii) Leave In Lieu of Payment for overtime
- (a) A staff member who, at the direction of the Clerk(s) works overtime, may elect to take leave in lieu of payment for all or part of the entitlement in respect of time worked.
- (b) The following provisions shall apply to the leave in lieu:-
- (1) the staff member shall advise the supervisor before the overtime is worked or as soon as practicable on completion of overtime, that the staff member intends to take leave in lieu of payment;
  - (2) the leave shall be calculated at the same rate as would have applied to the payment of overtime in terms of this clause;
  - (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 36, Sick Leave to Care for a Family Member of this award apply;
  - (4) the leave shall 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 staff member's department or section;
  - (5) leave in lieu accrued in respect of overtime worked on days other than public holidays, shall be given by the department and taken by the staff member within three months of accrual unless alternate local arrangements have been negotiated between the Clerk(s) and the relevant trade union(s);
  - (6) at the staff member's election, leave in lieu accrued in respect of overtime worked on a public holiday may be added to the staff member's annual leave credits and may be taken in conjunction with annual leave; and
  - (7) a staff member shall be paid for the balance of any overtime entitlement not taken as leave in lieu.
- (xiv) Compensation for additional hours worked by Duty Officer, State Emergency Services.
- The time spent at home as Duty officer, State Emergency Services during flood alerts on weekends and public holidays, shall be compensated by:-
- (a) payment at the rate of one third of one day's pay for each tour of duty; or
  - (b) if so desired by the staff member concerned, granting time off in lieu of payment calculated in accordance with subclause (xiii) of this clause.
- (xv) Calculation of Overtime
- (a) Unless a minimum payment in terms of subclause (v) of this clause applies, overtime shall not be paid if the total period of overtime worked is less than a quarter of an hour.



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

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

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

$$\frac{\text{Annual salary}}{1} \times \frac{7}{365.25} \times \frac{1}{\text{Normal hours of work}}$$

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

(xvi) Adjustment of Meal Allowances

- (a) The rates of overtime meal allowances shall be adjusted in accordance with the provisions contained in clause 27, Adjustment of Allowances of this award.
- (b) Where an allowance under paragraph (a) of this subclause is insufficient to reimburse the staff member the cost of a meal, properly and reasonably incurred, the Clerk(s) shall approve payment of actual expenses.
- (c) Where the meal was not purchased, payment of a meal allowance shall not be made.
- (d) Receipts shall be provided to the Clerk(s) or his/her delegate in support of any claims for additional expenses or when the staff member is required to substantiate the claim.

(xvii) Provision of Transport

- (a) For the purpose of this subclause, departure or arrival after 8.00 p.m. will determine whether the provisions of this subclause apply.

Departure or arrival after 8.00 p.m. of a staff member 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 staff member 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.

- (b) Arrangement of Overtime

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

- (c) Provision of Taxis

Where a staff member, other than a staff working rostered shifts, ceases overtime 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.

#### 49. Grievance and Dispute Settling Procedures

- (i) All grievances and disputes relating to the provisions of this award shall initially be dealt with as close to the source as possible, with graduated steps for further attempts at resolution at higher levels of authority within the appropriate department, if required.
- (ii) A staff member 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.
- (iii) The immediate manager shall convene a meeting in order to resolve the grievance, dispute or difficulty within three (3) working days, or as soon as practicable, of the matter being brought to attention.
- (iv) 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 staff member to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Clerk(s) or appointed deputy.
- (v) If the matter remains unresolved with the immediate manager, the staff member may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager shall respond within three (3) working days, or as soon as practicable. This sequence of reference to successive levels of management may be pursued by the staff member until the matter is referred to the Clerk(s).
- (vi) The Clerk(s) may refer the matter to the Presiding Officer(s) for consideration.
- (vii) If the matter remains unresolved, the Clerk(s) shall provide a written response to the staff member and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- (viii) A staff member, at any stage, may request to be represented by their union.
- (ix) The staff member or the union on their behalf, or the Clerk(s) may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- (x) The staff member, union, department and Presiding Officer(s) shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- (xi) Whilst the procedures outlined in subclauses (i) to (ix) of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or, in the case involving occupational health and safety, if practicable, normal work shall proceed in a manner which avoids any risk to the health and safety of any staff member or member of the public.

#### 50. Anti Discrimination

- (i) It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.

- (iii) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (iv) Nothing in this clause is to be taken to affect:
  - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (b) offering or providing junior rates of pay to persons under 21 years of age;
  - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - (d) a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

### **51. Existing Entitlements**

The provisions of this award shall not affect any entitlements existing in a department or section 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 relevant trade union.

### **52. Deduction of Union Membership Fees**

- (i) The union shall provide the Presiding Officers with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- (ii) The union shall advise the Presiding Officers of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the union at least one month in advance of the variation taking effect.
- (iii) Subject to (i) and (ii) above, the Presiding Officers shall deduct union fortnightly membership fees from the salary of any staff member who is a member of the union in accordance with the union's rules, provided that the staff member has authorized the Presiding Officers to make such deductions.
- (iv) Monies so deducted from staff members' salary shall be forwarded regularly to the union together with all necessary information to enable the union to reconcile and credit subscriptions to staff members' union membership accounts.
- (v) Unless other arrangements are agreed to by the Presiding Officers and the union, all union membership fees shall be deducted on a fortnightly basis.
- (vi) Where a staff member has already authorized the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the staff member to make a fresh authorization in order for such deductions to continue.

### **53. Secure Employment**

- (i) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

## (ii) Casual Conversion

- (a) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (b) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (c) Any casual employee who has a right to elect under paragraph (ii)(a), upon receiving notice under paragraph (ii)(b) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (d) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (ii)(c), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (ii)(c), discuss and agree upon:
- (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (g) Following an agreement being reached pursuant to paragraph (f), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (h) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

## (iii) Occupational Health and Safety

(a) For the purposes of this subclause, the following definitions shall apply:

- (1) 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 staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) 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.

(b) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) 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
- (4) 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.

(c) Nothing in this subclause (iii) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

## (iv) Disputes Regarding the Application of this Clause

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

(v) 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 established by the ANTA Ministerial Council.

**PART B****MONETARY RATES****Table 1 - Allowances****Effective 1 July 2007**

Item No.	Clause No	Description	Amount \$
1	Clause 14 (ii) (k)	Meal Expenses on One Day Journeys	
		Capital cities and high cost country centres (see list in item 2)	
		Breakfast	20.20
		Dinner	38.95
		Lunch	22.65
		Tier 2 and other country centres (see list in item 2)	
		Breakfast	18.05
		Dinner	35.60
		Lunch	20.65
2	Clause 14	Travelling Allowances When Staying in Non-Govt. Accommodation	
		<b>Capital Cities</b>	Per day
		Adelaide	\$242.25
		Brisbane	\$253.25
		Canberra	\$211.25
		Darwin	\$238.25
		Hobart	201.25
		Melbourne	247.25
		Perth	233.25
		Sydney	280.25
		<b>High cost country centres</b>	Per day
		Alice Springs (NT)	195.25
		Ballarat (Vic)	199.25
		Bendigo (Vic)	204.75
		Broome (WA)	250.25
		Bunbury (WA)	194.25
		Burnie (Tas)	210.75
		Carnarvon (WA)	206.75
		Christmas Island (WA)	217.25
		Cocos (Keeling) Island	197.25
		Dampier (WA)	247.25
		Derby (WA)	236.25
		Devonport (Tas)	203.75
		Emerald (QLD)	193.75
		Exmouth (WA)	224.75
		Geraldton (WA)	194.25
		Gold Coast (QLD)	215.25
		Halls Creek (WA)	222.25
		Horn Island (QLD)	216.25
		Jabiru (NT)	287.25
		Kadina (SA)	194.25
		Kalgoorlie (WA)	199.75

		Karratha (WA)	286.25
		Kununurra (WA)	244.25
		Launceston (TAS)	198.25
		Mackay (QLD)	197.25
		Maitland (NSW)	195.75
		Mount Gambier (SA)	194.25
		Mount Isa (QLD)	207.25
		Naracoorte (SA)	193.25
		Newcastle (NSW)	202.25
		Newman (WA)	233.25
		Norfolk Island	195.25
		Port Hedland (WA)	276.75
		Port Lincoln (SA)	193.25
		Port Macquarie (NSW)	200.25
		Portland (VIC)	198.25
		Thursday Island (QLD)	262.25
		Wagga Wagga (NSW)	197.75
		Warrnambool (VIC)	196.75
		Weipa (Qld)	222.25
		Whyalla (SA)	194.25
		Wollongong (NSW)	195.75
		Wonthaggi (VIC)	208.25
		Yulara (NT)	410.25
		Tier 2 country centres	Per day
		Albany (WA)	180.75
		Bairnsdale (VIC)	180.75
		Bathurst (NSW)	180.75
		Bordertown (SA)	180.75
		Bright (VIC)	180.75
		Broken Hill (NSW)	180.75
		Cairns (Qld)	180.75
		Castlemaine (VIC)	180.75
		Ceduna (SA)	180.75
		Dalby (QLD)	180.75
		Dubbo (NSW)	180.75
		Echuca (VIC)	180.75
		Esperance (WA)	180.75
		Gladstone (QLD)	180.75
		Horsham (VIC)	180.75
		Innisfail (QLD)	180.75
		Orange (NSW)	180.75
		Port Augusta (SA)	180.75
		Renmark (SA)	180.75
		Roma (QLD)	180.75
		Seymour (VIC)	180.75
		Other country centres	Per Day 170.75
3	Clause 14(iii) (b)(2)	Incidental expenses when claiming actual expenses - all locations	15.45
4	Clause 14 (iii)(e)	Daily allowance payable after 35 days and up to 6 months in the same location - all locations	50% of the appropriate location rate
5	Clause 14(iv)	Government accommodation- incidental expenses (per day)	15.45

6	Clause 15	Use of private motor vehicle	Cents per kilometre
		Official business	
		Engine capacity- 2601cc and over	83.0
		1601cc to 2600cc	77.3
		1600cc or less	55.3
		Casual rate	
		Engine capacity- 2601cc and over	29.5
		1601cc-2600cc	27.4
		1600cc or less	23.1
		Motor cycle allowance	
Normal business	36.4		
During transport disruptions	18.3		
Towing trailer or horse float	10.7		
Transport allowance			
Engine capacity- Over 1600cc	35.4		
1600cc and under	29.6		
7	Clause 18	Community Language Allowance Scheme	Per annum
		- Base Level Rate	1,036
		- Higher Level Rate	1,556
8	Clause 19	First aid allowance	Per annum
		- Holders of basic qualifications	666.00
		- Holders of current occupational first aid certificate	1,002
9	Clause 21	On-call allowance (per hour)	0.73 per hour
10	Clause 22	Service Increments Allowance	Per annum
		After 12 months service	26.00
		On completion of 2 years	26.00
		On completion of each five years	32.00
11	Clause 23	Laundry Allowance	3.85 per week
12	Clause 25	Monitoring Computerised Building Maintenance System (R-tec)	837 per annum
13	Clause 26	Leading Hand	6.05 per shift
14	Clause 48 (x)	Overtime meal allowances	
		Breakfast	22.60
		Lunch	22.60
		Dinner	22.60
		Supper	8.70
15	Clause 48(xi)(b)	Allowance in lieu of overtime	294.73 per occasion
		Sessional Staff Above Clerk grade 8	

D. W. RITCHIE, Commissioner.



## CROWN EMPLOYEES (ROADS AND TRAFFIC AUTHORITY OF NEW SOUTH WALES - SALARIED STAFF) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 1692 of 2007)

Before Commissioner Ritchie

3 March 2008

### REVIEWED AWARD

#### PART A

Clause No.	Subject Matter
1.	Definitions
2.	Hours of Duty
3.	Overtime
4.	Shift Work
5.	Increments
6.	Allowances
7.	Protective Clothing
8.	Conveyance
9.	Leave
10.	Additional Conditions for Motor Registry and Telephone Customer Service Centre Staff
11.	Additional Conditions for DRIVES Help Desk Staff
12.	Additional Conditions for Traffic Operations Control Staff
13.	Additional Conditions for Work Support Officers
14.	Grievance Resolution and Dispute Settlement
15.	Anti-Discrimination
16.	Public Holidays and Bank Holiday
17.	Appeals in Respect of Salary, Grade or Classification
18.	Deduction of Union Membership Fees
19.	Secure Employment
20.	Area, Incidence and Duration

#### PART B

Table A - Salaries

Table B - Rates - Allowances

Appendix A - Grievance Resolution Policy

#### 1. Definitions

- (1) "Authority" or "RTA" shall mean the Roads and Traffic Authority Division of the Government Service of New South Wales established under Chapter 1A of the *Public Sector Employment and Management Act 2002* (NSW).
- (2) "Employee" shall mean a person employed by the Authority under Section 4B(3) of the *Public Sector Employment and Management Act 2002* (NSW) and covered by this award.

- (3) "Association" shall mean the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

## 2. Hours of Duty

This clause does not apply to employees who are subject to the following clauses:

Clause 10 - Additional Conditions for Motor Registry and Telephone Customer Service Centre Staff

Clause 11 - Additional Conditions for DRIVES Help Desk Staff

Clause 12 - Additional Conditions for Traffic Operations Control Staff

Clause 13 - Additional Conditions for Work Support Officers

- (1) The ordinary hours of duty to be observed shall be from 8.30am to 4.30pm on five days per week. Monday to Friday inclusive. The approved lunch break shall be taken between noon and 2.00pm daily.

Provided that:

- (a) By agreement with the Association in respect of employees the same number of hours daily may be worked at any time between 7.00am and 5.30pm.
- (b) Employees, so directed, shall work the hours normally worked by employees on field works as provided for in subclause (5) of clause 3, Overtime.
- (c) The hours of duty to be observed by employees engaged on shift work in Head Office shall be as prescribed in clause 4, Shift Work.
- (d) Where it has been the practice to work a lesser number of hours by particular classifications of employees, that practice shall continue.
- (2) Where approval has been given for employees to observe flexible working hours, the "House Rules" promulgated by the Authority from time to time shall apply.

Generally, the hours of duty to be observed by employees are:

- (a) Bandwidth 7.30 am to 5.30 pm unless otherwise approved.
- (b) Coretime 9.30 am to 3.30 pm.
- (c) Lunch break to be taken between noon and 2.00 pm.
- (d) Contract hours in each four-week settlement period will be 140 hours.
- (3) The hours of duty to be observed by employees engaged on shift work shall be as prescribed in clause 4, Shift Work.
- (4) Works Supervisors and Surveillance Officers who work on their normal accrued day off shall be entitled to claim overtime at Saturday rates (that is, time and one-half for the first two hours and double time rates thereafter) for the hours worked. In addition, Works Supervisors and Surveillance Officers shall be entitled to an alternative paid day off in the next four-week cycle. Provided that agreement is reached between the employee(s) concerned and local management, up to four ADOs may be accumulated in keeping with recent changes to award conditions concerning ADOs for wages employees generally.
- (5)
- (a) The ordinary working hours of Toll Control Clerks, Supervisors and Traffic Supervisors shall be 38 per week and shall be worked as a 20-day four-week cycle with 19 working days of eight

hours each in accordance with rosters, with 0.4 of one hour each day worked accruing as an entitlement to take, in each cycle, an accrued day off.

The accrued day off is to be subject to management prerogative to best suit the working needs of the organisation. Provided the accrued day off is to be taken between Monday and Friday (inclusive) during the day shift.

The ordinary working hours of employees shall not exceed eight per day to be worked in a maximum of ten shifts per fortnight; provided that not more than six consecutive shifts shall be worked in eight consecutive days. A shift may be worked on any day of the week, including Sunday, during any period of twenty-four hours. The times between which the ordinary hours may be worked may be altered by agreement between the Authority or its representative and the Association.

- (b) Where the agreed accrued day off prescribed by paragraph (a) of this subclause, falls on a public holiday the next working day on which the employee is normally rostered for duty shall be taken in lieu of the accrued day off unless an alternative day in that four-week cycle or the next four-week cycle is agreed between the Authority or its representative and the employee.
- (c)
  - (i) Each day of paid, sick or recreation leave taken and any public holidays occurring during any cycle of four weeks shall be regarded as a day worked for accrual purposes.
  - (ii) Where an employee is ill or incapacitated on the accrued day off, the employee shall not be entitled to payment of sick leave on that day nor shall the employee's sick leave entitlement be reduced as a result of such illness or incapacity.
- (d) An employee who has not worked, or is not regarded by reason of paragraph (c) of this subclause as having worked a complete four-week cycle shall receive pro rata accrued entitlements for each day worked (or each fraction of a day worked) or regarded as having been worked in such cycle, on the accrued day off, or in the case of termination of employment, on termination.
- (e)
  - (i) The accrued day off prescribed in paragraphs (a) and (b) of this subclause shall be taken as a day off provided that the day may be worked where that is required by the Authority or its representative and circumstances, in which case in addition to accrued entitlements the employee shall be paid at the rate of time and one-half for the first two hours and double time thereafter: or
  - (ii) Where agreement is reached between the Authority or its representative and an employee, that employee may accumulate up to a maximum of four accrued days off before they are taken as days off and, when taken, those days shall be regarded as days worked for accrual purposes. When such agreement has been reached under the terms of this paragraph, an employee is not entitled to be paid at the rate as specified in subparagraph (i) of this paragraph.
  - (iii) Where an employee works on the accrued day off in accordance with subparagraph (i) of this paragraph, the employee may elect to have another day off in substitution therefore before the end of the succeeding work cycle, provided that such day off is subject to management prerogative to best suit the working needs of the organisation and that in such cases the accrued entitlements are transferred to the substituted day off.
- (f) The conditions contained in paragraphs (b) to (e) of this subclause shall also apply to shift workers by substituting the word "shift" for "day" in each case.

### 3. Overtime

This clause applies to employees subject to the conditions contained in the following clauses:

Clause 10 - Additional Conditions for Motor Registry and Telephone Customer Service Centre Staff

Clause 11 - Additional Conditions for DRIVES Help Desk Staff

Clause 12 - Additional Conditions for Traffic Operations Control Staff

Clause 13 - Additional Conditions for Work Support Officers

(1)

- (a) Overtime shall mean all time worked before or after the hours of duty provided under subclause (1) of clause 2, Hours of Duty, whether worked by direction of the Authority or a responsible employee acting on behalf of the Authority in the performance of work which, from its character or from special circumstances, cannot be performed during the ordinary working hours of the office to which the employee is attached, or of the work on which they are engaged.

Provided that for employees observing flexible working hours, payment of overtime will be made only for approved work performed outside the bandwidth.

- (b) The Authority may require an employee to work reasonable overtime at overtime rates. An employee may refuse to work overtime in circumstances where the working of overtime would result in the employee working hours which are unreasonable. For the purposes of this paragraph what is unreasonable or otherwise will be determined having regard to:

- (i) any risk to the employee's health and safety;
- (ii) the employee's personal circumstances including any family and carer responsibilities
- (iii) the needs of the workplace or enterprise;
- (iv) the notice (if any) given by the Authority regarding the working of overtime, and by the employee of their intention to refuse the working of overtime; or
- (v) any other relevant matter.

(2) Except as provided in clause 4, Shift Work, payment for overtime to employees shall be made the following rates:

- (a) For all time worked before the usual commencing time and after the usual ceasing time, Monday to Friday, at the rate of time and one-half for the first two hours and double time thereafter until relieved from duty.
- (b) For all time worked on Saturdays, at the rate of time and one-half for the first two hours and double time thereafter.
- (c) For all time worked on Sundays, at double ordinary rates.
- (d) For all time worked on public holidays at the rate of double time and one-half.
- (e) An employee who works overtime on a Saturday, Sunday or public holiday shall be paid a minimum payment for three hours work at the appropriate overtime rates.
- (f) An employee who is called out for emergency duty other than on days provided in paragraph (e) of this subclause, shall be paid a minimum payment of three hours work at overtime rates, provided that the hours paid for do not overlap with the employee's normal hours of duty.

Provided that:

- (i) Overtime rates shall not be paid for periods of less than one quarter of an hour.
- (ii) Where a working period extends beyond 2.00pm on Saturdays, Sundays or public holidays, or for one and one-half hours after the regular finishing time on normal working days, at least 30 minutes shall be taken for meals. The meal break shall not be regarded as overtime and a meal allowance as provided in Part A, Meal Allowances of clause 6, Allowances, shall be paid.

(3) For the purpose of calculating the hourly rate, the following formula shall be used:

- (a) Where the luncheon period has been regularly extended to one hour (i.e. 3/4 hour plus 15-minute concession):

$$\text{Annual Salary} \quad \times \quad \frac{7}{365.25} \quad \times \quad \frac{1}{35}$$

- (b) Where the luncheon period has not been so extended:

$$\text{Annual Salary} \quad \times \quad \frac{7}{365.25} \quad \times \quad \frac{1}{36.25}$$

(4) An employee who works on a Saturday, Sunday or public holiday may, within two working days following so working, elect to take leave in lieu of payment for all or part of the employee's entitlement in respect of the time so worked, as calculated in accordance with subclause (2) of this clause.

Provided that:

- (a) Leave in lieu of payment shall be taken at the convenience of the Authority.
  - (b) Such leave in lieu shall be taken in multiples of a quarter-day only.
  - (c) The maximum period of leave in lieu that may be allowed in respect of any one period of overtime worked shall be one day.
  - (d) Leave in lieu shall be taken within one month of the date of election, except in the case of leave in lieu in respect of work performed on a public holiday, in which case an employee may elect to have such leave in lieu added to annual leave credits.
  - (e) An employee shall be entitled to payment for the balance of any entitlements not taken as leave in lieu.
- (5) Notwithstanding the provisions of this clause, the following employees shall not, without the special approval of the Authority, be paid for any overtime worked by them, viz.:
- (a) Employees who are paid a special allowance in lieu of overtime.
  - (b) Administrative and clerical employees whose salary, and allowance in the nature of salary, exceed that of the top step of USS Grade 9.
  - (c) Employees engaged on field works who are directed to work 38 hours per week shall be paid a loading at the rate of 8.5 per cent of salary; provided that overtime shall be paid for time so worked in excess of 8 hours on any one day or 40 in any one week, or outside that spread of hours normally worked by employees on field works.
  - (d) The loading referred to in subclause (c) shall apply to all periods of paid leave and be taken into account in the calculation of annual leave loading and overtime payments.

The loading shall be taken into account in the calculation of the monetary value of long service leave on termination of service where an employee is in receipt of the loading on the day preceding termination.

- (6) For the purpose of computing overtime payment to an employee whose starting and finishing times have been fixed at times other than 8.30 am and 4.30 pm respectively under an agreement made pursuant to clause 2, Hours of Duty, the times specified in subclause (2) shall be advanced or retarded, as the case may be, by a period equivalent to the period by which the commencing time as fixed is earlier or later than 8.30 am.
- (7) Payment of overtime for toll collection personnel, other than Toll Plaza Attendants, shall be made at:
- (a) All time worked in excess of ordinary shift hours as prescribed in clause 2, Hours of Duty, in any consecutive 24 hours or in excess of 152 hours per four-week cycle shall be deemed overtime except where such excess is worked:
    - (i) by arrangement between the employees themselves:
    - (ii) for the purpose of effecting rotation of shifts:
  - (b) The following rates for overtime shall be paid:
    - (i) time and a half for the first two hours and double time thereafter for all time worked in excess of ordinary shift hours:
    - (ii) double time for all time worked on Sundays and public holidays in excess of the ordinary shift hours.
  - (c) An employee recalled from their home to work shall be paid for a minimum of three hours work at overtime rates for each such call.
  - (d) After each period of overtime an employee shall be entitled to a rest break of at least eight consecutive hours off duty before the commencement of their next ordinary shift without loss of salary for ordinary working time occurring during such eight consecutive hours. If an employee is recalled to duty during their rest break they shall be paid at the rate of double time until released from duty and the employee shall then be entitled to a further rest break of at least eight consecutive hours without loss of salary for ordinary working time occurring during such rest break.
  - (e)
    - (i) One meal allowance in the same quantum as the first meal allowance as prescribed in clause 17, Meal Allowance, of the General Construction and Maintenance, Civil and Mechanical Engineering, &C. (State) Award, published 24 March 2006 (358 IG 349), as varied from time to time, shall be paid to Toll Control Clerks and Toll Supervisors on the completion of the first one and one-half hours overtime and one meal allowance at the same rate shall be paid on the completion of each four hours continuous overtime thereafter.
    - (ii) On those occasions where an employee is called from their place of residence to work an overtime shift which falls on the employee's rostered day off, payment is to be made of a meal allowance in subparagraph (i) of this paragraph after completing four hours.
  - (f) Employees engaged as Part-time Supervisors shall be paid overtime at the rates prescribed in paragraph (b) of this subclause, for all time worked in excess of eight hours on each shift.
- (8) Payment of overtime for shift work on field works shall be made at the following rates:
- (a) Subject to paragraph (b) of this subclause all time worked in excess of the hours worked daily or weekly by employees on field works working normal hours Monday to Friday, between midnight

Sunday and midnight Saturday shall be paid for at the rate of time and one-half for the first two hours and double time thereafter based on the employee's ordinary rate of pay. For this purpose each period of overtime shall stand alone.

- (b) An employee shall not be required to be on duty for more than 16 consecutive hours. After being on duty for 16 consecutive hours an employee shall take a rest break of at least four consecutive hours and where the employee is directed to resume without having had a rest break of eight consecutive hours payment shall be at the rate of double ordinary time until the employee is released from duty for eight consecutive hours. Any rostered working time occurring during such absence shall be paid for at the appropriate shift work rates.
- (c) Any work carried out on Sundays shall be paid for at the rate of double time.
- (d) Any work carried out on public holidays shall be paid for at the rate of double time and one-half.
- (e) An employee who works overtime on Saturday or Sunday or on a public holiday shall be paid a minimum payment for three hours at the appropriate rates.
- (f) Employees working overtime which extends beyond a period of one and one-half hours from the normal finishing time of a shift shall, at the conclusion of such period of one and one-half hours, be entitled to a meal break, and to the allowance for tea money prescribed in clause 8, Allowances. Meal breaks taken during any period of overtime which has been worked as an extension of an afternoon or night shift shall be of 30 minutes duration and shall be paid for as time worked.
- (g) An employee required to work a shift on a day on which they have been rostered off shall be paid at overtime rates in accordance with paragraphs (a), (c) or (d) of this subclause.

Unless the employee concerned has been notified at least 24 hours in advance, one meal allowance shall be paid for during such shift at the rate prescribed for tea money in clause 6, Allowances.

#### **4. Shift Work**

This clause does not apply to employees who are subject to the following clauses of this award:

Clause 10, Additional Conditions for Motor Registry and Telephone Customer Service Centre Staff

Clause 11, Additional Conditions for DRIVES Help Desk Staff

Clause 12, Additional Conditions for Traffic Operations Control Staff

This clause applies to employees subject to clause 13, Additional Conditions for Work Support Officers of this award.

#### **A. Head Office**

- (1) For the purpose of this clause:

"Day shifts" shall be those shifts worked between 7.00 am and 5.00 pm Monday to Friday.

"Afternoon shifts" shall be those shifts commencing at or after noon Monday to Friday.

"Night shifts" shall be those shifts finishing at or before 10.00 am Monday to Friday.

"Continuous work" means work carried out with consecutive shifts of employees throughout the twenty-four hours of each of at least six consecutive days without interruption except during breakdowns or meal breaks or due to unavoidable causes beyond the control of the Authority.

## (2) Hours of Duty shall be as follows:

- (a) The ordinary working hours for day shifts shall not exceed those worked daily or weekly by other employees working normal hours Monday to Friday. The only break will be for lunch.

The lunch break shall be taken in the employee's time and shall not be regarded as working time.

- (b) The ordinary working hours for afternoon and night shifts shall not exceed those worked daily or weekly by other Head Office employees working normal hours Monday to Friday.

Meal breaks shall be of thirty minutes duration and shall be taken as part of the ordinary working hours, to be paid for at the appropriate shift rate.

- (c) No employee shall be required to work more than five consecutive hours without a meal break.

## (3) Payment for Shift Work:

- (a) Payment for day shift shall be at ordinary rates of pay.
- (b) Payment for afternoon shift shall be at the employee's ordinary rate of pay plus 12½ per cent.
- (c) Payment for night shift shall be at the employee's ordinary rate of pay plus 15 per cent.
- (d) Payment for all ordinary time worked on a Saturday shall be at the rate of time and one-half of the employee's ordinary rate of pay.
- (e) Payment for all ordinary time worked on a Sunday shall be paid for at the rate of double time of the employee's ordinary rate of pay.

## (4) Shift Rosters

- (a) Employees shall be rostered to work shifts on a rotating basis as required by the Authority provided that not more than five consecutive shifts shall be worked in seven consecutive days.
- (b) Wherever reasonably practicable notice shall be given of shifts to be worked at least seven days in advance. Rotating shifts shall rotate weekly commencing Monday. Where three shifts per day are being worked the order or rotation shall be from day shift to night shift, from night shift to afternoon shift and from afternoon shift to day shift.
- (c) An employee on rotating shifts shall not be rostered to work more than two weeks on afternoon shift and/or night shift in any period of three working weeks other than at their own request or by agreement between the employee concerned and the Authority. Should an employee be required to work afternoon and/or night shift for more than two consecutive working weeks (other than at their own request or by agreement between the employee concerned and the Authority) the employee shall be paid at the rate of time and one-half of the ordinary rate for all ordinary time worked on afternoon and/or night shift in excess of two consecutive weeks until the shifts are rotated.

## (5) Payment of Overtime - Payment of overtime shall be made at the following rates:

- (a) Subject to paragraph (b) of this subclause, all time worked in excess of the hours worked daily or weekly by other Head Office staff working normal hours Monday to Friday, between midnight Sunday and midnight Saturday shall be paid for at the rate of time and one-half for the first two hours and double time thereafter based on the employee's ordinary rate of pay. For this purpose each period of overtime shall stand alone.
- (b) An employee shall not be required to be on duty for more than 16 consecutive hours. After being on duty for 16 consecutive hours an employee shall take a rest break of at least four consecutive hours and where they are directed to resume without having had a rest break of eight consecutive



hours they shall be paid at the rate of double ordinary time until released from duty for eight consecutive hours. Any rostered working time occurring during such absence shall be paid for at the appropriate shift work rates.

- (c) Any work carried out on Sundays shall be paid for at the rate of double time.
- (d) Any work carried out on public holidays shall be paid for at the rate of double time and one-half and for employees engaged on continuous work, any work carried out on public holidays shall be paid for at the rate of double time.
- (e) An employee who works overtime on Saturday or Sunday or on a public holiday shall be paid a minimum payment for three hours work at the appropriate rates.

Provided that:

- (i) Employees working overtime which extends beyond a period of one and one-half hours from the normal finishing time of a shift shall, at the conclusion of such period of one and one-half hours, be entitled to a meal break and to the allowance for tea money, prescribed in clause 2, Hours of Duty. Meal breaks taken during any period of overtime which has been worked as an extension of an afternoon or night shift shall be of 30 minutes duration and shall be paid for as time worked.
- (ii) An employee required to work a shift on a day on which they have been rostered off shall be paid at overtime rates in accordance with paragraphs (a), (c) or (d) of subclause (5).
- (iii) Unless the employee concerned has been notified at least twenty-four hours in advance, one meal allowance shall be paid for during such shift at the rate prescribed for tea money in clause 6, Allowances.
- (iv) An employee rostered off on a public holiday shall be credited with a days recreation leave for each such day, provided that a six or seven-day shift roster is in operation.
- (v) An employee employed under this clause and working a six or seven-day week three-shift roster shall be credited with an additional five days' recreation leave per annum. This leave shall accrue at the rate of 5/12 of a day for each complete month that an employee so works.

#### **B. Toll Control Clerks and Supervisors**

- (1) Continuous Shift Work - Employees on Continuous shift work shall accrue 0.4 of an hour for each eight-hour shift worked to allow one complete shift to be taken off for every 20-shift cycle.
- (2) The shifts shall be arranged by roster, which shall be posted in such a position that the employees will be able to keep themselves informed of the shifts to be worked at least one week ahead.
- (3) The roster shall, as far as practicable, be arranged to give each of the employees an equal number of Saturdays and Sundays off duty.
- (4) The roster shall, as far as practicable, be arranged to give each of the employees two consecutive days off.
- (5) Except in cases of emergency, no employee shall be compelled to work more than five hours without a break by agreement with the Association.
- (6) The roster shall be so arranged that at least eight consecutive hours separate the ordinary shifts to be worked by any employee.
- (7) The method of working shifts may, in any case, be varied by agreement between the Authority and the Association and in any case of general variation where agreement cannot be reached seven days notice of the alteration shall be given by the Authority to the Association.

- (8) Except in cases of emergency, an employee shall not be required to work longer than two hours in any period without a crib break of twenty minutes.

### **C. Employees on Field Work**

#### (1) Hours

- (a) The ordinary working hours for day shifts shall not exceed those worked daily or weekly by employees on field works working normal hours Monday to Friday. The only break will be for lunch.

The lunch break shall be taken in the employee's time and shall not be regarded as working time.

- (b) The ordinary working hours for afternoon and night shifts shall not exceed those worked daily or weekly by other employees on field works working normal hours Monday to Friday.

Meal breaks shall be of thirty minutes duration and shall be taken as part of the ordinary working hours, to be paid for at the appropriate shift rate.

- (c) No employee shall be required to work more than five consecutive hours without a meal break.
- (d) The following additional provisions will apply to employees whose ordinary working hours are thirty-eight per week:

- (i) Employees engaged for work under the terms of this subclause shall accrue 0.4 of one hour for each shift worked to allow one shift to be taken off as a paid shift for every twenty-shift cycle.

The twentieth shift shall be paid for at the shift rate(s) prescribed in paragraphs (a), (b), (c) and (d) of subclause (2) Payment of Part C, Employees on Field Work of this clause.

- (ii) Each shift of paid leave taken and any public holidays occurring during any cycle of four weeks shall be regarded as a shift worked for accrual purposes.
- (iii) An employee who has not worked, or is not regarded by reason of subparagraph (ii) of this paragraph as having worked a complete four-week cycle, shall receive pro rata accrued entitlements for each shift worked (or fraction of a shift worked) or regarded as having been worked in such cycle, payable for the rostered day off or, in the case of termination of employment, on termination.
- (iv) The Authority and employees working under the terms of this subclause shall agree upon arrangements for rostered paid days off during the twenty-shift cycle or for accumulation of accrued days, provided that such accumulation shall be limited to no more than five such accrued days before they are taken as paid days off, and when taken the days shall be regarded as days worked for accrual purposes in the particular twenty-shift cycle.
- (v) Once such shifts have been rostered they shall be taken as paid shifts off provided that where the Authority for emergency reasons requires an employee to work on the rostered shift off, the employees shall take one paid shift off before the end of the succeeding work cycle, and the employee shall be paid for the shift worked at the rates prescribed for Saturday work in clause 3, Overtime.

#### (2) Payment

- (a) Payment for day shift shall be at ordinary rates of pay.
- (b) Employees shall be paid at the rate of time and one-quarter when working on the second (afternoon) shift on either a two or three-shift system.

- (c) If three shifts are worked, the third (night) shift shall be paid for at the rate of time and one-quarter.
  - (d) Where employees are required to work on a shift not worked on a two or three-shift system, which commences at or after 4.00pm and which finishes at or before 7.00am such shift shall be of no longer duration than eight hours and shall be paid for at the rate of time and one-half.
  - (e) Where the arrangement for working shifts provides for shifts on less than five continuous working days then overtime rates shall be applicable; provided also that in cases where less than a full week is worked due to the action of the employee then in such cases the rate payable for the actual time worked shall be ordinary shift rates.
  - (f) Shift work hours shall be worked between Monday and Friday inclusive. Time worked on a Saturday, Sunday or a public holiday shall be paid for at overtime rates; provided that an ordinary night shift commencing before and extending beyond midnight Friday shall be regarded as a Friday shift.
  - (g) An employee shall be given at least 48 hours notice of a requirement to work shift work.
  - (h) Notice of any alteration to shift hours shall be given to the employee not later than ceasing time of the previous shift.
  - (i) No employee who is employed during ordinary working hours shall be employed on afternoon or night shifts except at overtime rates.
- (3) Rosters
- (a) Where the arrangement for working shifts requires employees to be rostered to work shifts on a rotating basis not more than five consecutive shifts shall be worked in seven consecutive days.
  - (b) Wherever reasonably practicable notice shall be given of shifts to be worked at least seven days in advance. Rotating shifts shall rotate weekly commencing Monday. Where three shifts per day are being worked, the order of rotation shall be from day shift to night shift, from night shift to afternoon shift and from afternoon shift to day shift.
  - (c) An employee on rotating shifts shall not be rostered to work more than two weeks on afternoon shift and/or night shift in any period of three working weeks other than at the employee's own request or by agreement between the employee concerned and the Authority. Should an employee be required to work afternoon and/or night shift for more than two consecutive working weeks (other than at the employee's own request or by agreement between the employee concerned and the Authority), the employee shall be paid at the rate of time and one-half of the ordinary time worked on afternoon and/or night shift in excess of two consecutive weeks until the shifts are rotated.

### 5. Increments

- (1) Except in the case of promotion from one classification to another, an employee shall not be entitled to an increase in their rate of salary until they have received that rate for a period of twelve months.
- (2) Any increments under this award may be withheld or the salary of any employee may be reduced in any case where, on account of the employee's inefficiency or misconduct in an official capacity, the Authority is of the opinion that such increments should not be paid or that the salary of such employee should be reduced.

Provided that an employee whose salary is reduced or from whom an increment is withheld shall, within thirty days of the reduction taking effect or the increment becoming due, be furnished with a statement in writing of the reason for withholding the increment or for the reduction in salary. The provisions of clause 16, Appeals in Respect of Salary, Grade or Classification, shall then apply.

Periods of leave without pay where the total period of absence in any one year exceeds five days shall not count as service for increment purposes.

Nothing included in this clause shall preclude the reference of matters by the Association or the Authority to the NSW Industrial Relations Commission.

## **6. Allowances**

### **A. Meal Allowances**

#### **(1) Meal Break while Travelling**

- (a) Employees are entitled to claim a meal allowance when travelling on RTA business if they:
  - (i) return to their headquarters or place of residence on the same day;
  - (ii) have a meal break of at least 30 minutes away from their residence or headquarters; and
  - (iii) incur expense in obtaining the meal.
- (b) Employees shall receive meal allowances at the rates contained in Item 1 of Table B, Rates - Allowances, and subject to the following provisions:
  - (i) Breakfast - the journey must have commenced before 6am and at least one hour before the employee's normal starting time.
  - (ii) Lunch - when employees are required to travel a total distance of at least 100km on the day and take their lunch break at least 50km from their normal headquarters. Employees whose position requires them to undertake work in the field and are regularly required to take lunch away from their nominated headquarters shall not be entitled to a lunch allowance.
  - (iii) Evening meal - the allowance may only be claimed when the meal is taken after 6:30pm.

#### **(2) Meal Allowance - Overtime**

- (a) Subject to clause 3, Overtime, where an adequate meal is not provided by the RTA, an employee will be paid a meal allowance for meal breaks taken, provided that:
  - (i) the performance of the work concerned at that time was necessary;
  - (ii) the employee incurred expenditure in obtaining the meal;
  - (iii) where the employee was able to cease duty for at least 30 minutes before or during the working of overtime they did so; and
  - (iv) the employee resumed duty after the meal break, unless there are acceptable reasons for a meal to be taken at the end of an overtime period.
- (b) Employees shall receive meal allowances at the rates contained in Item 2 of Table B, Rates - Allowances and subject to the following provisions:
  - (i) Breakfast - employees are required to commence work at or before 6am and at least one hour before the prescribed starting time.
  - (ii) Lunch - employees are required to work on any Saturday, Sunday or state-wide public holiday and their prescribed starting time is  
  
not later than 8.30am and they are required to work until or beyond 1.30pm; or

later than 8.30am and they are required to work until or beyond 2pm.

- (iii) Evening meal - when employees are required to work until or beyond 6pm on a normal working day, an evening meal allowance will be paid to employees who

work under a flexible working hours arrangement and work for more than eight and one-half hours, excluding the lunch break on that day;

do not work under a flexible working hours arrangement and whose prescribed starting time is not later than 8:50am, work for at least one and one-half hours after the prescribed ceasing time.

- (3) Meal Break Allowance - Sydney Harbour Bridge

Sydney Harbour Bridge Toll Control Clerks shall receive a meal break allowance for each eight-hour shift, paid at the rate of time and a half for 30 minutes.

### **B. Travelling, Field and Lodging Allowances**

- (1)

- (a) This subclause applies to employees who:

- (i) are required to proceed on duty away from their normal headquarters;
- (ii) cannot return to their normal headquarters on the day of departure; and
- (iii) do not permanently change their headquarters.

- (b) For the purposes of this subclause, travelling allowance will be calculated at the hourly rate of the relevant sustenance allowance as set at Item 3 of Table B, Rates - Allowances.

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

- (d) Employees who are required to stay in overnight accommodation will receive the rate for that region as set at Item 3 of Table B, Rates - Allowances. The allowance will be reduced to 50% of the relevant rate for employees who remain in a region for more than 35 days and up to a period of six months.

- (e) Employees who wish or are directed to claim actual and reasonable expenses while staying in overnight accommodation will be entitled to an 'Incidentals' allowance as set at Item 4 of Table B, Rates - Allowances.

- (f) Sustenance allowance will be calculated from the time of departure from:

- (i) their normal headquarters;
- (ii) their normal place of residence where they travel directly from their normal place of residence; or
- (iii) another temporary work location.

- (g) Employees who are sent from one temporary work location to another will continue to be entitled to the relevant allowance, provided that the distance between their headquarters and the

subsequent temporary work location is sufficient to make it necessary to continue such arrangements.

- (h) Subject to paragraph (f) of this subclause, where the allowance for overnight accommodation at the subsequent temporary work location(s) is a different rate than that for the previous temporary work location, employees will receive the relevant rates based on the times of departure from each location. Methods for calculation of sustenance allowance for employees travelling between different locations are contained in the RTA Expenses and Allowances Policy (10.2).
  - (i) Sustenance allowance is not payable in respect of:
    - (i) any period during which employees return to their residence on weekends or public holidays, from the time of arrival at the residence until the time of departure;
    - (ii) any period of leave, except with the approval of the RTA, or as otherwise provided by Part B, Travelling, Field and Lodging Allowances of this clause; or
    - (iii) any other period during which employees are absent from the temporary work location, otherwise than on official duty.
  - (j) For the purposes of this clause, 'Sydney' means the area bounded by Palm Beach and Cowan in the north, St Marys in the west and Catherine Fields and Heathcote in the south. Notwithstanding this definition, employees in receipt of an allowance for overnight accommodation, are expected to find accommodation as close as possible to the temporary work location which they are attending.
  - (k) Employees who return from a temporary work location after more than 35 days and less than six months' lodging will be paid for their travelling at the hourly rate of the relevant 35 days or less allowance. Travelling will be calculated from the time of departing the temporary work location to the time of arrival at their headquarters or normal place of residence.
  - (l) Where the sustenance or meal allowance claimed under subclause (1) of Part A, Meal Allowances or Part B, Travelling, Field and Lodging Allowances of this clause is deemed
    - (i) insufficient to adequately reimburse an employee for expenses properly and reasonably incurred, a further amount may be paid to reimburse the employee for the additional expenses incurred; or
    - (ii) in excess of the amount which would adequately reimburse an employee for expenses properly and reasonably incurred, the RTA may reduce the allowance to that which would reimburse the employee for expenses incurred properly and reasonably.
  - (m) Payment of any actual expenses will be subject to the production of receipts, unless the RTA is prepared to accept other evidence from the employee concerned.
- (2)
- (a) Employees who perform official duty at a temporary location may be directed to lodge in accommodation organised and provided by the RTA.
  - (b) Where the RTA does not provide meals, employees will be reimbursed meal expenses actually and reasonably incurred during the time spent away from their residence to perform that duty.
  - (c) Employees staying in RTA-provided accommodation will receive an 'incidentals' allowance at the rate set at Item 4 of Table B, Rates - Allowances.
- (3) In the case of employees whose duties require them to proceed from their headquarters to the field for a period of one week or more and who are within reasonable travelling distance from their headquarters at weekends (reasonable travelling distance from Sydney being within the area bounded by Newcastle,

Singleton, Bowenfels, Yass and Nowra), their claims for field and lodging allowances are to be calculated as follows:

- (a) Travelling allowance will be paid from time of departure from headquarters to time of arrival at a new location and on return journeys to headquarters. Where, with approval, an employee uses a private vehicle, travelling allowance shall not exceed the allowance which would have been payable had the employee travelled by the appropriate mode of public transport.
- (b) Lodging allowance will be paid at the rate in accordance with the above provisions, on the basis of reasonable actual cost plus \$15.45 per day subject to the production of receipts from time of arrival at a new location until time of departure, which normally would be Monday to Friday, respectively.

If it is necessary to obtain accommodation on a weekly basis in order to preserve continuity of accommodation, the reasonable actual cost plus \$15.45 per day will be paid if this cost should exceed the allowance payable under this award from time of arrival to time of departure each week. Where the actual cost is being claimed, expenses must be supported by receipts.

- (c) Journeys each week to and from one location will be regarded as separate trips for the purpose of calculating travelling, field and lodging allowances.
- (d) Return rail warrants will be issued each week to enable the employee concerned to return to headquarters at weekends.

Where approval is given for an employee to travel by private conveyance the employee shall be granted the equivalent cost of rail fares or fares by the recognised mode of public transport. Provided that the employee may be required to produce evidence that the journey was actually made in a private conveyance.

Employees whose duties require them to proceed from their headquarters to the field, and who are not within reasonable travelling distance from their headquarters at weekends, may return and have their fares paid to their headquarters at the intervals and under the conditions set out hereunder:

- (i) Where the distance to be travelled from the field to their headquarters is such that the issue of rail warrants (including sleepers) will enable employees to travel in their own time to spend 48 hours at their headquarters:
  - (1) Employees with dependants after four weeks absence from headquarters shall be issued with one first-class return rail warrant (including sleepers). Thereafter one first-class return rail warrant (including sleepers) will be issued each four weeks. Alternatively, one economy class return rail warrant may be issued each two weeks.
  - (2) Employees without dependants after eight weeks absence from headquarters shall be issued with one first-class return rail warrant (including sleepers). Thereafter, one first-class return rail warrant (including sleepers) will be issued each eight weeks. Alternatively, one economy return rail warrant may be issued each four weeks.
- (ii) Where the distance to be travelled from the field to their headquarters by the shortest practicable route is such that employees are unable to travel in their own time to spend 48 hours at their headquarters:
  - (1) Employees with dependants after four weeks absence from headquarters shall be issued with one first class return rail warrant (including sleepers) and shall be granted special leave not exceeding two days (normally Friday and/or Monday) each four weeks.

- (2) Employees without dependants after eight weeks absence from headquarters shall be issued with one first class return rail warrant (including sleepers) and shall be granted special leave not exceeding two days (normally Friday and/or Monday) each eight weeks.

Provided that the Authority may, having regard to the period of absence from duty necessitated by rail travel, elect to provide transport by air.

- (iii) Those employees who, in accordance with subparagraphs (i) and (ii) of this paragraph, return to their headquarters after the specified period of absence has elapsed will be entitled to the following additional expenses and conditions:
- (1) Travelling time as provided in subclause (1) of this clause.
- (2) Each journey will be regarded as a separate trip for the purpose of calculating field and lodging allowances.
- (iv) Where an entitlement to the issue of travel warrants exists in accordance with the provisions of subparagraphs (i) and (ii) of this paragraph, an employee may travel by other forms of conveyance subject to approval and be granted the equivalent cost of rail fares (including sleepers) or fares by the recognised mode of public transport, subject to production, on request, of evidence that the journey was actually made: provided that the period of absence from duty shall not in any case exceed the period which would be required if the journey was made by the form of public transport approved.

### **C. Allowances to Transferred Employees**

- (1)
- (a) This clause shall apply to all transfers except:
- (i) Transfers made at the request of the employee within a period of two years of taking up duty at their previous headquarters.
- (ii) Transfers to a new headquarters within 34 km of an employee's previous headquarters.
- (iii) Transfers by reason of official misconduct.
- (b) Where special circumstances exist and the Authority so approves, this clause shall apply to a transfer within the meaning of subparagraphs (i) or (ii) of paragraph (a) of this subclause.
- (2) Where an employee is transferred from one headquarters to another the employee shall be paid a travelling allowance at the rate per hour set out in Part B, Travelling, Field and Lodging Allowances of this clause until the time of their arrival at the new headquarters and thereafter the appropriate allowance or allowances set out hereunder:
- (a) An employee required to occupy camp or local quarters in the field shall be paid the relevant accommodation allowance prescribed in the said Part B, for employees in camp or local quarters.
- (b) Where the Authority is prepared to meet the expense of transferring the dependants of an employee, but does not provide a residence, and because of inability to secure a residence or for any other reason accepted by the Authority, the employee finds it necessary while separated from their dependants to go into lodgings while waiting to take up occupation of their new residence, then the relevant accommodation allowances as set out in the said Part B, shall be paid for the period of such lodging, but not for any period in excess of eight weeks.
- (c) For the period beyond the first eight weeks after arrival at a new location, a transferred employee who is separated from their dependants under circumstances set out in paragraph (b) of this subclause, shall be recouped actual and reasonable out-of-pocket expenses less an amount set at



Item 5 of Table B, Rates Allowances, per week subject to the production of receipts. Such recoupment shall be limited to a period not exceeding six months, except with the special approval of the Authority.

- (d) An employee who is separated from their dependants under circumstances set out in paragraphs (a), (b) and (c) may return and have the fares paid to their home at the intervals and under the conditions set out hereunder:
- (i) After four weeks absence from home one first class return rail warrant (including sleepers) will be issued. Thereafter, one first class return rail warrant (including sleepers) will be issued each four weeks. Alternatively, one economy class rail warrant may be issued each two weeks. In either case the employee shall travel in their own time.
  - (ii) Where, owing to the distance to be travelled it is not possible for an employee to travel in their own time to spend 48 hours at home, the employee will, after four weeks absence from home, be issued with one first class return rail warrant (including sleepers) and be granted special leave not exceeding two days (normally Friday and Monday) each four weeks. Alternatively, the Authority may, having regard to the period of absence from duty necessitated by rail travel, elect to provide transport by air.
  - (iii) An employee entitled to the issue of travel warrants under the provisions of subparagraphs (i) or (ii) of this paragraph may travel by other forms of conveyance subject to approval and be granted the equivalent cost of rail fares (including sleepers). The period of absence from duty shall not in any case exceed the period which would be required if the journey was made by the recognised form of public transport. If the journey was actually made in their own motor vehicle, the employee may be required to produce evidence to this effect.
  - (iv) If the employee's new headquarters are within reasonable travelling distance of their previous headquarters, as defined in the said Part B, the conditions set out in that Part will apply.

(e)

- (i) Where the Authority is prepared to meet the expense of transferring the dependants of an employee, but does not provide a residence, and because of inability to secure a residence or for any other reason accepted by the Authority the employee finds it necessary to go into temporary accommodation with his/her dependants while waiting to take up occupation of a residence, then the employee shall be recouped, subject to the production of receipts, three-quarters of the actual and reasonable expenses so incurred by the employee and dependants within a period of eight weeks of their arrival at the new headquarters.

Prior approval of the Authority is to be sought where, having regard to the special circumstances involved, any reimbursement beyond this period is considered necessary.

- (ii) Where the Authority is prepared to meet the expenses of transferring an employee without dependants, but does not provide a residence, and because of inability to secure permanent accommodation or for any other reason accepted by the Authority the employee finds it necessary to go into temporary lodgings while waiting to take up occupation of permanent accommodation, then the employee shall be recouped, subject to the production of receipts, 50 per cent of the actual and reasonable expenses so incurred for a period up to four weeks from the date of the employee's arrival at the new headquarters subject to the maximum allowance so payable not exceeding the amount set at Item 6 of Table B, Rates - Allowances, per week.

Prior approval of the Authority is to be sought where, having regard to the special circumstances involved, any reimbursement beyond this period is considered necessary.

- (f) Where the Authority is not prepared to meet the expense of transferring the dependants of an employee and such employee finds it necessary to go into camp, local quarters or lodgings at the new location the relevant accommodation allowance set out in Part B, Travelling, Field and Lodging Allowances, shall apply.
  - (g) Where an employee is in receipt of an accommodation allowance under the provisions of paragraph (f) of this subclause they shall be entitled to the issue of travel warrants and the granting of special leave as prescribed in paragraph (d) of this subclause.
  - (h)
    - (i) When an employee is transferred from one headquarters to another under circumstances which require them to change their place of residence and necessitate removal of normal household furniture and effects, the following additional allowance shall be paid:

The amount set at Item 7(b) of Table B, Rates - Allowances, where the household furniture and effects are of not less value than the amount set at Item 7(a).

The amount set at Item 7(c) of Table B, Rates - Allowances, where the household furniture and effects are of not less value than the amount set at Item 7(a).
    - (ii) In the event of a transferred employee changing their place of residence and not being eligible to receive the allowance referred to under subparagraph (i) above, the amount set at Item 7(d) of Table B, Rates - Allowances shall be paid.
  - (i) Where an employee and spouse, who is also an employee, are both transferred to the same new headquarters which necessitates a change in place of residence the Authority's prior approval is to be sought regarding their leave and expenses entitlements as transferred employees.
- (3)
- (a) Where an employee already owning their home is transferred under circumstances where the Authority is prepared to meet the cost of transferring their dependants and effects, and sells the home at the then headquarters for the purpose of purchasing a home or land upon which to erect a residence at the new headquarters the employee shall, subject to the conditions prescribed in subparagraph (ii) of this paragraph, be entitled to reimbursement of the following expenses incurred in such transactions:
    - (i) where the employee has engaged a Solicitor to act for them in those transactions, the Solicitor's professional costs and disbursements in respect of such transactions which are limited to Schedule 1 under the Conveyancing Act;
    - (ii) stamp duty paid in respect of the purchase of the residence or land at the employee's new location, and in respect of any mortgage entered into or discharge of mortgage in connection with such transactions;
    - (iii) fees paid in respect of the registration of transfer and mortgage;
    - (iv) where the employee has engaged an estate agent to sell the residence at the former location, the commission paid to the estate agent in respect of such sale.
  - (b)
    - (i) Reimbursement of expenses under this clause shall only be made where the sale of the employee's former residence and the purchase of either a residence or land upon which to erect a residence at their new location are effected within a period commencing not earlier than six months prior to the employee's transfer and ending not more than four years after such transfer.

- (ii) A transferred employee owning a residence at a former location but who has taken up rented accommodation on transfer shall be regarded as covered by the provisions of this award relating to the reimbursement of conveyancing and incidental costs on a subsequent transfer, provided periods of not more than four years have elapsed between transfers.
  - (iii) Where it is not practicable for the transferred employee to purchase a residence in their new location and they have disposed of their former residence, such employee is not to be excluded from the benefit of this award when subsequently purchasing a residence in their new location on current or subsequent transfer within the time limit allowed in subparagraph (b) of this paragraph.
  - (iv) The Authority will be prepared to consider individual cases where the four-year period referred to in subparagraphs (a), (b) and (c) of this paragraph has been exceeded but may require full details of why sale and/or purchase of residence could not be completed in the four-year period.
  - (v) The maximum amounts which an employee may be reimbursed under this clause shall be limited to the amounts which would be payable had the sale and purchase prices of the properties involved in each case had been the amount set at Item 8 of Table B, Rates - Allowances.
  - (vi) In so far as stamp duty is concerned, the limit set at said Item 8 does not apply where an employee purchases a residence or land on which to erect a residence, and enters into occupation of the home within a period of 15 months of the date of transfer to the new headquarters.
  - (vii) The reimbursement of expenditure paid to estate agents in respect of commission charges shall be limited to 5 per cent on the first \$15,000; 3 per cent on the next \$45,000; and 2.5 percent thereafter up to a maximum value of the amount set at Item 8 of Table B, Rates - Allowances.
- (c)
- (i) Where a transferred employee entitled to the reimbursement of conveyancing and other costs under paragraphs (i) and (ii) of subclause (b) of this clause, purchases a residence or the land upon which to erect a residence at their new headquarters prior to the sale of their former residence, they shall be entitled to reimbursement for any Council or other Local Government rates levied in respect of the former residence in respect of any period during which such former residence remains untenanted. Provided that the Authority may require the employee to furnish acceptable evidence that reasonable efforts are being made to sell the former residence at a fair market price.
  - (ii) A transferred employee shall be entitled to reimbursement of any costs incurred in respect of the connection of gas and/or electricity supplies not being refundable costs.
  - (iii) A transferred employee entitled to reimbursement of conveyancing and other costs under paragraphs (i) and (ii) of subclause (b) of this clause, shall be entitled to reimbursement of the cost of Survey Certificates, Pest Certificate and/or Building Society registration fees reasonably incurred in seeking financial assistance for the purpose of purchasing a new residence or the land upon which to erect a new residence at their new headquarters.
- (4) When an employee is transferred under circumstances where the Authority is prepared to meet the cost of transferring the employee's dependants and effects, the employee shall be granted reimbursement of the costs of installing a telephone at the new location.

Provided that:

- (a) The employee was a telephone subscriber at the previous residence at the time of transfer;

- (b) The amount of the reimbursement will be the full amount of transfer or installation fee only, that is, fees for extra telephone equipment and services etc., will be excluded;
  - (c) Claims are supported by receipts.
- (5) Where an employee is transferred from one location to another and desires to arrange in advance housing accommodation, the employee and one member of the employee's household may each be provided with one first class return rail warrant, plus sleeping berths where applicable. Alternatively, if the employee provides their own transport, reimbursement at the appropriate specified journey rate for the return journey, with a maximum reimbursement equal to the cost of two first class return rail fares (including sleeping berths) will be made.

In addition, subject to approval, an employee shall be entitled to special leave of:-

- (a) Two days on full pay for the purpose of visiting the new location with a view to obtaining suitable accommodation; and
- (b) Such leave as is necessary, on full pay, to travel to the new location for the purpose referred to in paragraph (a) of this subclause.

Provided that where the purpose referred to in paragraph (a) of this subclause is achieved in a lesser time than that specified, the employee shall be entitled to leave on full pay for that lesser time and provided also where the purpose referred to in the said paragraph (a) cannot be achieved in the time specified the Authority may grant such extra leave as is considered necessary.

When an employee in accordance with the said paragraph (a), travels to the new location to seek accommodation and incurs expenses in relation to overnight accommodation, the employee shall, subject to the production of receipts be reimbursed reasonable and actual costs of accommodation and meals for self and a member of the employee's household, provided the amount to be reimbursed does not exceed that prescribed under Part B, Travelling Field and Lodging Allowances of this clause.

When an employee has been unable to take advantage of the above-mentioned concessions but, subsequent to entry on duty at the new headquarters, desires that one member of their household travel to the new headquarters to assist in the search for permanent accommodation, the member concerned may be granted one first class return rail warrant, including necessary sleeping berths, to undertake the journey. Should another mode of transport be used, the actual cost of such transport may be refunded subject to the amount payable not exceeding the value of one first class return rail warrant (including sleeping berths). Where the journey is undertaken by car, the allowance payable is to be based on the appropriate specified journey rate as advised from time to time.

This provision will not apply when an employee's residence is available or where the employee concerned proposes to re-occupy their own home.

- (6) The Authority may grant, on application and having regard to the circumstances, a weekly allowance to an employee who is faced with increased accommodation costs following transfer.

Provided that the allowance shall:

- (a) be based on the difference between an employee's outgoings for rent in the new location and outgoings for rent in the previous location;
- (b) be a maximum of the amount set at Item 9 of Table B, Rates - Allowances per week;
- (c) be payable for a period of up to six months in each case, unless exceptional circumstances exist which would warrant an extension up to a maximum period of 12 months;

- (d) apply to an employee occupying privately owned property or property required for future road works, but not to one occupying a property purchased by the Authority for staff housing;
  - (e) apply only to transfers made for the Authority's purposes, that is, not to transfers made at an employee's own request;
  - (f) apply to transfers from city to country location, country location to city and from one country location to another; and
  - (g) be considered for payment only after written application has been supported by receipts as to the actual rental being paid.
- (7) A transferred employee shall be reimbursed:
- (a) The cost of board and lodging in respect of dependant children undergoing secondary education in Year 12 at a school in the employee's old location when elected subjects are not available at a school at the employee's new location. In such case, the employee, on production of receipts of payment and a certificate from the Department of Education and Training that the elected subjects are not available at a school at the employee's new location, shall be granted an allowance to meet such costs. In these cases, the parent/guardian will be required to pay the amount set at Item 10(a) of Table B, Rates - Allowances per week of the board and lodging expenses and the Authority will reimburse further costs up to a maximum of the amount set at Item 10(b) of Table B per week for each child.
  - (b) The cost of those items of essential school clothing listed from time to time in personnel circulars that are required to be replaced or purchased as a direct result of the employee's transfer from the former location to the new location requiring the changing of schools. When an item of clothing required at the new school is not included in the list, the Authority will consider reimbursing the transferred employee the cost of same, but will require full particulars and the circumstances surrounding the requirement to purchase.

#### **D. Climatic Allowances**

- (1) Employees stationed in an area upon or to the west of a line starting from a point on the bank of the Murray River opposite Swan Hill and thence by straight lines passing through the following towns or localities in the order stated, namely, Conargo, Coleambally, Hay, Rankin's Springs, Marsden, Condobolin, Peak Hill, Nevertire, Gulargambone, Coonabarabran, Wee Waa, Moree, Warialda, Ashford and Bonshaw shall be paid a climatic allowance.
- (2) The amounts of climatic allowances for each classification are set at Item 11 of Table B, Rates - Allowances.
- (3) Grade B allowances are payable to employees stationed and resident at the following locations:  
Angledool, Barrigun, Bourke, Brewarrina, Clare, Enngonia, Goodooga, Ivanhoe, Lake Mungo, Lightning Ridge, Louth, Mungindi, Pooncarie, Redbank, Walgett, Wanaaring, Weilmoringle, White Cliffs, Wilcannia and Willandra.
- (4) Grade C allowances are payable to employees stationed and resident at the following locations:  
Fort Grey, Mootwingee, Mount Wood, Nocolche, Olive Downs, Tibooburra and Yethong.
- (5) All other locations where the climatic allowance is payable are classified as Grade A.  
N.B. Deniliquin is to be classified as Grade A for the payment of this allowance.

**E. Fares Subsidy - Climatic Allowance Area**

- (1) An employee whose headquarters are situated in an area in which a climatic allowance is paid shall be entitled to a subsidy toward the cost of fares incurred when proceeding on annual recreation leave from that area.

The maximum amount payable to such an employee in respect of a period of annual recreation leave for a return journey from their headquarters to Sydney, or elsewhere not exceeding the cost of a return journey to Sydney, shall be:

- (a) The actual cost, less the amount set at Item 12(a) of Table B, Rates - Allowances, of fares incurred in travel by rail (including the cost of sleeping berths where these are actually used) and/or service car; or
- (b)
- (i) The amount set at Item 12(b) of Table B in respect of a married employee, their spouse and dependant children; or
- (ii) The amount set at Item 12(c) of Table B in respect of an employee without dependants whichever is the lesser amount.

Payment will not be made in respect of taxi fares or meals.

- (2) Where a means of transport other than rail and/or service car is used, the subsidy will be calculated on the basis of equivalent fares (including sleepers) as if such public transport had been used.
- (3) An employee shall not be entitled to payment under these provisions more than once in respect of each period of 12 months commencing from the date of taking up duty in the area.
- (4) For the purposes of this clause, "annual recreation leave" shall, except with the special approval of the Authority, mean leave of not less duration than would be required to qualify for the annual leave loading referred to in Part H, Annual Recreation Leave of Absence, of clause 9, Leave.

**F. Calculation of Allowances**

- (1) In the case of weekly allowances, the allowance for any portion of a week shall be calculated on a daily basis of one-fifth of the weekly rate, and on an hourly basis of one twenty-fourth of the daily rate so calculated. In the case of the daily allowances prescribed in clause 6, Allowances, the allowance for any portion of a day shall be calculated at one twenty-fourth of the daily rate.
- (2) In computing the time occupied, a fraction of an hour if less than half an hour shall not be taken into account, but if half an hour or more, it shall be reckoned as one hour.

**G. Employee Relieving**

- (1) Where in any one period of relief an employee relieves in a higher graded position for five working days or more and is instructed to perform the whole of the duties of this position, they shall be paid for the full period of relief the minimum salary of the higher graded position.
- (2) Where in any one period of relief an employee relieves in a higher graded position for five working days or more and does not perform the whole of the duties of such employee in the higher graded position, they shall be paid such allowance as may be determined by the Authority and prior to entering on relief shall be advised of the allowance to be paid and the basis for its assessment.

Provided that:

- (a) should the period of relief be in excess of 12 months the relieving employee shall be entitled to be paid the salary that would be payable under the relevant award, industrial agreement or

determination to a person appointed to that position on the day the relieving employee commenced relieving duties in that position; or such proportion thereof as may be determined by the Authority;

- (b) except in an emergency, prior approval to payment of a higher duties allowance is to be obtained;
- (c) an employee relieving another in a lower graded position shall not suffer any reduction in salary.

When a Sydney Harbour Bridge Toll Officer other than a Toll Plaza Attendant is required to relieve another employee, who is on accrued leave arising from the 38-hour week, no higher duties allowance is payable.

- (3) Incremental Progression by Allowance - Where a very lengthy period of acting in the one higher graded position is unavoidable, the employee concerned may progress by way of allowance to the next incremental step, provided that 100 per cent allowance has been paid continuously for a period of 12 months.

Where the allowance has been discontinued during a period of leave, the increment should be delayed accordingly.

Where there are broken periods of relief in the higher graded position or positions, such periods may be aggregated, irrespective of the nature of the work of the position(s). Such aggregated periods may be regarded as continuous service for the purpose of incremental progression within the grade of the position(s), provided that:

- (a) only periods in respect of which the level of the allowance together with the employee's salary is greater than or equal to the salary of the new position to which the employee is substantively appointed are counted;
- (b) any period of leave during which allowance was not paid is discounted;
- (c) aggregation does not extend over any break in excess of six months.

The same principles apply if an employee who has been relieving in higher graded positions is subsequently appointed to a similarly graded position, to determine salary and/or allowance in the new position.

#### **H. Sydney Harbour Bridge Allowance**

A Works Supervisor who is employed on the maintenance of the structure of the Sydney Harbour Bridge shall be paid an allowance as set out at Item 13 of Table B, Rates - Allowances.

#### **7. Protective Clothing**

Toll Personnel - Other than Toll Plaza Attendants

- (1) Uniforms and protective clothing shall be issued to such employees and on such a scale as is reasonably required, and shall include for each employee:

One suit coat

Two pairs of trousers

Six white shirts

One woollen jumper

One belt

Two ties

One pair of shoes

One raincoat

- (2) Employees required to wear a uniform shall be responsible for maintaining such uniforms in a clean and pressed condition and shall be paid an allowance of \$8.00 per week for care and cleaning of uniform clothing.

General - The Authority shall provide free of charge such protective footwear, as necessary, which is reasonably expected to adequately protect all employees in the workplace.

## **8. Conveyance**

### **A. Employees on Duty**

- (1) Wherever possible, when an Authority vehicle is not provided, employees shall travel by the mode of public transport which affords the greatest economy. The full cost of fares for such conveyance shall be met by the Authority.

Provided that:

- (a) Where there is no public transport service and a taxi, hire car or rented car has to be used, the amount claimed must be supported by a receipt of payment for the service, or the claim may be disallowed.
- (b) When, subject to prior approval, an employee uses a private conveyance, the equivalent cost of rail fares (including sleepers) or fares by the recognised mode of public transport to the location/s shall be allowed.
- (c) Where air travel is considered appropriate, prior approval must be obtained.
- (d) When an employee, subject to prior approval, uses a private conveyance for official Authority business, the employee shall be reimbursed the transport allowance rate as advised from time to time.
- (2) An employee will not be entitled to payment of fares for travel between their usual permanent place of work (i.e. headquarters) and their usual permanent place of residence. Provided that an employee required to attend temporarily at another location which involves extra fares shall be paid such fares (public transport) in excess of those usually incurred between home and headquarters. Alternatively, when public transport presents difficulties, an employee may, subject to prior approval, use a private conveyance and be reimbursed at the specified journey rate, as advised from time to time, less the amount of normal fares.
- (3) Part B, Travelling, Field and Lodging Allowances, of clause 6, Allowances, deals with conveyance of an employee on periodic return to their headquarters.
- (4) Part B of this clause deals with conveyance of an employee and dependants upon transfer.

### **B. Employees and Their Dependants Together With the Removal of Furniture**

- (1)
- (a) Subject to the provisions of paragraphs (b) and (c) of this subclause, this clause shall apply to all transfers except:
- (i) transfers made at the request of an employee within two years of taking up duty at their previous headquarters.



- (ii) transfers to a new headquarters within 34 km of an employee's previous headquarters; and
  - (iii) transfers by reason of official misconduct.
- (b) Where special circumstances exist and the Authority so approves this clause shall apply to a transfer coming within the meaning of subparagraphs (i) or (ii) of paragraph (a) above.
- (c) The provisions of subclause (4) shall also apply to employees transferred under subparagraphs (i), (ii) or (iii) of paragraph (a) of this subclause.
- (2) When an employee is transferred by the Authority to a different headquarters which necessitates a change in place of residence involving removal of furniture and effects, the expense of packing, removing, unpacking and transit insurance thereon shall be paid by the Authority. Storage charges, for the period prescribed in subclause (3), will also be met.

Provided that:

Payment by the Authority for "all risk" insurance shall be made for the total cost involved, but shall not exceed the total cost which would be incurred by insuring the furniture and effects for an amount set at Item 14 of Table B, Rates - Allowances. Where the insured value exceeds that amount, the matter is to be referred to the Authority for consideration.

- (3)
- (a) Prior to incurring expense approval shall be obtained for the removal of furniture and effects and/or storage thereof up to a maximum of 8 weeks. Requests for approval are to be accompanied by:
- (i) an inventory of the furniture and effects with the value and approximate volume thereof;
  - (ii) quotations from carriers for the cost of removal; and
  - (iii) if applicable, quotations for storage, limited to a maximum of 8 weeks from the date of transfer of the employee to their new headquarters. The Authority's prior approval shall be obtained for any extension of this period.
- The quotations shall be obtained, where practicable, from at least two reputable carriers, and are to show the cost of removal from house to house, including packing and unpacking and the cost of "all risk" insurance.
- The employee concerned must enter into a contract for the removal of the furniture and effects and the Authority will not be in any case be responsible for any loss or damage to the furniture or effects in the course of removal.
- (b) An employee who is transferred to or from a country office may be granted special leave as follows:
- (i) up to two days for the purpose of preparation and supervision of packing of personal and household effects prior to removal or to arrange storage; and
  - (ii) up to one day for the combined purpose of cleaning the premises being vacated and/or occupying and settling into the new premises.
- (4) First class rail warrants and sleeping berths where applicable shall be granted to transferred employees and to their dependants. Other actual and necessary fares incurred with respect to the most economical mode of public transport during the journey shall also be allowed.

Provided that:

- (a) Where an employee elects to use their private vehicle the employee shall be paid a car allowance at the official business rate prescribed from time to time;
  - (b) Any time occupied on the journey in working hours in excess of what would have been occupied had the journey been made by the quickest practicable public surface transport route shall be deducted from the employee's recreation leave or be granted as leave without pay;
  - (c) Travelling allowances payable under clause 6, Allowances, to employees shall be limited to those payable if the quickest practicable route referred to had been followed.
- (5) An employee, during the transit of their furniture and effects, whether accompanied by their family or not, shall be entitled to claim Travelling, Field and Lodging Allowances under the said clause 6 for the time necessarily spend in travelling from the previous headquarters to the new headquarters.

Where it is necessary to lodge the employee's family or dependant relatives between leaving the previous headquarters and arriving at the new headquarters, the employee shall be recouped, subject to production or receipts, three-quarters of the actual and reasonable additional expenses so incurred but not for a period exceeding one week.

When a receipt is submitted for joint accommodation costs for the employee and family or dependant relatives, the family cost, for the purposes of this clause, shall be determined by deducting from the total of the accommodation account, plus an amount of \$15.45 per day (or amount as may be prescribed from time to time in Part B, Travelling, Field and Lodging Allowances of clause 6 where reasonable actual expenses are being claimed), an amount representing the single tariff rate, for room only; then deducting the cost of meals for the employee concerned at the rate prescribed in Part A, Meal Allowances of clause 6. (Three-quarters of the amount so assessed is payable in terms of this clause.)

- (6)
- (a) Upon retirement at a place other than the place of the employee's original headquarters, an employee shall be entitled to be reimbursed the costs actually and necessarily incurred in removing personal and household effects to a location of the employee's choice, together with the cost of insuring the same against damage in transit, provided:
    - (i) that the maximum amount of such reimbursement shall be limited to that payable had the employee moved to the place of their original headquarters on appointment to the Authority; and
    - (ii) the employee's relocation is effected within the period of 12 months following their retirement.
  - (b) Upon the death of an employee, the provisions referred to above shall apply to any claim made by the widow or widower within a period of 12 months of the transferred employee's death.
  - (c) The Authority will be prepared to consider any claims by children or dependant relatives of the deceased employee in similar circumstances but will require full particulars as to the reasons for special consideration.

## 9. Leave

This clause applies to staff subject to the following clauses:

Clause 10, Additional Conditions for Motor Registry and Telephone Customer Centre Staff

Clause 11, Additional Conditions for DRIVES Help Desk Staff

### **A. Generally**

- (1) Special Leave - Further to Part C, Family and Community Service Leave of this clause, special leave may be granted by the Authority having regard to all the circumstances for which the leave is required, together with the length of service of the employee.
- (2) Examination Leave - Subject to prior approval, leave of absence with pay at ordinary rates may be granted for the time actually occupied in sitting for examinations approved by the Authority, up to a maximum of five days in any one calendar year, and for time necessarily spent in travelling to and from such examinations.
- (3) General Provisions -
  - (a) When an employee has been granted leave without pay covering a total period of absence from duty of not more than two weeks, payment shall be made at ordinary rates for public holidays occurring during such absence, provided that such public holidays fall on days which would normally be working days.
  - (b) Where an employee who is eligible for sick leave produces a satisfactory medical certificate to the effect that they have been incapacitated for any period whilst on recreation leave, or five consecutive working days or more whilst on extended leave, they may be re-credited with an equivalent period of recreation leave or extended leave, as the case may be, to the extent of the sick leave taken. Provided that the foregoing provision may be applied to extended leave taken prior to retirement but not to such leave taken prior to resignation or termination of services or to recreation leave taken prior to retirement, resignation or termination of services.
  - (c) For the purposes of this clause, periods of absence other than leave of absence approved by the Authority shall not be regarded as service.
  - (d) Except for leave without pay taken as part of leave for maternity purposes, the leave of absence expressed in these clauses shall be on the basis of a five-day working week.

### **B. Compensatory Travel Leave/Payment**

- (1) Employees are entitled to claim ordinary-time payment or, if it is convenient to the Authority, compensatory leave, when directed to travel (outside normal working hours) on or in connection with official business in the following circumstances;
  - (a) Where travel is on a non-working day for time spent in travelling after 7.30 am;
  - (b) Where travel is on a working day for time spent in travelling before their normal commencing time or after their normal ceasing time, subject to the following conditions;
    - (i) the time normally taken for the periodic journey from home to headquarters and return is deducted from employees' travelling time (except on a non-working day);
    - (ii) periods of less than a quarter of an hour on any day shall be disregarded;
    - (iii) travelling time shall not include any period of travel between 11.00 pm on any one day and 7.30am on the following day where employees have travelled overnight and accommodation has been provided for them;
    - (iv) travelling time shall be calculated by reference to the time that might reasonably have been taken by the use of the most practical and economic means of transport;
    - (v) travelling time shall not include time spent in travelling on permanent transfer where the transfer involves promotion which carries increased salary or where the transfer is for disciplinary reasons or where the transfer is made at the employee's request; or by ship on which meals and accommodation are provided.

- (2) Where employees qualify for compensatory leave or ordinary time payment they shall be entitled to have any necessary waiting time treated as travelling time subject to the following conditions:
- (a) Where there is no overnight stay with accommodation at a centre away from home or headquarters, 1 hour shall be deducted from the necessary waiting time between the time of arrival at the centre and the commencement of duty, and 1 hour shall be deducted from the necessary waiting time between the time of ceasing duty and the time of departure for home or headquarters or another centre;
  - (b) Where overnight accommodation is provided at a centre, any time from the completion of arrival at the centre until departure for home or headquarters or another centre shall not count as travelling time except:
    - (i) where duty is performed on the day of such departure, any necessary waiting time (less 1 hour) from completion of such duty until departure shall be counted; and
    - (ii) where no duty is performed on that day of such departure, necessary waiting time (less 1 hour) after the employee's normal commencing time until such departure shall be counted.
  - (c) Payment for travelling time and waiting time shall be at the employee's ordinary rate of pay on an hourly basis calculated as follows:

$$\text{Annual salary} \quad \times \quad \frac{7}{365.25} = \quad 1 \text{ day at normal hours of work}$$

The rate of payment for travelling or waiting time on a non-working day shall be the same as that applying to a working day.

- (d) Employees that are in receipt of a salary in excess of the rate applicable to the maximum rate for USS Grade 7, plus \$1.00 per annum shall be paid travelling time calculated at the maximum rate for USS Grade 7, plus \$1.00 per annum, as adjusted from time to time.
- (e) An employee who receives an allowance for travel outside normal hours or whose salary includes compensation for travel outside normal hours shall not be entitled to compensatory leave or ordinary time payment for excess travelling and waiting time.
- (f) When an employee stops on a journey to take a meal, the time spent in taking the meal does not count for travelling compensation.
- (g) The maximum amount of compensatory leave or ordinary time payment which shall be granted in any period of 24 consecutive hours is 8 hours.
- (h) The decision as to whether an employee is to receive leave or payment for travel time is the prerogative of the functional manager.

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

- (1) Employees may be granted Family and Community Service Leave (FACSL):
- for reasons related to family responsibility;
  - for reasons related to performance of community service; or
  - in case of pressing necessity.
- (2) The maximum amount of FACSL that an employee may be granted at ordinary rates is:
- two and a half days in the first 12 months of service; or

five days in any period of two years after the first 12 months of service; or

one day for each completed year of service, less the total amount of any FACSLS or Short Leave already taken by the employee,

whichever is the greater.

- (3) Part-time employees are entitled to FACSLS on a pro-rata basis, based on the number of hours worked.
- (4) Employees who have exhausted their entitlements to FACSLS may be granted additional FACSLS up to three days to cover the period necessary to arrange or attend the funeral of a family member or relative as contained in 9I(3). Additional FACSLS will be granted on a discrete 'per occasion' basis.
- (5) Employees appointed to the RTA who have had immediate previous employment in the NSW Public Sector may transfer their FACSLS from their previous employer.
- (6) Bereavement entitlements for casual employees
  - (a) Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause (3) of Part I, Carer's Leave of this clause.
  - (b) The RTA and the employee shall 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.
  - (c) If required by the RTA, the casual employee must establish the need to take leave, by production of evidence, such as a death certificate or statutory declaration providing details of the circumstances of death.
  - (d) The RTA shall not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the RTA to engage or not engage a casual employee are otherwise not affected.

#### **D. Maternity Leave**

- (1) General
  - (a) Maternity leave is available to all female employees (including casual employees who have worked on a regular and systematic basis with the RTA for at least 12 months) to enable them to take care of their new born child and retain their position and return to work within a reasonable period of time after they have given birth.
  - (b) An employee who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
  - (c) An employee who has applied for or been granted maternity leave and whose pregnancy terminates, must, as soon as practicable, notify the RTA of the termination and the date on which it occurred.
  - (d) Where an employee is on one form of leave and her child is born before the expected date of birth, maternity leave commences from the date of birth of the child.
- (2) Paid Maternity Leave

Permanent and limited duration employees who have completed at least 40 weeks continuous service prior to the expected date of birth are entitled to paid maternity leave at their ordinary rate of pay for

- (a) fourteen weeks, or

- (b) the period of maternity leave taken,  
whichever is the lesser period.

Leave may be taken at full pay, half pay or as a lump sum.

(3) Unpaid Maternity Leave

- (a) Pregnant employees are entitled to maternity leave:
  - (i) on a full-time basis for a period of not more than nine weeks prior to giving birth; and
  - (ii) for a further period ending not more than 12 months after the date of giving birth.
- (b) Employees who have been granted maternity leave may, with the permission of the RTA, take leave after the date of birth:
  - (i) full-time for a period not exceeding 12 months; or
  - (ii) part-time for a period not exceeding two years; or
  - (iii) partly full-time and partly part-time over a proportionate period of up to two years.

(4) The RTA shall not fail to re-engage a regular casual employee (see section 53(2) of the Industrial Relations Act 1996) because:

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

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

### **E. Adoption Leave**

(1) General

- (a) Employees are entitled to adoption leave (including casual employees who have worked on a regular and systematic basis with the RTA for at least 12 months) when they are to be the primary care giver of an adopted child.
- (b) Adoption leave commences on the date that the employee takes custody of the child concerned, whether that date is before or after the date on which a court makes an order for the adoption of the child.
- (c) Adoption leave may be granted as either paid or unpaid.

(2) Paid Adoption Leave

Permanent and limited duration employees who have completed at least 40 weeks continuous service prior to the commencement of adoption leave are entitled to paid at their ordinary rate of pay for:

- (a) fourteen weeks, or
- (b) the period of adoption leave taken,  
whichever is the lesser period.

Leave may be taken at full pay, half pay or as a lump sum.

- (3) Unpaid Adoption Leave
- (a) Employees are entitled to adoption leave for:
- (i) a maximum period of 12 months where the child has not commenced school; or
  - (ii) a period as the RTA determines, up to a maximum of 12 months if the child has commenced school.
- (b) Employees who have been granted adoption leave may also, with the permission of the RTA, take leave:
- (i) part-time for a period not exceeding two years; or
  - (ii) partly full-time and partly part-time over a proportionate period of up to two years.
- (4) The RTA shall not fail to re-engage a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996*) because the employee is or has been immediately absent on adoption leave. The rights of the RTA in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

#### F. Parental Leave

- (1) General
- (a) Employees who are not entitled to maternity or adoption leave (including casual employees who have worked on a regular and systematic basis with the RTA for at least 12 months) may be entitled to parental leave for a period of up to 12 months, to enable parents to share in the responsibility of caring for their young children.
- (b) Parental leave may commence at any time up to two years after the date of birth of a child or the date of placement of an adopted child.
- (c) Parental leave is granted without pay except as provided in paragraph (2) of this subclause.
- (2) Paid Parental Leave
- (a) Permanent and limited duration employees who have completed at least 40 weeks continuous service prior to the commencement of parental leave are entitled to be paid at their ordinary rate of pay for:
- (i) One week on full pay, or
  - (ii) Two weeks on half pay.
- (b) The period of paid leave does not extend the current entitlement of up to 12 months leave, but is part of it.
- (3) Taking Of Parental Leave
- Employees who have been granted parental leave may, with the permission of the RTA, also take leave:
- (a) part-time over a period not exceeding two years; or
  - (b) partly full-time and partly part-time over a proportionate period of up to two years.
- (4) The RTA shall not fail to re-engage a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996*) because the employee is or has been immediately absent on parental leave. The

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

#### **FA. Communication During Maternity, Adoption and Parental Leave**

- (1) Where an employee is on maternity, adoption or parental leave and a definite decision has been made to introduce significant change at the workplace, the RTA shall 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 position the employee held before commencing maternity, adoption or 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 position the employee held before commencing maternity, adoption or parental leave.
- (2) The employee shall take reasonable steps to inform the RTA about any significant matter that will affect the employee's decision regarding the duration of maternity, adoption or 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.
- (3) The employee shall also notify the RTA of changes of address or other contact details which might affect the RTA's capacity to comply with subclause (1) of this Part.

#### **FB. Rights of Request During Maternity, Adoption Or Parental Leave**

- (1) An employee entitled to maternity, adoption or parental leave may request that the RTA allow the employee:
  - (a) To extend the period of unpaid maternity, adoption or parental leave for a further continuous period of leave not exceeding 12 months;
  - (b) To return from a period of maternity, adoption or parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

- (2) The RTA shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the RTA's business. Such grounds might include cost, lack of adequate replacement employees, loss of efficiency and the impact on customer service.
- (3) The employee's request and the RTA's decision to be in writing.

The employee's request and the RTA's decision made under subclause (1) of this Part must be recorded in writing.

- (4) Request to return to work part-time.

Where an employee wishes to make a request under paragraph (b) of subclause (1) of this Part, such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from maternity, adoption or parental leave.

#### **G. Resumption of Duty After Maternity, Adoption Or Parental Leave**

Employees who return to work immediately after the expiration of maternity, adoption or parental leave, are entitled to be placed in:



- (1) The position they held immediately prior to the taking of leave, if the position still exists; or
- (2) Another position for which they are qualified, subject to availability, if the position they held immediately prior to the taking of leave no longer exists.

#### H. Annual Recreation Leave of Absence

- (1) Annual recreation leave shall accrue to an employee at the rate of one and two-thirds days per month, from date of appointment, provided that:

- (a) Recreation leave shall not accrue during any period that an employee is absent without pay if the period of absence exceeds 28 consecutive days. Deductions under this paragraph shall be made in the ratio the number of days absent bears to 261 days. For the purpose of calculation, a fraction of less than one half day shall not count.

(b)

- (i) Where employees whose services have been satisfactory, resign, retire or have their services otherwise terminated (except by death), the monetary value of recreation leave due as at the last day of duty will be paid as a gratuity on ceasing duty.

The last day of duty will be the last day of service where recreation leave is paid as a gratuity and further recreation leave will not accrue from that date.

The money value of the leave is calculated for the period over which the leave would run had it been granted as recreation leave commencing from the first working day after cessation of employment, and includes any public holiday occurring in that period.

(The procedure under this paragraph (i) will not apply to any employee, whether a resignation has been tendered or not, whose services have been under adverse notice for any reason or who is under bond. Such cases will be viewed separately).

- (ii) As an alternative, employees may elect to take either the whole or part of recreation leave due at the last day of duty as leave, instead of as a lump sum payment in lieu of leave (i.e. it shall be regarded as service for the accrual of recreation leave) and the last day of service will be the date upon which recreation leave, taken as leave in lieu of a lump sum payment, would have expired. Payment of the monetary value of such leave will be made at the last day of duty and will be taxed as normal salary. In addition, increments which fall due in the period covered by the extension of recreation leave after the last day will be paid to employees subject to the employee's services being satisfactory prior to resignation. This procedure will not apply where recreation leave is paid as a gratuity.

- (2) An employee shall be entitled to be paid in advance for salary payable to them in respect of the period for which recreation leave has been approved.

- (3) Limits on accumulation and direction to take leave:

- (a) Employees must take at least two consecutive weeks of recreation leave every 12 months, unless otherwise approved in special circumstances.
- (b) Where operational requirements permit, the wishes of the employee will be taken into account on the time such leave is taken.
- (c) The RTA will notify an employee in writing when accrued recreation leave reaches six weeks. Employees may be directed to take at least two weeks recreation leave within three months of the notification at a time convenient to the RTA.

- (d) The RTA will notify employees when accrued recreation leave reaches eight weeks. Employees will be directed to take at least two weeks recreation leave within six weeks of the notification at a time convenient to the RTA.
- (4) Any employee who is in receipt of the climatic allowance prescribed in clause 6, Allowances, or is stationed at Parkes, Forbes, Griffith, Leeton, Dubbo, Wagga Wagga, Narrandera, West Wyalong, Finley or Deniliquin shall receive additional recreation leave at the rate of five days per annum accruing monthly.
- (5)
- (a) An employee shall be granted an annual leave loading equivalent to 17½ per cent of four weeks salary on a maximum salary of USS Grade 11.
- (b) The annual leave loading shall be granted to employees subject to the following conditions:
- (i) The full entitlement to the loading on annual leave that an employee has accrued over the previous leave year will be paid on the first occasion after December 1 in any year an employee takes sufficient recreation leave to permit them to be absent from duty for at least two consecutive weeks. The loading will apply only to leave accrued in the year ending on the preceding 30 November, up to a maximum of four weeks.
- (ii) In the event of no such absence occurring by 30 November of the following year, an employee (provided they are still employed) will be paid the monetary value of the annual leave loading payable on leave accrued as at 30 November of the previous leave year.
- (iii) Shift Workers - Unless determined otherwise, shift workers proceeding on annual leave are to be paid in respect of leave taken in any period of 12 months commencing 1 December, shift premiums and penalty rates (or other allowance paid on a regular basis in lieu thereof) they would have received had they been on duty or the 17 1/2 percent annual leave loading as herein prescribed, whichever is the more favourable. Payment of shift premiums and penalty rates shall not be made for public holidays which fall on a seven-day shift worker's rostered day off. In the case of seven-day continuous shift workers, the 17 1/2 per cent annual leave loading is to be calculated on the basis of 17 1/2 per cent of five weeks ordinary salary.
- (iv) If an employee is eligible to receive more favourable conditions than those set out herein, such conditions shall apply.
- (v) Upon voluntary separation (i.e. retirement) or termination of services by the Authority for any reason other than misconduct, an employee who has not taken recreation leave qualifying them for payment of the annual leave loading since the preceding 1 December shall be paid the loading, which would have been payable had such leave been taken.
- (vi) The annual leave loading is not payable when an employee is granted recreation leave to his credit, or the monetary value thereof, on resignation or dismissal for misconduct.
- (vii) Broken service during a year does not attract the annual leave loading, e.g., if an employee resigns and is subsequently re-employed during the same year, only the service from the date of re-employment attracts the annual leave loading, subject to the foregoing conditions.
- (c) The rate of payment of the annual leave loading will be based on leave accrued to 30 November of the previous leave year (to maximum of four weeks) and will be calculated on the salary rate paid for the leave when taken, i.e., new rates granted by award, or State Wage Case decision, unless otherwise prescribed and, if necessary, retrospective adjustment of the loading will be made. Where payment is made as at 30 November, because no period of two weeks leave has been taken during the year, the payment will be calculated at the rate applicable as at that date.

- (d) Provided adequate notice is given the annual leave loading will be paid prior to entry on leave and normally at the same time as the advance of salary.

### I. Carer's Leave

#### (1) General

- (a) Employees will be able to elect to use available paid sick leave, subject to the conditions specified in this subclause, to provide care and support when a family member is ill.
- (b) Employees will be entitled to Carer's Leave when:
  - (i) their entitlements to Family and Community Service Leave is exhausted; and
  - (ii) they are the primary care-giver of a category of person set in subclause (3) of this Part.
- (c) Carer's leave is only available for employees to care for people mentioned in subclause (3) of this Part where the illness is sudden or short term.

#### (2) Taking Of Carer's Leave

- (a) Sick leave will initially be taken from the current year's entitlement, followed by the sick leave accumulated over the previous three years.
- (b) In special circumstances, the RTA may grant additional sick leave from the sick leave accumulated during the employee's eligible service.
- (c) If required by the RTA, employees must establish by production of a medical certificate or statutory declaration, the illness of the person concerned.

#### (3) Categories of People for Which Carer's Leave can be Obtained

Employees will be entitled to Carer's Leave for the care and support of their ill:

- (a) spouse;
- (b) defacto spouse, being a person of the opposite sex who lives in the same house as their husband or wife on a bona fide basis, although they are not legally married;
- (c) child or adult child (including an adopted child, step child, foster child or ex-nuptial child);
- (d) parent (including a foster parent or legal guardian);
- (e) grandparent or grandchild;
- (f) sibling (including the sibling of a spouse or de facto spouse);
- (g) same sex partner who they live with as a de facto partner on a bona fide domestic basis; or
- (h) relative who is a member of the same household where, for the purposes of this definition -
  - (i) 'relative' means a person related by blood, marriage, affinity or Aboriginal kinship structures;
  - (ii) 'affinity' means a relationship that one spouse or partner has to the relatives of another; and
  - (iii) 'household' means a family group living in the same domestic dwelling.

## (4) Other forms of leave and carer's responsibilities

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

## (5) Personal Carers Entitlement for casual employees

- (a) Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause (3) of this Part who are sick and require care due to an unexpected emergency, or the birth of a child.
- (b) The RTA and the employee shall 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.
- (c) If required by the RTA, the employee must establish, by production of a medical certificate or statutory declaration, the illness of the person concerned.
- (d) The RTA shall not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the RTA to engage or not to engage a casual employee are otherwise not affected.

#### J. Extended Leave

## (1) General

Extended leave for employees is provided for by Schedule 5 of the *Transport Administration Act 1988*.

## (2) Extended Leave Entitlements

- (a) An employee who has completed 10 years of continuous service with the RTA, or as recognised in accordance with subparagraphs (e) and (f) of this subclause, is entitled to extended leave of:
  - 44 working days at full pay, or
  - 88 working days at half pay, or
  - 22 working days at double pay.
- (b) For each additional calendar year of service completed in excess of 10 years, employees accrue 11 working days extended leave.
- (c) From 1 January 2005, employees who have completed at least 7 years of continuous service with the RTA, or as recognised in accordance with subparagraphs (e) and (f) below, are entitled to access the extended leave accrual indicated in subparagraph (a) above on a pro rata basis of 4.4 working days per completed year of service.
- (d) Employees who are employed part-time, or as a casual with a regular and consistent pattern of employment with the RTA, are entitled to extended leave on the same basis as that applying to a full-time employee but payment for the leave is calculated on a pro rata basis.
- (e) All previous full-time and part-time service with the RTA, the former Department of Main Roads, Department of Motor Transport or the Traffic Authority is to be taken into account as service when determining the appropriate rate of accrual of extended leave for employees employed on a full-time or part-time basis with the RTA.

- (f) Permanent service with other NSW government bodies will also be recognised by the RTA in accordance with Schedule 3A of the *Public Sector Employment and Management Act 2002* (NSW)
  - (g) Nothing in subparagraphs (e) or (f) of this subclause entitles an employee to payment for previous service recognised where the accrual for that service has previously been taken as leave or paid out on termination.
- (3) Effect of Approved Leave Without Pay (LWOP) on Extended Leave Entitlements
- (a) To determine if an employee has completed the required 10 years of service:
    - (i) Any period of approved leave taken without pay before 13 December 1963 counts as service to determine whether or not an employee has completed 10 years of service.
    - (ii) Any period of approved LWOP taken without pay after 13 December 1963 does not count as service to determine whether or not an employee has completed 10 years of service.
  - (b) Where an employee has completed 10 years continuous service with the RTA, or as recognised in accordance with paragraphs (2)(e) and 2(f) of this Part, approved LWOP for the reasons listed below counts as service for extended leave accrual:
    - (i) Military service (eg Army, Navy or Air Force);
    - (ii) Major interruptions to public transport;
    - (iii) Periods of leave accepted as workers compensation.
  - (c) For an employee who has completed 10 years continuous service, or as recognised in accordance with paragraphs (2)(e) and 2(f) of this Part, any period of approved leave without pay not exceeding 6 months counts for the purpose of calculating the length of service.
- (4) Payment and Taking of Extended Leave
- (a) Subject to RTA approval, extended leave may be taken:
    - (i) at a time convenient to the RTA;
    - (ii) for a minimum period of one hour;
    - (iii) at full pay, half pay or double pay.
  - (b) If an employee takes leave at double pay:
    - (i) The employee's extended leave balance will be debited for the actual number of working days/hours of leave at full pay plus the equivalent number of working days/hours at full pay necessary to make up the additional payment;
    - (ii) The additional payment is made as a taxed, non superable allowance, with the exception of payment to members of First State Super or another complying fund of their choice for whom the additional payment is superable;
    - (iii) All leave entitlements will accrue on the actual number of working days absent from work on extended leave.
  - (c) If an employee takes leave at half pay:
    - (i) The employee's extended leave balance will be debited at the rate of half the days/hours taken as extended leave;

- (ii) Recreation leave entitlements will accrue at half the ordinary rate for the actual number of working days absent from work;
    - (iii) All other leave entitlements will accrue based on the actual number of working days absent from work on extended leave.
  - (d) If an employee's ordinary hours of work are constant, payment is made at the current rate of pay.
  - (e) Where an employee is part-time or casual and the employee's ordinary hours are not constant, payment is made based on the substantive rate of pay averaged over:
    - (i) the past 12 months, or
    - (ii) the past 5 yearswhichever is the greater.
  - (f) Payment includes all allowances in the nature of salary but does not include any amounts normally paid for shift work, overtime or penalty rates.
  - (g) Payments will be increased to reflect any increment action an employee becomes eligible for while absent on extended leave.
  - (h) An employee who takes extended leave whilst in service may choose to be paid fortnightly or in one lump sum in advance of taking the leave.
- (5) Sick leave while on Extended Leave
- (a) An employee is only entitled to claim sick leave that occurs during an absence on extended leave when sick for five or more consecutive working days.
  - (b) To claim sick leave, an employee must provide a medical certificate for the period claimed as soon as possible.
  - (c) If sick leave is approved, the employee's extended leave balance is re-credited with:
    - (i) the equivalent period of sick leave if taking leave on a full or half pay basis; or
    - (ii) the equivalent period of sick leave and the extra amount of extended leave entitlement accessed to make up the double pay allowance if taking leave on a double pay basis.
  - (d) If extended leave is taken at double pay, the RTA will recoup any allowance already paid for the period being claimed as sick leave.
  - (e) These sick leave provisions apply if an employee takes extended leave prior to retirement but not extended leave prior to resignation or termination of services.
- (6) Public Holidays while on Extended Leave
- (a) The days set out in clause 16, Public Holidays and Bank Holiday, of this award that fall while an employee is absent on extended leave are not recognised as extended leave and are not deducted from the employee's extended leave balance.
  - (b) Payment due for the days set out is calculated on the employee's ordinary hours of work and paid at single time, even if the employee has chosen to take extended leave at half-pay or double pay.

- (7) Payment or Transfer of Extended Leave on Termination
- (a) An employee, who is entitled to extended leave on termination of service, including retirement, is paid the monetary value of the leave as a gratuity, in lieu of taking the leave.
  - (b) If an employee is employed on a full-time basis, payment is calculated at the substantive rate of pay on the last day of service.
  - (c) If an employee is employed on a part-time or casual basis, payment is calculated as per paragraph (4)(e) of this Part.
  - (d) Employees who have at least five years' service but less than seven years' service are paid a pro-rata of the extended leave entitlement if employment is terminated:
    - (i) by the RTA for any reason other than serious and intentional misconduct;
    - (ii) by the employee in writing on account of illness, incapacity or domestic or other pressing necessity; or
    - (iii) on retirement.
  - (e) In the event of paragraph (d) of this subclause above applying, any period of leave without pay taken does not count as service.
  - (f) An employee who resigns to join another Government Department recognised by Schedule 3A of the *Public Sector Employment and Management Act 2002* (NSW) is entitled to have their extended leave accrual accepted by the new employer.

#### **K. Sick Leave**

- (1) Where it is established that leave is necessary on account of ill health, an employee may be granted leave of absence with pay at ordinary rates as follows:
- (a) Ordinary Sick Leave - In each sick leave year, and subject to compliance with instructions regarding notifications, completion of applications and submission of medical certificates: 15 full days with full pay.
  - (b) Additional Special Sick Leave - An additional period of sick leave may be granted in the following circumstances:
    - the person has 10 or more years of service;
    - the person has been or will be absent for more than three months; and
    - the person has exhausted or will exhaust available paid sick leave.The additional period of sick leave may be granted on the basis of one month for each completed 10 years of service plus 10 calendar days, less all Additional Special Sick Leave taken during service.
- (2)
- (a) Any employee absent on account of sickness for any period of three days or less, shall, if called upon by the Authority to do so, submit a medical certificate showing the nature of the employee's illness.
  - (b) Any employee absent on account of sickness for more than three days shall, as soon as practicable after the expiry of such three days, submit a medical certificate showing the nature of the illness and the probable duration thereof, unless exempted from so doing.

- (c) In the case of extended absence, an employee may be required to furnish fresh medical certificates each week or submit to an examination by a medical practitioner nominated by the Authority.
- (3) Additional grants will be made to ex-servicemen with war-caused disabilities accepted by the Department of Veterans' Affairs as follows:

Employees who are ex-services personnel and who have an accepted war caused disability are entitled to an additional annual entitlement of 15 days per calendar year non-cumulative. This additional grant of leave is separate from the normal annual entitlement.

NB. A war caused disability is an injury or illness resulting from armed service in a Recognised War Zone (All World War II service is recognised).

Injuries or illnesses resulting directly or indirectly from service in the armed forces but not in a war zone are not regarded as war caused disabilities and as such this additional sick leave should not be granted.

The Department of Veterans Affairs should be contacted to determine whether the injury or illness was as a result of service in a war zone.

## **10. Additional Conditions for Motor Registry and Telephone Customer Service Centre Staff**

### **A. Hours of Duty**

- (1) Spread of Hours

The ordinary hours of duty shall be within the spread of hours as follows:

Monday to Friday	7.50 am to 5.20 pm
Saturday	8.20 am to 4.20 pm

No employee shall be required to work more than five consecutive hours without a meal break. A meal break shall be for a minimum of 30 minutes duration.

- (2) Change of Hours within the Spread of Hours

Any change to the trading hours of a Motor Registry or Telephone Customer Service Centre within the spread of hours as set out in subclause (1) of this Part shall be subject to the following Consultative Process:

- (a) The Authority shall notify the Association in writing of any change to trading hours at least six weeks in advance of the date on which the change is proposed to take place.
- (b) The Association shall be given two weeks in which to provide any written comments on the proposed change.
- (c) Following consideration of any comments received, the Authority shall notify the Association in writing of the full details of its decision including the reasons for making such decision.
- (3) Standard Hours of Work

Full time employees

The ordinary hours of duty for full-time employees shall be worked over a two week roster cycle of 70 hours within the spread of hours in subclause (1) of this Part.

Full-time employees, in a motor registry or Telephone Customer Service Centre which trades on Saturdays, that are rostered to work one Saturday in two, shall work nine days during the two week



roster cycle. Provided that full time employees will, with the agreement of the Authority, be able to work ten days including Saturdays during the roster cycle.

Full-time employees shall not be required to work more than five consecutive days during the roster cycle.

Subject to Part C, Rosters, of this clause, any other change to the days worked or the span of hours will be by agreement between the Authority and the employee.

The minimum hours to be worked by full-time employees on a Saturday shall be four.

#### Part time employees

The minimum ordinary hours of duty to be worked by part-time employees shall be fifteen hours per week. Part-time employees can agree to work additional ordinary hours of duty. The maximum ordinary hours that may be worked by part-time employees shall be 35 hours per week. The hours of duty shall be worked within the spread of hours, as set out in subclause (1) of this Part. The hours of work shall be recorded in writing between staff and the Authority and advised to the employee in advance in accordance with subclause (1) of Part C, Rosters of this clause.

The minimum hours to be worked by part-time employees per engagement, including Saturdays shall be three.

Part-time employees shall not be required to work more than five consecutive days in any fortnight roster cycle. Part-time employees shall not be required to work more than one Saturday in two except by mutual agreement.

Part-time employees are engaged for specified days, and specified minimum hours per week within specified spans of hours. The Authority can change the hours worked within the specified span by giving one months notice. For the purposes of this paragraph specified span of hours shall mean the band of ordinary hours of duty that the part-time employee has agreed to work.

Notwithstanding the days specified part time employees may be required to work on Saturdays. In the event that a part-time employee is so required the specified days and/or the hours on the specified days will be reduced accordingly to retain the specified hours as a minimum.

Subject to Part C, Rosters, of this clause, any other change to the days worked or the span of hours will be by agreement between the Authority and the employee. The employee can require up to three months between the agreement to change the specified span of hours or days and the implementation of the change.

#### Casual employees

Casual employees shall work on an hourly basis for a minimum of three hours per engagement within the spread of hours, as set out in subclause (1) of this Part.

Casual employees shall not be required to work more than five consecutive days under any contract of employment

### **B. Part-Time and Casual Rates**

- (1) Part-time employees shall be paid an hourly rate equal to the appropriate weekly rate divided by 35.
- (2) Casual employees shall be paid an hourly rate equal to 1.17 x the Monday to Friday ordinary hourly rate of pay for the first year of the classification in which they are employed, except for Registry Services Officers 21 years of age and over who shall be paid the fourth year of that classification.

### **C. Rosters**

- (1) Rosters will be based on fortnightly periods and published monthly in advance. Rosters will be posted in a position accessible to employees.
- (2) In the event of an emergency the hours of work and/or the rostered starting and finishing times on any one day may be changed.
- (3) Where less than seven days notice is given by the Authority of a change to a roster by deleting or reducing the hours of a rostered day, any loading applicable to the original roster shall be paid in addition to the payment applicable to the work performed.
- (4) Mutual exchanges of rostered days between employees shall be subject to the Authority's prior agreement.
- (5) Where employees are rostered in such a fashion that the days on which they are rostered to work fluctuate from week to week, an employee rostered off work on a public holiday being a day on which the employee usually works shall be paid by mutual agreement between the Authority and the employee in one of the following methods:
  - (a) payment of an additional day's salary;
  - (b) addition of one day to the employee 's annual holidays;
  - (c) an alternate day off with pay within 28 days after the public holiday falls, or during the week prior to the public holiday.

Provided that for this subclause "day" is the number of hours the employee would have worked were the employee rostered on that day.

- (6) The Authority can, on up to three Saturdays each calendar year, require employees to attend a training session after trading hours and within the spread of hours as set out in subclause (1) of Part A,- Hours of Duty of this clause. The time spent on training will be adjusted as part of the employee's ordinary hours. The employee will be rostered off for one equivalent block of hours during that roster cycle or during either of the next two roster cycles.

### **D. Loadings for Certain Ordinary Hours**

- (1) Payment for all ordinary hours of duty Monday to Friday shall be at the ordinary salary rate.
- (2) For full-time and part-time employees payment for all ordinary hours of duty on Saturday shall be at the ordinary salary rate plus 50 per cent. For casual employees the payment for all ordinary hours of duty on Saturday shall be 1.66 times the Monday to Friday ordinary hourly rate for the first year of the classification in which they are employed, except for Registry Services Officers 21 years of age and over who shall be paid the fourth year of that classification.
- (3) Where part-time employees work in excess of the rostered hours for a day and within the spread of ordinary hours of duty as set out in paragraph 1 of Part A - Hours of Duty of this clause, Monday to Friday, payment for time worked in excess of the rostered hours shall be made at the ordinary hourly rate.
- (4) Where part-time employees are required to work in excess of the rostered hours on a Saturday - but within the spread of ordinary hours of duty for Saturday, as set out in subclause (1) of Part A,- Hours of Duty of this clause, a loading of 50% as prescribed in subclause (2) of this Part shall apply.

### **E. Overtime**

- (1) Full-time employees shall be paid overtime for all time worked:

- (a) outside the spread of ordinary hours of duty as set out in subclause (1) of Part A, Hours of Duty of this clause.
  - (b) before or after the daily ordinary hours of duty set out in the roster described in the provisions of Part C - Rosters of this clause and worked within the spread of hours of duty set out in subclause (1) of Part A, Hours of Duty of this clause.
- (2) Part-time employees and casual employees shall be paid overtime for all time worked:
- (a) outside the spread of ordinary hours of duty as set out in subclause (1) of Part A, Hours of Duty of this clause
  - (b) in excess of 35 hours per week.
- (3) Where employees are rostered on six consecutive days, work within the spread of ordinary hours of duty on the sixth day shall be paid at the overtime rate, and does not include loading in accordance with Part D, Loadings for Certain Ordinary Hours of this clause.

### **F. Leave**

All leave taken by employees shall be debited on the basis of the number of hours usually rostered for the day on which the leave is taken.

## **11. Additional Conditions for Drives Help Desk Staff**

### **A. Hours of Duty**

- (1) Spread of Hours:

The ordinary hours of duty shall be within the spread of hours as follows:

Monday to Friday	7.50 am to 5.20 pm
Saturday	8.20 am to 4.20 pm

No employee shall be required to work more than five consecutive hours without a meal break.

A meal break shall be for a minimum of 30 minutes duration.

- (2) Change of Hours within the Spread of Hours:

Any change to the trading hours of the DRIVES Help Desk within the spread of hours as set out in subclause (1) of this Part shall be subject to the following consultative process:

- (a) The Authority shall notify the Association in writing of any change to trading hours at least six weeks in advance of the date on which the change is proposed to take place.
- (b) The Association shall be given two weeks in which to provide any written comments on the proposed change.
- (c) Following consideration of any comments received, the Authority shall notify the Association in writing of the full details of its decision including the reasons for making such decision.

- (3) Standard Hours of Work:

Full time employees

The ordinary hours of duty for full-time employees shall be worked over a two week roster cycle of 70 hours within the spread of hours in subclause (1) of this Part.

Full-time employees that are rostered to work one Saturday in two, shall work nine days during the two week roster cycle. Provided that full time employees will, with the agreement of the Authority, be able to work ten days including Saturdays during the roster cycle.

Full-time employees shall not be required to work more than five consecutive days during the roster cycle.

Subject to Part C, Rosters of this clause, any other change to the days worked or the span of hours will be by agreement between the Authority and the employee.

The minimum hours to be worked by full-time employee on a Saturday shall be four.

#### Part time employees

The maximum ordinary hours that may be worked by part-time employees shall be 35 hours per week. The hours of duty shall be worked within the spread of hours, as set out in subclause (1) of this Part. The hours of work shall be recorded in writing between the employees and the Authority and advised to employees in advance in accordance with subclause (1) of Part C, Rosters of this clause. Part-time employees may be required to work additional ordinary hours of duty.

The minimum hours to be worked by part-time employees per engagement, including Saturdays shall be three.

Part-time employees shall not be required to work more than five consecutive days in any fortnight roster cycle and shall not be required to work more than one Saturday in two except by mutual agreement.

Part-time employees are engaged for specified days, and specified minimum hours per week within specified spans of hours. The Authority can change the hours worked within the specified span by giving one months notice. For the purposes of this paragraph specified span of hours shall mean the band of ordinary hours of duty that the part-time staff member has agreed to work.

Subject to Part C, Rosters of this clause, any other change to the days worked or the span of hours will be by agreement between the Authority and the employee. The employee can require up to three months between the agreement to change the specified span of hours or days and the implementation of the change.

### **B. Part-Time Rates**

Part-time employees shall be paid an hourly rate equal to the appropriate weekly rate divided by 35.

### **C. Rosters**

- (1) Rosters will be based on fortnightly periods and published monthly in advance. Rosters will be posted in a position accessible to employees.
- (2) In the event of an emergency the hours of work and/or the rostered start and finishing times on any one day may be changed.
- (3) Where less than seven days notice is given by the Authority of a change to a roster by deleting or reducing the hours of a rostered day, any loading applicable to the original roster shall be paid in addition to the payment applicable to the work performed.
- (4) Mutual exchanges of rostered days between employees shall be subject to the Authority's prior agreement.
- (5) Where employees are rostered in such a fashion that the days on which they are rostered to work fluctuate from week to week, an employee rostered off work on a public holiday being a day on which

the employee usually works shall be paid by mutual agreement between the Authority and the employee in one of the following methods:

- (a) payment of an additional day's salary;
- (b) addition of one day to the employee's annual holidays;
- (c) an alternate day off with pay within 28 days after the public holiday falls, or during the week prior to the public holiday.

Provided that for this subclause "day" is the number of hours the employee would have worked were the employee rostered on that day.

#### **D. Loadings for Certain Ordinary Hours**

- (1) Payment for all ordinary hours of duty Monday to Friday shall be at the ordinary salary rate.
- (2) Payment for all ordinary hours of duty on Saturday shall be at the ordinary salary rate plus 50%.
- (3) Where part-time employees work in excess of the rostered hours for a day and within the spread of ordinary hours of duty as set out in subclause (1) of Part A, Hours of Duty of this clause. Monday to Friday, payment for time worked in excess of the rostered hours shall be made at the ordinary hourly rate.
- (4) Where part-time employees are required to work in excess of the rostered hours on a Saturday - but within the spread of ordinary hours of duty for Saturday, as set out in subclause (1) of Part A, Hours of Duty of this clause, a loading of 50% as prescribed in (ii) above shall apply.

#### **E. Overtime**

- (1) Full-time employees shall be paid overtime for all time worked:
  - (a) outside the spread of ordinary hours of duty as set out in subclause (1) of Part A, Hours of Duty of this clause.
  - (b) before or after the daily ordinary hours of duty set out in the roster described in the provisions of Part C, Rosters of this clause and worked within the spread of hours of duty set out in subclause (1) of Part A, Hours of Duty of this clause.
- (2) Part-time employees shall be paid overtime for all time worked:
  - (a) outside the spread of ordinary hours of duty as set out in subclause (1) of Part A, Hours of Duty of this clause
  - (b) in excess of 35 hours per week.
- (3) Where employees are rostered on six consecutive days, work within the spread of ordinary hours of duty on the sixth day shall be paid at the overtime rate, and does not include loading in accordance with Part D, Loadings for Certain Ordinary Hours of this clause.

### **12. Additional Conditions for Traffic Operations Control Staff**

#### **A. Definitions**

For the purpose of this clause:

‘TMC’ shall mean the Transport Management Centre

‘TOCS’ shall mean employees employed by the Authority as Traffic Operations

Control Staff in the Traffic Operations Unit of the Transport Management Centre.

‘Continuous Work’ means work carried on with consecutive shifts of TOCS throughout the 24 hours of each of 7 consecutive days without interruption except during breakdowns or meal breaks or due to unavoidable causes beyond the control of the Authority.

### **B. Hours of Work**

(1) Ordinary Hours

The ordinary hours of work shall be 35 per week.

(2) Full-Time Employees

TOCS shall be continuous shift workers. The ordinary hours of work shall be 70 hours worked over a 2 week roster cycle. TOCS shall work on either a 7 hours 44 minutes or 11 hours 40 minutes shift basis which shall be worked in accordance with shifts as rostered.

When rostered for 7 hours 44 minutes shifts during a roster cycle full time TOCS shall not be required to work more than five consecutive days in any seven day period.

When rostered for 11 hours and 40 minutes shifts during a roster cycle full time TOCS shall not be required to work more than three days in any seven day period.

(3) Where TOCS are rostered to work 11 hours 40 minutes shifts:

(a) They shall be entitled to a rest break of at least 10 hours between the cessation of an ordinary rostered shift and the commencement of the next ordinary rostered shift. Where TOCS have not observed a rest break of at least 10 hours prior to the commencement of the next ordinary shift, they shall be paid at the rate of double time calculated at the ordinary salary rate until such time as TOCS are released from duty.

(b) They shall not be required to be on duty for more than 14 consecutive hours. After being on duty for 14 consecutive hours TOCS shall take a rest break of at least 4 consecutive hours and where TOCS are directed to resume work without having a rest break of 10 consecutive hours, payment shall be at the rate of double time until they are released from duty for 10 consecutive hours. Any rostered working time occurring during such absence shall be paid for at the ordinary rate of pay.

(4) Part-Time Employees

(a) The minimum number of hours to be worked by part-time TOCS shall be 25 hours per week. The hours of work shall be rostered on a 5 hour shift basis, morning and/or afternoon, over a 5 day working week, Monday to Friday and shall be worked in accordance with shifts as rostered.

(b) The maximum number of ordinary hours that may be worked shall be 7 hours per shift or 35 hours per week.

(c) Where additional hours are worked in excess of the minimum hours as set out in paragraph (a) of this subclause part-time staff shall be paid a loading of 4/48ths in lieu of recreation leave for all additional ordinary hours worked.

(5) Meal Break

(a) 7 Hours 44 minutes Shift

TOCS rostered on a 7 hours 44 minutes shift shall not work more than 5 hours from the commencement of a shift without a minimum 30 minutes meal break.

(b) 11 Hours 40 Minutes Shift

TOCS rostered on an 11 hours 40 minutes shift shall not work more than 5 hours from the commencement of a shift without a minimum 30 minutes meal break.

After a further 5 hours of work TOCS shall be entitled to a paid crib break of 20 minutes.

(6) Accrued Shift Off

Where TOCS are rostered on a 7 hours 44 minutes shift pattern during a shift cycle they may observe 'Banktime' working hours (i.e. a bank up of hours) under the following provisions:

- (a) The additional 44 minutes per shift shall be worked on 9 days each 2 week work cycle to allow for the accumulated time off during the 2 week cycle.
- (b) Subject to provision (d) of this subclause, one accrued day off may be taken in each 2 week work cycle.
- (c) The accrued day off will be observed between Monday to Friday (inclusive), as provided for by the roster.
- (d) Where TOCS work on the accrued day off, TOCS may elect, where practicable, to have another day off in substitution thereof before the end of the succeeding 2 week work cycle. Provided that in such case the accrued entitlements are transferred to the substituted day off.
- (e) TOCS absent from duty on any type of approved leave or a public holiday will be credited with 7 hours 44 minutes in respect of each day absent from duty. TOCS absent from duty on approved leave (sick, recreation leave etc) will have 7 hours and 44 minutes debited against their leave accrual for each day absent from duty.

### C. Shift Work

(1) For the purposes of this subclause:

'Early Morning shift' shall mean those shifts commencing at or after 4.00 am.

'Day Shifts' shall mean those shifts commencing at or after 6.00 am.

'Afternoon Shifts' shall mean those shifts commencing at or after 12 noon.

'Night Shifts' shall mean those shifts commencing at or after 4.00 pm.

(2) Payment for Shift Work

- (a) Payment for day shift shall be at ordinary rate of pay.
- (b) Payment for early morning shift shall be at the ordinary rate of pay plus 10 per cent.
- (c) Payment for afternoon shift shall be at ordinary rate of pay plus 12½ per cent.
- (d) Payment for night shift shall be at ordinary rate of pay plus 15 per cent.
- (e) Payment for all ordinary time worked on a Saturday shall be at the rate of time and one-half of the ordinary rate of pay.
- (f) Payment for all ordinary time worked on a Sunday shall be at the rate of double the ordinary rate of pay.

- (g) Payment for all ordinary time worked on a Public Holiday shall be at the rate of double and one-half of the ordinary rate of pay.
  - (h) TOCS rostered off on a public holiday shall be credited with a day in lieu for each such day.
  - (i) Full-time TOCS employed under this subclause on continuous shift work shall be credited with an additional 5 days recreation leave per annum. This leave shall accrue at the rate of 5/12th of a day for each complete month that an employee so works.
- (3) Shift Rosters
- (a) TOCS shall be rostered to work shifts as required by the Authority.
  - (b) Notice shall be given of shifts to be worked at least 7 days in advance.
  - (c) Where notice is given of a change in shift with less than 7 days notice any shift so worked shall be paid at the rate of the previously rostered shift provided it is greater.

### **13. Additional Conditions for Work Support Officers.**

#### **A. Definitions**

For the purpose of this clause:

‘WSO’ shall mean employees employed by the Authority as Work Support Officers.

‘Competency’ shall mean the combination of knowledge, skills and attributes that are needed for specific job relation tasks.

#### **B. Hours of Duty**

- (1) The ordinary hours of duty of WSO's shall be 35 hours per week and by agreement with the Association shall be between 7.00 am to 5.30pm on 5 days per week, Monday to Friday, inclusive.
- (2) A lunch break shall be taken of not less than 30 minutes in the WSO's time.
- (3) WSO's may observe ‘Banktime’ working hours (i.e. a bank up of hours) under the following provisions:
  - (a) An additional 22 minutes per day shall be worked on 19 days each four week work cycle to allow for the accumulated time off during the next four week cycle.
  - (b) Subject to provision (d) of this subclause, one accrued day off may be taken in each four week work cycle.
  - (c) The accrued day off will be observed between Monday to Friday (inclusive).
  - (d) Where a WSO works on the accrued day off, the WSO may elect, where practicable, to have another day off in substitution thereof before the end of the succeeding work cycle. Provided that in such case the accrued entitlements are transferred to the substituted day off.
- (4) WSO's absent from duty on any type of approved leave or a public holiday will be credited with 7 hours 22 minutes in respect of each day absent from duty. WSO's absent from duty on approved leave (sick, recreation leave etc) will have 7 hours 22 minutes debited against their leave accrual for each day absent from duty.

#### **C. Progression from Grade to Grade**

WSO positions will only be created where the range of tasks at the location would eventually allow the incumbent to progress to Grade 3.



Progression from grade to grade need not depend upon the availability of an advertised job vacancy nor is it restricted by the number of WSO's already at a particular grade. Progression to another grade is totally dependent upon the meeting of the progression criteria detailed in the "Work Support Officer Management Guidelines".

Persons at the time of appointment as a WSO will be assessed to determine the grade at which they will commence. Once appointed to a grade, a WSO will need to meet the progression criteria in order to further progress through the grades.

Persons appointed as a WSO in Training will remain at that level until they are eligible to progress to Grade 1.

#### **D. Maintenance of Grade**

Maintenance of grade and salary shall be dependent upon WSO's maintaining the required level of competence in the tasks for which they have been assessed and for which their grading and salary level has been determined.

To ensure the level and the currency of competencies, the WSO will undergo supplementary assessment of their tasks every two years to demonstrate that they have maintained their skills in those tasks.

### **14. Grievance Resolution and Dispute Settlement**

#### **A. Grievance Resolution**

- (1) A grievance is defined as a personal complaint or difficulty. A grievance may:
  - relate to a perceived denial of an entitlement
  - relate to a perceived lack of training opportunities
  - involve a suspected discrimination or harassment.
- (2) The RTA has a Grievance Resolution Policy and a Grievance Resolution Procedure which should be observed when grievances arise.
- (3) The RTA's policy is detailed in Appendix A.
- (4) While the policy and procedure are being followed, normal work will continue.

#### **B. Dispute Settlement**

- (1) A dispute is defined as a complaint or difficulty which affects more than one employee. A dispute may relate to a change in the working conditions of employees that is perceived to have negative implications for that group.
- (2) It is essential that management and the Association consult on all issues of mutual interest and concern, not only those issues that are considered likely to result in a dispute.
- (3) Failure to consult on all issues of mutual interest and concern to management and the Association is contrary to the intention of these procedures.
  - (a) If a dispute arises in a particular work location which cannot be resolved between the employee or their representative and the supervising employee, the dispute must be referred to the RTA's Manager of the Employee Relations Section or another nominated officer who will then arrange for the issue to be discussed with the Association.
  - (b) If the issue cannot be resolved at this level, the issue must be referred to senior management.

- (c) If the issue cannot be resolved at this level, the issue may be referred to the Industrial Relations Commission of NSW.
- (d) While these procedures are continuing, no work stoppage or any other form of work limitation shall occur.
- (e) The Association reserves the right to vary this procedure where a safety factor is involved.

### 15. Anti-Discrimination

- (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.
- (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 the effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provisions of the award, which by its terms or operation, has a direct or indirect discriminatory effect.
- (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.
- (4) Nothing in this clause is to be taken to effect:
  - (a) Any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (b) Offering or providing junior rates of pay to persons under 21 years of age;
  - (c) Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - (d) A party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
  - (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

#### NOTES

- (1) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (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."

### 16. Public Holidays and Bank Holiday

- (1) Public Holidays - The following shall be holidays for the purpose of this award: New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day, Boxing Day and any day proclaimed in the New South Wales Government Gazette as a public holiday for the State.
- (2) Bank Holiday - The day traditionally observed as a holiday on the August Bank Holiday will now be worked as an ordinary working day. The day will be observed on an ordinary working day which falls between Christmas Day and New Year's Day each year.

### 17. Appeals in Respect of Salary Grade Or Classification

- (1) An employee shall have the right to apply to the Authority through the head of their branch or section for an increase in excess of the rate of salary provided, or for an alteration in the grade or classification to which the employee may be appointed.
- (2) Any employee dissatisfied with a decision or determination of the Authority;
  - (a) in respect to the salary, grade or classification affecting such employee; or
  - (b) in respect to any other matter of the nature referred to in sections 20 and 23 of the *Government and Related Employees Appeal Tribunal Act 1980*, may, if the employee does not exercise their rights before the Government and Related Employees Appeal Tribunal, forward to the Authority within 30 days after the employee has been advised of such decision or determination, a notice of appeal setting forth the grounds of such appeal. The Authority shall hear and determine such appeal and shall allow the employee, if they so desire, to attend and to present their case personally or by their representative.

### 18. Deduction of Union Membership Fees

- (1) The Association shall provide the Authority with a schedule setting out Association membership fees payable by members of the Association in accordance with the Association's rules.
- (2) The Association shall advise the Authority of any change to the amount of membership fees made under its rules. Any variation to the schedule of Association membership fees payable shall be provided to the Authority at least one month in advance of the variation taking effect.
- (3) Subject to subclauses (1) and (2) of this clause, the Authority shall deduct Association membership fees from the salary of any employee who is a member of the Association in accordance with the Association's rules, provided that the employee has authorised the Authority to make such deductions.
- (4) Monies so deducted from employees' salary shall be forwarded regularly to the Association together with all necessary information to enable the Association to reconcile and credit subscriptions to employees' Association membership accounts.
- (5) Unless other arrangements are agreed to by the Authority and the Association, all Association membership fees shall be deducted each pay period from the employees' salary and forwarded to the Association each pay period.
- (6) Where an employee has already authorized the deduction of Association membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

### 19. Secure Employment

- (1) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (2) Casual Conversion

- (a) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (b) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this subclause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (c) Any casual employee who has a right to elect under paragraph (2)(b), upon receiving notice under paragraph (2)(b) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (d) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (2)(c), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (2)(c), discuss and agree upon:
  - (i) whether the employee will convert to full-time or part-time employment; and
  - (ii) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (g) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (h) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (3) Occupational Health and Safety
- (a) For the purposes of this subclause, the following definitions shall apply:
    - (i) 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 staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.

- (ii) 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.
- (b) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
  - (i) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (ii) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (iii) 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
  - (iv) 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.
- (c) Nothing in this subclause (3) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the Occupational Health and Safety Act 2000 or the Workplace Injury Management and Workers Compensation Act 1998.

(4) Disputes Regarding the Application of this Clause

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

- (5) 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 established by the ANTA Ministerial Council.

## 20. Area, Incidence and Duration

- (1) This Award applies to employees of the Roads and Traffic Authority of New South Wales as defined in clause 1, Definitions of this award.
- (2) This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Crown Employees (Roads and Traffic Authority of New South Wales - Salaried Staff Conditions of Employment) Award published on 20 May 2005 (351 I.G. 1) and all variations thereof.
- (3) 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 3 March 2008.
- (4) The award remains in force until varied or rescinded, the period for which it was made having already expired.

**PART B****Table A - Salaries**

Salary rates in accordance with the Crown Employees (Public Sector - Salaries 2007) Award

Effective from the beginning of the first pay period to commence on or after 1 July 2007.

Classification and Grades	Per annum 1.7.07 +4% \$
Grade 1	28,908
	31,706
	36,249
Grade 2	38,230
	39,964
	41,452
Grade 3	44,013
	46,076
	48,223
Grade 4	49,694
	51,642
	53,674
Grade 5	55,518
	57,313
	58,346
Grade 6	59,626
	61,436
	63,447
Grade 7	64,827
	67,115
	68,418
Grade 8	71,225
	74,117
	76,431
Grade 9	79,947
	82,244
	85,945
Grade 10	88,113
	91,589
	96,293
Grade 11	99,269
	103,591
	105,923
Grade 12	112,122
	115,395
	119,426
Grade 13	122,990
	126,177
	132,224

**TABLE B****Rates - Allowances**

Item No.	Clause No.	Description	Amount \$	
1	6A(1)(b)	Meal Allowance while Travelling		
		Capital Cities & High Cost Country Centres (refer to (5) below)		
		Breakfast	20.20	
		Lunch	22.65	
		Evening Meal	38.95	
		'Tier 2' Country Centres & 'Elsewhere' (refer to (5) below)		
2	6A(2)(b)	Meal Allowance on Overtime		
		Breakfast	22.60	
		Lunch	22.60	
3	6B(1)	Evening Meal	35.60	
		Meal Allowance on Overtime		
		Breakfast	22.60	
		Lunch	22.60	
		Evening Meal	22.60	
		Lodgings		
		Location	Per Day	Per Hour
		Capital Cities	\$	\$
		Sydney	280.25	11.68
		Adelaide	242.25	10.09
Brisbane	253.25	10.55		
Canberra	211.25	8.80		
Darwin	238.25	9.93		
Hobart	201.25	8.39		
Melbourne	247.25	10.30		
Perth	233.25	9.72		
		High Cost Country Centres (NSW)		
		Newcastle	202.25	8.43
		Maitland	195.75	8.16
		Port Macquarie	200.25	8.34
		Wagga Wagga	197.75	8.24
		Wollongong	195.75	8.16
		'Tier 2' Country Centres (NSW)		
		Bathurst	180.75	7.53
		Broken Hill	180.75	7.53
		Orange	180.75	7.53
All other Country Centres (NSW)				
'Elsewhere'	170.75	7.11		
4	6B(1), (2)	Incidentals allowance (all locations)	15.45 per day	
5	6C(2)(c)	Amount deducted from actual/reasonable expenses	12.50 per week	
6	6C(2)(g)	Maximum allowance for staff separated from dependants	254 per week	
7(a)	6C(2)(h)	Allowance for removal of furniture - value of furniture:	7,037.00	
7(b)		If value above amount in 7(a), employees receive -	1,126.00	
7(c)		If value below amount in 7(a), employees receive -	563.00	
7(d)		If not eligible, employees shall receive -	281.00	
8	6C(3)	Max purchase price of home on which reimbursement of expenses is based	520,000	
9	6C(6)	Max amount of allowance with increased accom. Costs	51.00	

10(a)	6C(7)	Parents to pay first	27.00
10(b)		RTA pays up to a maximum of	per week 56.00 per week
11	6D	Remote areas allowance (with dependants) - A	1597.00
		- B	2118.00
		- C	2829.00
		Remote areas allowance (without dependants) - A	1114.00
		- B	1485.00
		- C	1982.00
12(a)	6E	Fares subsidy for climatic area - actual cost less	39.35
		Or	
12(b)		Maximum amount for employee with spouse/dependants; or	263.70
12(c)		Maximum amount for employee without spouse/dependants	130.20
13	6H	Sydney Harbour Bridge Allowance for Works Supervisors	6,558.00 per annum
14	8B	Maximum value of furniture and effects on which risk insurance is paid	38,000

## APPENDIX A

### GRIEVANCE RESOLUTION POLICY

Policy Number: PN 026  
(Human Resources Manual)  
RTA Corporate Policy

#### Grievance Resolution Policy

Purpose and intended outcomes

To make RTA staff aware of what constitutes a grievance and the responsibilities of all staff in preventing and managing such matters so that:

- staff work in a collaborative and cooperative way;
- workplace grievances are resolved in a timely manner; and
- the RTA maintains a safe and healthy work environment.

Note: This policy must be read in conjunction with the Grievance Resolution Procedure PN 026P.

Policy

To support the Code of Conduct and Ethics all RTA staff are to:

- treat others in a professional, courteous, respectful and fair way;
- communicate with each other and management in an open and honest manner;
- raise their workplace grievances at an early stage and aim to resolve them at the local level;
- actively participate in the resolution of workplace grievances;
- treat grievance matters in a private, confidential, and timely manner;
- respect the right of others to raise grievances; and



not victimise or disadvantage any parties to a grievance.

#### Coverage

This policy covers:

permanent staff;  
temporary staff;  
casual staff; and  
skill hire and professional services contractors.

#### Scope

This policy may be used by:

staff to address workplace grievances with other staff; and  
managers to resolve workplace grievances between staff.

This policy does not cover:

OHS and workers compensation matters;  
poor performance issues;  
harassment, discrimination or workplace bullying matters;  
fraud and corruption, maladministration or serious and substantial waste of resources; or  
matters that require disciplinary action.

If a grievance is investigated and it is found that the matter is related to work performance or disciplinary issues, the grievance process is to terminate immediately. The RTA has other processes for managing these issues e.g. Management of Unsatisfactory Performance and Conduct Policy, Harassment, Discrimination and Workplace Bullying Policy, Corruption and Maladministration Prevention Policy and the Discipline Policy.

#### Definitions and Key Terms

##### Grievance

A grievance is a personal concern/problem about work or the work environment that the staff member seeks hearing or resolution of, and may be the result of a perceived or actual concern regarding:

allocation of work or development opportunities;  
workplace communication difficulties, or interpersonal dispute; and  
changes in work processes/practices.

Detailed information on how to raise and resolve grievances are contained in the Grievance Resolution Procedure.

##### Grievant

The staff member who raises a concern is referred to as the Grievant. For each grievance there may be one or more Grievants.

## Respondent

The staff member who is claimed to be the cause of the grievance is referred to as the Respondent. There may be more than one Respondent in a grievance matter.

## Grievance Network Coordinator (GNC)

The GNC, Human Resources Branch administers the support system for Grievance Contact Officers (GCOs). The GNC is responsible for co-ordinating the recruitment, selection and training of GCOs and arranging mediations. The General Manager, Human Resources will approve GCO selections.

Applicants will require their manager's approval to be released to undertake GCO duties.

## Grievance Contact Officer (GCO)

The GCO is recruited and supervised in GCO role by the GNC, HR Branch. Their role is to assist both the grievant and respondent generate options to resolve their grievance, direct the grievant or respondent to appropriate RTA policies and procedures or other available services i.e. Employee Assistance Scheme (EAP), the OHS Hotline or the Ethics Hotline.

The GCO will not:

take sides;

make judgements; or

act as an advocate or spokesperson for the Grievant or Respondent.

A list of GCOs is available on the RTA Phone Guide and in every issue of Human Resources Notices.

## Background

### Interpreters

Where a staff member has difficulty in communicating effectively in English, an interpreter may be used. Only accredited interpreters are to be used in order to minimise risks to privacy and error. The HR Branch, on advice from the GCO or the Grievant's manager, will make the necessary arrangements to engage an interpreter. The business unit where the grievance has transpired will be responsible for any associated cost.

### Confidentiality

All forms of information about a grievance are to be restricted to those individuals who need to know the information in order to resolve the grievance. Access to Grievance Files is highly restricted. Access provisions can be located in Attachment B of Corporate Policy Statement No.26, "Employees' Personal Records Policy.

### Documentation

When managers are dealing with a grievance locally they are to take brief, factual diary/file notes that avoid personal opinions. These notes are to be retained by the manager for one year.

Where a manager has attempted to resolve a grievance unsuccessfully and the matter is escalated to the General Manager, detailed documentation is required.

Records include:

names of parties to the grievance;

grievance details;

sufficient information to establish that a satisfactory process took place;

the outcome and reasons for the decision; and

any recommendation for action.

This documentation is to be retained by local management for one year.

If the grievance matter is referred for mediation through the GNC, a Grievance File will be created. Grievance files are to be retained for five years after settlement of the grievance. Grievance records are to be kept confidential and on a separate Grievance File, not on Personal or other RTA files. The RTA Document Management Section, Auburn, creates Grievance Files.

If the grievance is referred to an external body for settlement, the GNC must be notified and will create a Grievance File, which must be kept for 5 years.

If the grievance sets a precedent and results in significant change to RTA corporate procedure the file must be kept for ten years. In such a case the General Manager, Human Resources must be contacted.

#### Vexatious Claims

A vexatious claim is a grievance reported without sufficient grounds for action. Vexatious claims include but are not limited to those that are:

malicious;

raised to annoy or harass the respondent;

lacking in substance; and/or

frivolous.

Where a complaint is found to be vexatious, malicious or substantially frivolous and reported only to annoy or harass the Respondent, the staff member reporting the original grievance may be dealt with under the provisions of the RTA's Harassment, Discrimination and Workplace Bullying Policy or Discipline Policy.

#### Protection

Any staff member who is involved in a grievance in accordance with the RTA grievance procedures, or is required to prepare a report concerning another member of staff in relation to a grievance, is protected against any action for defamation provided they:

do not intentionally make a vexatious, malicious or substantially frivolous complaint;

raise the grievance in accordance with these established procedures and confidentiality is maintained; and

do not publish or make information available to persons who have no legitimate interest in receiving it.

#### Mediation

Mediation provides the opportunity for a trained, independent person to assist in the resolution of the grievance. The mediation may result in the parties agreeing to and signing an agreement or understanding. The General Manager and/or Branch Manager must approve the engagement of an external mediator. Mediators are to be engaged through the GNC, HR Branch who manages the RTA Mediator Panel.

#### Appeal Right

Any Grievant who is dissatisfied with his or her treatment in terms of the Grievance Resolution Policy procedures may appeal to the Director or Chief Executive Officer for a re-examination of the matter. This

appeal right does not in any way diminish a Grievant's right to seek the assistance or support of his or her union or staff association in the matter. Appeals must be lodged within 21 days from the date that the parties involved in the grievance are advised of the outcome.

#### Employee Assistance Program

The Employee Assistance Program (EAP) is available to assist all staff and their families. The service offers short term face-to-face or telephone professional advice and counselling to help cope with personal, family and work related issues.

#### Responsibilities

Title	Responsibilities
Staff	<p>Ensure their behaviour is aligned with the RTA Code of Conduct and Ethics.</p> <p>Report inappropriate behaviour in the workplace when witness to it, or when it is brought to their attention.</p> <p>Participate in grievance resolution and maintain confidentiality in the process as and when required.</p> <p>Not participate in the harassment or victimisation of any party involved in a grievance.</p> <p>Not lodge vexatious, frivolous or malicious grievances.</p>
Managers	<p>Promote, explain and model the standards of behaviour expected of staff members as set out in the RTA Code of Conduct and Ethics.</p> <p>Be familiar with and actively promote and support the RTA Grievance Resolution Policy, procedures and strategies.</p> <p>Monitor the workplace for early identification and resolution of grievances.</p> <p>Chair grievance related meetings and make grievance related decisions based on fact.</p> <p>Ensure confidentiality in the process except where there is a serious breach of an RTA policy or where there are grounds to believe there may be harm or injury to person or property in which case the matter must be referred to an appropriate person.</p> <p>Make appropriate arrangements to release a selected GCO to carry out his/her GCO duties.</p>
Grievance	<p>Advise their manager of the time involved in dealing with a grievance and make reasonable arrangements to carry out their normal duties.</p>
Contact Officers	<p>Assist the Grievant or Respondent to identify the options available to address the grievance.</p> <p>Direct the Grievant or Respondent to appropriate RTA policies, procedures or services (e.g. Ethics Hotline or EAP)</p> <p>Refer the Grievant to an appropriate staff member responsible for handling grievances.</p> <p>Complete a Grievance Resolution Report for each grievance received and forward to the GNC, HR Branch.</p>

	Notify GNC of any changes to their contact details and work location.
Grievance Network Coordinator	Recruit, select, train and supervise GCOs in their role as a GCO.
	Coordinate the grievance resolution network and case management system.
	Ensure that the practices and processes applied and decisions proposed in individual workplace grievance cases are equitable and conform to RTA policy, legislation and industrial instruments.
	Provide grievance resolution advice to line management.
	Manage and report on administrative and contract matters associated with grievance resolution.
	Facilitate Grievance Resolution workshops to ensure that grievance resolution is communicated and understood.
	Manage and coordinate the RTA panel of mediators.

#### Evaluation

This policy will be evaluated as appropriate, taking into account changes to New South Wales and Commonwealth legislation, identification of changing trends, and feedback provided to Human Resources Branch on its effectiveness.

#### Breaches

The RTA may take disciplinary action (including the termination of services) against any staff member who breaches this policy and the RTA Code of Conduct and Ethics.

#### Quality Records

2M4203

#### Additional Information

##### Legislation

*Anti-Discrimination Act 1977 (NSW)*

*Occupational Health and Safety Act 2000 (NSW)*

*Industrial Relations Act 1996 (NSW)*

*Privacy and Personal Information Protection Act 1998 (NSW)*

##### Reference documents

Human Resources Manual, Grievance Resolution Procedure

Human Resources Manual, Code of Conduct and Ethics

Human Resources Manual, Harassment, Discrimination and Workplace Bullying Policy

Human Resources Manual, Employee Assistance Program Policy

Human Resources Manual, Corrupt Conduct and Maladministration Prevention Policy

Corporate Policy Statement 26, Employees' Personal Records Policy

Contact details:

Grievance Contact Officer - Procedural advice

Human Resource Adviser - Policy enquiries

Grievance Network Coordinator, Human Resources Branch

Effective date: September 2006.

Review date: No later than September 2009.

Policy replaces: This policy replaces the RTA Grievance Resolution Policy version 2.1 issued on 25 February 2005.

D.W. RITCHIE, Commissioner

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Printed by the authority of the Industrial Registrar.

## **DRAUGHTING EMPLOYEES, PLANNERS, TECHNICAL EMPLOYEES, &c. (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 1741 of 2007)

Before Commissioner Tabbaa

15 January 2008

### **REVIEWED AWARD**

#### **PART 1 - APPLICATION AND OPERATION OF AWARD**

##### **1.1. Award Title**

This award is entitled the Draughting Employees, Planners, Technical Employees, & c. (State) Award.

##### **1.2. Arrangement**

This award is arranged as follows:

#### **PART 1 – APPLICATION AND OPERATION OF AWARD**

Clause No.	Subject Matter
1.1	Award Title
1.2	Arrangement
1.3	Anti-Discrimination
1.4	Definitions
1.5	Application Of The Award
1.6	Area, Incidence And Duration

#### **PART 2 - ENTERPRISE FLEXIBILITY**

2.1	Enterprise Flexibility
2.2	Facilitative Provisions

#### **PART 3 - CONSULTATION AND DISPUTE RESOLUTION**

3.1	Consultative Mechanism and Procedures
3.2	Dispute Resolution Procedure

#### **PART 4 - EMPLOYMENT RELATIONSHIP**

4.1	Employer And Employee Duties
4.2	Employment Categories
4.2.1	Probationary Employment
4.2.2	Full Time Employment
4.2.3	Casual Employment
4.2.4	Part-Time Employment
4.2.5	Employment For Specific Period Of Time Or For A Specific Task Or Tasks
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4.2.7	Trainees

- 4.2.8 Junior Tracers
- 4.2A Secure Employment
- 4.3 Termination Of Employment
  - 4.3.1 Notice Of Termination By Employer
  - 4.3.2 Notice Of Termination By Employee
  - 4.3.3 Summary Dismissal
  - 4.3.4 Time Off During Notice Period
  - 4.3.5 Certificate Of Service
- 4.4 Redundancy
  - 4.4.1 Application
  - 4.4.2 Introduction Of Change
    - 4.4.2.1 Employer's Duty To Notify
    - 4.4.2.2 Employer's Duty To Discuss Change
  - 4.4.3 Redundancy
    - 4.4.3.1 Discussions Before Terminations
  - 4.4.4 Termination Of Employment
    - 4.4.4.1 Notice For Changes In Production, Programme, Organisation Or Structure
    - 4.4.4.2 Notice For Technological Change
    - 4.4.4.3 Time Off During The Notice Period
    - 4.4.4.4 Employee Leaving During The Notice Period
    - 4.4.4.5 Statement Of Employment
    - 4.4.4.6 Employment Separation Certificate
    - 4.4.4.7 Transfer To Lower Paid Duties
  - 4.4.5 Severance Pay
    - 4.4.5.1 Amounts
    - 4.4.5.2 Incapacity To Pay
    - 4.4.5.3 Alternative Employment
- 4.5 Absence From Duty
- 4.6 Standing Down Employees
- 4.7 Abandonment Of Employment
- 4.8 Pay Slips And Employer Records
- 4.9 Right Of Entry
- 4.10 Award To Be Posted
- 4.11 Notice Boards
- 4.12 Notification Of Classification

#### **PART 5 - RATES OF PAY AND RELATED MATTERS**

- 5.1 Classifications And Rates Of Pay
  - 5.1.1 Rates Of Pay For Adult Employees
  - 5.1.2 Classification Definitions
  - 5.1.3 Procedure For Classifying Employees
  - 5.1.4 Lower And Higher Grade Duty
- 5.2 Training
- 5.3 Apprentice Rates Of Pay
- 5.4 Tracers Junior Rates Of Pay
- 5.5 Trainee Rates Of Pay
- 5.6 Supported Wage System For People With Disabilities
- 5.7 Allowances And Special Rates
  - 5.7.1 Allowances
  - 5.7.2 Application Of Technical Computing Allowance
  - 5.7.3 Checking Work Allowance
  - 5.7.4 Trainer/Supervisor/Coordinator - Technical
- 5.8 Extra Rates Not Cumulative
- 5.9 Payment Of Wages
  - 5.9.1 Period Of Payment



- 5.9.2 Method Of Payment
- 5.9.3 Payment Of Wages On Termination Of Employment
- 5.9.4 Day Off Coinciding With Pay Day
- 5.9.5 Wages To Be Paid During Working Hours
- 5.9.6 Absences From Duty Under An Averaging System
- 5.10 Ship Trials

## **PART 6 - HOURS OF WORK, SHIFT WORK, MEAL BREAKS AND OVERTIME**

- 6.1 Ordinary Hours Of Work
  - 6.1.1 Ordinary Hours Of Work - Day Workers
  - 6.1.2 Ordinary Hours Of Work - Continuous Shiftworkers
  - 6.1.3 Ordinary Hours Of Work - Non-Continuous Shiftworkers
  - 6.1.4 Methods Of Arranging Ordinary Working Hours
  - 6.1.5 Daylight Saving
- 6.2 Special Provisions For Shiftworkers
  - 6.2.1 Definitions
  - 6.2.2 Afternoon And Night Shift Allowances
  - 6.2.3 Rate For Working On Saturday Shifts
  - 6.2.4 Rate For Working On Sunday And Public Holiday Shifts
- 6.3 Meal Breaks
- 6.4 Morning And Afternoon Tea
- 6.5 Overtime
  - 6.5.1 Payment For Working Overtime
  - 6.5.2 Requirement To Work Reasonable Overtime
  - 6.5.3 One In, All In Does Not Apply
  - 6.5.4 Rest Period After Overtime
  - 6.5.5 Call Back
  - 6.5.6 Standing By
  - 6.5.7 Saturday Work
  - 6.5.8 Sunday Work
  - 6.5.9 Public Holiday Work
  - 6.5.10 Rest Break
  - 6.5.11 Meal Allowance
  - 6.5.12 Transport Of Employees

## **PART 7 - TYPES OF LEAVE AND PUBLIC HOLIDAYS**

- 7.1 Annual Leave
  - 7.1.1 Period Of Leave
  - 7.1.2 Public Holidays Falling In A Period Of Leave
  - 7.1.3 Leave To Be Taken
  - 7.1.4 Proportionate Leave On Termination
  - 7.1.5 Annual Close Down
  - 7.1.6 Annual Leave Loading
- 7.2 Long Service Leave
- 7.3 Sick Leave
  - 7.3.1 Amount Of Paid Sick Leave
  - 7.3.2 Single Day Absences
  - 7.3.3 Accumulation Of Sick Leave
  - 7.3.4 Attendance At Hospital, Etc.
  - 7.3.5 Year Of Service
  - 7.3.6 Broken Service

- 7.4 Personal/Carers Leave
  - 7.4.1 Use Of Sick Leave
  - 7.4.2 Unpaid Leave For Family Purpose
  - 7.4.3 Use Of Annual Leave
  - 7.4.4 Use Of Time Off In Lieu Of Payment For Overtime
  - 7.4.5 Use Of Make-Up Time
  - 7.4.6 Use Of Rostered Days Off
  - 7.4.7 Bereavement Leave
  - 7.4.8 Personal Carers Entitlement For Casual Employees
- 7.5 Jury Service
- 7.6 Parental Leave
- 7.7 Public Holidays
  - 7.7.1 Prescribed Holidays
  - 7.7.2 Payment For Time Worked On A Public Holidays
  - 7.7.3 Effect On Payment For Holidays If Absent On Working Day Before Or After
  - 7.7.4 Rostered Day Off Falling On Public Holiday
  - 7.7.5 Public Holidays Falling Within A Period Of Annual Leave

## PART 8 - MISCELLANEOUS

- 8.1 Clothing And Equipment
- 8.2 Lockers

### SCHEDULES

- SCHEDULE A - Classification Definitions
- SCHEDULE B - Comparative Schedule
- SCHEDULE C - Industries And Callings

### 1.3. Anti-Discrimination

- 1.3.1 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.
- 1.3.2 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.
- 1.3.3 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.
- 1.3.4 Nothing in this clause is to be taken to affect:
  - 1.3.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;
  - 1.3.4.2 offering or providing junior rates of pay to persons under 21 years of age;
  - 1.3.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;

1.3.4.4 a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.

1.3.5 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.

#### NOTES

(a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

(b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in the Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

### 1.4. Definitions

1.4.1 "Engineering Streams" are the three broad engineering streams recognised within the classification definitions set out in Schedule A, namely: Electrical/electronic; fabrication; and mechanical. Additionally, there are five vocational fields (as defined). Entry to training in any engineering stream is not conditional on union membership. The streams are defined as:

(a) "Electrical/electronic stream" includes the design, assembly, manufacture, installation, modification, testing, fault finding, commissioning, maintenance and service of all electrical and electronic devices systems, equipment and controls, eg, electrical wiring, motors, generators, PLC's and other electronic controls, instruments, refrigeration, telecommunications, radio and television, communication and information processing.

(b) "Mechanical stream" includes the design, assembly, manufacture, installation, modification, testing, fault finding, commissioning, maintenance and service of all mechanical equipment, machinery, fluid power systems, automotive mechanics, instruments, refrigeration, and the use of related computer controlled equipment, eg, Computer Numeric Controlled machine tools.

(c) "Fabrication stream" includes fabrication, forging, carpentry, plumbing, founding, structural steel erection, electroplating, metal spinning, metal polishing, sheet metal work and the use of related computer controlled equipment. This includes fabrication in all metals, plastics, carbon fibre, composite materials, ceramics and other materials.

1.4.2 "Vocational Fields" are the five vocational fields recognised within the classification structure of this Award, namely: trade; technical; engineering/production; supervisor/trainer/coordinator; and professional. The fields are defined as:

(a) "Trade" includes an employee who possesses as a minimum qualification a trade certificate in any of the engineering streams on the higher engineering trade (as defined).

(b) "Technical Field" includes:

(i) Production planning, including scheduling, work study, and estimating materials, handling systems and like work.

(ii) Technical including inspection, quality control, supplier evaluation, laboratory, non-destructive testing, technical purchasing, and design and development work (prototypes, models, specifications) in both product and process areas and like work.

(iii) Design and draughting and like work.

- (c) "Engineering/Production Field" includes employees primarily engaged in production work including production, distribution, stores and warehousing, but does not require a qualification in the trade, technical, professional or supervisory fields.
- (d) "Supervisor/Trainer/Coordinator Field" includes employees who are:
  - (i) Responsible for the work of other employees and/or provision of on-the-job training including coordination and/or technical guidance; or
  - (ii) Responsible for supervision and/or training of other supervisors or trainers; or
  - (iii) Responsible primarily for the exercise of technical skills, as defined, up to the level of their skill and competence and who are additionally involved in the supervision/training of other employees.
- (e) "Professional Field" includes an employee who possesses an academic qualification which enables that employee to become a graduate member of the Institute of Engineers, Australia or an academic qualification in science set out in the Academic Schedule appearing in the Metal, Engineering and Associated Industries (State) Award.

### 1.5. Application of Award

#### 1.5.1 Draughting Employees and Tracers

- (a) This award applies to -
  - (i) persons employed primarily as draughting employees and who are occupied for the substantial part of the time as draughting employees;
  - (ii) Persons employed for the substantial part of their time as tracers;
- (b) This award does not apply to -
  - (i) articulated students in architecture or surveying and student engineers employed by professional consulting engineers;
  - (ii) persons who, for a term not exceeding two years, are employed in a drawing office as part of a course of training in a profession other than draughting or for an executive or administrative appointment;
  - (iii) persons employed within the County of Yancowinna.

#### 1.5.2 This award applies to -

Persons employed as technical officers, technical assistants, and planners of engineering production, construction or maintenance work and trainees and cadets in any of the aforementioned occupations in the State excluding the County of Yancowinna.

### 1.6. Area, Incidence and Duration

This award is made following a review under section 19 of the *Industrial Relations Act* 1996 and rescinds and replaces the Draughting Employees, Planners, Technical Employees, &c. (State) Award published 21 September 2001 (327 I.G. 1058), as varied.

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 15 January 2008.

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

It shall apply to all persons of the classes herein mentioned in the State excluding the County of Yancowinna.

This award shall apply to the Industries and Callings under the jurisdiction of the Draughtsmen, Planners, Technical Officers (State) Industrial Committee

Excepting employees of:

Division A - Draughtsmen and Tracers

Excepting -

Employees of the Crown as defined in section 5 of *Industrial Arbitration Act* 1940;

Persons employed by the Electrolytic Refining and Smelting Company of Australia Proprietary Limited, the Metal Manufactures Limited, the Australian Fertilizers Limited, and the Austral Standard Cables Proprietary Limited, in and about the works of the said companies at Port Kembla; and

Employees in and about metalliferous and limestone mines, in or in connection with mining for minerals, other than coal and shale, in or about diamond and gem-bearing mines, mining dredges, ore sluicing processes, ore smelting, refining, treatment and reduction works;

And excepting also persons employed by -

The Australian Gas Light Company;  
The North Shore Gas Company Limited;  
Newcastle Gas Company Limited;  
The Council of the City of Sydney;  
The Sydney County Council;  
St George County Council;  
The Clarence River County Council;  
The Council of the City of Newcastle;  
Shire and Municipal Councils;  
The Electricity Commission of New South Wales;  
Electric Light and Power Supply Corporation Limited;  
The Hunter District Water Board;  
The Metropolitan Water, Sewerage and Drainage Board;  
State Rail Authority of New South Wales;  
The Commissioner for Motor Transport;  
The Maritime Services Board of New South Wales;  
The Commissioner for Main of Roads; Newcastle;  
The Water Resources Commission;

And persons coming within the jurisdiction of the following Industrial Committees -

Sugar Workers (Colonial Sugar Refining Company Limited, Pyrmont);  
Steel Works Employees (Broken Hill Proprietary Company Limited);  
Iron and Steel Works Employees (Australia Iron & Steel Proprietary Limited);  
John Lysaght (Australia) Pty Limited, Newcastle;  
Tubemakers of Australia Limited, Newcastle;  
Australian Wire Industries Pty Limited - Sydney Wiremill;  
John Lysaght (Australia) Pty Ltd - Port Kembla;  
Australian Wire Industries Pty Ltd - Newcastle Ropery;  
Cement Workers, &c. (State);  
Special Steels and Steel Products Manufacture (Commonwealth Steel Company Limited);  
Tubemakers of Australia Limited, Yennora;  
Australian Wire Industries Pty Ltd - Newcastle Wiremill;

And excepting -

Employees within the jurisdiction of the County Councils (Electricity Undertakings) Employees Industrial Committee, the Shortland County Council Industrial Committee, the Commonwealth Steel Company Limited, Unanderra, Industrial Committee, the University Employees, &c. (State) Industrial Committee, the Smelting and Fertilizer Manufacturing (Sulphide Corporation Pty Limited and Greenleaf Fertilizers Limited) Industrial Committees; Googong Dam Project Industrial Committee.

Division B - Production Planners and Technical Officers Excepting -

Employees of the Crown;

And excepting also persons employed by -

Public Transport Commission of New South Wales;  
The Electricity Commission of New South Wales;  
The Commissioner for Motor Transport;  
The Metropolitan Water Sewerage and Drainage Board;  
The Hunter District Water Board;  
The Commissioner for Main Roads;  
The Maritime Services Board of New South Wales;  
The Water Resources Commission;  
South Maitland Railways Pty Limited;  
The United Dental Hospital of Sydney;

And excepting also -

Persons employed in the coal mining industry;

Persons employed by municipal, shire and country councils;

An excepting also employees within the jurisdiction of the following Industrial Committees, namely -

Iron and Steel Works Employees (Australian Iron & Steel Proprietary Limited);  
Australian Wire Industries Pty Ltd, Newcastle Ropery;  
Steel Works Employees (Broken Hill Proprietary Company Limited);  
Special Steels and Steel Products Manufacture (Commonwealth Steel Company Limited);  
Commonwealth Steel Company Limited, Unanderra;  
John Lysaght (Australia) Pty Ltd, Newcastle;  
John Lysaght (Australia) Pty Ltd, Port Kembla;  
Australian Wire Industries Pty Ltd - Sydney Wiremill;  
Australian Wire Industries Pty Ltd - Newcastle Wiremill;  
Cement Workers, &c. (State);  
Tubemakers of Australia Limited, Yennora;  
Tubemakers of Australia Limited, Newcastle;  
Quarries (Australian Iron and Steel Pty Limited);  
Quarries, &c. (Broken Hill Proprietary Company Limited);  
Engineers, &c. (State);  
Metalliferous Miners, &c., General (State);  
Metalliferous Miners, &c. (State) No. 2;  
Scientific Officers, Chemists and Chemical Colonial Sugar Refining Co. Limited (Concord Works);  
Sugar Workers (Colonial Sugar Refining Company Limited, Pymont);  
Engineers (State);  
University Employees, &c. (State);  
Smelting, &c. (Electrolytic R. & S. Company, &c.);  
Smelting (Sulphide Corporation Limited);  
Australian Gas Light Company (Salaried Division);  
North Shore Gas Company Limited (Salaried Division);  
Newcastle Gas Company Limited (Salaried Division);

Australian Gas Light Company (Wages Division);  
 North Shore Gas Company Limited (Wages Division);  
 Googong Dam Scheme.

#### Exemptions

Exclusion - Unilever Australia Limited (Unifoods Division) - Employees of Unilever Australia Limited, Unifoods Division, Concord, employed on the Concord site shall be excluded from the terms and conditions of this award so long as they are employees under the terms and conditions of the Industrial Agreement registered pursuant to section 11 of the *Industrial Arbitration Act* 1940, or any agreement replacing it.

## **PART 2 - ENTERPRISE FLEXIBILITY**

### **Summary**

These clauses provide for how the award may be varied in order to meet the particular needs of an enterprise.

#### **2.1. Enterprise Flexibility**

Where an employer or employees wish to pursue an agreement at the enterprise or workplace about how the award should be varied so as to make the enterprise or workplace operate more efficiently according to its particular needs, the following process shall apply:

- 2.1.1 A consultative mechanism and procedures appropriate to the size, structure and needs of the enterprise or workplace shall be established.
- 2.1.2 For the purpose of the consultative process the employees may nominate the Union or Unions bound by this award, or other representative, to represent them.
- 2.1.3 Where agreement is reached an application shall be made to the Commission.

#### **2.2. Facilitative Provisions**

##### 2.2.1 Agreement to vary award provisions

- (a) This award contains facilitative provisions which allow agreement between an employer and employees on how specific award provisions are to apply at the workplace or section or sections of it. The facilitative provisions are identified in 2.2.2, 2.2.3 and 2.2.4.
- (b) The specific award provisions establish both the standard award condition and the framework within which agreement can be reached as to how the particular provisions should be applied in practice. Facilitative provisions are not to be used as a device to avoid award obligations nor should they result in unfairness to an employee or employees covered by this award.

##### 2.2.2 Facilitation by individual agreement

- (a) The following facilitative provisions can be utilised upon agreement between employer and an employee provided that the agreement complies with paragraphs 2.2.2 (b), subparagraphs (c)(i) and (ii):
  - 4.2.4 (b)(iii) Variation to hours Part-time Employment
  - 6.3.5 Meal Break
- (b) The agreement reached must be recorded in the time and wage record kept by the employer in accordance with Division 2 of Part 4 of the Industrial Relations (General) Regulation 1996.

- (c)
  - (i) If an employee is a member of a union bound by the award, the employee may be represented by the union in meeting and conferring with the employer about the implementation of the facilitative provisions.
  - (ii) The union must be given a reasonable opportunity to participate in negotiations regarding the proposed implementation of a facilitative provision. Union involvement does not mean that the consent of the union is required prior to the introduction of agreed facilitative arrangements.

### 2.2.3 Facilitation by majority or individual agreement

- (a) Subject to paragraphs (b) and (c) of this subclause, the following facilitative provisions can be utilised upon agreement between the employer and the majority of employees in the workplace or a section or sections of it OR, the employer and an individual employee.

- 5.9.1(b) Payment of Wages
- 6.1.1(b) Ordinary hours of Work for Day Workers on Weekends
- 6.1.1(c) Variation to Spread of Hours for Day Workers
- 6.1.4(a)&(b) Methods of Arranging Ordinary Working Hours
- 6.2.1 Shift Definitions
- 6.3.1(b) Working in Excess of Five Hours without a Meal Break
- 7.7.1(d) Substitution of Public Holidays

- (b) Majority Agreement

Where agreement has been reached with the majority of employees in the workplace or a section or sections of it to implement a facilitative provision in 2.2.3(a), the employer may not implement that agreement unless:

- (i) it complies with 2.2.2(b), 2.2.2(c) and where specified 2.2.5; and
- (ii) agreement has been reached with each individual employee to be covered by the facilitative provision.

- (c) Individual Agreement

Where no agreement has been sought by the employer with the majority of employees in accordance with 2.2.3(b), the employer may seek to reach agreement with individual employees in the workplace, and such agreement will be binding on individual employees provided it complies with 2.2.2(b) and (c) and provided that the agreement is only with an individual employee or a number of individuals less than the majority in the workplace or a section or sections of it.

### 2.2.4 Facilitation by Majority Agreement

- (a) The following facilitative provisions may only be utilised upon agreement between the employer and the majority of employees in the workplace or a section or sections of it.

- 6.1.2 (c) Ordinary Hours of Work, Continuous Shift Workers
- 6.1.3 (b) Ordinary Hours of Work, Non-continuous Shift Workers
- 6.1.4 (c) 12 Hour Shifts
- 7.1.1 Period of Annual Leave
- 7.1.5 (vi)(b) Annual Close Down

- (b) Where agreement has been reached with the majority of employees in the workplace, or a section or sections of it, to implement a facilitative provision in 2.2.4(a), that agreement shall be binding



on all such employees, provided the requirements of 2.2.2(b), 2.2.2(c) and where specified 2.2.5 have been met.

#### 2.2.5 Additional Safeguard

(a) An additional safeguard applies to:

- 5.9.1 (b) Period of Payment of Wages
- 6.1.2 (c) Ordinary Hours of Work, Continuous Shift Workers
- 6.1.3 (b) Ordinary Hours of Work, Non-Continuous Shift Workers

(b) The additional safeguard requires that the unions which are party to the award and which have members employed at an enterprise covered by the award shall be informed by the employer of the intention to use the facilitative provision and shall be given a reasonable opportunity to participate in the negotiations regarding its use. Union involvement in this process does not mean that the consent of the union is required prior to the introduction of agreed facilitative arrangements at the enterprise.

#### 2.2.6 Majority vote at the initiation of the employer

A vote of employees in the workplace, or a section or sections of it, taken in accordance with 2.2.3 or 2.2.4, to determine if there is majority employee support for implementation of a facilitative provision, will be of no effect, unless taken with the agreement of the employer.

#### 2.2.7 Dispute over facilitation

In the event that a dispute or difficulty arises over the implementation or continued operation of a facilitative provision, the matter will be handled in accordance with the dispute resolution procedure in clause 3.2

## **PART 3 – CONSULTATION AND DISPUTE RESOLUTION**

### **3.1. Consultative Mechanism and Procedures**

3.1.1 At each enterprise covered by this award the employer and employees and, if appropriate an appropriate representative including a trade union bound by this award, may establish a mechanism and procedures which enables them to communicate and consult about matters arising out of this award, in particular clauses 2.1 and 2.2 which they agree would assist in achieving and maintaining co-operative workplace relations and mutually beneficial work practices.

3.1.2 The employer shall permit a notice board to be erected in the plant, or each part of a plant, to facilitate communication between employees and/or their union representatives.

### **3.2. Dispute Resolution Procedure**

#### **Summary**

Each enterprise must establish a procedure to avoid or resolve disputes.

3.2.1 A procedure for the avoidance or resolution of disputes will apply in all enterprises covered by this Award. The mechanism and procedures for resolving industrial disputes will include, but not be limited to, the following:

#### 3.2.1

(a) The employee/s concerned will first meet and confer with their immediate supervisor. The employee/s may appoint another person to act on their behalf including a shop steward or delegate of their union.

Subject to 3.2.2 and 3.2.3 where the shop steward or delegate is involved he/she shall be allowed the necessary time during working hours to interview the employee(s) and the supervisor.

### 3.2.1

- (b) If the matter is not resolved at such a meeting the parties will arrange further discussions involving more senior management as appropriate. The employee may invite a union official to be involved in the discussions. The employer may also invite into the discussions an officer of the employer organisation to which the employer belongs.

The shop steward or delegate shall be allowed at a place designated by the employer, a reasonable period of time during working hours to interview the duly accredited Union Officials of the Union to which they belong.

- (c) If the matter remains unresolved, the employer may refer it to a more senior level of management or to a more senior national officer within the employer organisation. The employee may invite a more senior union official to be involved in the discussions. In the event there is no agreement to refer the matter to a more senior level or it is agreed that such a reference would not resolve the matter the parties shall jointly or individually refer the matter to the Industrial Relations Commission of New South Wales for assistance in resolving the matter.

### 3.2.2 In order to facilitate the procedure in 3.2.1:

- (a) The party with the grievance must notify the other party at the earliest opportunity of the problem;
- (b) Throughout all stages of the procedure all relevant facts must be clearly identified and recorded;
- (c) Sensible time limits must be allowed for completion of the various stages of discussion. However, the parties must co-operate to ensure that the disputes resolution procedures are carried out as quickly as possible.

### 3.2.3 While the parties are attempting to resolve the matter the parties will continue to work in accordance with this award and their contract of employment unless the employee has a reasonable concern about an imminent risk to his or her health and safety. Subject to relevant provisions of the *Occupational Health and Safety Act 2000*, even if the employee has a reasonable concern about an imminent risk to his or her health or safety, the employee must not unreasonably fail to comply with a direction by his or her employer to perform other available work, whether at the same enterprise or another enterprise, that is safe and appropriate for the employee to perform.

## **PART 4 – EMPLOYMENT RELATIONSHIP**

### **4.1. Employer and Employee Duties**

#### **Summary**

An employee has certain obligations to carry out duties as directed. Any direction by the employer must be consistent with a safe and healthy work environment.

- 4.1.1 An employer may direct an employee to carry out such duties as are within the limits of the employee's skills, competence and training consistent with the classification structure of this award provided that such duties are not designed to promote de-skilling.
- 4.1.2 An employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment.
- 4.1.3 Any direction issued by an employer under this clause is to be consistent with the employer's responsibilities to provide a safe and healthy working environment.

## 4.2. Employment Categories

### Summary

This clause describes the various categories of employment under this award.

#### 4.2.1 Probationary Employment

- (a) An employer may initially engage a full-time or part-time employee for a period of probationary employment for the purpose of determining the employee's suitability for ongoing employment. The employee must be advised in advance that the employment is probationary and of the duration of the probation which can be up to but not exceed three months.
- (b) A probationary employee is for all purposes of the award a full-time or part-time employee.
- (c) Probationary employment forms part of an employee's period of continuous service for all purposes of the award, except where otherwise specified in this award.

#### 4.2.2 Full-time Employment

Any employee not specifically engaged as being a part-time or casual employee is for all purposes of this award a full-time employee, unless otherwise specified in the award.

#### 4.2.3 Casual Employment

A casual employee is one engaged and paid as such. A casual employee for working ordinary time shall be paid one thirty eighth of the weekly award wage prescribed herein for the work which he or she performs, plus 15 per cent.

#### 4.2.4 Part-time Employment

- (a) An employee may be engaged to work on a part-time basis involving a regular pattern of hours which shall average less than 38 hours per week
- (b)
  - (i) Before commencing part-time employment, the employee and employer must agree:
    - (1) upon the hours to be worked by the employee, the days upon which they will be worked and the commencing and finishing times for the work;
    - (2) upon the classification applying to the work to be performed in accordance with Clause 5.1 of this award;
  - (ii) Except as otherwise provided in this Award a part-time employee is entitled to be paid for the hours agreed upon in accordance with 4.2.4 (b)(i)(1).
  - (iii) The terms of this agreement may be varied by consent.
  - (iv) The terms of this agreement or any variation to it shall be in writing and retained by the employer. A copy of the agreement and any variation to it shall be provided to the employee by the employer.
- (c) The terms of this award shall apply pro rata to part-time employees on the basis that ordinary weekly hours for full-time employees are 38.

(d) Overtime

A part-time employee who is required by the employer to work in excess of the hours agreed upon in accordance with 4.2.4(b) (i) and (iii), shall be paid overtime in accordance with clause 6.5 of this award.

(e) Public Holidays

Where the part-time employee's normal paid hours fall on a public holiday prescribed in clause 7.7 and work is not performed by the employee, such employee shall not lose pay for the day. Where the employee works on the holiday, such employee shall be paid in accordance with Clause 7.7 of this award.

#### 4.2.5 Employment for a Specific Period of Time or a Specific Task or Tasks

- (a) An employee may be engaged on a full time or part time basis for a specific period of time or for specific task/s.
- (b) The details of the specific period of time or specific task/s shall be set out in writing and retained by the employer. The employer shall provide a copy to the employee.
- (c) An employee engaged in accordance with 4.2.5(a) is for all purposes of the award a full-time or part-time employee, except where otherwise specified in this award.
- (d) Service under a contract of employment for a specific period of time or specific task/s shall form part of an employee's period of continuous service, where such employee is engaged as a full-time or part-time employee immediately following such contract of employment.

#### 4.2.6 Apprentices

- (a) The terms of this award will apply to apprentices (including adult apprentices, as defined) except where it is otherwise stated or where special provisions are stated to apply. Apprentices may be engaged in trades or occupations provided for in this clause where declared or recognised by an Apprenticeship Authority.
- (b) Apprenticeship Authority shall mean the Commissioner of Vocational Training appointed under the *Apprenticeship and Traineeship Act 2001*, the Vocational Training Tribunal constituted under the Act or the Industrial Relation Commission established by the *Industrial Relations Act 1996*.

#### 4.2.7 Trainees

The parties to this Award shall observe the terms of the Metal Trades (Training Wage)(State) Award.

#### 4.2.8 Junior tracers

The terms of this award apply to junior tracers except where otherwise stated or where special provisions are stated to apply.

### **4.2A. Secure Employment**

(a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

## (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

## (c) Occupational Health and Safety

(i) For the purposes of this subclause, the following definitions shall apply:

- (1) 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 staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) 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.

(ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) 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
- (4) 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.

(iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

## (d) Disputes Regarding the Application of this Clause

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

(e) 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 established by the ANTA Ministerial Council.

#### 4.3. Termination of Employment

##### Summary

This clause describes certain rights and obligations of both employer and employees in circumstances where employment is terminated.

#### 4.3.1 Notice of Termination by Employer

- (a) In order to terminate the employment of an employee the employer must give to the employee the following notice:

Period of Service	Period of Notice
1 year or less	1 week
1 year and up to the completion of 3 years	2 weeks
3 years and up to the completion of 5 years	3 weeks
5 years and over	4 weeks

- (b) In addition to the notice in 4.3.1(a) employees over 45 years of age at the time of the giving of the notice with not less than two years service, are entitled to an additional week's notice.
- (c) Payment in lieu of the notice prescribed in 4.3.1(a) and (b) must be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (d) In calculating any payment in lieu of notice, the wages an employee would have received in respect of the ordinary time he or she would have worked during the period of notice, had their employment not been terminated, must be used.
- (e) The period of notice in this clause does not apply in the case of dismissal for serious misconduct, or in the case of casual employees, apprentices, or employees engaged for a specific period of time or for a specific task or tasks.
- (f) For the purposes of this clause, service shall be calculated in the manner prescribed by subclause 7.3.5 - Year of Service.

#### 4.3.2 Notice of Termination by Employee

The notice of termination required to be given by an employee shall be the same as that required of an employer, except that there is no additional notice based on the age of the employee concerned. If an employee fails to give notice the employer has the right to withhold moneys due to the employee to a maximum amount equal to the ordinary time rate of pay for the period of notice.

#### 4.3.3 Summary Dismissal

The employer has the right to dismiss any employee without notice for serious misconduct and in such cases any entitlements under this award are to be paid up to the time of dismissal only.

#### 4.3.4 Time off during notice period

Where an employer has given notice to an employee, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the employee after consultation with the employer.

#### 4.3.5 Certificate of Service

Upon termination of employment, the employer, when requested by the employee, shall provide him with a certificate of service stating length of service, duties performed and classification of office.

### 4.4. Redundancy

#### 4.4.1 Application

- (a) This clause shall only apply in respect of full-time and part-time employees.

- (b) This clause shall apply in respect of employers who employ 15 employees or more immediately prior to the termination of employment of employees.
- (c) Notwithstanding anything contained elsewhere in this clause, this clause shall not apply to employees with less than one year's continuous service, and the general obligation on employers shall be no more than to give such employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.
- (d) Notwithstanding anything contained elsewhere in this clause, this clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual employees, apprentices or employees engaged for a specific period of time or for a specified task or tasks or where employment is terminated due to the ordinary and customary turnover of labour.

#### 4.4.2 Introduction of Change

##### 4.4.2.1 Employer's duty to notify

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and the union to which they belong.
- (b) "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

##### 4.4.2.2 Employer's duty to discuss change -

- (a) The employer shall discuss with the employees affected and the union to which they belong, inter alia, the introduction of the changes referred to in 4.4.2.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the union in relation to the changes.
- (b) The discussions shall commence as early as possible after a definite decision has been made by the employer to make the changes referred to in 4.4.2.1.
- (c) For the purpose of such discussions, the employer shall provide to the employees concerned and the union to which they belong all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

#### 4.4.3 Redundancy

##### 4.4.3.1 Discussions before terminations

- (a) Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone pursuant to 4.4.2.1(a), and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the union to which they belong.



- (b) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of 4.4.3.1(a) and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination of the employees concerned.
- (c) For the purposes of the discussion the employer shall, as soon as practicable, provide to the employees concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of employees normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

#### 4.4.4 Termination of Employment

##### 4.4.4.1 Notice for Changes in Production, Programme, Organisation or Structure

- (a) The notice provisions to be applied to terminations by the employer for reasons arising from changes in production, programme, organisation or structure shall be the same as that provided in 4.3 Termination of Employment
- (b) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

##### 4.4.4.2 Notice for Technological Change

This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from "technology" in accordance with 4.4.2.1(a).

- (a) In order to terminate the employment of an employee the employer shall give to the employee 3 months notice of termination.
- (b) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (c) The period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of the *Long Service Leave Act 1955*, the *Annual Holidays Act 1944*, or any Act amending or replacing either of these Acts.

##### 4.4.4.3 Time off during the notice period

- (a) During the period of notice of termination given by the employer an employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of 5 weeks, for the purposes of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

##### 4.4.4.4 Employee leaving during the notice period

If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this clause had the employee remained with the employer until the expiry of such

notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

#### 4.4.4.5 Statement of employment

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.

#### 4.4.4.6 Employment Separation Certificate

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form provided by Centrelink.

#### 4.4.4.7 Transfer to lower paid duties

Where an employee is transferred to lower paid duties for reasons set out in clause 4.4.2 of this award, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated, and the employer may at the employer's option make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new ordinary time rates for the number of weeks of notice still owing.

### 4.4.5 Severance Pay

#### 4.4.5.1 Amounts

Where an employee is to be terminated pursuant to subclause 4.4.4, the employer shall pay the following severance pay in respect of a continuous period of service:

- (a) If an employee is under 45 years of age, the employer shall pay in accordance with the following scale:

Years of Service	Under 45 Years of Age Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

- (b) Where an employee is 45 years old or over, the entitlement shall be in accordance with the following scale:

Years of Service	45 Years of Age and Over Entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

- (c) "Weeks pay" means the all purpose rate of pay for the employee concerned at the date of termination, and shall include, in addition to the ordinary rate of pay, over award payments, shift penalties and allowances.

#### 4.4.5.2 Incapacity to pay

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 4.4.5.1 above.

The Commission shall have regard to such financial and other resources of the employer concerned as the Industrial Relations Commission thinks relevant, and the probable effect paying the amount of severance pay in subclause 4.4.5.1 above will have on the employer.

#### 4.4.5.3 Alternative Employment

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 4.4.5.1 above if the employer obtains acceptable alternative employment for an employee.

### 4.5. Absence from Duty

Unless a provision of this award states otherwise (e.g. sick leave), an employee not attending for duty will lose their pay for the actual time of such non - attendance.

### 4.6. Standing Down Employees

#### Summary

The employer has the right to stand down an employee without pay in certain circumstances.

The employer has the right to deduct payment for any day the employee cannot be usefully employed because of any strike or through any breakdown in machinery or any stoppage of work by any cause for which the employer cannot reasonably be held responsible. Provided that such standing down shall not be deemed a break in the continuity of employment for the purposes of any rights under this award.

### 4.7. Abandonment of Employment

#### Summary

This clause describes the circumstances which amount to abandonment of employment by an employee.

The absence of an employee from work for a continuous period exceeding three working days without the consent of the employer and without notification to the employer shall be prima facie evidence that the employee has abandoned their employment.

Provided that if within a period of 14 days from their last attendance at work or the date of their last absence in respect of which notification has been given or consent has been granted an employee has not established to the satisfaction of the employer that they were absent for reasonable cause, they shall be deemed to have abandoned their employment.

Termination of employment by abandonment in accordance with this subclause shall operate as from the date of the last attendance at work or the last day's absence in respect of which consent was granted, or the date of the last absence in respect of which notification was given to the employer, whichever is the later.

#### 4.8. Pay Slips and Employer Records

##### 4.8.1 Pay Slips

Section 123 of the *Industrial Relations Act* 1996 (NSW) ('the Act') requires that when an employer pays remuneration to an employee, the employer must supply the employee with written particulars regarding the payment. The section enables an employer, with the approval of the Industrial Registrar, to make different arrangements for the supply of information about remuneration.

NOTE: The written particulars required by the Act, as set out in Clause 7 of the Industrial Relations (General) Regulation 1996, are subject to change from time to time and are repeated here for convenience only.

##### Clause 7 Particulars of remuneration to be supplied to employees

- (1) For the purposes of section 123 (1) of the Act, the following written particulars are to be supplied by the employer to an employee when remuneration is paid to the employee:
  - (a) the name and Australian Business Number of the employer,
  - (b) the name of the employee,
  - (c) if the remuneration of the employee is set by an industrial instrument—the classification of the employee under that instrument,
  - (d) the date on which the payment was made,
  - (e) the period of employment to which the payment relates,
  - (f) the gross amount of remuneration (including overtime and other payments),
  - (g) the amount paid as overtime or such information as will enable the employee to calculate the amount paid as overtime,
  - (h) the amount deducted for taxation purposes,
  - (i) the amount deducted as employee contributions for superannuation purposes,
  - (j) the particulars of all other deductions,
  - (k) the net amount paid.

##### 4.8.2 Employer Records

Section 129 of the *Industrial Relations Act* 1996 (NSW) ('the Act') requires that an employer must ensure that certain records are kept in relation to employees of the employer.

NOTE: The records required by the Act, as set out in Division 2 - Employers' records, of Part 4 of the Industrial Relations (General) Regulation 1996, are subject to change from time to time and are summarised here for convenience only.

##### Clause 9 Content of records - General

The prescribed records relating to an employee must contain the following particulars:

- (a) the full name of the employer,
- (b) the full name of the employee,

- (c) if any conditions of employment of the employee are set by an industrial instrument the classification of the employee under that instrument,
- (d) whether the employee is employed full-time or part-time,
- (e) whether the employee is employed on a permanent, temporary or casual basis,
- (f) if the employee is an apprentice or trainee within the meaning of the *Industrial and Commercial Training Act 1989* the date the person became such an apprentice or trainee,
- (g) the date on which the employee was first employed with the employer,
- (h) if the employee's employment is terminated the date of termination.

Clause 10 Content of records—remuneration and hours worked

- (1) The prescribed records relating to an employee must contain the following particulars concerning the remuneration paid and hours worked by the employee:
  - (a) if the relevant industrial instrument prescribes the number of hours to be worked per week, day or other period—the number of hours worked by the employee during each such period,
  - (b) if the relevant industrial instrument limits the daily hours of work and provides for the payment of daily overtime—the number of hours worked by the employee during each day and the times of starting and ceasing work,
  - (c) if the relevant industrial instrument prescribes a rate of remuneration per week, day, hour or other period—the rate of remuneration per week, day, hour or other period at which the employee is paid,
  - (d) if the relevant industrial instrument prescribes piece-work—the number and description of pieces made by the employee and the rate per piece at which the employee is paid,
  - (e) the gross amount of remuneration paid to the employee, showing the deductions made from that remuneration,
  - (f) such other particulars as are necessary to show that the requirements of the relevant industrial instrument relating to remuneration paid and hours worked are being complied with
- (2) In this clause, remuneration includes overtime and other payments.”

Clause 11 Content of records-leave

The prescribed records relating to an employee must contain the following particulars about leave of any kind to which the employee is entitled under the industrial relations legislation or an industrial instrument:

- (a) the leave taken by the employee,
- (b) the employee's entitlement from time to time to that leave,
- (c) accrual of leave

**Clause 12** Content of records—superannuation contributions

- (1) The prescribed records relating to an employee must contain the following particulars about any superannuation contributions that the employer must make for the benefit of the employee under an industrial instrument:
  - (a) the amount of the contributions made,
  - (b) the period over which the contributions were made,
  - (c) when the contributions were made,
  - (d) the name of the fund or funds to which the contributions were made,
  - (e) the basis on which the employer became liable to make the contributions (including particulars of any relevant election by the employee).
- (2) The particulars referred to in subclause (1) (a) - (c) are not required in the case of contributions to a defined benefit superannuation fund within the meaning of the Occupational Superannuation Standards Regulations of the Commonwealth.

**Clause 13** Manner and form of keeping records

- (1) The prescribed records must be:
  - (a) in legible form in the English language, or
  - (b) in computerised or other form that is readily accessible and is convertible into a legible form in the English language.
- (2) For the purposes of enabling an inspector or other person to exercise any power conferred by the Act to inspect any records kept in the form referred to in subclause (1)(b), the relevant part of the records are to be converted into legible form in the English language.

**Clause 14** Transfer of records to successor employers

- (1) This clause applies to the transfer of records kept by an employer (the *former employer*) relating to a transferred employee (as defined in section 101 of the Act) to the successor of the employer (the *new employer*).
- (2) The former employer must transfer to the new employer all prescribed records relating to the transferred employee that, at the date of transfer, the former employer is required to keep under section 129 of the Act.
- (3) The new employer is to keep those transferred records as if they had been made by the new employer at the time they were made by the former employer.
- (4) The former employer is required to keep a copy of the transferred records for a period of at least 6 years after those records were made.
- (5) The new employer is not required to make records of anything occurring in the course of the transferred employee's employment with the former employer."

**4.9. Right of Entry**

See Part 7 of Chapter 5 of the *Industrial Relations Act 1996* (NSW).

#### 4.10. Award to be Posted

Section 361 of the *Industrial Relations Act* 1996 (NSW) requires that an employer of employees whose conditions of employment at any premises are affected by this award must cause a copy of this award to be exhibited in a conspicuous place at those premises.

#### 4.11 Notice Boards

##### 4.11.1 Notice Board

The employer shall permit a notice board of reasonable dimensions to be erected in a prominent position in his/her plant or in separate buildings in each plant so that it will be reasonably accessible to all his/her employees working under the award. Accredited union representatives shall be permitted to put on the notice board or boards, union notices, signed or countersigned by the representative posting it. Any notice posted on such board not so signed or countersigned may be removed by an accredited union representative or by the employer.

#### 4.12. Notification of Classification

- (a) All employees covered by this award shall be given written notification by their employer of their classification and number of years' credited service within that classification within:
- (i) two weeks of being engaged by their employer;
  - (ii) two weeks of entering into a classification or a promotion coming within the scope of this award: Provided that the automatic progression of an employee through the years of experience as expressed in the one classification shall not be deemed as coming within (ii), of this subclause.
- (b) Further, a notification given to an employee on entry into a classification coming within the scope of this award shall positively identify the designation of the employee together with his credited "Years of Experience".

### PART 5 –RATES OF PAY AND RELATED MATTERS

#### 5.1. Classifications and Rate S of Pay

##### 5.1.1 Rates Of Pay For Adult Employees

- (a) Adult employees, other than those specified in 5.1.1(b), shall be entitled to receive the award rate of pay for the relevant classification as set out in the table in 5.1.1(c)
- (b) The following adult employees are not entitled to receive the award rate of pay set out in the table in 5.1.1(c):

Apprentices  
 Employees receiving a supported wage (refer to Clause 5.6);  
 Trainees (refer to Clause 5.5);

- (c) Schedule of Rates of Pay

Wage Group	Base Rate Per Week \$	Supplementary Payment Per Week \$	SWC Adjustments	Weekly Award Rate \$	Hourly Rate \$
Level C14	284.80	40.60	206.00	531.40	13.98
Level C13	299.50	42.60	199.00	541.10	14.24
Level C12	319.20	45.40	199.00	563.60	14.83
Level C11	337.40	48.10	199.00	584.50	15.38

Level C10	365.20	52.00	201.00	618.20	16.27
Level C9	383.50	54.60	201.00	639.10	16.82
Level C8	401.70	57.20	201.00	659.90	17.37
Level C7	420.00	59.80	199.00	678.80	17.86
Level C6	456.50	65.00	199.00	720.50	18.96
Level C5	474.80	67.60	199.00	741.40	19.51
Level C4	493.00	70.20	199.00	762.20	20.06
Level C3	529.50	75.40	199.00	803.90	21.16
Level C2(a)	547.80	78.00	199.00	824.80	21.71
Level C2(b)	584.30	83.20	195.00	862.50	22.70
Level C1(a)	657.40	93.60	195.00	946.00	24.89
Level C1(b)	766.90	109.20	195.00	1071.10	28.19

## (d) Trainer/Supervisor/Coordinator - Technical

A Trainer/Supervisor/Coordinator - Technical is an employee who is responsible primarily for the exercise of skills in technical fields as defined, up to the level of his/her skill and competence and who is additionally involved in the supervision/training of other technical employees. Such an employee shall receive not less than 107% of the rate of pay applicable to the employee's technical classification.

## (e) State Wage Case Adjustments

The rates of pay in this award include the adjustments payable under the State Wage Case 2007. These adjustments may be offset against:

- (a) any equivalent overaward payments, and/or
- (b) award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.

## (f) Phasing in of Wage Rates of Employees without relevant Work Experience

An employee who possesses the appropriate level of academic qualifications and who otherwise meets the requirements of the relevant classification definition but who is without prior experience in the metal and engineering industry or other relevant work experience shall be paid in accordance with the following formula:

Qualification	Years of Relevant Experience	% of Relevant Work Rate of Pay
Advanced Certificate or National Diploma 1	0	77% of C5 Rate
	1	85% of C5 Rate
	2	96% of C5 Rate
	3	100% of C5 Rate
Associate Diploma or National Advanced Diploma	0	72% of C3 Rate
	1	79% of C3 Rate
	2	89% of C3 Rate
	3	93% of C3 Rate
	4	100% of C3 Rate

- (g) For the purposes of this clause, any entitlement to wages expressed to be by the week shall mean any entitlement which an employee would receive for performing 38 hours of work.



### 5.1.2 Classification Definitions

The definitions of the classifications for each of the wage levels referred to in 5.1.1(c) are set out in Schedule A.

### 5.1.3 Procedure For Classifying Employees

- (a) The procedures for reclassifying employees under this award are set out in the National Metal and Engineering Competency Standards Implementation Guide distributed by the Manufacturing, Engineering and Related Services Industry Training Advisory Body.
- (b) Without detracting from any of the processes set out in 5.1.3(e), any disputes in relation to classification or reclassification, including disputes relating to the terms of the National Metal and Engineering Competency Standards Implementation Guide, shall be handled in accordance with the Dispute Resolution Procedure in clause 3.2 of this award.
- (c)
  - (i) It shall be a term of the award that where there is agreement to implement the standards at the enterprise, or in the event that the classification of an employee is called into question, the issue shall be settled by the application of competency standards in accordance with this clause and the National Metal and Engineering Competency Standards Implementation Guide or by reference to the minimum training requirement in the relevant classification definition, except as provided in paragraphs (ii) (iii) and (iv) below.
  - (ii) Where the employee has a relevant qualification recognised as a minimum training requirement for the level at which the employee seeks to be classified and he/she is exercising or will be required to exercise the skills and knowledge gained from that qualification necessary for that level of work the employee shall be classified appropriately. It is up to the employer to demonstrate reasons for a qualification that is a recognised minimum training requirement not being regarded as relevant for an employee's work. Any disputes which cannot be resolved at the enterprise level over the application of this clause in the first instance are to be referred to the prescribed in 5.1.3(e)(i) of this award.
  - (iii) Where skill standards have not been finalised in respect of any class of work, and this is necessary for determining an employee's classification, employees performing such work shall not be reclassified until such standards are available except as provided for in paragraphs (ii) and (iv) of this subclause.
  - (iv) Where the situation described in paragraph (iii) above applies, but not under any other circumstances, an employee may be reclassified on the basis that the employee meets the requirements of the classification definitions prescribed in Schedule A of this Award.
  - (v) All employees engaged under the award at the relevant classification levels shall be subject to the metal and engineering competency standards.
- (d) Other provisions to be followed where competency standards are being implemented in an enterprise:
  - (i) Management and employee representatives responsible for overseeing the implementation of competency standards within enterprises shall be given access to briefing and/or training courses on the standards prior to implementation.
  - (ii) Such briefings/training courses on the metal and engineering competency standards and Implementation Guide should be approved by the Manufacturing Engineering and Related Services Industry Training Advisory Body (MERISTAB). These briefings/training courses can be either a joint briefing delivered by the parties or by one party with the approval of other relevant parties at the enterprise or an approved course delivered by a

MERSITAB recognised provider with the approval of the relevant parties at the enterprise level. The above does not exclude the delivery of additional training or advice by the parties or the MERSITAB to enterprises.

(e) Facilitation of Implementation

- (i) A Committee to facilitate the implementation of standards, chaired by an independent agreed chairperson and consisting of the relevant employer and union parties to the award shall meet as required to monitor the implementation of standards until 30 June 2001. The Executive Officer of the Manufacturing, Engineering and Related Services Industry Training Advisory Body shall also be a member of the Committee. The need for the Committee shall be reviewed before 30 June 2001. The Committee will be responsible for: monitoring implementation; dealing with any major implementation problems including the application of points; refinement of the standards in respect of their use within the award; any variation to, or dispute over, the National Metal and Engineering Competency Standards Implementation Guide in the light of experience during the implementation process; and co-ordinating any further advice to enterprises.

In dealing with any major problems the Committee may:

request national officials of the relevant industry parties to meet immediately to attempt to resolve the concerns;

make arrangements for an assessment and report by experts representing the relevant industry parties. The Committee would then consider the report of the experts and agree on a course of action to resolve the concerns;

recommend that implementation be suspended in an enterprise or enterprises whilst the Committee deals with the issues of concern.

- (ii) Where necessary an application may be made to the Industrial Committee as set out in subclause 5.1.3(g) for the purpose of resolving any disputes or difficulty or likely dispute or difficulty in relation to the implementation of competency standards either at the industry or enterprise level.
- (iii) During the period of operation of the Committee established under subparagraph 5.1.3(e)(i), if any problem arises in relation to implementation of the standards at the enterprise level which cannot be resolved by the parties at that level then it shall be referred to that Committee. If resolution is not achieved, the matter will be referred to the Industrial Committee as set out in subparagraph 5.1.3(e)(ii).

Notwithstanding the above, the rights of any party to pursue whatever other course of action is available under the *Industrial Relations Act* 1996 remains available.

(f) Points

The points to be assigned to the classification levels under the award shall be:

Award Classification	Level Recommended Points
C14 -	
C13 -	
C12	32
C11	64
C10	96
C9	12 additional points above C10
C8	24 additional points above C10
C7	36 additional points above C10
C6	48 additional points above C10

C5	60 additional points above C10
C4	Standards and points to be finalised
C3	Standards and points to be finalised
C2a	Standards and points to be finalised
C2b	Standards and points to be finalised
C1a	Standards and points to be finalised
C1b	Standards and points to be finalised

and in accordance with Table 2 in the National Metal and Engineering Competency Standards Implementation Guide.

(g) Industrial Committee - Competency Standards Implementation

Notwithstanding the provisions of this clause, an application may be made to the Industrial Committee for the purpose of resolving any dispute or difficulty or likely dispute or difficulty in relation to the implementation of competency standards either at the industry or enterprise level.

5.1.4 Lower Grade and Higher Grade Duty

5.1.4.1 An employee who is called upon to perform work of a lower grade than that in which he/she is normally engaged, shall suffer no reduction in salary on that account.

- (a) An employee who is called upon to perform work of a higher grade than that in which he/she is normally engaged shall be paid for the time so employed at the rate of the first year of the grading of the employee whose duties he/she is performing.

## 5.2. Training

5.2.1 Following proper consultation in accordance with clause 3.1, which may include the establishment of a training committee, an employer shall develop a training program consistent with:

the current and future skill needs of the enterprise;

the size, structure and nature of the operations of the enterprise;

the need to develop vocational skills relevant to the enterprise and the industry through courses conducted by accredited institutions and providers.

5.2.2 Where it is agreed that a training committee be established it shall include employer and employee representatives. The role of the training committee shall be clearly set out and shall include:

formulating a training program including available training courses and career opportunities;

recommending individual employees for training and reclassification; and

monitoring and advising management and employees regarding the on-going effectiveness of the training.

- (a) Where as a result of the consultation referred to at subclause 5.2.1, including with the employee concerned, it is agreed that additional training should be undertaken by an employee, that training may be undertaken either on or off the job. If the training is undertaken during ordinary working hours, the employee concerned shall not suffer any loss of pay. The employer shall not unreasonably withhold such paid training leave. This shall not prevent the employer and employee(s) agreeing to paid leave for other relevant training.
- (b) Any costs associated with standard fees for prescribed courses and prescribed textbooks (excluding those textbooks which are available in the employer's technical library) incurred in connection with the undertaking of training shall be reimbursed by the employer upon production

of evidence of such expenditure. Provided that reimbursement may be on an annual basis subject to the presentation of reports of satisfactory progress.

- (c) Travel costs incurred by an employee undertaking training in accordance with this subclause which exceed those normally incurred in travelling to and from work shall be reimbursed by the employer.

### 5.3. Apprentice Rates of Pay

#### 5.3.1

Column 1	Column 2	Column 3	Column 4
4 year terms apprenticeship	Percentage of C10 Weekly Rate	Total Rate per week \$	Hourly Rate \$
First Year	42	259.65	6.83
Second Year	55	340.00	8.95
Third Year	75	463.65	12.20
Fourth Year	88	544.00	14.32

5.3.2 See 5.1.1(d) for the criteria regarding absorption of safety net adjustments.

5.3.3 An employee who is under 21 years of age on the expiration of his or her apprenticeship and thereafter works as a minor in the occupation to which he or she has been apprenticed shall be paid at not less than the adult rate prescribed for the classification.

### 5.4. Junior Tracer Rates of Pay

5.4.1 The minimum weekly wage rates for Junior Tracers shall be:

Column 1	Column 2	Column 3
Year of Age	Percentage of C12 Weekly Rate %	Total Rate per week \$
16 years of age and under	54	304.35
At 17 years of age	59	332.50
At 18 years of age	67	377.60
At 19 years of age	76	428.35
At 20 years of age	83	467.80

### 5.5. Trainee Rates of Pay

Refer to the Metal Trades (Training Wage) (State) Award (286 I.G. 154), as varied, for rates of pay and conditions of employment for trainees.

### 5.6. Supported Wage System for People With Disabilities

#### 5.6.1 Workers Eligible for a Supported Wage

This clause defines the conditions that will apply to employees who, because of the effects of a disability, are eligible for a supported wage under the terms of this award. In the context of this clause, the following definitions will apply:

- (i) "Supported Wage System" means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in "Supported Wage System: Guidelines and Assessment Process".
- (ii) "Accredited Assessor" means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.

- (iii) "Disability Support Pension" means the Commonwealth pension scheme to provide income security for persons with a disability as provided for under the *Social Security Act 1991*, or any successor to that scheme.
- (iv) "Assessment instrument" means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

#### 5.6.2 Eligibility Criteria

Employees covered by this clause will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria test for a Disability Support Pension.

This clause does not apply to any existing employee who has a claim against the employer that is subject to the provisions of workers' compensation legislation or any provision of this award relating to the rehabilitating of employees who are injured in the course of their employment.

This clause also does not apply to employers in respect of their facility, programme, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of, or are eligible for, a Disability Support Pension, except with respect to an organisation which has received recognition under section 10 or section 12A of the Act, or if a part only has received recognition, that part.

#### 5.6.3 Supported Wage Rates

Employees to whom this clause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award for the class of work that the person is performing, according to the following schedule:

Assessed Capacity (subclause (d))	% of prescribed award rate
10%*	10
20%	20
30%	30
40%	40
50%	50
60%	60
70%	70
80%	80
90%	90

(Provided that the minimum amount payable shall be not less than \$64.00 per week).

\* Where a person's assessed capacity is 10 per cent, they shall receive a high degree of assistance and support.

#### 5.6.4 Assessment of Capacity

For the purpose of establishing the percentage of the award rate to be paid to an employee under this award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument, by either:

- (i) the employer and a union party to the award, in consultation with the employee or, if desired, by any of these;

- (ii) the employer and an accredited assessor from a panel agreed by the parties to the award and the employee.

#### 5.6.5 Lodgement of Assessment Instrument

- (i) All assessment instruments under the conditions of this clause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Australian Industrial Relations Commission.
- (ii) All assessment instruments shall be agreed and signed by the parties to the assessment; provided that where a union which is a party to the award is not a party to the assessment, it shall be referred by the Registrar to the union by certified mail and shall take effect, unless an objection is notified to the Registrar within ten working days.

#### 5.6.6 Review of Assessment

The assessment of the applicable percentage should be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

#### 5.6.7 Other Terms and Conditions of Employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the provisions of this clause will be entitled to the same terms and conditions of employment as all other workers covered by this award paid on a pro rata basis.

#### 5.6.8 Workplace Adjustment

An employer wishing to employ a person under the provisions of this clause shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

#### 5.6.9 Trial Period

- (i) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this subclause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- (ii) During the trial period, the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined.
- (iii) The minimum amount payable to the employee during the trial period shall be no less than \$64.00 per week.
- (iv) Work trials should include induction or training as appropriate to the completion of the trial period; a further contract of employment shall be entered into based on the outcome of assessment under clause 5.6.4 above.

### **5.7. Allowances and Special Rates**

#### 5.7.1 Allowances

- (a) Motor Allowance

Where an employee reaches agreement with their employer to use their own motor vehicle on the employer's business the employee shall be paid an allowance of .66cents per kilometre travelled.

## (b) Travelling, Transport and Fares

## (i) Excess Travelling and Fares

An employee who on any day or from day to day is required to work at a job away from his or her accustomed workshop or depot will, at the direction of the employer, present himself or herself for work at such job at the usual starting time, but for all time reasonably spent in reaching and returning from such job (in excess of the time normally spent in travelling from his or her home to such workshop or depot and returning) he or she will be paid travelling time, and also any fares reasonably incurred in excess of those normally incurred in travelling between his or her home and such workshop or depot.

An employee who with the approval of the employer uses his or her own means of transport for travelling to or from outside jobs will be paid the amount of excess fares which he or she would have incurred in using public transport unless he or she has an arrangement with his or her employer for a regular allowance.

## (ii) Distant Work

An employee sent from his or her usual locality to another (in circumstances other than those prescribed in 5.7.1(a) hereof) and required to remain away from his or her usual place of abode will be paid travelling time whilst necessarily travelling between such localities, and expenses whilst so absent from his or her usual locality.

## (iii) Payment for Travelling

- (1) The rate of pay for travelling time is ordinary rates, except on Sundays and holidays when it will be time and a half.
- (2) The maximum travelling time to be paid for is 12 hours out of every 24 hours, or when a sleeping berth is provided by the employer for all-night travel, eight hours out of every 24.

## (iv) Expenses

"Expenses" for the purpose of this clause means:

- (1) All fares reasonably incurred. The fares allowed are to be for rail travel, second class except where all-night travelling is involved when they are to be first class, with sleeping berth where available.
  - (2) Reasonable expenses incurred whilst travelling including an amount set out in Item 3 of 5.9.2(g) for each meal taken.
  - (3) A reasonable allowance to cover the cost incurred for board and lodging.
- (v) If an employee is directed to work at a place other than his/her usual place of employment and the means of transport by which he/she is directed to travel offers travellers' accommodation of more than one class, the fares which shall be payable under this clause shall be such as to enable him/her to travel first class.
- (vi) An employee, should he/she so desire it, shall be reimbursed by the employer to the extent of a first class return fare to his/her usual place of residence in respect of his/her normal place of employment after each period of four weeks on "distant work" unless such work is inherent in the normal work of the establishment in which he/she is employed. "Distant work" shall mean work which renders it necessary for an employee to sleep at a place other than his/her usual place of residence in respect of his/her usual place of employment.

### 5.7.2 Application of Technical Computing Allowance

An allowance of \$31.70 a week shall be paid to any employee who is required to use technical computing equipment (as defined) to perform work of a complex nature. Work of a complex nature includes:

- (a) the application of new concepts in their field of work, including the use of three-dimensional projections;
- (b) the development of specialised programmes for technical computing applications;
- (c) system development, including the evaluation of existing and alternative systems or ancillary software and/or hardware;
- (d) the provision of training on the system for users, including the development and/or evaluation of self-learn and/or teaching methods or software packages.

Technical computing equipment is defined as computer hardware (including personal computers, micro computers, mini computers or mainframe computers) using software (including design, engineering, planning or data base programmes), which are used for technical and/or engineering applications, including design, drafting, planning, quality control, machine programming, NC programming and engineering analysis.

This allowance is not payable for routine or repetitive functions, or where the system is used merely as an aid.

### 5.7.3 Checking work Allowance

A draughting employee employed for the greater part of his/her time in checking the work of other draughting employees shall be paid \$20.85 per week in addition to the rate to which he/she otherwise is entitled under this award.

## 5.8. Extra Rates Not Cumulative

Extra rates in this Award, and rates for work on public holidays, are not cumulative so as to exceed the maximum of double the ordinary rates.

## 5.9. Payment of Wages

### Summary

This clause provides for the pay period and method of payment of wages.

#### 5.9.1 Period of Payment

- (a) Wages shall be paid weekly or fortnightly, either:
  - (i) according to the actual ordinary hours worked each week or fortnight; or
  - (ii) according to the average number of ordinary hours worked each week or fortnight.
- (b) By agreement between the employer and the majority of employees in the relevant enterprise, wages may be paid three weekly, four weekly or monthly. Subject to paragraph (c) of subclause 2.2.3, agreement in this respect may also be reached between the employer and an individual employee.



### 5.9.2 Method of Payment

Wages shall either be paid by cash, cheque or electronic funds transfer into the employee's bank (or other recognised financial institution) account.

In the case of employees paid by cheque, if the employee requires it, the employer shall have a facility available during ordinary hours for the encashment of the cheque.

### 5.9.3 Payment of Wages on Termination of Employment

On termination of employment, wages due to an employee shall be paid on the day of termination or forwarded to the employee by post on the next working day.

### 5.9.4 Day off coinciding with pay day

Where an employee is paid wages by cash or cheque and the employee is, by virtue of the arrangement of their ordinary hours, to take a day off on a day which coincides with pay day, such employee must be paid no later than the working day immediately following pay day. However, if the employer is able to make suitable arrangements, wages may be paid on the working day preceding pay day.

### 5.9.5 Wages to be paid during working hours

- (a) Where an employee is paid wages by cash or cheque such wages shall be paid during ordinary working hours.
- (b) If an employee is paid wages by cash and is kept waiting for their wages on pay day, after the usual time for ceasing work, they shall be paid at overtime rates for the period they are kept waiting.

### 5.9.6 Absences from Duty Under an Averaging System

Where an employee's ordinary hours in a week are greater or less than 38 hours and such employee's pay is averaged to avoid fluctuating wage payments, the following shall apply:

- (a) The employee will accrue a "credit" for each day he or she works ordinary hours in excess of the daily average.
- (b) The employee will not accrue a "credit" for each day of absence from duty (other than on annual leave, long service leave, public holidays, paid sick leave, workers' compensation, paid bereavement leave, paid carers' leave or jury service).
- (c) An employee absent for part of a day (other than on annual leave, long service leave, public holidays, paid sick leave, workers' compensation, paid bereavement leave, paid carers' leave or jury service) shall accrue a proportion of the "credit" for the day, based upon the proportion of the working day that the employee was in attendance.

## 5.10. Ship Trials

In the case of an employee engaged on ship trials, whether at wharf, or in harbour, or at sea, the provisions of clause 6.3, Meal Breaks, of this award, shall not apply, but all remaining clauses of the award shall apply and in addition thereto the following provisions shall apply:

- (a) An employee's time for the purpose of computing the time of trial duty shall be deemed to commence at the time the employee is instructed to be on board the vessel, provided he/she is ready to go aboard at that time, and shall be deemed to terminate the time the employee gains contact with the shore. Where such contact is obtained by the vessel's mooring at a wharf, contact shall be deemed to be gained when the gangway is lowered after mooring.

- (b) The maximum number of continuous hours an employee shall be required to be on duty shall be twelve hours. Should the trial be planned for a longer duration a relief shift shall be arranged before leaving wharf.
- (c) A reasonable time, not less than thirty minutes, or as agreed upon, shall be allowed for each meal. Luncheon shall be provided and the time thereof shall be, as far as practicable, between 12.00 noon and 2.00 p.m. If the employee is required to be on board before 7.00 a.m. breakfast shall be provided, and if the trial continues after 6.00 p.m. a light tea shall be provided. Where shifts are being worked, adequate meals shall be provided for each shift.
- (d) The following rates of pay shall be paid for time on duty as indicated:
  - (i) Whilst vessel is at wharf - the rate payable pursuant to this award for work performed on the days and at the time in question, plus 25 per cent of the ordinary daily rate for such work.
  - (ii) Whilst vessel is in harbour or at sea - the rate payable pursuant to this award for work performed on the days and at the time in question, plus 50 per cent of the ordinary daily rate for such work.

## **PART 6 – HOURS OF WORK, SHIFT WORK, MEAL BREAKS AND OVERTIME**

### **6.1. Ordinary Hours of Work**

#### **Summary**

This clause describes the ordinary hours of work and how they are to be arranged for day workers, continuous shift workers and non-continuous shift workers.

The ordinary hours of work for all three categories is 38 per week to be averaged over the period of the work cycle that applies in the particular enterprise.

There is provision for the employer, by agreement with employees, to arrange working hours to achieve maximum flexibility in order to suit the needs of both the enterprise and the employees.

#### **6.1.1 Ordinary Hours of Work - Day Workers**

- (a) Subject to subclause 6.1.4, the ordinary hours of work for day workers are to be an average of 38 per week but not exceeding 152 hours in 28 days.
- (b) The ordinary hours of work may be worked on any day or all of the days of the week. This subclause shall be read in conjunction with paragraphs (e) and (f) of subclause 6.1.1.
- (c) The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer between 6.00 am and 6.00 pm. The spread of hours (i.e. 6.00 am to 6.00 pm) may be altered by up to one hour at either end of the spread, by agreement between an employer and the majority of employees concerned or in appropriate circumstances, between the employer and an individual employee.
- (d) Any work performed outside the spread of hours is to be paid for at overtime rates. However, any work performed by an employee prior to the spread of hours which is continuous with ordinary hours for the purpose, for example, of getting the plant in a state of readiness for production work is to be regarded as part of the 38 ordinary hours of work.
- (e) The minimum rate to be paid for a day worker for ordinary time worked between midnight on Friday and midnight on Saturday shall be time and a half.
- (f) The minimum rate to be paid for a day worker for ordinary time worked between midnight on Saturday and midnight on Sunday shall be double time.

### 6.1.2 Ordinary Hours of Work - Continuous Shift Workers

- (a) Continuous shiftwork means work carried on with consecutive shifts of employees throughout the 24 hours of each of at least six consecutive days without interruption except for breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.
- (b) Subject to 6.1.2(c) the ordinary hours of continuous shiftworkers are, at the discretion of the employer, to average 38 hours per week inclusive of meal breaks and must not exceed 152 hours in 28 consecutive days. Continuous shift workers are entitled to a 20 minute meal break on each shift which shall be counted as time worked.
- (c) By agreement between the employer and the majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period that exceeds 28 consecutive days but does not exceed 12 months.
- (d) Except at the regular change-over of shifts, an employee shall not be required to work more than one shift in each 24 hours.

### 6.1.3 Ordinary Hours of Work - Non-Continuous Shift Workers

- (a) Subject to 6.1.3(b), the ordinary hours of work for non-continuous shift workers are to be an average of 38 per week and must not exceed 152 hours in 28 consecutive days.
- (b) By agreement between the employer and the majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is allowed over a period, which exceeds 28 consecutive days but does not exceed 12 months.
- (c) The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer.
- (d) Except at change-over of shifts an employee will not be required to work more than one shift in each 24 hours.

### 6.1.4 Methods of Arranging Ordinary Working Hours.

- (a) Subject to the employer's right to fix the daily hours of work for day workers from time to time within the spread of hours referred to in 6.1.1(c) and the employer's right to fix the commencing and finishing time of shifts from time to time, the arrangement of ordinary working hours is to be by agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned. Subject to paragraph (c) of subclause 2.2.3 this does not preclude the employer reaching agreement with individual employees about how their working hours are to be arranged.
- (b) Matters upon which agreement may be reached include:
  - (i) how the hours are to averaged within a work cycle established in accordance with 6.1.2 and 6.1.3
  - (ii) the duration of the work cycle for day workers provided that such duration shall not exceed 3 months
  - (iii) rosters which specify the starting and finishing times of working hours
  - (iv) a period of notice of a rostered day off which is less than four weeks
  - (v) substitution of rostered days off
  - (vi) accumulation of rostered days off

- (vii) arrangements which allow for flexibility in relation to the taking of rostered days off
- (viii) any arrangements of ordinary hours which exceed 8 hours in any day
- (c) By agreement between an employer and the majority of employees in the enterprise or part of the enterprise concerned, 12 hour days or shifts may be introduced subject to:
  - (i) Proper health monitoring procedures being introduced;
  - (ii) Suitable roster arrangements being made;
  - (iii) Proper supervision being provided;
  - (iv) Adequate breaks being provided;
  - (v) An adequate trial or review process being implemented through the consultative process in clause 3.1.
- (d)
  - (i) Where an employee works on a shift other than a rostered shift (as defined), he/she shall:
    - (1) if employed on continuous work, be paid at the rate of double time; or
    - (2) if employed on other shiftwork, at the rate of time and one half for the first three hours and double time thereafter.
  - (ii) The provision of 6.1.4(d)(i) do not apply when the time is worked:
    - (1) by arrangement between the employees themselves;
    - (2) for the purposes of effecting the customary rotation of shifts; or
    - (3) on a shift to which the employee is transferred on short notice as an alternative to standing the employee off in circumstances which would entitle the employer to deduct payment for the day in accordance with clause 4.6.

#### 6.1.5 Daylight Saving

Where by reason of legislation, summer time is prescribed as being in advance of the standard time in the State the length of any shift:

Commencing before the time prescribed by the relevant legislation for the commencement of a summer time period, and

Commencing on or before the time prescribed by such legislation for the termination of a summer time period, shall be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end of the shift. The time of the clock in each case is to be set to the time fixed by the relevant legislation.

In this subclause the expressions "standard time" and "summer time" shall bear the same meaning as are prescribed by the relevant legislation.

### 6.2. Special Provisions for Shiftworkers

#### Summary

This clause defines afternoon and night shift and prescribes the allowances for such shifts as well as the loadings payable for Saturday, Sunday and Public Holidays Shifts.

### 6.2.1 Definitions

For the purposes of this award:

"Rostered Shift" means any shift of which the employee concerned has had at least 48 hours notice.

"Afternoon Shift" means any shift finishing after 6.00 pm and at or before midnight.

"Night Shift" means any shift finishing subsequent to midnight and at or before 8.00 am.

By agreement between the employer and the majority of employees concerned or in appropriate cases an individual employee, the span of hours over which shifts may be worked may be altered by up to one hour at either end of the span.

### 6.2.2 Afternoon and Night Shift Allowances

(a) An employee whilst on afternoon or night shift shall be paid for such shift 15 per cent more than his or her ordinary rate.

(b) An employee who works on an afternoon or night shift which does not continue:

(i) for at least five successive afternoon or night shifts or six successive afternoon or night shifts in a six day workshop (where no more than eight ordinary hours are worked on each shift); or

(ii) for at least 38 ordinary hours (where more than eight ordinary hours are worked on each shift and the shift arrangement is in accordance with subclauses 6.1.2 or 6.1.3);

shall be paid for each shift 50 percent for the first three hours and 100 percent for the remaining hours, in addition to his or her ordinary rate.

(c) An employee who:

(i) During a period of engagement on shift, works night shift only; or

(ii) Remains on night shift for a longer period than four consecutive weeks; or

(iii) Works on a night shift which does not rotate or alternate with another shift or with day work so as to give him or her at least one third of his or her working time off night shift in each shift cycle;

shall, during such engagement, period or cycle, be paid 30 per cent more than his or her ordinary rate for all time worked during ordinary working hours on such night shift.

### 6.2.3 Rate for Working on Saturday Shifts

The minimum rate to be paid to a shift worker for work performed between midnight on Friday and midnight on Saturday shall be time and a half. This extra rate is in substitution for and not cumulative upon the shift premiums prescribed in 6.2.2.

### 6.2.4 Rate for Working on Sunday and Public Holiday Shifts

(a) The rate at which continuous shift workers are to be paid for work on a rostered shift the major portion of which is performed on a Sunday or public holiday shall be as follows:

(i) Sundays - at the rate of time and three-quarters;

(ii) Holidays - at the rate of double time

- (b) The rate at which shift workers on other than continuous work are to be paid for all time worked on a Sunday or public holiday is as follows:
  - (i) Sundays - at the rate of double time
  - (ii) Public Holidays - at the rate of double time and a half.
- (c) Where shifts commence between 11.00pm and midnight on a Sunday or public holiday, the time so worked before midnight does not entitle the employee to the Sunday or public holiday rate for the shift. However, the time worked by an employee on a shift commencing before midnight on the day preceding a Sunday or public holiday and extending into the Sunday or public holiday shall be regarded as time worked on the Sunday or public holiday.
- (d) Where shifts fall partly on a holiday, the shift which has the major portion falling on the public holiday shall be regarded as the holiday shift.
- (e) The extra rates in this subclause are in substitution for and not cumulative upon the shift premiums prescribed in 6.2.2.

### **6.3. Meal Breaks**

#### **Summary**

This clause deals with the taking of meal breaks during ordinary working hours and covers when the meal break is to be taken, alterations to the time the break may be taken and payment for working during the meal break.

- 6.3.1 An employee shall not be required to work for more than five hours without a break for a meal except in the following circumstances:
  - (a) In cases where canteen or other facilities are limited to the extent that meal breaks must be staggered and as a result it is not practicable for all employees to take a meal break within five hours, an employee will not be required to work for more than six hours without a break for a meal break.
  - (b) By agreement between an employer and an employee or the majority of employees in an enterprise or part of an enterprise concerned, an employee or employees may be required to work in excess of five hours but not more than six hours at ordinary rates of pay without a meal break.
- 6.3.2 The time of taking a scheduled meal break or rest break by one or more employees may be altered by an employer if it is necessary to do so in order to meet a requirement for continuity of operations.
- 6.3.3 An employer may stagger the time of taking a meal and rest breaks to meet operational requirements.
- 6.3.4 Subject to 6.3.1, an employee shall work during meal breaks at ordinary rates of pay whenever instructed to do so for the purpose of making good breakdown of plant or upon routine maintenance of plant which can only be done while the plant is idle.
- 6.3.5 Except as provided in this subclause, and except where any alternative arrangement is entered into by agreement between the employer and employees concerned, time and a half rates shall be paid for all work done during meal hours and thereafter until a meal break is taken.

### **6.4. Morning and Afternoon Tea**

1. Employees are entitled to a 10 minute morning tea rest period at a time fixed by the employer.
2. Employees shall be permitted without ceasing work to partake of refreshment in the afternoon.

## 6.5. Overtime

### Summary

Overtime is payable for work done outside the ordinary hours of work. Generally speaking, the overtime rate is time and a half for the first three hours and double time thereafter. Continuous shift workers are entitled to double time for all overtime.

Employees are required to work a reasonable amount of overtime. Minimum payments are prescribed for overtime work on Saturday, Sunday and Public Holidays.

Employees are required to have a rest period normally between work on successive days.

Provision is made for employees being called back after leaving the premises and for standing by for callback.

Meal breaks and meal allowances are also dealt with in this clause.

### 6.5.1 Payment for Working Overtime

- (a) Except as provided for in 6.5.1(d), 6.5.1(e), 6.5.8 and 6.5.9, for all work done outside ordinary hours on any day or shift (as defined in subclauses 6.1.1, 6.1.2 and 6.1.3) the overtime rates of pay are time and a half for the first three hours and double time thereafter until the completion of the overtime work. For continuous shift workers the rate for working overtime is double time.
- (b) For the purposes of this clause "ordinary hours" means the hours worked in an enterprise, fixed in accordance with clause 6.1 of this award.
- (c) The hourly rate, when computing overtime, is to be determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week.
- (d) When not less than 7 hours 36 minutes notice has been given to the employer by a relief shiftworker that he or she will be absent from work and the shiftworker whom that person should relieve is not relieved and is required to continue work on his or her rostered day off the unrelieved employee shall be paid double time.
- (e) In computing overtime each day's work shall stand alone.

### 6.5.2 Requirement to Work Reasonable Overtime

An employer may require any employee to work reasonable overtime at overtime rates and the employee shall work overtime as required.

### 6.5.3 One in, All in does not Apply

The assignment of overtime by an employer to an employee is to be based on specific work requirements and the practice of "one in, all in" overtime must not apply.

### 6.5.4 Rest Period after Overtime

- (a) When overtime work is necessary it must, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive working days.
- (b) An employee (other than a casual employee) who works so much overtime between the termination of his or her ordinary work on one day and the commencement of their ordinary work on the next day that the employee has not had at least 10 consecutive hours off duty between those times must, subject to this subclause, be released after completion of the overtime

until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

- (c) If on the instructions of the employer an employee resumes or continues work without having had the 10 consecutive hours off duty the employee must be paid at double rates until he or she is released from duty for such period. The employee is then entitled to be absent until he or she has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during the absence.
- (d) The provisions of this subclause will apply in the case of shift workers as if eight hours were substituted for 10 hours when overtime is worked:
  - (i) for the purpose of changing shift rosters; or
  - (ii) where a shift worker does not report for duty and a day worker or a shift worker is required to replace the shift worker; or
  - (iii) where a shift is worked by arrangement between the employees themselves.

#### 6.5.5 Call Back

An employee recalled to work overtime after leaving the employer's enterprise (whether notified before or after leaving the enterprise) is to be paid for a minimum of four hours work at the rate of time and one half for the first three hours and double time thereafter (or double time for the full period for continuous shift workers). There are a number of conditions which apply to this provision:

- (a) Where an employee is required to regularly hold himself or herself in readiness for a call back he or she will be paid for a minimum of three hours work at the appropriate overtime rate. This is subject to 6.5.6 which deals with the conditions for standing by.
- (b) If the employee is recalled on more than one occasion between the termination of their ordinary work on one day and the commencement of their ordinary work on the next ordinary working day he or she shall be entitled to the three or four hour minimum overtime payment provided for in this subclause for each call back. However, in such circumstances, it is only the time which is actually worked during the previous call or calls which is to be taken into account when determining the overtime rate for subsequent calls.
- (c) Except in the case of unforeseen circumstances arising, an employee will not be required to work the full three or four hours as the case may be if the job he or she was recalled to perform is completed within a shorter period.
- (d) This subclause does not apply in cases where it is customary for an employee to return to the enterprise to perform a specific job outside the employee's ordinary working hours or where the overtime is continuous (subject to a meal break) with the commencement or completion of ordinary working time.
- (e) Overtime worked in the circumstances specified in this subclause is not to be regarded as overtime for the purpose of 6.5.4, Rest Periods After Overtime, when the actual time worked is less than three hours on the call back or on each call back.

#### 6.5.6 Standing By

Subject to any custom prevailing at an enterprise, where an employee is required regularly to hold himself or herself in readiness to work after ordinary hours, the employee is to be paid standing by time at the employee's ordinary rate of pay for the time he or she is standing by.



#### 6.5.7 Saturday Work

A day worker required to work overtime on a Saturday shall be afforded at least four hours work or paid for four hours at the rate of time and one half for the first three hours and double time thereafter, except where the overtime is continuous with overtime commenced on the previous day.

#### 6.5.8 Sunday Work

Employees required to work overtime on Sundays shall be paid for a minimum of three hours work at double time. The double time is to be paid until the employee is relieved from duty.

#### 6.5.9 Public Holiday Work

Refer to 7.7.2 to determine the pay entitlements of persons who work overtime on a public holiday.

#### 6.5.10 Rest Break

- (a) An employee working overtime must be allowed a rest break of 30 minutes without deduction of pay after each four hours of overtime worked if the employee is to continue work after the rest break.
- (b) A day worker working overtime shall be allowed a meal break of thirty minutes without deduction of pay after each four hours of overtime worked if the employee continues work after such meal break. Provided that, where an employee in a five-day week is required to work overtime on a Saturday, the first prescribed meal break, if occurring between 10.00 a.m. and 1.00 p.m., shall be paid for at ordinary rates.
- (c) Where overtime is to be worked immediately after the completion of ordinary work on a day or shift and the period of overtime is to be more than one and a half hours, an employee, before starting the overtime is entitled to a rest break of 30 minutes to be paid at ordinary rates.
- (d) An employer and employee may agree to any variation of this subclause to meet the circumstances of the work in hand provided that the employer is not required to make any payment in excess of or less than what would otherwise be required under this subclause.

#### 6.5.11 Meal Allowance

An employee required to work beyond two hours after the usual finishing time of work shall be paid a meal allowance of \$10.40 for the first and each subsequent meal, or be provided with an adequate meal where the employer has his/her own cooking and dining facilities.

#### 6.5.12 Transport of Employees

When an employee, after having worked overtime or a shift for which he/she has not been regularly rostered, finishes work at a time when reasonable means of transport are not available, the employer shall provide the employee with a conveyance home, or pay him/her their current wage for the time reasonably occupied in reaching home.

## **PART 7 – TYPES OF LEAVE AND PUBLIC HOLIDAYS**

### **7.1. Annual Leave**

#### 7.1.1 Period of Leave

A period of twenty-eight consecutive days' leave shall be allowed annually to an employee after 12 months' continuous service (less the period of annual leave), such period to include any absence from work on paid long service leave. Provided that by agreement between an employer and employee, annual leave may be taken at any time within a period of twelve months from the date at which it falls due and with less than four weeks notice to the employee.

### 7.1.2 Public Holidays Falling in a Period of Leave

The annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by subclause 7.7, Public Holidays, of this award, and if any such holiday falls within an employee's period of annual leave and is observed on a day which in the case of that employee would have been an ordinary working day there shall be added to the period of annual leave time equivalent to the ordinary time which the employee would have worked if such day had not been a holiday.

### 7.1.3 Leave to be Taken

The annual leave shall be given and taken in one or two continuous periods. If the annual leave is given in two continuous periods then one of those two periods must be of at least twenty-one consecutive days: Provided that if the employer and an employee so agree then his/her annual leave entitlement may be given and taken in two separate periods neither of which is of at least twenty-one consecutive days, or in three separate periods: Provided further that an employee may, with the consent of his/her employer, take short-term annual leave, not exceeding four days in any calendar year, at a time or times separated from any of the periods determined in accordance with this subclause.

### 7.1.4 Proportionate Leave on Termination

If in any twelve monthly qualifying period an employee terminates his/her employment or has his/her employment terminated by his/her employer he/she shall be paid in addition to all other amounts due to him/her an amount equal to one-twelfth of his/her ordinary pay for the completed part of the qualifying period.

### 7.1.5 Annual Close Down

Where an employer closes down his/her plant, or a section or sections thereof, for the purpose of allowing annual leave to all or the bulk of the employees in the plant, or section or sections concerned, the following provisions shall apply:

- (i) He/she may by giving not less than four weeks' notice of his/her intention so to do stand off for the duration of the close down all employees in the plant or section or sections concerned and allow to those who are not then qualified for a full entitlement to annual leave for twelve months' continuous service pursuant to subclause 7.1.1 of this clause, paid leave on a proportionate basis at the rate of wage equal to one-twelfth of his/her ordinary pay earned during the current qualifying period.
- (ii) An employee who has then qualified for a full entitlement to annual leave for twelve months' continuous service pursuant to subclause 7.1.1 of this clause, and has also completed a further week or more of continuous service shall be allowed his leave, and shall also be paid an amount equal to one-twelfth of his ordinary pay earned since the close of his last twelve monthly qualifying period.
- (iii) The next twelve-monthly qualifying period for each employee affected by such close down shall commence from the day on which the plant, section or sections concerned is reopened for work: Provided that all time during which an employee is stood off without pay for the purpose of this subclause shall be deemed to be time of service in the next twelve-monthly qualifying period.
- (iv) If in the first year of his/her service with an employer, an employee is allowed proportionate annual leave under paragraph (i) of this subclause, and subsequently within such year lawfully leaves his employment or his employment is terminated by the employer through no fault of the employee, he/she shall be entitled to the benefit of subclause 7.1.4 of this clause subject to adjustment for any proportionate leave which he may have been allowed as aforesaid.
- (v) An employer may close down his/her plant for one or two separate periods for the purpose of granting annual leave in accordance with this subclause. If the employer closes down his plant in two separate periods one of those periods shall be for a period of at least twenty-one consecutive days: Provided that where the majority of employees concerned agree, an employer may close

down the plant, work section or sections in one, two or three separate periods for the purpose of granting annual leave in accordance with this subclause. Provided further that if an employer closes down his plant on more than one occasion, one of those periods shall be for a period of at least fourteen consecutive days including non-working days. In such cases, the employer shall advise the employees concerned of the proposed dates of each close down before asking them for their agreement.

- (a) An employer may close down his plant, or a section or sections thereof for a period of at least twenty-one consecutive days and grant the balance of the annual leave due to an employee in one continuous period in accordance with a roster: Provided that by agreement with the majority of employees concerned, an employer may close down his plant for a period of at least fourteen consecutive days including non-working days and grant the balance of the annual leave due to an employee by mutual arrangement.
- (b) An employer may close down his/her plant, or a section or sections thereof for a period of less than twenty-one consecutive days and allow the balance of the annual leave due to an employee in one or two continuous periods either of which may be in accordance with a roster. In such a case the granting and taking of annual leave shall be subject to the agreement of the employer and the majority of employees in the plant, or a section or sections thereof respectively and before asking the employees concerned for the agreement the employer shall advise them of the proposed dates of the close down or close downs and the details of the annual leave roster.

#### 7.1.6 Annual Leave Loading

During a period of annual leave an employee shall receive a loading calculated on the rate of wages he would have been entitled to receive had he/she not been on such leave. The loading shall be as follows:

- (i) Day Workers - An employee who would have worked on day work only had he not been on leave - a loading of 17.5 per cent on the rate of wages he would have been entitled to receive.
- (ii) Shift Workers - An employee who would have worked on shift work had he not been on leave - a loading of 17.5 per cent on the rate of wages he would have been entitled to receive: Provided that where the employee would have received shift loading prescribed by clause 6.2, Special Provisions For Shiftworkers, had he not been on leave during the relevant period and such loadings would have entitled him to a greater amount than the loading of 17.5 per cent then the shift loadings shall be added to the rate of wage prescribed by Part 5, Rates of Pay, in lieu of the 17.5 per cent loading: Provided further that if the shift loadings would have entitled him to a lesser amount than the loading of 17.5 per cent then such loading of 17.5 per cent shall be added to the rate of wage prescribed by clause 5.1, Classifications and Rates of Pay, in lieu of the shift loadings.

The loading prescribed by this subclause shall not apply to proportionate leave on termination.

### 7.2. Long Service Leave

See *Long Service Leave Act 1955*.

### 7.3. Sick Leave

#### 7.3.1 Amount of Paid Sick Leave

An employee on weekly hiring who is absent from his/her work on account of personal illness, or on account of injury by accident arising out of and in the course of his/her employment, shall be entitled to leave of absence, without deduction of pay, subject to the following conditions and limitations:

- (a) An employee shall not be entitled to paid leave of absence for any period in respect of which he/she is entitled to workers' compensation.

- (b) He/she shall, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence inform the employer of his/her inability to attend for duty, and as far as practicable, state the nature of the injury or illness and the estimated duration of the absence.

If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee shall inform the employer within 24 hours of such absence.

- (c) An employee shall prove to the satisfaction of his/her employer that he/she was unable on account of such illness or injury to attend for duty on the day or days for which sick leave is claimed.
- (d) First Year of Employment -an employee shall not be entitled during his/her first year of any period of service with an employer to leave in excess of five days of ordinary working time or in cases where he/she normally works more than 8 ordinary hours in any day, he/she shall not be entitled to leave in excess of 40 hours of ordinary working time. Provided further that during the first five months of the first year of a period of service with an employer he/she shall be entitled to sick leave which shall accrue on a pro rata basis of one day of ordinary working time for each month of service completed with that employer to a maximum of 40 ordinary hours. On application by the employee during the sixth month of employment and subject to the availability of an unclaimed balance of sick leave the employee shall be paid for any sick leave taken during the first five months and in respect of which payment was not made.
- (e) Second or Subsequent Years of Employment - an employee shall not be entitled during the second or subsequent year of any period of service with an employer to leave in excess of 8 days of ordinary working time or in excess of 64 hours of ordinary working time in the case of an employee who normally works more than 8 ordinary hours of any day.

### 7.3.2 Single Day Absences

In the case of an employee who claims to be allowed paid sick leave in accordance with this clause for an absence of one day only such employee if in the year he/she has already been allowed paid sick leave on more than one occasion for one day only, shall not be entitled to payment for the day claimed unless he/she produces to the employer a certificate of a duly qualified medical practitioner that in his/her, the medical practitioner's opinion, the employee was unable to attend for duty on account of personal illness or on account of injury by accident. However, an employer may agree to accept from the employee a statutory declaration, stating that the employee was unable to attend for duty on account of personal illness or on account of injury by accident in lieu of a certificate of a duly qualified medical practitioner as prescribed by this subclause.

### 7.3.3 Accumulation of Sick Leave

Sick leave shall accumulate from year to year so that any balance of the period specified in 7.3.1 (d) and (e) of this clause which has in any year not been allowed to an employee by an employer as paid sick leave may be claimed by the employee and subject to the conditions hereinbefore prescribed shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year. Provided that sick leave which accumulates pursuant to this subclause shall be available to the employee for a period of twelve years but for no longer from the end of the year in which it accrues.

### 7.3.4 Attendance at Hospital, etc

Notwithstanding anything contained in 7.3.1 of this clause an employee suffering injury through an accident arising out of and in the course of his/her employment (not being an injury in respect of which he/she is entitled to workers' compensation) necessitating his/her attendance during working hours on a doctor, chemist or trained nurse, or at a hospital shall not suffer any deduction from his/her pay for the time (not exceeding four hours) so occupied on the day of the accident, and shall be reimbursed by the employer all expenses reasonably incurred in connection with such attendance.

### 7.3.5 Year of Service

Year of service for the purpose of this clause means the period between the date of commencement in employment in any year and the anniversary of the commencement of employment in the next year.

### 7.3.6 Broken Service

- (a) If an employee is terminated by his/her employer and is re-engaged by the same employer within a period of six months then the employee's unclaimed balance of sick leave shall continue from the date of re-engagement.
- (b) In such a case the employee's next year of service will commence after a total of twelve months has been served with that employer excluding the period of interruption in service from the date of the commencement of the previous period of employment on the anniversary of the commencement of the previous period of employment, as the case may be.

## 7.4. Personal Carers Leave

### 7.4.1 Use of Sick Leave

- (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (ii) of paragraph of 7.4.1(c) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 7.3 of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
- (b) The employee shall, if required,
  - (i) 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
  - (ii) establish by production of documentation acceptable to the employer 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, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
  - (i) the employee being responsible for the care of the person concerned; and
  - (ii) the person concerned being:
    - (a) a spouse of the employee; or
    - (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; 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 and legal guardian), grandparent, grandchild or sibling of the employee or 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

- (e) a relative of the employee who is a member of the same household, where for the purposes of this paragraph:
  - 1. "relative" means a person related by blood, marriage or affinity;
  - 2. "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
  - 3. "household" means a family group living in the same domestic dwelling.
- (d) An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that persons relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at Clause 3.2 should be followed.

#### 7.4.2 Unpaid Leave for Family Purpose

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 7.4.1(c)(ii) above who is ill or who requires care due to an unexpected emergency.

#### 7.4.3 Use of Annual Leave

- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) of this subclause above, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (c) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

#### 7.4.4 Use of Time Off in Lieu of Payment for Overtime

- (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.
- (b) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.
- (c) If, having elected to take time as leave in accordance with paragraph (a) of this subclause, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.
- (d) Where no election is made in accordance with the said paragraph (a), the employee shall be paid overtime rates in accordance with the award.

#### 7.4.5 Use of Make-up Time

- (a) An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
- (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

#### 7.4.6 Use of Rostered Days Off

- (a) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- (b) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
- (c) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.
- (d) This subclause is subject to the employer informing each union which is both party to the award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.

#### 7.4.7 Bereavement Leave

- (a) An employee, other than a casual employee shall be entitled to up to two days bereavement leave without deduction of pay on each occasion of the death of a person prescribed for in 7.4.1(c), provided that for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- (b) The employee must notify the employer as soon as practicable of the intention to take bereavement leave. If required by the employer, the employee will provide to the satisfaction of the employer, proof of death.
- (c) An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
- (d) Bereavement leave may be taken in conjunction with other leave available under 7.4.1, 7.4.2, 7.4.3, 7.4.4, 7.4.5 and 7.4.6. In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.
- (e) Bereavement entitlements for casual employees
  - (i) Subject to the evidentiary and notice requirements in 7.4.1(a) and 7.4.1(b) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in paragraph (c)(ii) of subclause 7.4.1 of 7.4, Personal/Carer's Leave.
  - (ii) The employer and the employee shall 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.

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

#### 7.4.8 Personal Carers Entitlement for casual employees

- (a) Subject to the evidentiary and notice requirements in 7.4.1(a) and 7.4.1(b) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in 7.4.1(c)(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (b) The employer and the employee shall 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.
- (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

### 7.5. Jury Service

#### Summary

Full time and part time employees attending for jury service are entitled to have their pay made up to what they would have received for working ordinary time. Employees must provide proof of attendance.

- 7.5.1 A full time employee required to attend for jury service during his or her ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of his or her attendance for such jury service and the amount of wage he or she would have received in respect of the ordinary time he or she would have worked had he or she not been on jury service.
- 7.5.2 Where a part time employee is required to attend for jury service and such attendance coincides with a day on which the employee would normally be required to work, payment shall be made to the employee in accordance with subclause 7.5.1.
- 7.5.3 An employee shall notify the employer as soon as possible of the date upon which he or she is required to attend for jury service. Further, the employee shall give the employer proof of attendance, the duration of such attendance and the amount received in respect of such jury service.

### 7.6. Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW) The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
  - (a) the employee or employee's spouse is pregnant; or
  - (b) the employee is or has been immediately absent on parental leave.

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



- (3) Right to request
- (a) An employee entitled to parental leave may request the employer to allow the employee:
- (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
  - (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
  - (iii) to return from a period of parental leave on a part-time basis until the child reaches school age; to assist the employee in reconciling work and parental responsibilities.
- (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (c) Employee's request and the employer's decision to be in writing
- The employee's request and the employer's decision made under 3(a)(ii) and 3(a)(iii) must be recorded in writing.
- (d) Request to return to work part-time
- Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.
- (4) Communication during parental leave
- (a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
  - (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

#### 7.7. Public Holidays

##### Summary

This clause describes an employee's (other than a casual employee) public holiday entitlements.

Full-time employees are generally entitled to 11 specified public holidays per year without loss of pay.

Other days can be substituted for any of the specified days by agreement between the employer and employees.

#### 7.7.1 Prescribed Holidays

- (a) A full-time employee under this award is entitled to the following public holidays, without loss of pay:

New Year Day  
Australia Day  
Good Friday  
Easter Saturday  
Easter Monday  
Anzac Day  
Queen's Birthday  
Labour Day or Eight Hours' Day  
Christmas Day  
Boxing Day

Where another day is generally observed in a locality in substitute for any of the above days, that day shall be observed as the public holiday in lieu of the prescribed day.

- (b) In addition to the public holidays prescribed in 7.7.1(a), full-time employees are entitled to the Tuesday immediately following Easter Monday as an additional public holiday without loss of pay but if that Tuesday is a gazetted or Proclaimed Public Holiday then on another day mutually agreed between the employer and the employee. The additional holiday is not cumulative and must be taken within each calendar year.
- (c) Part-time Employees
- Refer to 4.2.4(e) to determine the public holiday entitlements of part-time employees.
- (d) Substitution of Public Holidays by Agreement at the Enterprise
- (i) By agreement between the employer and the majority of employees in the relevant enterprise or section of the enterprise, an alternative day may be taken as the public holiday in lieu of any of the prescribed days.
- (ii) An employer and individual employee may agree to the employee taking another day as the public holiday in lieu of the day which is being observed as the public holiday in the enterprise or relevant section of the enterprise.
- (e) In addition to the days described in 7.7.1(a) and (b), any special days appointed by gazettal as a public holiday throughout the State shall be deemed to be a public holiday for the purposes of this Award.

#### 7.7.2 Payment for Time Worked on a Public Holiday

- (a) Payment for Time Worked by Continuous Shift Workers on a Public Holiday
- (i) Refer to 6.2.4(a) to determine the pay entitlements of continuous shift workers working on rostered shifts which fall on a public holiday.
- (ii) Continuous shift workers required to work overtime on a public holiday shall be paid at double time. Refer to 6.5.10 and 6.5.11 to determine the rest break and meal allowance entitlements of continuous shift workers who work overtime on a public holiday.
- (iii) Continuous shift workers required to work on a public holiday shall be paid for a minimum of four hours work.

- (b) Payment for Time Worked by Non-continuous Shift Workers on a Public Holiday
  - (i) Refer to 6.2.4(b) to determine the pay entitlements of non-continuous shiftworkers working on rostered shifts which fall on a public holiday.
  - (ii) Non-continuous shift workers required to work overtime on a public holiday shall be paid at double time and one half. The double time and a half is to be paid until the employee is relieved from duty. Refer to 6.5.10 and 6.5.11 to determine the rest break and meal allowance entitlements of non-continuous shift workers who work overtime on a public holiday.
  - (iii) Non-continuous shift workers required to work on a public holiday shall be paid for a minimum of four hours work.
- (c) Payment for Time Worked by Day Workers on a Public Holiday
  - (i) Day workers required to work on a public holiday shall be paid for a minimum of four hours work at double time and one half. The double time and a half is to be paid until the employee is relieved from duty.

#### 7.7.3 Effect on Payment for Holidays if Absent on Working Day Before or After

Where an employee is absent from his or her employment on the working day before or the working day after a public holiday without reasonable excuse or without the consent of the employer, he or she will not be entitled to payment for the holiday.

#### 7.7.4 Rostered Day Off Falling on Public Holiday

- (a) Except as provided for in 7.7.4 (b), where a full-time employee's ordinary hours of work are structured to include a day off and such day off falls on a public holiday, the employee is entitled to, at the discretion of the employer, either:

7 hours and 36 minutes pay at ordinary rates; or

7 hours 36 minutes added to his or her annual leave; or

a substitute day off on an alternative week day.

This shall not apply where the rostered day off falls on a Saturday or a Sunday.

- (b)
  - (i) Where an employee has credited time accumulated (see 5.9.6), then such credited time should not be taken as a day off on a public holiday.
  - (ii) If an employee is rostered to take credited time as a day off on a week day and such week day is prescribed as a public holiday after the employee was given notice of the day off, then the employer shall allow the employee to take the time off on an alternative week day.
  - (iii) Paragraphs (i) and (ii) above shall not apply in relation to days off which are specified in an employee's regular roster or pattern of ordinary hours. Paragraph 7.7.4 (a) shall apply in such circumstances.

#### 7.7.5 Public Holidays Falling During a Period of Annual Leave

Refer to 7.1.2.

## PART 8 - MISCELLANEOUS

### 8.1. Clothing and Equipment

- (i) Where an Employee as a result of performing any duty required by the employer, and as a result of negligence of the employer, suffers any damage to or soiling of clothing or other personal equipment, including spectacles and hearing aids, the employer shall be liable for the replacement, repair or cleaning of such clothing or personal equipment including spectacles and hearing aids.
- (ii) An employee shall not be required to provide more than the following items of equipment - compasses, two set squares, protractor, a 12 inch scale (or metric equivalent) and a slide rule.
- (iii) Work in Abnormal Conditions: Where an employee is required to work in abnormal conditions as to temperature, height, dirt, oil wetness, danger and the like, such reasonable precautions shall be taken by the employer as may be necessary to facilitate the employee in carrying out his duties with a maximum of safety and such employee shall be provided with all special clothing required for any such abnormal conditions.

### 8.2. Lockers

The employer shall provide each employee with a locker or drawer with a lock and key wherein the equipment ordinarily required for the performance of his/her duties may be kept, and the employer shall thereby be relieved of responsibility for loss of such equipment, except in the case of fire.

## SCHEDULE A - CLASSIFICATION DEFINITIONS

### 1.1 Classification Structure

Classification Number	Classification Title	Minimum Training Requirement	Wage Relativity to C10 after full minimum rate and broadbanding adjustments
C1	Professional Engineer Professional Scientist	Degree	180/210%
C2(b)	Principal Technical Officer	15 modules in addition to National Advanced Diploma or equivalent	150%
C2(a)	Leading Technical Officer Principal/Trainer/Supervisor/ Coordinator	7 modules in addition to National Advanced Diploma  AQF 6 National Advanced Diploma - with 15 modules minimum in supervision/ training or equivalent	150%
C3	Engineering Associate - Level II	AQF 6 National Advanced Diploma or equivalent	145%
C4	Engineering Associate 3rd year of - Level I	22 Modules towards National Advanced Diploma or equivalent	135%
C5	Engineering Technician - Level V  Advanced Engineering Tradesperson Level II	AQF 5 - National Diploma or 15 modules towards National Advanced Diploma or equivalent	130%
C6	Engineering Technician - Level IV Advanced Engineering Tradesperson Level I	12 modules towards National Diploma or National Advanced Diploma or equivalent	125%

C7	Engineering Technician Level III Engineering Tradesperson - Special Class Level II	AQF Level 4 National Certificate 9 modules towards National Diploma or National Advanced Diploma 3 appropriate modules in	115%
C8	Engineering Technician - Level II  Engineering Tradesperson - Special Class Level I	Higher Engineering Tradesperson or 3 appropriate modules in addition to C9 or 6 modules towards national Diploma or National Advanced Diploma or equivalent	110%
C9	Engineering Technician - Level I  Engineering Tradesperson - Level II	3 appropriate modules in addition to C10 or 3 modules towards National Diploma or National Advanced Diploma or equivalent	105%
C10	Engineering Tradesperson - Level 1 Production Systems Employee	Trade Certificate or Engineering Production Certificate III or equivalent	100%
C11	Engineering/Production Employee - Level IV	Engineering Production Certificate II or equivalent	92.4%
C12	Engineering/Production Employee - Level III	Engineering Production Certificate I	87.4%
C13	Engineering/Production Employee Level II	In-house training	82%
C14	Engineering/Production Employee Level I	Up to 38 hours induction training	78%

Trainer/Supervisor/Coordinator

Level I - 122% of the highest rate paid to those supervised.

Level 2 - 115% of the highest rate paid to those supervised.

### 1.2. Classification Definitions

Note: The following classification definitions should be read in conjunction with:

the stream and field definitions in subclause 1.4.1 and 1.4.2 respectively;

the definitions of "or equivalent", "work within the scope of this level" and "Engineering Associate" at the end of this Schedule;

the National Metal and Engineering Competency Standards Implementation Guide especially Table 2 of that Guide which shows the alignment between old and new titles under the Australian Qualifications Framework. For example Advanced Certificates are now known as National Diplomas and Associate Diplomas as National Advanced Diplomas.

Trainer/Supervisor/Coordinator - Level I

A Trainer/Supervisor/Coordinator - Level I is an employee who is responsible for the work of other employees and/or provision of structured on-the-job training. Such an employee has completed 9 modules of training in supervision and/or training.

Despite the above definition, an employee who has not completed the specified training or equivalent for this level may enter this classification consistent with 6.5.2 of the Implementation Guide until such times as competency standards for this level are finalised.

#### Trainer/Supervisor/Coordinator - Level II

A Trainer/Supervisor/Coordinator - Level II is an employee who is responsible for supervision and/or training of Trainers/Supervisors/Coordinators - Level I. Such an employee has completed 15 modules of training in supervision and/or training.

Despite the above definition, an employee who has not completed the specified training or equivalent for this level may enter this classification consistent with 6.5.2 of the Implementation Guide until such times as competency standards for this level are finalised.

#### WAGE GROUP: C14

#### Engineering/Production Employee - Level I

An Engineering/Production Employee - Level I is an employee who is undertaking up to 38 hours induction training which may include information on the enterprise, conditions of employment, introduction to supervisors and fellow workers, training and career path opportunities, plant layout, work and documentation procedures, occupational health and safety, equal employment opportunity and quality control/assurance.

An employee at this level performs routine duties essentially of a manual nature and to the level of his/her training:

- (i) performs general labouring and cleaning duties
- (ii) exercises minimal judgement
- (ii) works under direct supervision; or
- (iv) is undertaking structured training so as to enable them to work at the C13 level.

#### WAGE GROUP: C13

#### Engineering/Production Employee - Level II

An Engineering/Production Employee - Level II is an employee who has completed up to three months structured training so as to enable the employee to perform work within the scope of this level.

An employee at this level performs work above and beyond the skills of an employee at C14 and to the level of his/her skills, competence and training.

- (i) Works in accordance with standard operating procedures and established criteria;
- (ii) Works under direct supervision either individually or in a team environment;
- (ii) Understands and undertakes basic quality control/assurance procedures including the ability to recognise basic quality deviations/faults;
- (iv) Understands and utilises basic statistical process control procedures;
- (v) Follows safe work practices and can report workplace hazards.

## WAGE GROUP: C12

## Engineering/Production Employee - Level III

An Engineering/Production Employee - Level III is an employee who has completed an Engineering Production Certificate I or equivalent so as to enable the employee to perform work within the scope of this level.

An employee at this level performs work above and beyond the skills of an employee at C13 and to the level of his/her skills, competence and training.

- (i) Is responsible for the quality of his/her own work subject to routine supervision;
- (ii) Works under routine supervision either individually or in a team environment;
- (iii) Exercises discretion within his/her level of skills and training;
- (iv) Assists in the provision of on the job training.

## WAGE GROUP: C11

## Engineering/Production Employee - Level IV

An Engineering/Production Employee - Level IV is an employee who has completed an Engineering Production Certificate II or equivalent so as to enable the employee to perform work within the scope of this level.

An employee at this level performs work above and beyond the skills of an employee at C12 and to the level of his/her skills, competence and training.

- (i) Works from complex instructions and procedures;
- (ii) Assists in the provision of on-the-job training;
- (iii) Co-ordinates work in a team environment or works individually under general supervision;
- (iv) Is responsible for assuring the quality of his/her own work.

## WAGE GROUP: C10

## Engineering Tradesperson - Level I

An Engineering Tradesperson - Level I is an employee who holds a trade certificate or tradespersons rights certificate as an:

- (i) Engineering Tradesperson (Mechanical) - Level I;
- (ii) Engineering Tradesperson (Fabrication) - Level I;
- (iii) or equivalent

and is able to exercise the skills and knowledge of the engineering trade so as to enable the employee to perform work within the scope of this level.

An Engineering Tradesperson - Level I works above and beyond an employee at C11 and to the level of his/her skills, competence and training.

- (i) Understands and applies quality control techniques;

- (ii) Exercises good interpersonal and communications skills;
- (iii) Exercises keyboard skills at a level higher than C11;
- (iv) Exercises discretion within the scope of this classification level;
- (v) Performs work under limited supervision either individually or in a team environment;
- (vi) Operates lifting equipment incidental to his/her work;
- (vii) Performs non-trade tasks incidental to his/her work;
- (viii) Performs work which while primarily involving the skills of the employee's trade is incidental or peripheral to the primary task and facilitates the completion of the whole task. Such incidental or peripheral work would not require additional formal technical training;
- (ix) Able to inspect products and/or materials for conformity with established operational standards.

#### Production Systems Employee

A Production Systems Employee is an employee who, while still being primarily engaged in Engineering/Production work applies the skills acquired through the successful completion of a certificate III level qualification or equivalent in the production, distribution, or stores functions.

A Production Systems Employee is an employee who has completed an Engineering Production Certificate III or equivalent so as to enable the employee to perform work within the scope of this level.

A Production Systems Employee works above and beyond an employee at C11 and to the level of his/her skills, competence and training

- (i) Understands and applies quality control techniques;
- (ii) Exercises good interpersonal communications skills;
- (iii) Exercises discretion within the scope of this classification level;
- (iv) Exercise keyboard skills at a level higher than C11;
- (v) Performs work under limited supervision either individually or in a team environment;
- (vi) Able to inspect products and/or materials for conformity with established operational standards.

#### WAGE GROUP: C9

##### Engineering Tradesperson - Level II

##### Engineering Technician - Level I

An Engineering Tradesperson - Level II is an:

- (i) Engineering Tradesperson (Mechanical) - Level II; or
- (ii) Engineering Tradesperson (Fabrication) - Level II;

who has completed the following training requirements:

- (i) Three appropriate modules in addition to the training requirements of C10 level; or
- (ii) Three appropriate modules towards a National Diploma; or



- (iii) Three appropriate modules towards an Advanced Diploma; or equivalent.

An Engineering Tradesperson - Level II works above and beyond a tradesperson at C10 and to the level of his/her skills and competence and training performs work within the scope of this level.

- (i) Exercises discretion within the scope of this classification;
- (ii) Works under limited supervision either individually or in a team environment;
- (iii) Understands and implements quality control techniques;
- (iv) Provide trade guidance and assistance as part of a work team;
- (v) Operates lifting equipment incidental to his/her work;
- (vi) Performs non-trade tasks incidental to his/her work.

#### Engineering Technician - Level I

An Engineering Technician - Level I is an employee who has the equivalent level of training of a C9 Engineering Tradesperson or equivalent so as to enable the employee to apply skills within the scope of this level. The skills exercised by the Engineering Technician Level I are in the technical fields as defined by this Award including draughting, planning or technical tasks requiring technical knowledge.

At this level the employee is engaged on routine tasks in the technical fields.

WAGE GROUP: C8

#### Engineering Tradesperson - Special Class Level I

#### Engineering Technician - Level II

A Special Class Engineering Tradesperson - Level I means a:

- (i) Special Class Engineering Tradesperson (Mechanical) - Level I; or
- (ii) Special Class Engineering Tradesperson (Fabrication) - Level I;
- (iii) Higher Engineering Tradesperson

who has completed the following training requirement:

- (i) Six appropriate modules in addition to the training requirements of C10 level; or
- (ii) Six appropriate modules towards a National Diploma; or
- (iii) Six appropriate modules towards an Advanced Diploma;
- (iv) a Higher Engineering Tradesperson apprenticeship; or equivalent.

An Engineering Tradesperson Special Class - Level I works above and beyond a tradesperson at C9 and to the level of his/her skills, competence and training performs work within the scope of this level.

- (i) Provides trade guidance and assistance as part of a work team;
- (ii) Assists in the provision of training in conjunction with supervisors and trainers;
- (iii) Understands and implements quality control techniques;

- (iv) Works under limited supervision either individually or in a team environment;
- (v) Operates lifting equipment incidental to his/her work;
- (vi) Performs non-trade tasks incidental to his/her work.

#### Engineering Technician - Level II

An Engineering Technician - Level II is an employee who has the equivalent level of training of a C8 Engineering Tradesperson Special Class - Level I or equivalent so as to enable the employee to apply skills within the scope of this level. The skills exercised by the Engineering Technician Level II are in the technical fields as defined by this Award including draughting, planning or technical tasks requiring technical knowledge.

At this level the employee is required to exercise judgment and skill in excess of that required at C9 under the supervision of technical or professional staff.

WAGE GROUP: C7

#### Engineering Tradesperson - Special Class Level II

#### Engineering Technician - Level III

A Special Class Engineering Tradesperson - Level II means a:

- (i) Special Class Engineering Tradesperson (Mechanical) - Level II; or
- (ii) Special Class Engineering Tradesperson (Fabrication) - Level II.

who has completed the following training requirement:

- (i) Three appropriate modules in addition to the requirements of C8 level; or
- (ii) Nine appropriate modules towards an Advanced Certificate; or
- (iii) Nine appropriate modules towards an Associate Diploma;
- (iv) an AQF Level 4 National Certificate; or equivalent.

An Engineering Tradesperson - Special Class Level II works above and beyond a tradesperson at C8 and to the level of his/her skills, competence and training performs work within the scope of this level.

- (i) Is able to provide trade guidance and assistance as part of a work team;
- (ii) Provides training in conjunction with supervisors and trainers;
- (iii) Understands and implements quality control techniques;
- (iv) Works under limited supervision either individually or in a team environment;
- (v) Operates lifting equipment incidental to his/her work;
- (vi) Performs non-trade tasks incidental to his/her work.

NB: The AQF 4 National Certificate referred to in this definition is not directly comparable with existing post-trade qualifications and the possession of such qualifications does not itself justify classification of a tradesperson to this level.

### Engineering Technician - Level III

Engineering Technician - Level III is an employee who has the equivalent level of training of a C7 - Engineering Tradesperson Special Class Level II or equivalent so as to enable the employee to apply skills within the scope of this level. The skills exercised by the Engineering Technician Level III are in the technical fields as defined by this Award including draughting, planning or technical tasks requiring technical knowledge.

At this level the employee is engaged in detail draughting and/or planning or technical duties requiring judgement and skill in excess of that required of a technician at C8 under the supervision of technical or professional staff;

WAGE GROUP: C6

### Advanced Engineering Tradesperson - Level I

#### Engineering Technician - Level IV

An Advanced Engineering Tradesperson - Level I means an:

- (i) Advanced Engineering Tradesperson (Mechanical) - Level I; or
- (ii) Advanced Engineering Tradesperson (Fabrication) - Level I who has completed:
  - 12 appropriate modules of a National Diploma; or
  - 12 appropriate modules of an Advanced Diploma; or equivalent.

An Advanced Engineering Tradesperson - Level I works above and beyond a tradesperson at C7 and to the level of his/her skills, competence and training performs work within the scope of this level.

- (i) Undertakes quality control and work organisation at a level higher than for C7;
- (ii) Provides trade guidance and assistance as part of a work team;
- (iii) Assists in the provision of training to employees in conjunction with supervisors/trainers;
- (iv) Works under limited supervision either individually or in a team environment;
- (v) Prepares reports of a technical nature on specific tasks or assignments;
- (vi) Exercises broad discretion within the scope of this level;
- (vii) Operates lifting equipment incidental to his/her work;
- (viii) Performs non-trade tasks incidental to his/her work.

### Engineering Technician - Level IV

An Engineering Technician - Level IV is an employee who has the equivalent level of training of a C6 - Advanced Engineering Tradesperson Level I or equivalent so as to enable the employee to apply skills within the scope of this level. The skills exercised by the Engineering Technician Level IV are in the technical fields as defined by this Award including draughting, planning or technical tasks requiring technical knowledge.

At this level the employee is engaged in detail draughting and/or planning and/or technical duties requiring judgement and skill in excess of that required of a technician at C7 under the supervision of technical and/or professional staff

## WAGE GROUP: C5

Advanced Engineering Tradesperson - Level II

Engineering Technician - Level V

An Advanced Engineering Tradesperson - level II means an:

- (i) Advanced Engineering Tradesperson (Mechanical) - Level II; or
- (ii) Advanced Engineering Tradesperson (Fabrication) - Level II who has completed:

A National Diploma; or

15 modules or 2nd year part time of an Advanced Diploma; or Equivalent

An Advanced Engineering Tradesperson - Level II works above and beyond a tradesperson at C6 and to the level of his/her skills, competence and training performs work within the scope of this level.

- (i) Provides technical guidance or assistance within the scope of this level;
- (ii) Prepares reports of a technical nature on tasks or assignments within the employee's skills and competence;
- (iii) Has an overall knowledge and understanding of the operating principle of the systems and equipment on which the tradesperson is required to carry out his/her task;
- (iv) Assists in the provision of on-the-job training in conjunction with supervisors and trainers;
- (v) Operates lifting equipment incidental to his/her work; .
- (vi) Performs non-trade tasks incidental to his/her work.

Engineering Technician - Level V

An Engineering Technician - Level V is an employee who has the equivalent level of training of a C5 - Advanced Engineering Tradesperson Level II or equivalent so as to enable the employee to apply skills within the scope of this level. The skills exercised by the Engineering Technician Level V are in the technical fields as defined by this Award including draughting, planning or technical tasks requiring technical knowledge.

At this level the employee is required to exercise judgment and skill in excess of that required at level C6.

## WAGE GROUP: C4

Engineering Associate - Level I

An Engineering Associate - Level I means an employee who works above and beyond a technician at level C5 and has successfully completed third year part-time (or 22 modules) of an Advanced Diploma or equivalent and is engaged in:

- (i) Making of major design drawings or graphics or performing technical duties in a specific field of engineering, laboratory or scientific practice such as research design, testing, manufacture, assembly, construction, operation, diagnostics and maintenance of equipment facilities or products, including computer software, quality processes, occupational health and safety and/or standards and plant and material security processes and like work; or
- (ii) Planning of operations and/or processes including the estimation of requirements of staffing, material cost and quantities and machinery requirements, purchasing materials or components, scheduling, work study, industrial engineering and/or materials handling process.

## WAGE GROUP: C3

## Engineering Associate - Level II

An Engineering Associate - Level II means an employee who works above and beyond an Engineering Associate at level C4 and has successfully completed an advanced diploma or the equivalent level of accredited training and is engaged in:

- (i) Performing draughting, or planning or technical duties which require the exercise of judgment and skill in excess of that required by an engineering associate at level C4; or
- (ii) Possesses the skills of an Engineering Associate - Level I in a technical field and exercises additional skills in a different technical field as defined.

## WAGE GROUP: C2(a)

## Leading Technical Officer

## Principal Engineering Trainer/Supervisor/Coordinator

Leading Technical Officer means an employee who works above and beyond an Engineering Associate - Level II at level C3 and has successfully completed seven modules in addition to an advanced diploma or equivalent. An employee at C2(a) is able to perform or coordinate work in more than one engineering, scientific or technical field as defined, or performs duties in a technical, engineering or scientific field which requires the exercise of judgement and/or skill in excess of that required of an Engineering Associate - Level II.

## Principal Engineering Trainer/Supervisor/Coordinator

Principal Engineering Trainer/Supervisor/Coordinator means a Trainer/Supervisor/Coordinator who has completed a National Advanced Diploma of which 15 modules are supervision/training modules or equivalent and who when engaged at this level:

- (i) Possesses a sound knowledge of occupational health and safety, industrial relations, and communications processes and is able to use this knowledge in training and leading the work of others;
- (ii) Possesses a general knowledge and awareness of the administrative, business, and marketing strategies of the enterprise;

Indicative of the tasks which an employee at this level may perform are as follows:

Plans, writes and delivers training programs for all engineering/production employees, apprentices, trainees, trade and lower technical levels;

Plans and directs the work of engineering/production employees especially in new work organisation environments, eg, group work arrangements, CIM production techniques.

## WAGE GROUP: C2(b)

## Principal Technical Officer

A Principal Technical Officer works above and beyond an employee at the C2a level and who has successfully completed fifteen modules of accredited training in addition to an advanced diploma or equivalent. Within organisational policy guidelines and objectives a principal technical officer:

- (i) Performs work requiring mature technical knowledge involving a high degree of autonomy, originality and independent judgement;
- (ii) Looks after and is responsible for projects and coordinating such projects with other areas of the organisation as required by the operation of the organisation;

- (iii) Is responsible for the coordination of general and specialist employees engaged in projects requiring complex and specialised knowledge;
- (iv) Plans and implements those programs necessary to achieve the objectives of a particular project;
- (v) In the performance of the above functions, applies knowledge and/or guidance relevant in any or all of the fields of designing, planning and technical work as required by the company's operation;
- (vi) Operates within broad statements of objectives without requiring detailed instructions; or
  - (i) Performs work at the above level of skill in a particular technical field;
  - (ii) Has as the overriding feature of his/her employment the ability to perform creative, original work of a highly complex and sophisticated nature;
  - (iii) Provides specialised technical guidance to other employees performing work within the same technical field.

"Or equivalent"

Where it appears in these classification definitions, the phrase "or equivalent" means:

- (i) Any training which a registered provider (eg. TAFE), or by a State Recognition authority which has been recognised as equivalent to an accredited course which the Manufacturing Engineering and Related Services Industry Training Advisory Body (MERSITAB) recognises for this level. This can include advanced standing through recognition of prior learning and/or overseas qualifications

OR

- (ii) Where competencies meet the requirements set out in the MERSITAB competency standards in accordance with the National Metal and Engineering Competency Standards Implementation Guide.

"Work within the scope of this level"

Where it appears in these classification definitions, the phrase "work within the scope of this level" means:

1. For an employee who does not hold a qualification listed as a minimum training requirement, the employee shall apply skills within the enterprise selected in accordance with the Implementation Guide. Competencies selected must be MERSITAB competency standards.
2. Where an employee has a qualification, subparagraph 5.1.3(c)(ii) of this Award should be followed.

Engineering Associate

Where it appears in these classification definitions, the phrase "Engineering Associate" is defined as a generic term which includes technical officers in a wide range of disciplines including laboratories and quality assurance; draughting officers; planners and other para-professionals.

## SCHEDULE B

Comparative schedule of old classifications and new broadbanded wage levels

Old Classification	New Classification Level
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Tracer

Years of experience as such:

- first            12E
- thereafter     12B

Draughtsman - detail  
 Planning assistant  
 Technical assistant  
 Years of experience as such:

- first 9D
- second and third 9A
- fourth 9A plus 2%
- thereafter 9A plus 7%

Draughtsman - design  
 Production planner and technical officer  
 Technician  
 Years of experience:

- first 4B
- second 4A
- thereafter 4A plus 5%

Leading tracer, leading detail draughtsman, leading technical assistant, leading planning Trainer/assistant, leading draughtsman - design, supervisor/leading technician, leading planning technician co-ordinator leading technical officer, leading production-technical planner, leading design draughtsman.

## SCHEDULE C

### Industries and Callings

All persons employed as draughtsmen, tracers, technical officers, technical assistants, supervisors of engineering production and planners of engineering production, construction or maintenance work and trainees and cadets in any of the aforementioned occupations in the State, excluding the County of Yancowinna;

excepting employees of the Crown;

and excepting employees in or about metalliferous and limestone mines, in or in connection with mining for minerals, other than coal and shale, in or about diamond and gem-bearing mines, mining dredges, ore sluicing processes, ore smelting, refining treatment and reduction works;

And excepting also persons employed by -

The Australian Gas Light Company;  
 Newcastle Gas Company Limited;  
 The Hunter District Water Board;  
 The Water Board;  
 The Maritime Services Board;  
 The Water Resources Commission;  
 State Rail Authority of New South Wales;  
 State Transit Authority of New South Wales;  
 Roads and Traffic Authority of New South Wales;  
 South Maitland Railways Pty Ltd;  
 The United Dental Hospital of Sydney;  
 The Electricity Commission of New South Wales, trading as Pacific Power;  
 Southern Copper Pty Limited;  
 Sydney Electricity;  
 Metal Manufactures Limited;  
 Incitec Pty Limited  
 Austral Standard Cables Proprietary Limited, in and about the works of the said companies at Port Kembla.

and excepting also -

Persons employed in the coal mining industry; and

Persons employed by municipal, shire and county councils.

and excepting also employees within the jurisdiction of the following Conciliation Committees -

Iron and Steel Works Employees (Australian Iron and Steel Proprietary Limited);  
Australian Wire Industries Pty Ltd - Newcastle Ropery;  
Steel Works Employees (Broken Hill Proprietary Company Limited);  
Special Steels and Steel Products Manufacture (Commonwealth Steel Company Limited);  
John Lysaght (Australia) Limited Newcastle;  
John Lysaght (Australia) Limited Port Kembla;  
John Lysaght (Australia) Limited Unanderra;  
Australian Wire Industries Pty Ltd - Sydney Wiremill;  
Australian Wire Industries Pty Ltd - Newcastle Wiremill;  
Cement Workers, &c. (State);  
Tubemakers if Australia Limited, Yennora;  
Tubemakers of Australia Limited, Newcastle;  
Quarries (Australian Iron and Steel Pty Limited);  
Quarries &c. (Broken Hill Proprietary Company Limited);  
Colonial Sugar Refining Co. Limited (Concord Works);  
Metalliferous Miners, &c. General (State);  
Metalliferous Miners, &c. General (State) No 2;  
Scientific officers, Chemists and Chemical Engineers (State);  
University Employees, &c. (State);  
Smelting, &c. (Electrolytic R. & S. Company, &c.);  
Smelting (Sulphide Corporation Limited);  
Australian Gas Light Company (Salaried Division);  
Newcastle Gas Company Limited (Salaried Division);  
AGL Sydney Limited (Wages Division);  
Shortland County Council;  
County Councils (Electricity Undertakings) Employees.

I. TABBAA, Commissioner.

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Printed by the authority of the Industrial Registrar.



**FOOTWEAR MANUFACTURING INDUSTRY (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 1536 of 2007)

Before Commissioner Bishop

18 January 2008

**REVIEWED AWARD****PART A****1. Arrangement**

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Dispute Settlement Procedure
4.	Contract of Employment
5.	Part-time Employees
6.	Temporary Employees
7.	Casual Employees
7A.	Secure Employment
8.	Rates of Pay
9.	Skill Levels
10.	Leading Hands
11.	Enterprise Flexibility
12.	Rates of pay - Apprentices and Probationers
13.	Apprenticeship - Manufacturing
14.	Apprenticeship - Components
15.	Junior Workers
16.	State Apprenticeship Regulations
17.	Mixed Functions
18.	Incentive Systems - Payment By Results Systems
19.	Payment of Wages
19A.	Deduction of Union Membership Fees
20.	Hours of Work
21.	Implementation of 38-Hour Week
22.	Meal Times
23.	Rest Period
24.	Overtime
25.	Time Off in Lieu of Overtime
26.	Shift Work
27.	Weekend Work
28.	Holidays
29.	Annual Leave
30.	Trade Union Training Leave
31.	Sick Leave
32.	Personal/Carer's Leave
33.	Bereavement Leave
34.	Parental Leave
35.	Jury Service
36.	Blood Donors
37.	Outdoor Work

- 38. Aged, Slow and Infirm Workers
- 39. Time and Wages Book
- 40. Tools
- 41. Award Posted
- 42. Amenities
- 43. First-aid Attendants
- 44. First-aid Outfit
- 45. Factories Regulations
- 46. Right of Entry
- 47. Shop Presidents
- 48. Introduction of Change
- 49. Redundancy
- 50. Superannuation
- 51. Anti-Discrimination
- 51A Traineeships
- 52. Area, Incidence and Duration

## PART B

### MONETARY RATES

Table 1 - Wages

Table 2 - Other Rates and Allowances

### APPENDIX A

- 53. Schedule A - Consultative Committee
- 54. Schedule B - Procedures to be Adopted in Developing an Enterprise Agreement
- 55. Schedule C - Form of Indenture of Apprenticeship
- 56. Schedule D - Broadcasting Arrangement - Historical information only
- 57. Schedule E - Outdoor Work Agreements

## 2. Definitions

- 2.1 "Multi-purpose machinist" means a person with at least five years continuous service in the industry as a closing room machinist and who is:
  - 2.1.1 able to completely close three types of uppers to the accepted quality and quantity standards of the employer; and
  - 2.1.2 is principally engaged on such work; or
  - 2.1.3 has been engaged on the ability to do so.

## 3. Dispute Settlement Procedure

Where a dispute arises the following steps shall be taken:

- 3.1 Step One -
  - 3.1.1 Where there is a complaint concerning any matter directly connected with employment or job conditions the worker or workers concerned or the union delegate may raise the matter with the appropriate supervisor. There shall be an attempt to settle the complaint.
  - 3.1.2 In relation to enterprise flexibility negotiations, as soon as practicable after the issue or claim has arisen it shall be considered jointly by the appropriate supervisor, the worker or workers concerned and the union delegate who shall attempt to settle the dispute.

- 3.2 Step Two - If the dispute is not resolved the issue or claim shall be considered jointly by the appropriate senior management representative in conjunction with the union delegate, who shall attempt to settle the dispute.
- 3.3 Step Three - If the dispute is not resolved the issue or claim shall be considered jointly by the employer and an official of the union, who shall attempt to settle the dispute.
- 3.4 Step Four - If the dispute is not resolved the dispute may then be notified to the Industrial Relations Commission. The parties may request that the matter be dealt with by a member of the Commission, who shall resolve the dispute by conciliation or arbitration.

#### 4. Contract of Employment

- 4.1 Employment shall be by the week, subject to the provisions of clause 4.2, provided that for the first two weeks of employment in the industry the employment shall be on an hourly basis.
- 4.2 Notice of Termination by Employer -

##### 4.2.1

- (i) In order to terminate the employment of an employee, the employer shall give the employee the following notice:

Period of Continuous Service	Period of Notice
1 year or less	1 week
1 year and up to the completion of 3 years	2 weeks
3 years and up to the completion of 5 years	3 weeks
5 years and over	4 weeks

If the said notice is given before the first half of any day or shift, then that day or shift shall be counted as part of the notice. If notice is given after the first half of any day or shift then that day or shift shall not be counted as part of the week's notice. This shall not affect the right of the employer to deduct payment for any day the employee cannot be usefully employed because of any strike or through any breakdown in machinery or any stoppage of work by any cause for which the employer cannot reasonably be held responsible.

- (ii) In addition to the notice in clause 4.2.1(i), employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service shall be entitled to an additional week's notice.
- (iii) Payment in lieu of the notice prescribed in clauses 4.2.1(i) and 4.2.1(ii) shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (iv) In calculating any payment in lieu of notice, the wages an employee would have received in respect of the ordinary time they would have worked during the period of notice had their employment not been terminated shall be used. All amounts in respect of overaward payments, overtime in the case of an employee who works overtime on a permanent basis and payments under clauses 10, Leading Hands, and 43, First-aid Attendants, shall be included. Except as aforementioned, all amounts in respect of overtime, payment by results systems, shift allowances and all other penalty or special rates shall be excluded.
- (v) The period of notice in this clause shall not apply in the case of dismissal for conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty or in the case of apprentices or employees engaged for a specific period of time or for a specific task or tasks.

- (vi) For the purposes of this subclause, continuity of service shall be calculated in the manner prescribed by clause 29, Annual Leave.

4.2.2 Notice of Termination by Employee - The notice of termination required to be given by an employee shall be the same as that required of an employer, save and except that there shall be no additional notice based on the age of the employee concerned.

If an employee fails to give notice the employer shall have the right to withhold moneys due to the employee, with a maximum amount equal to the ordinary-time rate of pay for the period of notice.

4.2.3 Time Off During Notice Period - Where an employer has given notice of termination to an employee, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the employee after consultation with the employer.

4.2.4 Statement of Employment - The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of his or her employment and the classification of or the type of work performed by the employee.

4.2.5 Summary Dismissal - The employer shall have the right to dismiss any employee without notice for conduct justifying instant dismissal, including malingering, inefficiency, neglect of duty and in such cases the wages shall be paid up to the time of dismissal only.

4.2.6 Unfair Dismissals - Termination of employment by an employer shall not be harsh, unjust or unreasonable. For the purposes of this clause, termination of employment shall include terminations with or without notice.

Without limiting the above, except where a distinction, exclusion or preference is based on the inherent requirements of a particular position, termination on the ground of race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction and social origin shall constitute a harsh, unjust or unreasonable termination of employment.

4.2.7 Disputes Settlement Procedures - Unfair Dismissals - Any dispute or claim arising under clause 4.2.6 should be dealt with in the following manner:

- (i) As soon as is practicable after the dispute of a claim has arisen, the employee concerned will take the matter up with their immediate supervisor, affording them the opportunity to remedy the cause of the dispute or claim.
- (ii) Where any such attempt at settlement has failed, or where the dispute or claim is of such a nature that a direct discussion between the employee and their immediate supervisor would be inappropriate, the employee shall notify a duly authorised representative of their union who, if they consider that there is some substance in the dispute or claim, shall forthwith take the matter up with the employer or their representative.
- (iii) If the matter is not settled it shall be submitted to the Industrial Relations Commission, which shall endeavour to resolve the issue between the parties by conciliation.
- (iv) Without prejudice to either party, work should continue in accordance with the award while the matters in dispute are being dealt with in accordance with this paragraph.

4.3 An employee not attending for duty shall, except as provided by clause 31, Sick Leave, lose pay for the actual time of such non-attendance.

4.4 Deduction in wages may be made only for such time as is actually lost by an employee. Such deduction shall not be made from the wages of apprentices, except in accordance with the Indentures of Apprenticeship.

4.5 Subject to clause 4.6, any employer who, by reason of the failure or shortage of electric power, is unable to carry on their undertaking during all the working hours of the day may deduct from the wages of an employee, other than an employee directed not to attend work, payment for any part of a day in excess of 20 minutes that such an employee cannot be usefully employed.

4.6 Provided that any employee who is required to attend for work on any day but for whom for the reasons above mentioned no work is provided, shall be entitled to two hours pay, and provided further that where any employee commences work they shall be entitled to be provided with four hours employment or, failing which, be entitled to be paid as for four hours work.

4.7

4.7.1 The following provisions shall apply in the case of an employer who is subjected to restriction or rationing in the use of electric energy and/or coal gas and/or emergency disconnection thereof in accordance with orders or regulations approved by the appropriate lawful authority:

(i) If by reason of such restriction or rationing or emergency disconnection he is unable usefully to employ an employee for the whole or part of any day or shift, the employer may deduct from the wages of that employee payment for any part of the day or shift such employee cannot be usefully employed, provided that:

- (1) if an employer requires the employee to attend for work but is not able to employ them usefully the employee shall be entitled to be paid for two hours work;
- (2) where an employee commences work they shall be entitled to be paid for four hours work;
- (3) this subclause shall not apply to apprentices.

(ii) The employer may require any day worker to perform the ordinary hours of work (or any such ordinary hours of work) at any time on any day other than on a Sunday on the basis of 38 hours per week. The following rates of pay shall apply for such work:

- (1) for work performed on Mondays to Fridays from 7.00 a.m. to 5.30 p.m. and on Saturdays from 7.00 a.m. to noon ordinary time;
- (2) for work performed between noon and midnight on Saturdays, ordinary rates plus 25 per cent;
- (3) for work performed at all other times other than on a Sunday, ordinary rates plus 10 per cent.

Provided that when a worker is required to commence work between the hours of 9.30 p.m. and 6.00 a.m., the amount the employee shall receive shall not be less than an amount of 50 cents more than the amount the employee would receive if paid at ordinary day rates.

(iii) The employer may alter the time at which rest periods and meal breaks are usually taken and/or the duration of meal breaks, in order to avoid or mitigate the effects of such interference, without being liable to pay penalty rates for work done during the normal meal breaks; provided that the commencing time of any meal break is not made more than one hour earlier or later than usual and that a meal break of at least 20 minutes is allowed; and provided also that the employer shall, whenever it is practicable, consult with the representative of the union or unions before acting under this paragraph.

4.7.2 The provisions of this clause shall also apply in the case of an employer who uses auxiliary power plant for the purpose of providing employment for his employees whilst such restriction or rationing or emergency disconnection is in force and who:

- (i) is unable usefully to employ an employee for the whole of any day or shift by reason of a breakdown on such plant through no fault of its own; or
- (ii) because of the inability of the auxiliary power plant to meet the normal demands for power:
  - (1) finds it necessary to require any employee to perform the ordinary hours of work (or any of such ordinary hours of work) outside the hours normally worked by such employee; or
  - (2) finds it necessary to alter the time at which meal breaks are usually taken and/or the duration of them.

### **5. Part-Time Employees**

5.1 A part-time employee is one engaged to work for less than 38 hours but more than 19 hours per week on a regular basis. Such persons may be employed on the following bases:

5.1.1 If time workers, they shall be paid for each hour worked at the rate of at least one thirty eighth of the weekly award rate prescribed by this award for the class of work performed by them.

If incentive system workers, they shall be paid at the appropriate incentive system rate in accordance with clause 18, Incentive Systems, but in no case shall any part-time workers be paid less than the weekly award rate for their classification as is proportionate to the time worked by them.

5.1.2 An employer shall calculate the payment or deduction of payment in lieu of notice, the entitlement to annual leave and sick leave on a proportionate basis. The basis for this calculation shall be the average number of hours worked each week during the past 12 months, or if there is not a six-month period of employment, then the average of the actual period of employment.

5.1.3 An employer will grant a part-time employee the holidays provided in clause 28, Holidays, where such a holiday falls on a day where the part-time employee would have worked. An employer shall pay a part-time employee for the number of hours he or she would normally have worked on that day.

5.1.4 All other provisions of this award shall apply to a part-time employee.

### **6. Temporary Employees**

6.1 Temporary employees may be engaged for specific periods of employment of not less than 3 weeks and for not more than 15 weeks within a calendar year. Payment of wages shall be not less than the weekly award rate of the classification the employee is employed under, provided that the said payment shall be on a proportionate basis to a full-time employee employed under this award. All other entitlements of the award shall apply and be on a proportionate basis of the hours worked as compared to a full-time employee employed under this award.

### **7. Casual Employees**

7.1 A casual employee is an employee engaged either full-time or less than 38 hours per week to meet short term work demands on the following terms:

7.1.1 a 3-hour minimum daily engagement period;

7.1.2 a 7.6-hour minimum engagement in any one week, with the proviso that, in the case of companies working less than 7.6 hours on any day, the appropriate number of shorter hours shall be the minimum;

- 7.1.3 an 8-week continuous maximum period or 40 working days of employment; this period can be extended subject to the arrangement being confirmed in writing from the State Secretary of the union;
- 7.1.4 a 4-week break in the employment cycle after clause 7.1.3;
- 7.1.5 a ratio of 1.15 or fraction thereof shall apply; any changes to this ratio may be negotiated with the union in accordance with clause 11, Enterprise Flexibility, with the exception that the agreement shall only be required in writing from the State Secretary of the union.
- 7.2 A casual employee shall be engaged by the hour. Employment shall be terminated by either the giving of one hour's notice by either party or the payment or forfeiture of one hour's wage.
- 7.3 A casual employee shall be paid per hour 1/38 of the weekly award wage prescribed for the relevant classification/wage band plus a loading of 20 per cent. This payment shall compensate for payment of sick leave, annual leave and public holidays.
- 7.4 The relevant penalty rate shall apply for work performed on Monday to Friday outside the normal span of hours as specified in clause 20, Hours of Work, on Saturdays, Sundays and public holidays.
- 7.5 Where retrenchments occur, casual employees engaged in the same classification/occupation will be the first to be terminated.

### **7A. Secure Employment**

#### **7A.1. Objective of this Clause**

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

#### **7A.2. Casual Conversion**

- 7A.2.1. A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- 7A.2.2. Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- 7A.2.3. Any casual employee who has a right to elect under paragraph 10A.2.1, upon receiving notice under paragraph 10A.2.2 or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- 7A.2.4. Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time

employment or part-time employment will be deemed to have elected against any such conversion.

7A.2.5. Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.

7A.2.6. If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph 7A.2.3, the employer and employee shall, in accordance with this paragraph, and subject to paragraph 7A.2.3, discuss and agree upon:

- (a) whether the employee will convert to full-time or part-time employment; and
- (b) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

7A.2.7. Following an agreement being reached pursuant to paragraph 7A.2.6, the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

7A.2.8. An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

### 7A.3. Occupational Health and Safety

7A.3.1. For the purposes of this subclause, the following definitions shall 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 staff employed or engaged by it to another employer for the purpose of such staff 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.

7A.3.2. Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall 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 occupational health and safety consultative arrangements;



- (b) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs 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.

7A.3.3. Nothing in this subclause 7A.3 is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

#### 7A.4. Disputes Regarding the Application of this Clause

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

7A.5. 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 established by the ANTA Ministerial Council.

### 8. Rates of Pay

8.1 Adult rates of pay shall be as set out in Table 1, Wages, Part B, Monetary Rates.

8.2 The rates of pay in this award include the adjustments payable under the State Wage Case 2007. These adjustments may be offset against:

- (i) any equivalent overaward payments, and/or
- (ii) award wage increases since 29 May 1991 other than safety net adjustments and minimum rates adjustments.

### 9. Skill Levels

#### 9.1 Trainee

Employees at this level:

Shall be new entrants into the industry.

Shall for a period of up to 3 months undergo approved (including induction) training so as to enable them to achieve the level of competence (Explanation of Terms (9)) required to be classified at Skill Level 1.

Shall work under the following conditions:

Totally defined procedures and methods

Constant direct supervision

Constant direct training

Progressive assessment and feedback

Training for new entrants will be determined in accordance with the needs of the enterprise, but shall involve instruction aimed at assisting trainees to achieve the range of competencies required at Skill Level 1, including:

The knowledge and skills (Explanation of Terms (8)) required to apply relevant Occupational Health and Safety practices and procedures.

The knowledge and skills required to apply specified quality control (Explanation of Terms (20)) standards to their own work.

The knowledge and skills required to apply specified operation practices and procedures and to meet efficiency requirements.

The knowledge and skills required to apply minor equipment/machine maintenance (Explanation of Terms (17)) relevant to the equipment involved in the performance of their own work.

## 9.2 Skill level 1 -

Employees at this level:

1. Shall work to defined procedures/methods (Explanation of Terms (14)) either individually or in a team environment; and
2. shall exercise skills to perform basic tasks (Explanation of Terms (1)); and,
3. shall be aware of and apply basic quality control skills in the receipt and completion of their own work to the specified quality standards (Explanation of Terms (23)).

In addition, according to the needs and operational requirements of the enterprise, employees at this level:

4. May be required to exercise the skill necessary to assist in providing basic on the job instruction (Explanation of Terms (18)) by way of demonstration and explanation.
5. May be required to record basic information on production and/or quality indicators (Explanation of Terms (22)) as required.
6. May be required to work in a team environment (Explanation of Terms (24)).
7. May be required to apply minor equipment/machine maintenance.
8. May be required to exercise keypad skills (Explanation of Terms (11)).
9. May be required to exercise the level of English literacy and numeracy skills to effectively perform their tasks.
10. May commence training in additional skills required to advance to a higher skill level.

## 9.3 Skill level 2 -

Employees at this level exercise the skills required to be graded at Skill Level 1 and

1. shall work to defined procedures/methods, either individually or in a team environment; and
2. shall exercise the skills to perform intermediate tasks (Explanation of Terms (2)); and
3. shall understand and apply quality control skills in their own work and component parts (Explanation of Terms (10)) (including understanding of the likely cause/s of deviations to specified quality standards in their own work).

In addition, according to the needs and operational requirements of the enterprise, employees at this level:

4. May be required to exercise the skill necessary to assist in providing on the job instruction to employees in skills required at Skill Level 2 and below by way of demonstration and explanation.
5. May be required to record detailed information on production and/or quality indicators as required.
6. May be required to exercise team work skills.
7. May be required to identify and rectify minor equipment/machine faults, and report problems that cannot be rectified to a mechanic or supervisor.
8. May be required to use basic computer skills (Explanation of Terms (12)).
9. May commence training in additional skills required to advance to a higher skill level.

#### 9.4 Skill level 3 -

Employees at this level exercise the skills required to be graded at Skill Level 2; and

1. shall exercise discretion, initiative and judgement on the job in their own work, either individually or in a team environment; and
2. shall exercise skills to:
  - (a) perform a complex task/s (Explanation of Terms (3)); or
  - (b) perform a series of different operations on a machine/s (Explanation of Terms (4, 5)); or
  - (c) use a variety of machine types (Explanation of Terms (6)) three of which require the exercise of level 2 skills; and
3.
  - (a) shall be responsible for quality assurance (Explanation of Terms (19)) in their own work and assembly of component parts including having an understanding of how this work relates to subsequent production processes and its contribution to the final appearance of the shoe.

In addition, according to the needs and operational requirements of the enterprise, employees at this level:

- (b) May be required to investigate causes of quality deviations (Explanation of Terms (21)) to specified standards and recommend preventative action.
4. May be required to exercise the skills necessary to assist in providing on the job instruction to employees in skills required at Skill Level 3 and below by way of demonstration and explanation.
5. May be required to record detailed information on, and recommend improvements to, production and/or quality.
6. May be required to take a coordinating role (Explanation of Terms (13)) for a group of workers or in a team environment (which includes contributing to the identification and resolution of the problems of others and assisting in defining work group procedures and methods), where the members of the group or team are at Skill Level 3 and below.

7. May be required to exercise advanced equipment maintenance and problem solving skills (including identification of major equipment faults).
8. May commence training in additional skills required to advance to a higher skill level.

#### 9.5 Skill level 4 -

Employees at this level exercise the skills required to be graded at Skill Level 3 and have a comprehensive knowledge of product construction.

Employees at this level shall also:

apply skills and knowledge, equivalent to that of a qualified tradesperson, that have been acquired as a result of training or experience; or

hold a relevant trade certificate; and

1. shall work largely independently (Explanation of Terms (15)) (including developing and carrying out of a work plan to specifications); and
2. shall exercise a range of skills involving planning, investigating and resolution of problems, and/or training, and/or supervision, and/or specialised technical tasks; or

shall make a whole shoe (Explanation of Terms (25)) to specifications, or exercise equivalent skills (Explanation of Terms (7)).

In addition, according to the needs and operational requirements of the enterprise, employees at this level:

3. May be required to apply quality control/assurance techniques to their work group or team.
4. May have designated responsibility (Explanation of Terms (16)) for the training of other employees (and if so shall be trained trainers).
5. May be responsible for quality and production records relating to their own work group or team.
6. May be required to take a coordinating role for a group of workers or in a team environment (which includes contributing to the identification and resolution of the problems of others and assisting in defining work group procedures and methods), where the members of the group or team are at Skill Level 4 and below.
7. May be required to exercise advanced equipment maintenance and problem solving skills (including identification of major equipment faults and organisation of performance of necessary repair).
8. May commence training in additional skills, required to advance to a higher skill level.

#### 9.6. Explanation Of Terms

1. Basic tasks

Uncomplicated tasks which are easily learned and involve little decision making whether machine or non-machine.

Basic machine tasks are those where the positioning of work may be controlled by guide bars and sensor lights or other such guiding devices or where there is uncomplicated feeding of the material.

2. Intermediate tasks

Tasks which are more difficult to learn involve more decision making than Skill Level 1 tasks and which may require material or component knowledge whether machine or non machine.

Intermediate machine tasks require skill in positioning feeding and handling of work involving directional changes or critical stopping points or require feeding and handling skills beyond those of a skill level 1 operator because of material variation.

Intermediate non-machine tasks require skills to perform a sequence of related tasks.

3. Complex tasks

Tasks which are more difficult to learn and involve a higher level of decision making than Skill Level 2 tasks whether machine or non machine.

Complex machine tasks require material manipulation skills and knowledge beyond those of Skill Level 2 operator or perform more difficult tasks or to handle and align the sections while ensuring correct shaping of the end result because of the complexity of combining parts or because of frequent variation in materials.

4. Series of different operations on a machine/s

Performing a sequence of different operations on a machine/s to complete the majority of a complex component assembly or complex upper.

5. Machine

Any piece of equipment, which performs a significant part of an operation in:

Design/grading of patterns

Cutting

Sewing

Making

Finishing

Packing

Last making

Component manufacture

and which is powered by an external source i.e. electricity, steam or compressed air or a combination of these.

Hand tools are not machines and refer to those items, which are primarily, powered by the operator e.g. scissors, shears, staples, tagging guns, tape dispensers.

6. Variety of machines

Three or more different types of machines which are sufficiently different in their own operation to require the exercise of different skills (i.e. all flat bed machines are the same machine type for this purpose and all post machines are the same type for this purpose).

7. Whole upper machinist or equivalent skills

A machinist who works largely independently in producing a complex upper from written specifications and patterns. Examples of "equivalent skills" include:  
sample machinist

a fully multi-skilled operator who is required to perform any of the operations involved in the making of a complex whole upper or a complex component to specification.

an operator who performs each of the operations required to complete a complex component assembly or a complex whole upper from specifications.
8. Skill

The application of a combination of abilities, knowledge and attributes to competently perform a given activity or activities.
9. Competence

The ability to perform a particular activity or activities to a prescribed standard (or standards) and under a prescribed set of circumstances.
10. Component parts

The parts of the product which the operator receives in order to perform their job.
11. Key pad skills

Ability to use a small panel of keys, either numerical or with symbols, to operate equipment.
12. Basic computer skills

Use of a computer to enter, retrieve and interpret data.
13. Coordinating role

A role which involves responsibility for organising and bringing together the work and resource requirements of a work group or team.
14. Defined procedures/methods

Specific instructions outlining how an operator is to do their job.
15. Largely independently

Where the employee is accountable for own results including:

  - carrying out assigned tasks
  - coordinating processes
  - setting and working to deadlines
16. Designated responsibility

Identified by management as a person with a specific role or responsibility.

17. Minor equipment/machine maintenance

Includes cleaning and minor adjustments to the equipment involved. In the case of sewing machines for example, it may include:

  - changing needles
  - cleaning
  - lubrication
  - tension and stitch adjustment
18. On-the-job instruction

Demonstrating, showing, explaining and/or guiding other employees as to how to perform a particular task or operation to a competent standard.
19. Quality assurance

The overall system and plans used to provide confidence that goods and services will satisfy given requirements.
20. Quality control

The activities used to check that materials and products meet quality specifications; includes the grading of product into acceptable and unacceptable categories.
21. Quality deviations

Departures from a quality standard.
22. Quality indicators

Information used to determine whether a quality standard has been met.
23. Specified quality standards

Detailed standards against which quality is measured.
24. Team environment

An environment involving work arrangements in which a group of people work closely, flexibly and in co-operation with each other to ensure efficient and effective performance.
25. Shoe

A shoe is to include all forms of foot covering that is generally made in the footwear industry and shall encompass shoes, boots, and complex sandals.

#### **10. Leading Hands**

- 10.1 In addition to the appropriate weekly wage prescribed in Table 1 - Wages, of Part B, Monetary Rates, for the highest classified employee directly under his or her control and for whom he or she is responsible, an adult employee employed as a leading hand (as defined) shall be paid, when in charge of three to ten employees, 11 to 20 employees or 21 or more employees, the further amounts prescribed by Items 1, 2 and 3 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates.

- 10.2 Such rates to be payable for all purposes of the award.
- 10.3 Definition - "Leading Hand" means an adult employee appointed as such by the employer and who, working under supervision, gives instructions to and/or is responsible for work done by other employees.

### 11. Enterprise Flexibility

- 11.1 The parties to this award are committed to co-operating positively to increase the efficiency, productivity and international competitiveness of the footwear industry and to enhance the career opportunities, quality of working life and job security of workers in the industry.
- 11.2 An employer, employees and the union may develop an enterprise agreement in accordance with the provisions of this clause and Schedules A and B to this award or such other procedures that are agreed upon in writing between the employer and the State Secretary of the union. The agreement shall, to the extent of any inconsistency, take precedence over any provisions of this award.
- 11.3 In each workplace in the footwear industry seeking to develop an enterprise agreement, an employer, employees and the union shall establish a Consultative Committee in accordance with Schedule A to this award, or such other procedures that are agreed upon in writing between the employer and State Secretary of the union.
- 11.4 The basis for the work of the Consultative Committee shall be to consider matters raised by consultative committee members which impact on employees and/or which contribute to the improved operation and efficiency of the enterprise as outlined in clause 11.1.
- 11.5 The matters raised for inclusion in an enterprise agreement may, amongst other things, involve:
- spread of hours;
  - shift work;
  - job redesign and work organisation;
  - work related child care;
  - vocational training;
  - English language training;
  - Foundation education training;
  - arrangement of leave;
  - operation of payment by results systems;
  - occupational health and safety;
  - leave for special purposes;
  - parental leave;
  - job sharing.
- 11.6 An enterprise agreement shall not act to:
- reduce the quantum of award rate in accordance with clauses 8, Rates of Pay, and 12, Rates of Pay - Apprentices and Probationers;



- increase the ordinary hours of work in any roster system beyond an average of 38 hours per week;
- reduce the quantum of period of notice in accordance with clause 4 Contract of Employment;
- reduce the quantum of penalty rates in accordance with clause 24, Overtime;
- reduce the quantum of shift penalties in accordance with clause 26 , Shift Work;
- reduce the quantum of annual leave and annual leave loading in accordance with clause 29, Annual Leave;
- reduce the quantum of sick leave entitlement in accordance with clause 31 , Sick Leave;
- reduce the quantum of holidays in accordance with clause 28 , Holidays;
- reduce the quantum of bereavement leave in accordance with clause 33 Bereavement Leave;
- reduce the quantum of unpaid leave in accordance with clause 34 , Parental Leave;
- reduce the quantum of severance pay in accordance with clause 49, Redundancy;
- reduce the quantum of superannuation contributions in accordance with clause 50, Superannuation.

## 12. Rates of Pay - Apprentices and Probationers

- 12.1 The minimum rates of wages to be paid to apprentices, probationers or trainee apprentices shall be the money equivalent of the undermentioned percentages of the adult total wage for skill level 3, calculated in total to the nearest 5 cents. Any fraction of 5 cents in the result not exceeding 2 cents is to be disregarded.

Experience - Percentage of  
Skill Level 3

Four-year term with respect only to  
indentures executed before 1 January  
1982 -

Four-year Term -

1st year's experience -

1st six months	47
2nd six months	55

2nd years experience -

1st six months	60
2nd six months	65

3rd years experience -

1st six months	75
2nd six months	80

4th years experience -

1st six months	90
2nd six months	95

Three-year Term -

1st year's experience -

1st six months	60
2nd six months	65

2nd years experience -

1st six months	75
2nd six months	80

3rd years experience -

1st six months	90
2nd six months	95

Provided that any employee under the age of 21 years having completed his or her term of apprenticeship in accord with clauses 13, Apprenticeship - Manufacturing, and 14, Apprenticeship - Components, shall be paid at the rate for the appropriate classifications as set out in clause 8, Rates of Pay.

"Experience" for the purpose of this clause means actual experience whether as an apprentice or otherwise in any one or more of the operations specified in the said clauses 13 and 14 and clause 15, Junior Workers.

### **13. Apprenticeship - Manufacturing**

#### 13.1 Trainees -

13.1.1 For the purpose of this clause trainee apprentices employed under the supervision of the Apprenticeship Council shall be regarded as apprentices so long as they are paid wage rates not less than those hereinbefore prescribed.

13.1.2 An employer shall not employ a trainee apprentice on probation for a period exceeding three months.

#### 13.2 Indentures and Probation -

13.2.1 Subject to clause 13.1 an "apprentice" means any person under the age of 21 years who is bound by an indenture of apprenticeship in the form prescribed in Schedule C - Form of Indenture of Apprenticeship, or in the form prescribed by the State Apprenticeship Authority, for any term of not less than three years nor more than four years.

13.2.2 An employer before indenturing a minor who has not previously been apprenticed may employ such minor for a period not exceeding three months on probation, and such period shall be treated as part of the period of apprenticeship.

13.2.3 Indentures shall be executed in triplicate. One part thereof shall be deposited by the employer with the Registrar or Deputy Registrar of the Industrial Relations Commission within thirty days of the execution thereof. The provisions of this paragraph shall not apply in any case in which, pursuant to a Regulation referred to in this award, a copy or copies of an indenture are required to be lodged with some person or authority appointed by such Regulation.

#### 13.3 Proportion - An employer shall not employ apprentices in excess of the proportion of one apprentice to each adult worker or fraction thereof receiving adult rates based on the average number of such workers employed during six months immediately preceding.

- 13.4 Apprenticeship Trade - The indenture shall contain a covenant on the part of the employer to pay the apprentice wages and to teach the apprentice at least:
- 13.4.1 the operations connected with pattern cutting, pattern grading and finishing of patterns; or
  - 13.4.2 the operations of clicking; or
  - 13.4.3 the operations hereinafter specified under the heading of stuff cutting; or
  - 13.4.4 one of the two sets of operations hereinafter specified under the heading of finishing; or
  - 13.4.5 the operations of pump making; or
  - 13.4.6 one of the four sets of operations hereinafter specified under the heading of making welts;  
or
  - 13.4.7 one of the four sets of operations hereinafter specified under the heading of making of machine sewn, cement process, basket shoes and veldtschoens; or
  - 13.4.8 one of the two sets of operations hereinafter specified under the heading making heavy work; or
  - 13.4.9 one of the six sets of operations hereinafter specified under the heading manufacturing slippers; or
  - 13.4.10 the operations hereinafter specified under the heading slip lasting; or
  - 13.4.11 any other operations which may be approved by the appropriate State authority.
  - 13.4.12 all the operations mentioned in this subclause, whether hand or machine, shall be carried out on the employer's methods.
- 13.5 Clicking - Cutting pieces, stays and top bands, cutting linen and leather linings, cutting patent hide and fabrics, cutting calf, chrome and vegetable tanned leathers, cutting glace kid and plain cutting, fancy cutting, all classes.
- At least 20 per cent of the time employed as a clicker shall be on hand work in those factories where hand clicking is performed.
- 13.6 Making Pumps - First and second lasting and wood heeling or pump sewing.
- 13.7 Making of Welts -
- 13.7.1 Pulling over by hand or machine, operating pounder and operating a lasting machine other than an automatic machine.
  - 13.7.2 Operating rounder and welter and any other two major machines.
  - 13.7.3 Operating stitcher and rounder and any other two major machines.
  - 13.7.4 Operating welter and stitcher and any other two major machines.
  - 13.7.5 Major machines for the purposes of this subclause shall mean and include -  
Stitcher, rounder, welter, any lasting machine, pulling over machine, inseam trimmer, leveller.

- 13.8 Making Heavy Work -
- 13.8.1 Pulling over and laying stuff by hand or machine and operating any two of the following machines - heeler, screwer, laster, nailer, slugger or leveller.
- 13.8.2 Making right through by hand.
- 13.9 Making Machine Sewn, Cement Process, Basket Shoes or Veldtschoens -
- 13.9.1 Pulling over by hand or machine, wood heeling and operating any two of the following machines - a lasting machine, Blake Sewer, roughing machine, cement press, fair stitcher, heel attaching machine or pounder.
- 13.9.2 Making right through by hand.
- 13.9.3 Basket shoes - Lacing upper on to last and plaiting on the last, heeling, trimming, ironing edge and scraping sole.
- 13.9.4 Veldtschoens - Pulling over by hand or machine and operating any three of the following machines - stitcher, upper stapler, tacker, trimmer and leveller.
- 13.10 Finishing - Colouring heels and edges, brushing, padding, sand papering and breasting and operating edge trimmer, heel trimmer, scourer and edge setter.
- 13.11 Stuffcutting - Ranging, cutting soles, insoles, slips, stiffeners, toes, lifts and top pieces, rounding, channelling, moulding, heel building, slugging and skiving.
- 13.12 Slip Lasting - The whole of the operations of slip lasting and one of the two sets of operations specified under the heading of finishing.
- 13.13 Manufacturing of Slippers -
- 13.13.1 Cutting all classes of bottom stuff, and filling, preparing, ranging, heel building, channelling and splitting.
- 13.13.2 Clicking by hand or machine - leather and fabrics. At least twenty per cent of the time employed as a clicker must be on hand work in factories where hand clicking is performed.
- 13.13.3 Clicking by hand or machine - leather and fabrics, turning, blocking, ironing and heeling. At least twenty per cent of the time employed as a clicker must be on hand work in factories where hand clicking is performed.
- 13.13.4 Operating slipper turn sewing machine, or Blake or other sole attaching machine, turning, blocking, slugging, loose nailing and ironing.
- 13.13.5 First and second lasting, heeling and ironing.
- 13.13.6 Finishing, colouring edges and bottoms, edge and heel trimming, edge setting, scouring and sand papering machine.
- 13.14 Day Time Training - All apprentices shall be allowed time off during working hours so that they shall attend available classes. In order to be entitled to payment for such time, the apprentice shall produce a card showing his attendance at school for the period.
- 13.15 Computing Service - In computing any six months of service, the apprentice shall be allowed any overtime worked as a credit against any time lost during that six months.

#### 14. Apprenticeship - Components

14.1 An apprentice means any person under 21 years of age who is under an agreement containing a covenant on the part of the employer to pay wages not less than provided herein and to teach at least, if apprenticed to the wood heel section, the turning lathe and two other machines, or the concaving machine and two other machines, and if apprenticed to the shank, counter and puff making, the operations of stuffcutting, skiving and moulding, and if apprenticed to the wood last section a covenant to teach him at least two of the four functions or processes set out in clause 14.2 and two of the seven operations set out in clause 14.3 of the following schedule of subjects for instruction of apprentices to the last making section.

14.2 Schedule of Subjects for Instruction in Last Making -

1. Turning.
2. Toe finishing.
3. Trimming.
4. Bank sawing.

14.3

1. Grading.
2. Boring.
3. Marking and sawing toe.
4. Plating.
5. Scouring.
6. Polishing.
7. Graduating.

All the above operations by hand or machine are to be carried out on the employer's method when not otherwise specified.

14.14 Proportion - The maximum number of persons including juniors, probationers for apprenticeship, and apprentices that may be employed in the industry shall not exceed the proportion of one to each adult employee. Such proportion shall be based on the average number of adult employees employed for the previous twelve months. In addition to the foregoing proportion of persons in any factory where not less than three adult employees, one person under the age of sixteen years may be employed for a period not exceeding twelve months on the operation of messenger, sweeping, carrying, sorting or stamping.

14.15 Probationers for apprenticeship means juniors engaged in the wood heel or last department with less than three months' experience in the trade.

#### 15. Junior Workers

15.1 An employer shall not employ unapprenticed juniors except in the following occupations:

- 15.1.1 Tacking on insoles.
- 15.1.2 Putting on stiffeners or toes.
- 15.1.3 Putting in bottom filling and shanks.
- 15.1.4 Putting in and slipping lasts.
- 15.1.5 Last carrying.
- 15.1.6 Last sorting.
- 15.1.7 Heel nail feeding.

- 15.1.8 Inking edges.
- 15.1.9 Solutioning or cementing by hand or machine.
- 15.1.10 Inking and colouring (one colour only).
- 15.1.11 Rubbing off heels.
- 15.1.12 Drawing tacks or nails.
- 15.1.13 Socking and sizing.
- 15.1.14 Tacking up stuff (including the cutting and preparation of football studs).
- 15.1.15 Putting in followers.
- 15.1.16 Branding or stamping.
- 15.1.17 All operations connected with vulcanising.
- 15.1.18 Oil water proofing of heavy work.
- 15.1.19 All operations in Upper Closing and Cleaning s
- 15.1.20 Operations in componentry.. All operations in the component section of this award.

## 15.2 Proportion - Manufacturing

- 15.2.1 An employer shall not employ unapprenticed juniors on operations specified in 15.1.1, 15.1.2., 15.1.3, 15.1.4, 15.1.5, 15.1.6, 15.1.7, 15.1.8, 15.1.9, 15.1.10, 15.1.11, 15.1.12, 15.1.13, 15.1.14, 15.1.15, 15.1.16, 15.1.17, 15.1.18 nor 15.1.20, in excess of the proportion of one junior to every ten or fraction of ten adult employees, the proportion to be calculated on the average number of adult employees employed in these sections during the previous six-month period.
- 15.2.2 An employer shall not employ unapprenticed juniors on operations specified in clause 15.1.19, in excess of the proportion of three juniors to each adult employee, the proportion to be calculated on the average number of adult employees employed in these sections during the previous six-month period.

## 15.3 Wages for Juniors -

- 15.3.1 The minimum rate of wages to be paid to juniors shall be the money equivalent of the undermentioned percentages of the adult total wage for Skill Level 1, calculated to the nearest 5 cents, any fraction of 5 cents in the result not exceeding 2 cents to be disregarded.

Age	Percentage Skill Level 1
Under 16 years	44
16 years and under 17 years	55
17 years and under 18 years	66
18 years and under 19 years	77
19 years and under 20 years	86
20 years and under 21 years	94

- 15.3.2 Any unapprenticed junior who has had three years experience in the industry who is less than twenty-one years of age shall be paid the adult rate for the class of work upon which he is employed.

- 15.3.3 Provided further that no employee shall suffer a reduction in wages as a result of this award.

- 15.3.4 Any employee under the age of twenty-one years not being an apprentice or probationer for apprenticeship who performs any operation outside those defined in this clause shall be deemed not to be a junior worker and shall be paid the appropriate rate for the appropriate classification for an adult as defined in the clause 8.

## **16. State Apprenticeship Regulations**

- 16.1 See *Apprenticeship and Traineeship Act 2001*.

## **17. Mixed Functions**

- 17.1 An employee engaged for two hours or more on any one day on duties carrying a higher rate than his ordinary classification shall be paid the higher rate for the whole of such day and, if so engaged for less than two hours on one day, he shall be paid the higher rate for the time so worked.
- 17.2 The employer shall keep a record of the times of which an employee is temporarily transferred to a higher classification than that upon which he is usually employed.

## **18. Incentive Systems - Payment By Results Systems**

### **18.1 Definition**

- 18.1.1 For the purpose of this clause the expression the Incentive System is defined as Austral Unit type systems where each operation is given a time standard which is used to measure the operator's efficiency as a basis for their bonus.

- 18.1.2 For the purposes of this clause, obligations concerning the discussion and/or the implementation (or proposed implementation) of Austral Unit type and other types of payment by results systems are located at clause 18.2.

### **18.2 Implementation of payments by results system**

- 18.2.1 An employer must provide the relevant state secretary of the union prior to 7th September 1998 the details of any payment by results system(s) in operation at their enterprise(s).

- 18.2.2 An employer who introduces or plans to introduce or alters a Payment by Results system at any stage after 7th September 1998 must provide the relevant state secretary of the union with the details of any Payment by Results system(s) to be introduced or altered at their enterprise(s)

- 18.2.3 The employer and the relevant secretary of the union shall discuss the Payment By Results system in operation or proposed operation at the employer's enterprise(s) and the union must deal expeditiously with any matters provided for under this clause. If the relevant state secretary of the union agrees that the Payment By Results system is not covered by this award, this clause will not apply to the Payment By Results system in operations at the employer's enterprise(s). This agreement must be recorded in writing.

### **18.3 Commitment to payment by results**

- 18.3.1 Parties to this award are committed to the development of a payment by results system which is comparable with the skill based classification structures as outlined in clause 8 of this award and which contributes to the efficiency of the enterprise.

### **18.4 Operation of payment by results systems**

- 18.4.1 An employer may maintain, alter or institute a system of individual and/or group payment by results subject only to the provisions and limitations set out in this clause.

## 18.5 Payment by results calculations

- 18.5.1 Bonuses should be calculated on a weekly basis.
- 18.5.2 The employer must calculate the minute pay rate for each standard time minute by dividing the total award wage for the appropriate skill level by 2280 wherever appropriate.
- 18.5.3 An employer may depart from clause 18.5.2. only with the consent of the relevant state secretary of the union, or their nominee.
- 18.5.4 Where an employer is currently paying a bonus minute rate higher than the above, the higher rate will continue to be applied and will not be increased until such time as it reaches the minute pay rate as specified in 18.5.2.
- 18.5.5 An employer must calculate the payment by results earnings of an employee in accordance with 18.5.2 or 18.5.4 of this clause by multiplying the minute pay rate by the excess of the standard time produced over real time worked under payment by results.
- 18.5.6 An employer must pay the employee their payment by results earnings calculated in accordance with clause 18.5.2 or 18.5.4 of this clause in addition to the total award rate appropriate to their skill level.
- 18.5.7 Where an employee earns payment by results earnings for work performed in any week, such earnings must be credited to the employee and must not be reduced because the employee fails to earn payment by results earnings in any other week.
- 18.5.8 Where an employee has worked part of the week on payment by results, they must be entitled to their earnings in full for the actual time worked on payment by results if the earnings are higher than the appropriate award rate for such time.
- 18.5.9 Where an employee working under a payment by results system (as defined) is denied the opportunity to pursue the bonus because of the unavailability of work for that employee, waiting time shall be paid to the employee at award rates, for the period during which the work earnings unavailable . Waiting time shall be paid only from the time the relevant employee reports the unavailability of work to their appropriate supervisor.
- 18.5.10 An employer subject to the provisions of clause 18.6 of this clause may fix or alter a time standard in respect of any footwear product or part of a footwear product or any article or part of an article, provided such time standard is set consistent with the objective to enable any employee of average capacity (excluding trainees being new entrants to the footwear industry employed as trainees for up to three months) in any given period to earn at least ten percent (10% more than the total award rate for their respective skill level).
- 18.5.11 Apprentices /Juniors
- An apprentice or a junior employed under clauses 12 and 15 respectively of this award must have their task set and be deemed to be producing bonus minutes when they have produced that number of minutes in proportion to the ordinary daily adult task or number of minutes as their rate of pay is in proportion to the appropriate adult award rate.

## 18.6 Time standards

An employer must calculate the time standard allowed for the performance of work according to the following:

- 18.6.1 An employer must consult with the payment by results employees and union representative(s) prior to the finalisation of any time standard fixed under this clause and must provide to those employees and union representative(s) the basis upon which the Payment By Results system is calculated, including appropriate allowances.



On application by the national secretary or state secretary of the union, the employer must make available the basis of such a system.

18.6.2 Once a time standard has been fixed under this clause, it must not be altered except where any of the following circumstances occur:-

- (i) there is a change in the manufacturing methods;
- (ii) there is a change in the machines or equipment or materials used;
- (iii) to correct an agreed error in the existing time standard;
- (iv) by agreement between the employer, the payment by results employees, and the union representative(s).

18.6.3 An employer must clearly display a copy of the time standard for each payment by results operation in each work area in each enterprise. The copy of the time standard must be updated within twenty-four hours of any changes to the time standards.

18.6.4 Once a time standard has been fixed under this clause, it must be recorded in a register and signed and dated by the employer and union representative(s).

18.6.5 The employer must also display in each work area in each enterprise a conversion table to enable an employee to convert time standards into monetary amounts. An example of how the system operates must also be displayed in each work area.

18.6.6 As far as practicable different grades of work will be equitably divided between payments by results employees.

#### 18.7 Overtime

The overtime provisions of clause 24 of this award must be applied to employees working under this clause.

#### 18.8 Training

An employer implementing a payment by results system pursuant to this clause must provide each employee with appropriate training to ensure that individual performance is the only variable distinguishing employees within a skill level in this award.

### 19. Payment of Wages

19.1 Wages shall be paid on Wednesday or Thursday in each week or, if there is an agreement between the employer and his employees, such agreement to be by a simple majority, on a Friday. Each employer shall fix a pay day, which once fixed shall not be altered unless with the consent of the union.

Payment shall be in cash or, where a simple majority of employees agree, wages may be paid by cheque or electronic funds transfer.

19.2 Not more than one day's wages shall be kept in hand, excepting that where the banks are closed, or a holiday as prescribed by this award occurs on the actual pay day and banking facilities are not available, the working day before shall be substituted as the pay day.

Provided that payments under any form of incentive system as prescribed by clause 18, Incentive Systems, may be paid on the pay day occurring one week after they were earned.

19.3 On termination of the employment, wages due to an employee shall be paid to him on the day of such termination, provided that in cases of summary termination such wages may be forwarded to him by post on the next working day.

- 19.4 On or prior to pay day the employer shall state to each employee in writing the amount of ordinary wage to which he is entitled for that pay week, overtime and individual items of any deductions for that week and net amount due.
- 19.5 Employees kept waiting for their pay after ceasing work at the usual hour shall be paid at overtime rates for all the time they are kept waiting as aforesaid.
- 19.6 Where it is mutually agreed upon between the employer and the employee, payment of annual leave at annual close down in excess of one week may be paid by cheque, provided that payment is made not less than four days prior to the time of taking leave.

#### **19A. Deduction of Union Membership Fees**

- 19A.1 The employer shall deduct Union membership fees (not including fines or levies) from the pay of any employee, provided that:
- 19A.1.1 the employee has authorised the employer to make such deductions in accordance with subclause 19A.2 herein;
  - 19A.1.2 the Union shall advise the employer of the amount to be deducted for each pay period applying at the employer's workplace and any changes to that amount;
  - 19A.1.3 deduction of union membership fees shall only occur in each pay period in which payment has or is to be made to an employee; and
  - 20A.1.4 there shall be no requirement to make deductions for casual employees with less than two months' service (continuous or otherwise).
- 19A.2 The employee's authorisation shall be in writing and shall authorise the deduction of an amount of Union fees (including any variation in that fee effected in accordance with the Union's rules) that the Union advises the employer to deduct. Where the employee passes any such written authorisation to the Union, the Union shall not pass the written authorisation on to the employer without first obtaining the employee's consent to do so. Such consent may form part of the written authorisation.
- 19A.3 Monies so deducted from employees' pay shall be remitted to the Union on either a weekly, fortnightly, monthly or quarterly basis at the employer's election, together with all necessary information to enable the reconciliation and crediting of subscriptions to employees' membership accounts, provided that:
- 19A.3.1 where the employer has elected to remit on a weekly or fortnightly basis, the employer shall be entitled to retain up to five per cent of the monies deducted; and
  - 19A.3.2 where the employer has elected to remit on a monthly or quarterly basis, the employer shall be entitled to retain up to 2.5 per cent of the monies deducted.
- 19A.4 Where an employee has already authorised the deduction of Union membership fees in writing from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to commence or continue.
- 19A.5 The Union shall advise the employer of any change to the amount of membership fees made under its rules, provided that this does not occur more than once in any calendar year. Such advice shall be in the form of a schedule of fees to be deducted specifying either weekly, fortnightly or monthly as the case may be. The Union shall give the employer a minimum of two months' notice of any such change.
- 19A.6 An employee may at any time revoke in writing an authorisation to the employer to make payroll deductions of Union membership fees.
- 19A.7 Where an employee who is a member of the Union and who has authorised the employer to make payroll deductions of Union membership fees resigns his or her membership of the Union in accordance

with the rules of the Union, the Union shall inform the employee in writing of the need to revoke the authorisation to the employer in order for payroll deductions of union membership fees to cease.

## **20. Hours of Work**

- 20.1 The ordinary hours of work shall be an average of 38 hours per week, Monday to Friday inclusive, between the hours of 7.00 a.m. and 7.00 p.m., spread over and up to four weeks. Provided that this spread of hours may be altered by mutual agreement between the employer and the union.
- 20.2 Each employer may fix starting and finishing times for his own factory, and such starting and finishing times, when fixed, shall not be altered except on fourteen days notice to the employees concerned.

## **21. Implementation of 38-Hour Week**

- 21.1 Ordinary hours of work shall be an average of 38 per week as provided in clause 20, Hours of Work.
- 21.2 The method of implementation of the 38-hour week may be any of the following:
- 21.2.1 By employees working less than eight ordinary hours each day (e.g., 7.6 hours per day).
- 21.2.2 By employees working more than eight ordinary hours on four days of the week, and less than eight ordinary hours on the fifth day of the week (e.g., 8 1/4 hours on 4 days and 5 hours on the fifth day of the week).
- 21.2.3 By employees working a nine-day fortnight (e.g., 8 1/2 hours on 8 days and 8 hours on the 9th day).
- 21.2.4 By fixing one day on which employees will be off during a particular work cycle (e.g., the plant shuts down for a day once each four weeks and 8 hours are worked on the other 19 weekdays of those four weeks).
- 21.2.5 By rostering employees off on various days of the week during particular work cycles so that each employee has one day off during that cycle (e.g., as in paragraph (4) above, except that employees take various days off according to a roster so as to avoid a plant shut down).
- 21.2.6 Any agreed variation to the above methods of implementation (e.g., accumulation of the 0.4 hours per day may be allowed for a period of not more than a twenty-week work cycle when such accumulation may be taken at the one agreed upon time, i.e., 7 days at one time).
- 21.3 In each plant, an assessment shall be made as to which method of implementation best suits the business and the proposal shall be discussed with the employees concerned.

In the absence of agreement, the procedure for resolving such a problem is as follows:

- 21.3.1 Consultation shall take place within the particular establishment concerned.
- 21.3.2 If it is unable to be resolved at establishment level, the matter shall be referred to the State Secretary of the union concerned or his deputy, at which level a conference of the parties shall be convened without delay.
- 21.3.3 If the problem remains unresolved the matter shall be referred to the Secretary of the union concerned or his deputy, at which level the matter will be again dealt with without delay.
- 21.4 Where by virtue of the arrangement of the ordinary working hours an employee, in accordance with clauses 21.2.4 and 21.2.5, is entitled to a day off during the work cycle, such employee shall be advised by the employer at least four weeks in advance of the work day he or she is to take off.

Where a system of working is adopted to allow one rostered day off in each two or four weeks, an employee shall not be entitled to more than 24 or 12 such rostered days off respectively in any 12-month period.

## 21.5

21.5.1 The day scheduled to be the day off in accordance with clauses 21.2.4 and 21.7.5 may be worked as an ordinary working day without penalty when substituted by another day by agreement between the employer and employee concerned or, where a number of employees are concerned, by agreement between the employer and a majority of the employees in respect of when a substitute day off is sought.

21.5.2 Notwithstanding the contents of clause 21.5.1, where an employee is called upon to work on his rostered day off without another day being substituted the employee shall be paid in accordance with clauses 27.1.1, 27.1.2 and 27.1.3, Weekend Work.

21.5.3 Where an employee who is employed under) clause 21.2 is required to work overtime on their "short day" and is notified the day prior to working such overtime, the employee will not be entitled to receive meal money unless that overtime continues for more than two hours past the normal finishing time for the other four days.

## 22. Meal Times

22.1 Not less than thirty minutes nor more than sixty minutes shall be allowed on each working day for a midday meal.

22.2 An employee shall not work nor be worked for more than five hours consecutively without a break for a meal.

However, where an employee works a 6-hour day in accordance with clause 21.2.2, a 20-minute crib period (10 minutes paid rest period and 10 minutes unpaid) may be substituted for a meal break.

22.3 An employee working on production called upon to work during his meal break shall be paid at the rate of double time for the time so worked and such payment shall be continued until the employee has been relieved for a meal.

## 23. Rest Period

23.1 All employees shall be allowed a morning rest period of ten minutes at a time to be mutually arranged in each factory.

23.2 Facilities for making tea and coffee shall be provided by the employer for employees at the commencement of rest periods and meal breaks.

23.3 Employees engaged on shift work shall be allowed a rest period of not less than ten minutes, provided that such period shall not be allowed within one hour of starting or finishing work, or their meal break.

## 24. Overtime

24.1 All time worked by an employee before his or her starting time or after his or her finishing time on Mondays to Fridays shall be paid for at the rate of time and a half for the first two hours and double time thereafter.

24.2 In computing overtime each day's work shall stand alone.

24.3 Junior workers, probationers and apprentices shall not work overtime without the approval of the Industrial Relations Commission unless a proportionate number of adult males or fully experienced females is employed in the respective departments.

- 24.4 Employees called to work overtime exceeding 2 hours on Mondays to Fridays, and shift workers whose normal shift finishes on a Saturday, shall be allowed at least thirty minutes for a meal and shall, in addition to any overtime payable, be allowed the amount as set out in Item 4 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, for such meal.
- 24.5 Requirement to work reasonable overtime
- 24.5.1 Subject to paragraph 24.5.2 an employer may require an employee to work reasonable overtime at overtime rates.
- 24.5.2 An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
- 24.5.3 For the purposes of paragraph 24.5.2 what is unreasonable or otherwise will be determined having regard to:
- (a) Any risk to employee health and safety;
  - (b) The employee's personal circumstances including any family and carer responsibilities;
  - (c) The needs of the workplace or enterprise;
  - (d) The notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
  - (e) Any other relevant matter.
- 25.5.4 The Organisations party to this award shall not in any way, whether directly or indirectly, be a party to or concerned in any ban, limitation or restriction upon the working of overtime in accordance with the requirements of this subclause.
- 24.6 Call Back - An employee required to work overtime after leaving his employer's business premises (whether notified before or after leaving the premises) shall be paid for a minimum of three hours work at the appropriate rate for each time he is so recalled.

## **25. Time Off in Lieu of Overtime**

- 25.1 Notwithstanding the provisions of clause 24.1, an establishment and/or plant, or section or sections of a plant, or an individual, where that individual is operating on an independent basis, may agree to arrangements where overtime which has been planned may be compensated with time off in lieu of payment for overtime, subject to the following:
- 25.1.1 Substitute time may be banked to a maximum of 38 hours at any time.
- 25.1.2 It shall only apply to time worked Monday to Friday.
- 25.1.3 Overtime worked will qualify for an equal number of ordinary hours time off, e.g., 4 hours worked equals 4 hours off.
- 25.1.4 Two weeks' notice shall be given about the working of overtime.
- 25.1.5 Overtime worked on the basis of time off in lieu shall be worked:
- (i) a maximum of 4 hours per night;
  - (ii) a maximum of 3 nights per week; and
  - (iii) where a short day is worked, for a period up to 4 hours;

- (iv) for a period of 6 weeks.
- 25.1.6 Time off accrued when taken is to be paid at the current award rate of pay ruling at the date of taking that time off.
- 25.1.7 If called upon to work at any agreed upon time-off period, the following shall apply:
- (i) The employer and the employee may agree upon an alternative period of time to be taken off in substitution.
  - (ii) If there is no agreement to an alternative period of time to be taken off in substitution, then the following shall apply:
    - (1) Employees shall be paid at the appropriate overtime rate for that period of the time accrued worked.
    - (2) The time banked will remain unchanged.
- 25.1.8 Any untaken time off shall be taken and paid for at a time mutually agreed upon or at the Christmas annual leave period or upon termination.
- 25.1.9 Agreement to work such overtime must be reached by not less than two-thirds of the affected employees and must be agreed to by the union.
- 25.1.10 The union is to be advised and, where practical, consulted in advance of overtime being worked for time off in lieu.
- 25.1.11 The union shall consult and counsel its members in respect of the provisions contained in this clause.
- 25.1.12 The union shall not unreasonably withhold such agreement.
- 25.2 The provisions of this clause shall not affect the provisions of clauses 24.4 and 24.5.1.

## 26. Shift Work

- 26.1 Notwithstanding anything contained within this award, employers may maintain, institute or reinstitute any system of shift work, subject only to the provisions and limitations set out in this clause.
- 26.2 Definitions - For the purposes of this clause:
- 26.2.1 "Day Shift" means any shift worked between the hours of 7.00 a.m. and 7.00 p.m.
  - 26.2.2 "Morning Shift" means any shift commencing on or after 4.00 a.m. but before 7.00 a.m.
  - 26.2.3 "Afternoon Shift" means any shift finishing after 5.00 p.m. and at or before midnight.
  - 26.2.4 "Night Shift" means any shift finishing after midnight and at or before 8.00 a.m.
  - 26.2.5 "Rostered Shift" means a shift for which the employee concerned has had at least forty-eight hours notice.
  - 26.2.6 "Short Shift" shall mean a shift of not less than 20 ordinary working hours per week, other than day shift work.

## 26.3 Morning, Afternoon and Night Shift Allowances -

- 26.3.1 Subject to clause 26.3.2, a full-time shift worker whilst on morning, afternoon or night shift shall be paid an additional amount of 15 per cent of the weekly award wage for the classification concerned.
- 26.3.2 An employee engaged on permanent night shift duties shall be paid an additional amount of 30 per cent of the weekly award wage for the classification concerned.
- 26.3.3 A full-time shift worker who works on a morning, afternoon or night shift which does not continue for at least 5 successive afternoons or nights or for at least the number of ordinary hours prescribed as a week's work shall be paid an additional amount of 50 per cent of the weekly award wage for the classification concerned.
- 26.3.4 Short shifts of adult employees may be worked on any shift other than the day shift, by mutual agreement between an employer and his employees and with the consent of the union. Payment for such work shall be calculated in accordance with this subclause on a pro rata basis related to the time actually worked as a proportion of the ordinary weekly hours.

## 26.4 Hours of Work and Meal Breaks -

- 26.4.1 Subject to clauses 4, Part-time Employees, 20, Hours of Work, 21, Implementation of 38-Hour Week, and clause 26.3.3 the hours of work for shift workers will be 38 per week or an average of 38 per week to be worked between 11.00 p.m. Sundays and 8.00 a.m. Saturdays, in accordance with the provisions of paragraph 26.4.2.
- 26.4.2 All time worked by shift workers between midnight on Sunday and 7.00 a.m. on Monday shall be paid for at the rate of time and one-half for the first two hours and double time thereafter.
- 26.4.3 Starting the week's hours on a Sunday night, any employee who is employed on a Sunday shall, for all time worked on that day, be paid at the rate of double time.
- Provided that, where by mutual agreement between an employer and his employees and with the consent of the union, shifts are rearranged to commence on Sunday instead of Monday, ordinary rates shall be paid for Sunday work.
- 26.4.4 The ordinary hours of work shall be worked continuously except for meal breaks which, at the discretion of the respondent employer, may be either an unpaid meal break of not less than 30 minutes or a paid crib period of 20 minutes which shall be counted as time worked. Meal breaks shall be given and taken no later than five hours after the commencement of the relevant shift.
- 26.4.5 All employees shall be allowed a rest period in accordance with clause 23, Rest Period.

## 26.5 Junior Workers - Prohibition on Night Shift - Employees under the age of eighteen years are prohibited from working on night shift.

## 26.6 Rosters -

- 26.6.1 Shift rosters shall specify the commencing and finishing times of ordinary working hours of the respective shifts.
- 26.6.2 An employee who is required to change from one shift to another without two days' notice of such change of shifts shall be paid extra as set out in Item 5 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, as compensation, but this shall not apply during any period where power restrictions are operating.

- 26.6.3 Rosters shall be displayed on a notice board easily accessible by the employees concerned.
- 26.6.4 No employee shall exchange his rostered duty with another employee without the approval of his or her immediate supervisor.
- 26.6.5 Except for the regular changeover of shifts, no employee shall be required to change from one shift to another without a break of at least 10 hours.
- 26.7 Variation by Agreement - The method of working shifts and the time of commencing and finishing shifts once having been determined may be varied by agreement between the employer and the majority of employees concerned to suit the circumstances of the establishment or, in the absence of agreement, by seven days notice of alteration given by the employer to the employees.
- 26.8 Sundays and Holidays -
- 26.8.1 Where shifts commence between 9.00 p.m. and midnight on a Sunday or holiday, the time so worked before midnight shall not entitle an employee to the Sunday or holiday rate, provided that the time worked by an employee on a shift commencing before midnight on the day preceding a holiday and extending into the holiday shall be regarded as time worked on such holiday.
- 26.8.2 Where shifts fall partly on a holiday, that shift, the major portion of which falls on the holiday, shall be regarded as the holiday shift.
- 26.8.3 Where a shift roster normally involves a night shift which finishes on Saturday morning, for the week in which Easter occurs a shift may be substituted for the Saturday morning shift to be worked as a normal shift commencing on the previous Sunday night and finishing on Monday morning at the ordinary shift rate.
- 26.9 Daylight Saving - Notwithstanding anything contained elsewhere in this award, in any area where by reason of State legislation summer time is prescribed as being in advance of the standard time of the State, the length of any shift -
- 26.9.1 commencing before the time prescribed by the relevant legislation for the commencement of a summer time period; and
- 26.9.2 commencing on or before the time prescribed by such legislation for the termination of a summer time period, shall be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end thereof, the time of the clock in each case to be set to the time fixed pursuant to the relevant State legislation.

In this subclause the expressions "standard time" and "summer time" shall bear the same meaning as are prescribed by the relevant State legislation.

## **27. Weekend Work**

### **27.1**

- 27.1.1 All time worked by an employee on a Saturday shall be paid at the rate of time and a half for the first two hours and double time thereafter. Provided that, time worked on a Saturday in alteration or removal of plant or machinery necessary for resumption of work the next working day, or for the purposes of stocktaking, shall be paid for at the rate of time and a half.
- 27.1.2 An employee called upon to work on a Saturday shall be paid for a minimum of 4 hours work at the appropriate overtime rates unless the employee elects to work less than 4 hours on each Saturday.



27.1.3 Provided further, that a meal allowance as set out in Item 4 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, shall be payable only after the work exceeds beyond the normal time for ceasing work for the midday meal.

## 27.2

27.2.1 All time worked on a Sunday shall be paid for at the rate of treble time, payment being made for a full day, namely, eight hours, whether such full day is worked or not. Provided that time worked on a Sunday in alteration or removal of plant or machinery necessary for resumption of work the next working day, or for the purpose of stocktaking, shall be paid for at the rate of double time.

27.2.2 Provided further, that a meal allowance as set out in the said Item 4 shall be payable only after the work exceeds beyond the normal time for ceasing work for the midday meal.

27.3 Meal breaks on a Sunday shall be counted as time worked.

## 28. Holidays

28.1 All employees shall be granted the following holidays without deduction of pay: (which is the ordinary rate of pay an employee would have received for the hours that they would have worked had the day not been a holiday) New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Easter Tuesday or the August Bank Holiday, Labor Day, Anzac Day, Queen's Birthday, Christmas Day and Boxing Day.

Provided that if any other day be by State Act of Parliament or State Proclamation substituted for any of the said holidays, the day so substituted shall be observed.

Where any other day is gazetted as a public holiday for the State, such day shall be a holiday for the purposes of this award.

## 28.2

28.2.1 When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.

28.2.2 When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.

28.2.3 When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.

28.3 Where public holidays are declared or prescribed on days other than those set out in clause 28.1 above, those days shall constitute additional holidays for the purpose of this award.

28.4 Subject to the provisions contained elsewhere in this clause, all work performed on any of the above mentioned holidays shall be paid for at the rate of double time and a half.

## 28.5 Changing Public Holidays by Agreement

28.5.1 An employer, with the agreement of the union which is party to this award, may substitute another day for any prescribed in this clause.

(i) An employer and the employees may agree to substitute another day or any prescribed in this clause. For this purpose, the consent of the majority of affected employees shall constitute agreement.

(ii) An agreement pursuant to clause 28.5.1(i) shall be recorded in writing and be available to every affected employee.

- (iii) The union which is party to this award shall be informed of an agreement pursuant to clause 28.5.1(i) and may, within seven days refuse to accept it. The union will not unreasonably refuse to accept the agreement.
- (iv) If a union, pursuant to clause 28.5.1(iv), refuses to accept an agreement, the parties will seek to resolve their differences to the satisfaction of the employer, the employees and the union.
- (v) If no resolution is achieved pursuant to clause 28.5.1(iv), the employer may apply to the Footwear Manufactures (State) Industrial Committee for approval of the agreement reached with his or her employees. Such an application must be made in 14 or more days before the prescribed holiday. After giving the employer and union an opportunity to be heard, the relevant Industrial Committee will determine the application.

#### 28.6 Rostered day off or accumulated time off falling on a holiday

In the case of an employee whose ordinary hours of work are arranged in such a manner as to entitle the employee to a rostered day off, the weekday to be taken off shall not coincide with a holiday fixed in accordance with this clause. Provided that, in the event that a holiday is prescribed after an employee has been given or gives notice of a weekday off and the holiday falls on such weekday, the employer shall allow the employee to take an alternative weekday off in lieu of the holiday.

#### 28.7 Termination within fourteen days of a holiday

28.7.1 When an employee's services are terminated other than for malingering inefficiency, neglect of duty or misconduct in a period not exceeding two weeks before the date the factory closes down for the Christmas period, the employee shall receive payment for the three public holidays, namely Christmas Day, Boxing Day, and New Year's Day on the same basis as if he/she was still in the employ of the employer.

28.7.2 When an employee's services are terminated by the employer other than for malingering, inefficiency, neglect of duty or misconduct in a period not exceeding two weeks before Good Friday, the employee shall receive payment for Good Friday and Easter Monday on the same basis as if he were still in the employ of the employer.

#### 28.8 Full-time employees working non-standard hours - approved employers only

This subclause applies only to full-time employees employed by approved employers who do not regularly work a five-day, Monday to Friday week, as provided for elsewhere in this award.

28.8.1 When a prescribed holiday falls upon a day when the employee would not be working in any event the employee shall receive:

- (i) A day's paid leave to be taken on another day or added to annual leave (to be mutually agreed between the employer and the employee); or
- (ii) An additional day's wage.

28.8.2 If an employee is rostered to work on the public holiday or its substitute day (except Christmas Day), the employee is entitled to:

- (i) If the employee is not required to work on the public holiday the employee shall receive the payment the employee would ordinarily receive for that day and is not entitled to the substituted day off.
- (ii) If the employee is required to work on the public holiday the employee is entitled to receive the normal rates of pay for working that day and the substitute day as a holiday. (If the substitute day is a non-working day for the employee, the employee would receive the compensation described in clause 28.8.1).

- (iii) If the employee is required to work on the substitute day the employee shall receive the rates of pay for working on a public holiday.

28.8.3 If an employee is rostered and required to work on both the "actual" public holiday and its substituted day (this would only occur if the holiday was to fall on a Saturday or a Sunday) the employee would be entitled to:

- (i) A day's paid leave to be taken on another day or added to annual leave (to be mutually agreed between the employer and the employee); or
- (ii) Payment at public holiday rates for the day's work for the substituted day, and payment at the normal rates for Saturday or Sunday for the actual public holiday.

#### 28.8.4 Christmas Day Loading

If the employee are rostered to work on a Saturday or Sunday that is a Christmas Day and are required to work, the employee shall receive the normal Saturday or Sunday rate, plus a loading of one-half of a normal day's wages for the full day's work and be entitled to the substitute day.

### 28.9 Permanent part-time employees (non-casual)

Where the normal roster of a part-time employee includes a day that is a holiday, the employee shall receive the normal pay they would have received on that day and enjoy the holiday or receive the appropriate public holiday rate for working whatever hours they work during it.

28.9.1 For part-time employees whose normal roster includes a Saturday or Sunday that would be a prescribed holiday but for the substitution of an alternative day, the following shall apply:

- (i) The employee shall be granted leave with pay on the "actual day" without any substitution; or
- (ii) The employee works on the "actual day" at normal Saturday or Sunday rates (if the Saturday or Sunday is Christmas Day the Christmas Day loading will apply) and is allowed to take another day with pay, which may or may not be the prescribed substitute day, as a holiday; or
- (iii) The employee works on the "actual day" at normal Saturday or Sunday rates (if the Saturday or Sunday is Christmas Day the Christmas Day loading will apply) and receives, in addition, payment at ordinary time rates for an additional day of equal length (with no substitution of an alternative day).

28.9.2 If any of these benefits applies, the employee who works on the prescribed substitute day should do so at ordinary time rates.

### 28.10 Payment for casual employees working on public holidays

A casual employee who works on the day prescribed, as the public holiday shall be paid the appropriate public holiday pay as provided for elsewhere in this award. The employee should receive the ordinary casual rate plus the applicable penalty. That is, the casual loading of twenty percent and the prescribed holiday rate for non-casual employees of 2.5 times ordinary rates. The casual will be paid 2.7 times the ordinary rate for non-casual employees.

## 29. Annual Leave

29.1 Period of Leave - A period of twenty-eight consecutive days' leave shall be allowed annually to an employee after twelve months' continuous service (less the period of annual leave).

29.2 Annual Leave Exclusive of Public Holidays - Subject to this subclause, the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by clause 28, Holidays, and if any such

holiday falls within an employee's period of annual leave and is observed on a day which in the case of that employee would have been an ordinary working day, there shall be added to the period of annual leave time equivalent to the ordinary time which the employee would have worked if such day had not been a holiday. Where a holiday falls as aforesaid and the employee without written approval by the employer, or without reasonable cause, fails to attend for work at his ordinary starting time on the working day immediately following the last day of his annual leave, he shall not be entitled to be paid for any such holiday.

- 29.3 Broken Leave - The annual leave shall be taken in one or two periods. If the annual leave is given in two periods, then one of those two periods must be of at least 21 consecutive days.

Provided that if the employer and a simple majority of the employees agree, then the annual leave entitlement may be given and taken.

29.3.1 in two periods, neither of which is of at least 21 consecutive days; or

29.3.2 in three periods.

- 29.4 Calculations of Continuous Service - For the purposes of this clause, service shall be deemed to be continuous, notwithstanding:

29.4.1 any interruption or determination of the employment by the employer if such interruption or determination has been made merely with the intention of avoiding obligations hereunder in respect of leave of absence;

29.4.2 any absence from work on account of personal sickness or accident or on account of leave lawfully granted by the employer;

29.4.3 any absence with reasonable cause, proof whereof shall be upon the employee; or

29.4.4 breaks arising from slackness of work.

In cases of personal sickness or accident or absences with reasonable cause, the employee to become entitled to the benefit of this subclause shall inform the employer in writing, if practicable, within twenty-four hours of the commencement of such absence of their inability to attend for duty and as far as practicable the nature of the illness, injury or cause and the estimated duration of the absence.

Any absence from work by reason of any cause not being a cause specified in this subclause shall not be deemed to break the continuity of service for the purposes of this clause unless the employer, during the absence or within fourteen days of the termination of the absence, notifies the employee in writing that such absence will be regarded as having broken the continuity of service.

In cases of individual absenteeism such notice shall be given in writing to the employee concerned, but in cases of concerted or collective absenteeism notice may be given to the employees by the posting up of a notification in the plant in the manner in which general notifications to employees are usually made in that plant and by posting to the union whose members have participated in such concerted or collective absenteeism a copy of the notification not later than the day it is posted up in the plant.

A notice to an individual employee may be given by delivering it to them personally or by posting it to the last recorded address, in which case it shall be deemed to have reached the employee in due course of post.

In calculating the period of twelve months continuous service, the following absences shall be counted as time worked:

Up to 152 ordinary working hours in a twelve-month period in the case of sickness or accident.

Bereavement Leave.

Jury Service.

Other absences from work shall not count as time worked in calculating the period of twelve months continuous service.

- 29.5 Calculation of Service - Service before the date of this award shall be taken into consideration for the purpose of calculating annual leave, but an employee shall not be entitled to leave or payment in lieu thereof for any period in respect of which leave or a payment in lieu thereof has been allowed. Where the employer is a successor or assignee or transmittee of a business, if an employee was in the employment of the employer's predecessor at the time when the employer became successor assignee or transmittee, the employee in respect of the period during which the employee was in the service of the predecessor shall, for the purpose of this clause, be deemed to be in the service of the employer.

Annual leave shall be allowed at the rate of one-twelfth of the employee's ordinary time during the period of continuous service.

- 29.6 Leave to be Taken - The annual leave provided for by this subclause shall be allowed and shall be taken and, except as provided by clauses 29.11 and 29.12, payment shall not be made or accepted in lieu of annual leave.
- 29.7 Time of Taking Leave - Annual leave shall be given at a time fixed by the employer within a period not exceeding ten months from the date when the right to annual leave accrued and after not less than one month's notice to the employee or a lesser period of notice by mutual agreement.
- 29.8 Leave Allowed Before Due Date - An employer may, by notice in writing, allow annual leave to an employee before the right thereto has accrued due, but where leave is taken in such case a further period of annual leave shall not commence to accrue until after the expiration of the twelve months in respect of which annual leave had been taken before accrued. Where leave has been granted to an employee pursuant to this subclause before the right thereto has accrued due and the employee subsequently leaves or is discharged from the service of the employer before completing the twelve months continuous service in respect of which leave was granted, and the sum paid by the employer to such employee in respect of annual leave exceeds the sum which the employer is required to pay under the provisions of this clause, the employer shall be entitled to deduct the amount of such excess from any remuneration payable to the employee on the termination of the employment.
- 29.9 Payment of Period of Leave - Each employee before going on leave shall be paid the wages the employee would have received in respect of the ordinary time the employee would have worked had they not been on leave during the relevant period.

Subject to clause 29.10 each employee shall have the amount of wages to be received for annual leave calculated by including the following, where applicable:

29.9.1 Time Workers -

- (i) The rates prescribed by clauses 8 Rates of Pay, 10, Leading Hands, 12, Rates of Pay - Apprentices and Probationers, 15, Junior Workers and 43, First-aid Attendants, for the occupation in which the employee was ordinarily employed immediately prior to the commencement of their leave or the termination of employment, as the case may be.
- (ii) The rate prescribed for work in ordinary time by clause 26, Shift Work, according to the employee's roster or projected roster, including Saturday shifts.

- (iii) The rate payable pursuant to clause 17, Mixed Functions, calculated on a daily basis which the employee would have received for ordinary time during the relevant period whether on a shift roster or otherwise.
- (iv) Any other rate (including overaward payments) to which the employee is entitled in accordance with the contract of employment for ordinary hours of work; provided that this provision shall not operate so as to include any payment prescribed by clause 24, Overtime.

29.9.2 Incentive Workers - In the case of an employee employed on incentive work or any other system of payment by results, whether in accordance with clause 18, Incentive Systems, or otherwise, the rate which is the weekly average of payments made to the employee under such scheme for each completed week actually worked by him during ordinary hours within the last three-month period in respect of which such payments have been calculated prior to the date which is three weeks before the date of commencing leave or termination of employment, as the case may be.

In defining "each completed week actually worked", weeks with absences (paid or otherwise) shall be disregarded; however, long service leave calculated in accordance with the above prescription shall be included.

29.10 Loading on Annual Leave - During a period of annual leave an employee shall receive a loading calculated on the rate of wage prescribed by clause 29.10.1, subject to the following provisions:

The loading shall be as follows:

- 29.10.1 Time Workers - An employee who would have worked on day work only had he not been on leave - a loading of 17½ per cent.
- 29.10.2 Incentive Workers - The loading payable to an incentive worker shall be the amount calculated in clause 29.9.2 or the ordinary earnings (excluding incentive payments) plus a loading of 17½ per cent, whichever is the greater.
- 29.10.3 Shift Workers -
  - (i) On time work - a loading of 17½ per cent or the shift loading the employee would have received had that employee not been on leave, whichever is the greater.
  - (ii) On any system of payment by results work - a loading of 17½ per cent calculated on the weekly average of payments made to the employee under such system for each completed week actually worked by the employee during ordinary hours within the last three-month period in respect of which such payments have been calculated prior to the date which is three weeks before the date of commencing leave or termination of employment, as the case may be, or the shift loading the employee would have received had the employee not been on leave, whichever is the greater.

The loading prescribed clause 29.10.1 shall not apply to proportionate leave on termination unless, within a period of two weeks before the factory closes down for the Christmas period, the employee's employment is terminated by the employer other than for malingering, inefficiency, neglect of duty or misconduct.

29.11 Proportionate Leave on Dismissal - An employee who -

- 29.11.1 after one month's continuous service in the first qualifying 12-month period with an employer lawfully leaves the employment of the employer or the employment is terminated by the employer through no fault of the employee; or
- 29.11.2 after twelve months continuous service with an employer, leaves the employment of the employer or his employment is terminated by the employer for any reason, shall be paid at

the appropriate rate of wage as prescribed by clause 29.9 and 29.10 for one-twelfth of the period of service in respect of which leave has not been granted under this clause.

Provided that an employee who, after one month's continuous service in the first qualifying 12-month period with an employer, leaves their employment unlawfully, or whose employment after one month's service in the first qualifying 12-month period with an employer is terminated by the employer through the fault of the employee, shall be entitled to a pro rata payment of half the amount prescribed in the preceding paragraph.

29.12 Annual Closedown - Where an employer closes down the plant, or a section or sections thereof, for the purposes of allowing annual leave to all or the bulk of the employees in the plant or section or sections concerned, the following provisions shall apply:

29.12.1 The employer may, by giving not less than three months' notice of the intention so to do, stand off for the duration of the closedown all employees in the plant or section or sections concerned and allow to those who are not then qualified for four full weeks' leave pursuant to clause 29.1, paid leave on a proportionate basis at the appropriate rate of wage as prescribed by clause 29.9 and 29.10 for one-twelfth of the period of continuous service.

29.12.2 An employee who has then qualified for four full weeks' leave pursuant to clause 29.1 and has also completed a further period of continuous service shall be allowed the leave and shall, subject to clause 29.5f also be paid at the appropriate rate of wage as prescribed by clauses 29.9 and clauses 29.10 for one-twelfth of the period of continuous service performed since the close of the last twelve-month qualifying period.

29.12.3 The next twelve-month qualifying period for each employee affected by such close-down shall commence from the day on which the plant or section or sections concerned is reopened for work. Provided that all time during which an employee is stood off without pay for the purposes of this subclause shall be deemed to be time of service in the next twelve-month qualifying period.

29.12.4 If in the first year of service with an employer an employee is allowed proportionate annual leave under clause 29.12.1, and subsequently within such year lawfully leaves the employment or employment is terminated by the employer through no fault of the employee, the employee shall be entitled to the benefit of clause 29.10 subject to adjustment for any proportionate leave which he may have been allowed as aforesaid.

29.12.5 Balance of annual leave can be taken by mutual agreement, but not later than 31 October of each year.

29.13 Calculation of Month - For the purpose of this clause, a month shall be reckoned as commencing with the beginning of the first day of the employment or period of employment in question and as ending at the beginning of the day which in the latest month in question has the same date number as that of the former month and, if there be no such day in the subsequent month, shall be reckoned as ending at the end of such subsequent month.

### **30. Trade Union Training Leave**

30.1 Subject to clause 30.2, a union delegate or elected employee workplace representative shall, upon application in writing, be granted up to five days' leave with pay each calendar year, non-cumulative, to attend courses conducted or approved by the Australian Trade Union Training Authority which are designed to promote good industrial relations and industrial efficiency within the footwear industry.

This notice to the respondent employer must include details of the type, content and duration of the course to be attended.

- 30.2 Employers may approve leave in accordance with this clause, subject to the following limitations:
- 30.2.1 Where the employer employs up to and including 49 employees, five union delegates or elected workplace representatives may be granted five days' leave per annum, which is available within any twelve-month period.
  - 30.2.2 Where the employer employs between 50 and 150 employees inclusive, ten union delegates or elected workplace representatives may be granted five days' leave per annum, which is available within any twelve-month period.
  - 30.2.3 Where the employer employs 150 or more employees, fifteen union delegates or elected workplace representatives may be granted five days' leave per annum, which is available within any twelve-month period.
  - 30.2.4 Provided the numbers contained in this clause may be varied by mutual agreement between the union and an employer.
- 30.3 The granting of such leave shall be subject to the employee or the union giving not less than one calendar month's notice of the intention to attend such courses or such lesser period as may be agreed upon between the employer, union and employee concerned.
- Provided that the taking of such leave shall be arranged so as to minimise any adverse effect on the respondent employer's operations.
- 30.4 Leave of absence granted pursuant to this clause shall count as service for all purposes.
- 30.5 Each employee on leave approved in accordance with this clause shall be paid all ordinary- time earnings which normally become due and payable during the period of the leave, such wages to be calculated in accordance with subclause clause 29.1.
- 30.6 All expenses (such as travel, accommodation and meals) associated with or incurred by the employee attending a training course during leave approved pursuant to this clause shall be the responsibility of the employee or the union, unless otherwise agreed upon between the employer, the union and the employee concerned.
- 30.7 Should an employee granted leave pursuant to this clause fail to attend the nominated course, the respondent employer shall be notified by the union as soon as practicable, and no payment is to be made by the employer in respect of leave or the employee concerned pursuant to this clause.
- 30.8 In the event that a scheduled rostered day off, resulting from a work arrangement established in accordance with clause 21, Implementation of 38-Hour Week, falls within a period of leave approved pursuant to this clause, no alternative shall be substituted in lieu.
- 30.9 Employees granted leave pursuant to this clause shall inform their employer, after the completion of the course, of the nature of the course and their observations on it.

### **31. Sick Leave**

- 31.1 An employee who has been in the service of an employer for four weeks and who is absent from work on account of personal sickness or accident shall be entitled to leave of absence without deduction of pay, subject to the following conditions and limitations:
- 31.1.1 The employee shall not be entitled to paid leave of absence for any period in respect of which the employee is entitled to workers' compensation.
  - 31.1.2 The employee shall, within twenty-four hours of the commencement of such absence, inform the employer of the inability to attend for duty and, as far as practicable, state the nature of the injury or illness and the estimated duration of absence.



31.1.3 The employee shall prove to the satisfaction of the employer that the employee was unable on account of such illness or injury to attend for duty on the day or days for which sick leave is claimed.

31.1.4 The shall not be entitled in the first year of any period of service (whether in the employ of one employer or of several) to leave in excess of 38 hours of working time.

The employee shall not be entitled in the second and subsequent years, as defined in clause 31.6, of any period of service with an employer to leave in excess of 60.8 hours of working time.

An employee who commences employment with any employer shall not be entitled to more than 3.1667 hours sick leave for each of the first six months of employment, provided that at the completion of the first six months employment the employee will be entitled to the balance of sick leave outstanding for that year as defined in clause 31.6.

An employee who commences employment with any employer on or after 1 July in any year shall be entitled to not more than 3.1667 hours sick leave for each month of service in that year as defined in clause 31.6

For the purpose of administering this paragraph an employer may, within one month of this award coming into operation or within two weeks of the employee's entering into employment, require an employee to make a sworn declaration or other written statement as to what paid leave of absence the employee has had from any employer during the then current year; and upon such statement the employer shall be entitled to rely and act.

### 31.2 Single Day Absences -

31.2.1 In the case of an employee who claims to be allowed paid sick leave in accordance with this clause for an absence of one day only, such employee, if in the year has already been allowed paid sick leave on two separate occasions for one day only, shall not be entitled to payment for the day claimed unless the employee produces to the employer a medical certificate as evidence that the employee was unable to attend duty on account of personal illness or on account of injury by accident. However, in lieu thereof, an employer shall agree to accept from the employee a Statutory Declaration stating that the employee was unable to attend for duty on account of personal illness or on account of injury by accident.

31.2.2 If in any year, as defined in clause 31.6, an employee has accumulated an entitlement of 159.6 hours, the employee shall be allowed in that year four single days absences without the provision of a medical certificate.

31.2.3 Nothing in this subclause shall limit the employer's rights under clause 31.1.3.

31.3 Cumulative Sick Leave - Sick leave shall accumulate from year to year so that any balance of the period specified in clause 31.1 which has in any year not been allowed to an employee by an employer as paid sick leave may be claimed by the employee and, subject to the conditions hereinbefore prescribed, shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year. Provided that sick leave which accumulates pursuant to this subclause shall be available to the employee for a period of twelve years but for no longer than from the end of the year in which it accrues.

31.3.1 An employer shall not avoid their obligations to pay sick leave by terminating an employee's employment whilst on paid sick leave if the termination has been made by the employer with the intention of avoiding any obligation imposed on him pursuant to this clause.

31.4 Re-engagement - Where an employee's services are terminated through slackness of trade and the employee is re-engaged by the same employer within a period of six months, any accrued sick leave

standing to the credit of such employee at the date of termination shall be re-credited from the date of re-engagement.

Service immediately prior to the date of such termination shall be counted as service for sick leave purposes.

- 31.5 Attendance at Hospitals, etc. -. An employee suffering injury through an accident arising out of and in the course of employment (not being an injury in respect of which he is entitled to workers' compensation) necessitating attendance during working hours on a doctor, chemist or trained nurse or at a hospital, shall not suffer any deduction from the employees pay for the time so occupied on the day of the accident and shall be reimbursed by the employer all expenses reasonably incurred in connection with such attendance.
- 31.6 Year - For the purpose of this clause, a year shall be deemed to be from 1 January to 31 December, inclusive.

### **32. Personal/Carer's Leave**

#### **32.1 Use of Sick Leave**

32.1.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 32.1.3(ii) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 31, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

32.1.2 The employee shall, if required,

- (1) 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
- (2) establish by production of documentation acceptable to the employer 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, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

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

- (i) the employee being responsible for the care of the person concerned; and
- (ii) the person concerned being:
  - (1) a spouse of the employee; or
  - (2) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
  - (3) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
  - (4) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or

- (5) a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:
- (i) "relative" means a person related by blood, marriage or affinity;
  - (ii) "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
  - (iii) "household" means a family group living in the same domestic dwelling.

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

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 3, Dispute Settlement Procedure, should be followed.

### 32.2 Unpaid Leave for Family Purpose

32.2.1 An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 32.1.3(ii) above who is ill or who requires care due to an unexpected emergency.

### 32.3 Annual Leave

32.3.1 An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

32.3.2 Access to annual leave, as prescribed in clause 32.3.1, shall be exclusive of any shutdown period provided for elsewhere under this award.

32.3.3 An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

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

### 32.4 Time Off in Lieu of Payment for Overtime

32.4.1 An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.

32.4.2 Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.

32.4.3 If, having elected to take time as leave in accordance with clause 32.4.1, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.

32.4.4 Where no election is made in accordance with clause 32.4.1, the employee shall be paid overtime rates in accordance with the award.

### 32.5 Make-up Time

32.5.1 An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.

32.5.2 An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

### 32.6 Rostered Days Off

32.6.1 An employee may elect, with the consent of the employer, to take a rostered day off at any time.

32.6.2 An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.

32.6.3 An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.

32.6.4 This subclause is subject to the employer informing each union which is both party to the award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.

### 32.7 Personal Carers Entitlement for casual employees -

(1) Subject to the evidentiary and notice requirements in 32.1.2 and 32.1.4 casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 32.1.3(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

(2) The employer and the employee shall 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.

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

## 33. Bereavement Leave

33.1 An employee, other than a casual employee, shall be entitled to up to two days bereavement leave without deduction of pay up to and including the day of the funeral on each occasion of the death of a person prescribed in clause 33.3.

33.2 The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will provide to the satisfaction of the employer proof of death.

33.3 Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of personal/carer's leave as set out in clause 32.1.3(ii), provided that for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.

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

33.5 Bereavement leave may be taken in conjunction with other leave available under sub clauses 32.2, 32.3, 32.4, 32.5, and 32.6. In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

33.6 Bereavement entitlements for casual employees

33.6.1 Subject to the evidentiary and notice requirements in 33.2 casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 32.1.3(ii) of clause 32, Personal/Carers' Leave.

33.6.2 The employer and the employee shall 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.

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

#### 34. Parental Leave

(1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).

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

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

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

(3) Right to request

(a) An employee entitled to parental leave may request the employer to allow the employee:

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

to assist the employee in reconciling work and parental responsibilities.

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

(c) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made under 3(a)(ii) and 3(a)(iii) must be recorded in writing.

(d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

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

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

(b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

### **35. Jury Service**

35.1 An employee required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of attendance for such jury service and the amount of wage the employee would have received had they not been on jury service.

35.2 An employee shall notify the employer as soon as possible of the date upon which they are required to attend for jury service. Further, the employee shall give the employer proof of his attendance, the duration of such attendance and the amount received in respect of such jury service.

### **36. Blood Donors**

36.1 A weekly employee who is absent during ordinary working hours for the purpose of donating blood shall not suffer any deduction of pay, up to a maximum of two hours on each occasion and subject to a maximum of four separate absences, for the purpose of donating blood each calendar year. Provided that such employee shall arrange, as far as is practicable, for the absence to be as close as possible to the beginning or the ending of the employees ordinary working hours.

36.2 Provided further the employee shall notify his employer as soon as possible of the time and date upon which he is requesting to be absent for the purpose of donating blood.

36.3 Proof of the attendance of the employee at a recognised place for the purpose of donating blood, and the duration of such attendance, shall be furnished to the satisfaction of the employer.

### **37. Outdoor Work**

37.1

37.1.1 Except in the case of an employer giving work out to another employer, outdoor work shall not be permitted unless, after consultation with the union, a permit is issued by the Industrial Registrar.

37.1.2 Such permit shall be in the form prescribed by Schedule "E"

- 37.2 Nothing herein contained shall affect the right of an employer bound by this award to contract or subcontract with any person who conducts a workshop or factory, with respect to the performance by the latter of outdoor work provided that such person is a person or firm or company bound by this award, or a person, firm or company bound by an agreement with the union, filed in the Industrial Relations Commission, and in the last case is one to whom a permit as hereinafter provided, revocable without notice, has been granted by the Industrial Registrar or Deputy Industrial Registrar. Any person who has entered into such an agreement shall obtain from the Industrial Registrar or Deputy Industrial Registrar a permit to accept such contract or subcontract, and the giving of a contract or subcontract without a permit first being obtained shall be a breach of this award by the person giving such contract. A workshop or factory for the purpose of this subclause shall be deemed to mean any place other than a private dwelling in which four or more persons (including the employer if a working employer) are employed.

The refusal by the union to make an agreement with an applicant for the same may be reviewed by the appropriate Industrial Relations Commission. If the Industrial Relations Commission decides that the refusal to make the agreement was unwarranted in the circumstances, the union shall thereupon enter into such agreement.

- 37.3 The penalty for breach of the clause or any condition of the permit referred to shall be \$100.00 for each day and each person and each breach concerned.

An employer who employs one or more individual outdoor workers outside that employer's workshop or factory other than an outdoor worker who has been issued with a permit shall, in addition to any penalty to which he may be liable under this award or otherwise, be required to and shall pay such worker or workers at the rate of treble time, or if engaged under any payment by results system, a sum to equal treble the time worked rate per hour prescribed for the classified individual for the time occupied upon such work.

- 37.4 Refer to Part VII, *Factories and Industries Act 1962*.

### **38. Aged, Slow and Infirm Workers**

- 38.1 In the case of an employee who is unable to earn the minimum wage prescribed by this award or who is unable to work the prescribed 38 hours per week, a lower wage rate of a lesser number of hours may be fixed with the consent of the union or, if such consent is refused, then with the consent of the Industrial Registrar or Deputy Industrial Registrar of the Industrial Relations Commission of New South Wales.
- 38.2 The consent shall be for a specified term not exceeding one year, and the document evidencing it shall state the rate payable to and the name and the occupation of the employee in respect of whom it has been granted and it shall be filed by the employer with the Industrial Registrar or Deputy Industrial Registrar of the Industrial Relations Commission. Refer to *Industrial Relations Act 1996*.

### **39. Time and Wages Books**

- 39.1 The employer must keep in each factory, workshop or place where work is being done for him or her, a time and wages book or sheet or records, which shall have correctly recorded in ink or by other means except pencil and in the English language the following particulars:
- 39.1.1 The initials and surname and classification of each employee.
- 39.1.2 The date of birth and experience and time work rate of pay of junior workers in respect of new employees at the date of engagement.
- 39.1.3 The number of hours of ordinary time worked by each employee each day and each week and the amount of weekly superannuation contributions paid in accordance with clause 50 of this award.
- 39.1.4 The number of hours of overtime worked by each employee each day and each week.

- 39.1.5 The total amount of wages paid to each employee each week and the amount deducted for taxation purposes.
- 39.1.6 The actual name of the day and date of each day each week and also the name of the day and the date on which each week ends.
- 39.1.7 All holiday, annual leave, long service and sick leave payments.
- 39.2 Where any employee is employed under any system of payment by results the employer shall keep a correct record of the rates and of the class and number of articles on which work is done by such employee each week.
- 39.3 An authorised person or persons making an inspection shall be entitled to take a copy of entries in time and wages books or record relating to the suspected breach of this award.

#### **40. Tools**

The employer shall provide all necessary tools for use by the employee and such tools shall remain the property of the employer. An employee shall replace or pay for tools supplied if lost through his negligence.

#### **41. Award Posted**

- 41.1 A copy of this award, together with all variations shall be posted and kept posted by the employer in each factory or workshop in a prominent place accessible to employees.

#### **42. Amenities**

- 42.1 Heating and Cooling - In each factory or workshop the employer shall make provision for adequate warmth during the winter period and a system for cooling in summer. Cooling, for the purposes of this subclause, shall be considered adequate if sufficient air circulating apparatus is used. Further, where extreme conditions of heat prevail, exhaust fans can be installed.
- 42.2 Dining Accommodation - In any factory or workshop where more than five persons are employed a dining room, properly furnished, shall be provided in a suitable position.
- 42.3 Rest Room - In factories where female employees are employed a properly ventilated rest room shall be provided for the use of such female employees. It shall contain a suitable couch and seating accommodation and, in addition, a pillow and blanket shall be provided.
- 42.4 Lockers and Change Rooms - In each factory or workshop the employer shall provide at some reasonably convenient place on his premises a suitable locker for each employee or hanging facilities which afford reasonable protection for each employee's clothes and a suitable dressing room for each of the sexes employed by him. These amenities may be contained in one room for each sex.
- 42.5 Seats - Where it is necessary for employees to sit at their work, seats which shall be reasonably comfortable and, where requested and practicable, with backs shall be provided by the employer for the employees.
- 42.6 Wash Accommodation - The employer shall provide warm water together with proper and sufficient facilities for all employees.
- 42.7 Drinking Water - In each factory or workshop the employer shall at some suitable place or places on the premises provide refrigerated drinking water for the use of the employees.
- 42.8 Protective Gloves or Cream - Where an employee is handling chemicals, solvents, solutions or dyes, he shall be supplied with protective gloves or a protective cream.
- 42.9 Exemption - Any employer may apply to the Industrial Relations Commission for exemption in whole or part from the provisions of this clause.



42.10 This clause shall not affect the operations of any State laws or regulations or be deemed to be inconsistent with any such laws or regulations.

#### 43. First-Aid Attendants

43.1 Each employer shall employ, where possible, an employee, preferably one who holds a Certificate of the St. John Ambulance Brigade or similar organisation, in charge of first-aid. Such employee shall be paid the minimum allowances as set out in Items 6 of Table 2, Other Rates and Allowances, of Part B, Monetary Rates.

#### 44. First-Aid Outfit

44.1 The employer shall provide and continuously maintain an efficient first-aid outfit in each factory controlled by him.

44.2 An efficient first-aid outfit shall be as prescribed by the laws and regulations of the State but, where there is no legislation on the subject, the first-aid outfit shall contain the following equipment:

Quantities to be kept in Ambulance Chest

Article	Factories and workshops in which more than 30 persons are Employed	Factories and workshops in which not more than 30 persons are employed
Antiseptic Solution	1 bottle	2 bottles
Bandages, Cotton and Gauze	½ doz. ass. Sizes	1 doz. ass. sizes
Iodine, Tincture of	1 oz.	2 ozs.
Castor Oil	1 oz.	2 ozs.
Manual, First-aid	One	One
Petroleum, carbolised	1 jar	1 jar
Picric acid solution, made according to the following recipe or prescription: 1½ teaspoons of powdered picric acid 3 oz. absolute alcohol 2 pints distilled water		
Acridine	1 bottle	2 bottles
Pins, safety	1 packet	2 packets
Sal Volatile	1 oz.	6 oz.
Scissors	1 pair	1 pair
Tourniquet	One	One
Cotton, absorbent ) gauze, sterilised, and ) plain plaster, .....) adhesive .....)	An adequate assortment	An adequate assortment

#### 45. Factories Regulations

45.1 The operation of any laws and regulations in force in the State of New South Wales relating to factories and workshops in respect of safety, sanitation, factory cleanliness and light shall not, insofar as they are not inconsistent with this award, be affected by this award.

#### **46. Right of Entry**

- 46.1 Any person or persons duly authorised by the Industrial Registrar or Deputy Industrial Registrar in writing (such authorisation shall be terminable at the will of the Industrial Registrar or Deputy Industrial Registrar) shall be allowed to enter the factory or workshop during working hours. The employer shall in person, or by representatives on their behalf, be entitled to accompany the authorised person or persons during an inspection. Access shall be granted to the wages book or time sheets or records covering all employees, including outdoor workers, in the employ of that employer. The employers shall be advised on all occasions when entry is sought - except when not required by law to do so.
- 46.2 Wages books or time sheets or records, or a true copy thereof, must be kept on the premises at which employees are working and be made available for inspection on demand. Any failure on the part of an employer in this respect shall constitute a breach of the award.
- 46.3 Authorised person or persons shall not be denied entry to an establishment on the basis that the employer or nominated official is not available to grant access at the time entry is sought.
- 46.4 The work and duties of all employees in the establishment and business of the employer shall be interfered with as little as possible by the authorised person or persons.
- 46.5 An employer shall permit any person authorised by the Registrar or Deputy Registrar in writing to enter from time to time one or several factories or workshops of that employer during the midday meal and/or rest periods to hold discussions with employees (and others as may be required) and/or conduct legitimate union business; and once during each month at a time most convenient to an employer during working hours, for the purpose of collecting members' contributions.
- 46.6 An employer shall permit any person authorised by the Registrar or Deputy Registrar in writing to enter from time to time one or several factories or workshops of that employer any time during working hours to inspect time, wage and other records kept by the employer.
- 46.7 Such authorised person shall inform the person-in-charge (a person shall be in charge) of their arrival before entering the workshop or factory. Such official shall have reasonable ingress into the factory and access to the employees. If an official so authorised makes themselves objectionable during any such visit to the employer (or their representative) or to any employee, their authorisation may be terminated by the Registrar or Deputy Registrar on an application by the employer.
- 46.8 Where any employer or their representative fails to comply with the requirements of this clause, the failure shall constitute a breach of this award.
- 46.9 Where any union official behaves in an objectionable manner such conduct shall constitute a breach of this award.

#### **47. Shop Presidents**

- 47.1 An employer shall allow a shop president appointed by employees in each workshop the necessary time during working hours to interview their representatives on matters affecting the employees whom the shop president represents.

#### **48. Introduction of Change**

- 48.1 Employer's Duty to Notify -
- 48.1.1 Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and their union or unions.
- 48.1.2 "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required, the elimination or

diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work locations and the restructuring of jobs. Provided that where the award makes provisions for alteration of any of the matters referred to herein, an alteration shall be deemed not to have significant effects.

#### 48.2 Employer's Duty to Discuss Change -

48.2.1 The employer shall discuss with the employees affected and their union or unions, inter alia, the introduction of the changes referred to in subclause (a) hereof, the effects the changes are likely to have on employees, measures to avert or mitigate the adverse effects of such changes on employees and shall give prompt consideration to matters raised by the employees and/or their unions in relation to the changes.

48.2.2 The discussion shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in the said subclause (a).

48.2.3 For the purpose of such discussion, the employer shall provide in writing to the employees concerned and their union or unions, all relevant information about the changes, including the nature of the changes proposed, the expected effects of the changes on employees, and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information the disclosure of which would be inimical to his or her interests.

### **49. Redundancy**

#### 49.1 Discussion Before Termination -

49.1.1 Where an employer has made a definite decision that he or she no longer wishes the job the employee has been doing done by anyone and this is not due to the ordinary and customary turnover of labour and that decision may lead to termination of employment, the employer shall hold discussions with the employees directly affected and with their union or unions.

49.1.2 The discussion shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provisions of clause 49.1.1 and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any terminations on the employees concerned.

49.1.3 For the purpose of the discussion the employer shall, as soon as practicable, provide in writing to all employees concerned and their union or unions, all relevant information about the proposed terminations, including the reasons for the proposed terminations, the number and categories of employees likely to be affected and the number of workers normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosures of which would be inimical to their interests.

49.2 Transfer to Lower Paid Duties - Where an employee is transferred to lower paid duties for reasons set out in clause 49.1.1, the employee shall be entitled to the same period of notice of transfer as he or she would have been entitled to if his or her employment had been terminated and the employer may, at their option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the newer ordinary time rate for the number of weeks of notice still owing.

49.3 Severance Pay - In addition to the period of notice prescribed for ordinary termination in clause 4.2, , and, subject to further order of the Commission, an employee whose employment is terminated for reasons set out clause 49.1.1 shall be entitled to the following amount of severance pay in respect of a continuous period of service:

**SCALE OF SEVERANCE PAYMENTS**

Length of continuous service by employee.	Rate for calculation of amount of severance payment.	
	If employee under 45 years of age.	If employee 45 or more years of age.
Less than 1 year	Nil.	Nil.
1 year and more but less than 2 years	4 weeks' pay	5 weeks' pay
2 years and more but less than 3 years	7 weeks' pay	8.75 weeks' pay
3 years and more but less than 4 years	10 weeks' pay	12.5 weeks' pay
4 years and more but less than 5 years	12 weeks' pay	15 weeks' pay
5 years and more but less than 6 years	14 weeks' pay	17.5 weeks' pay
6 years and more	16 weeks' pay	20 weeks' pay

"Week's pay" means the all-purpose rate of pay for the employee concerned at the date of termination and shall include, in addition to the ordinary rate of pay, overaward payments, shift penalties and allowances paid in accordance with this award.

49.4 Employee Leaving During Notice Period - An employee whose employment is terminated for reasons set out in clause 49.1.1 may terminate his or her employment during the period of notice and, if so, shall be entitled to the same benefits and payments under this clause had he or she remained with the employer until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

49.5 Alternative Employment - An employer in a particular redundancy case may make application to the Commission to have the general severance pay prescription varied if he or she obtains acceptable alternative employment for an employee.

49.6 Time Off During Notice Period -

49.6.1 During the period of notice of termination given by the employee for reasons set out in clause 49.1.1, an employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

49.6.2 If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

For this purpose a statutory declaration will be sufficient.

49.7 Notification to C.E.S. - Where a decision has been made to terminate employees in the circumstances outlined in clause 49.1.1, the employer shall notify the Commonwealth Employment Service thereof as soon as possible, giving relevant information, including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

49.8 Transmission of Business -

49.8.1 Where a business is, before or after the date of this award, transmitted from an employer (in this subclause called "the transmitter") to another employer (in this subclause called the "transmittee") and an employee who at the time of such transmission was an employee of the transmitter in that business becomes an employee of the transmittee:

- (i) The continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission.
- (ii) The period of employment, which the employee has had with the transmitter or any prior transmitter, shall be deemed to be service of the employee with the transmittee.

49.8.2 In this subclause "business" includes trade, process, business or occupation and includes part of any such business and "transmission" includes transfer, conveyance, assignment or succession, whether by agreement or by operation of the law, and "transmitted" has a corresponding meaning.

- 49.9 Employees With Less Than One Year's Service - This clause shall not apply to employees with less than one year's continuous service and the general obligation on employers should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employee of suitable alternative employment.
- 49.10 Employees Exempted - This clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of apprentices, or employees engaged for a specific period of time or for a specific task or tasks.
- 49.11 Employers Exempted - Subject to further order by the Commission in a particular redundancy case, this clause shall not apply to employers who employ less than 15 employees.
- 49.12 Incapacity to Pay - An employer in a particular redundancy case may make application to the Commission to have the general severance pay prescription varied on the basis of the employer's incapacity to pay.

## 50. Superannuation

### 50.1 Preamble

#### Superannuation Legislation

50.1.1 Subject of superannuation is dealt with extensively by legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993*. This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.

50.1.2 Notwithstanding 50.1.1 above, the following provisions must also apply:

### 50.2 Definitions

50.2.1 "The Fund" for the purposes of this clause will mean the:

- (i) Australian Retirement Fund established and governed by a trust deed 11 July 1986, as may be amended from time to time, and includes any superannuation scheme which may be made in succession thereto; or
- (ii) Subject to the agreement of the relevant State Secretary of the Union and its members, an employer sponsored fund established prior to 17 August, 1987, which complies with the *Superannuation Industry (Supervision) Act 1993* as amended from time to time, and set out in sub-clause .7.2 of this clause.

50.2.2 "Ordinary Time Earnings" for the purposes of this Clause, all references to "Ordinary Time Earnings" will mean and include:

- (i) award skill level or classification rate;
- (ii) supplementary payment (where relevant);
- (iii) over-award payment;
- (iv) shift loading - including weekend and public holiday penalty rates earned by shift employees on normal rostered shifts forming the ordinary hours of duty not when worked as overtime;
- (v) payment by results earnings;
- (vi) all non reimbursable allowances payable under the award.

50.2.3 "The Table" for the purposes of this clause means the following table:

Financial Year	Percentage	
	Column A	Column B
1992-93 (1 July - 31 December)	4	3
1992-93 (1 January - 30 June)	5	3
1993-94	5	3
1994-95	5	4
1995-96	6	5
1996-97	6	6
1997-98	6	6
1998-99	7	7
1999-2000	7	7
2000-01	8	8
2001-02	8	8
2002-03 and subsequent years	9	9

- (i) Column A in the Table above specifies the charge percentages where the employer's national payroll for the base year (the 1991-92 financial year) exceeded \$1,000,000.
- (ii) Column B in the Table above specifies the charge percentages where the employer's national payroll for the base year (the 1991-92 financial year) did not exceed \$1,000,000.
- (iii) Subject to amendments to the charge percentages prescribed in the *Superannuation Guarantee (Administration) Act 1991* (SGA Act), the above Table is deemed to be changed to reflect amendments.

#### 50.2.4 "Red Circled Employee"

For the purposes of this clause, a Red Circled Employee is an employee who was:-

- (i) in the employ of an employer at 30 June 1995, and
- (ii) whose ordinary time earnings were less than \$380.60 at 30 June 1995 and;
- (iii) the employee's superannuation entitlements prior to 30 June 1995 were greater than the superannuation percentage requirements under the *Superannuation Guarantee (Administration) Act 1992*

A "Red Circled Employee" superannuation entitlements are detailed at subclause 50.5 of this clause

### 50.3 Employers to Become a Party to the Fund:

50.3.1 A employer shall make application to the Fund to become a participating employer in the Fund and shall become a participating employer upon acceptance by the Trustee of the Fund.

50.3.2 An employer shall provide each employee who is not a member of the Fund with a membership application form upon commencement of this clause and thereafter upon commencement of employment.

50.3.3 Each employee shall be required to complete the membership application and the employer shall forward the completed application to the Fund by the end of the calendar month of commencement of this clause or commencement of employment.

### 50.4 Eligibility of Employees

50.4.1 Each employee shall be eligible to join the Fund upon commencement of employment.

50.4.2 Each employee shall be eligible to receive contributions from the date of eligibility, notwithstanding the date the membership application prescribed in subclause .3.3 was forwarded to the Fund.

### 50.5 Employer Contributions on Behalf of Each Employee

50.5.1 Notwithstanding the provisions of sub-clause .5.2 and the legislation referred to therein, a employer must contribute to the Fund in respect of each employee, irrespective of the age and/or earnings of the employee, such contributions as required to comply with the *Superannuation Guarantee (Administration) Act 1992* and *Superannuation Guarantee Charge Act 1992* as amended from time to time. Failure to comply with this sub paragraph shall constitute a distinct and separate breach of this sub paragraph.

#### 50.5.2 Red Circled Employee

A Red Circled Employee must not be disadvantaged in the provisions of their superannuation entitlements by employers transferring from the Stage 1 system to the Stage 2 system of calculation of superannuation obligations outlined below.

(i) For the purposes of this clause, an employee will be deemed to be a Red Circled Employee if:-

- (1) in the employ of an employer at 30 June 1995, and
- (2) whose ordinary time earnings were less than \$380.60 at 30 June 1995 and;
- (3) the employee's superannuation entitlements prior to 30 June 1995 were greater than the superannuation percentage requirements under the *Superannuation Guarantee (Administration) Act 1992*.

(ii) The system of calculating a Red Circled Employee's full superannuation entitlements must be the Stage 1 system outlined in clause .5.2(iii)(1) until such time as these employee's full superannuation entitlement would be equal to or greater under the Stage 2 system clause outlined in clause .5.2(iii)(2).

(iii)

(1) The Stage 1 system of calculating an employer's full superannuation obligations for an employee is by:-

- (A) The provision of superannuation contributions as follows:

Full time Adult	\$13.90 per week
Juniors and Apprentices	\$8.80 per week
Part time and Casual:-	
working up to 30 hours per week	\$8.80 per week
working 30 hours or more per week, and	\$11.80 per week

## (B)

- (I) 1.342 percentage of Ordinary Time Earnings as defined in sub clause 55.2 of this clause if the employer's payroll was in excess of \$1,000,000 as at 1 July 1992, or
  - (II) 0.342 percentage of Ordinary Time Earnings as defined in sub clause 55.2 of this clause if the employers payroll was less than \$1,000,000 as at 1 July 1992.
- (2) Subject to the provisions of clause .5.2(ii) the Stage 2 method of calculating an employer's full superannuation obligations for an employee is by applying the relevant percentage as outlined in the Table located at clause 2 of this clause to the employee's Ordinary Time Earnings.

Failure to comply with this sub clause shall constitute a distinct and separate breach of this sub clause.

50.5.3 Such contributions shall be made monthly by the last day of the month following, the total of the weekly contribution amounts accruing in the previous month in respect of each employee.

The amount of contributions to the fund shall be calculated to the nearest ten cents, and any fraction below five cents shall be disregarded.

50.5.4 The Fund and the amount of contributions paid in accordance with this sub-clause and -clause .6 shall be included in pay advice notices provided by employers to each employee.

50.5.5 Contributions shall continue to be paid in accordance with this sub-clause during any period in respect of which an employee is entitled to receive Workers Compensation Payment to a maximum of 39 weeks.

## 50.5.6 Unpaid Absences

Except as where specified in the rule of the Fund, contributions by employers in respect of unpaid absences will be proportional to the wage received by the employee concerned in a particular pay period. For the purposes of this clause, each pay period will stand-alone. Accordingly, unpaid absences in one pay period will not carry over to another pay period.

## 50.5.7 Cessation of Contributions

A employer's obligation to make contributions on behalf of the employee ceases on the last day of employment of the employee with the employer.

## 50.6 Employee Contributions

50.6.1 An employee may make contributions to the Fund in addition to those made by the employer under sub-clause 5 .5.

50.6.2 An employee who wishes to make additional contributions must authorise the employer in writing to pay into the Fund, from the employee's wages, amounts specified by the employee in accordance with the Fund Trust Deed and Rules.



50.6.3 An employer who receives written authorisation from the employee, must commence making payments into the Fund on behalf of the employee within 14 days of receiving the authorisation.

50.6.4 An employee may vary his or her additional contributions by a written authorisation and the employer must alter the additional contributions within 14 days of receiving the authorisation. An employee may only vary his or her additional contributions once each month.

50.6.5 Additional employee contributions to the Fund requested under this sub-clause shall be expressed in whole dollars.

#### 50.7 Exemptions

50.7.1 A employer may make application for exemption from clause 5 in respect of contributions to the Fund for employees who are not members of the Union.

Applications for exemption shall be determined in accordance with the Superannuation Test Case (Print L5100) or any decision made in succession thereto.

50.7.2 It is recorded that the scheme specified in the first column hereunder is a scheme to which this paragraph applies and that the agreement of the Union and its members has effect on and after the date correspondingly set out in the third column hereunder:

(1)	(2)	(3)
Name of Scheme	Covered	Date of effect of Union agreement
Pacific Dunlop Superannuation Fund		1 October 1987

### 51. Anti-Discrimination

51.1 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.

51.2 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.

51.3 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.

51.4 Nothing in this clause is to be taken to affect:

51.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;

51.4.2 offering or providing junior rates of pay to persons under 21 years of age;

51.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act* 1977;

51.4.4 a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

51.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

## NOTES -

- (i) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (ii) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in this 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".

### 51A. Traineeships

As to traineeships for persons covered by this award, see the Training Wage (State) Award 2002 published 26 September 2003 (341 I.G. 569) or any successor thereto.

### 52. Area, Incidence and Duration

- 52.1 This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Footwear Manufacturing Industry (State) Award published 22 February 2002 (331 I.G. 606), and all variations thereof.
- 52.2 The award published 22 February 2002 took effect from the beginning of the first pay period to commence on or after 27 July 2001. This award remains in force until varied or rescinded for the period for which it was made already having expired.
- 52.3 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 the New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 18 January 2008.
- 52.4 It shall apply to all persons engaged wholly or partly designing or cutting patterns for boots, shoes, sandals and slippers from metal or any other material and/or wholly or partly manufacturing boots, shoes, sandals and slippers of every description and cutting or preparing half soles, tip fillers or top pieces when such half soles, tip fillers or top pieces are cut or prepared for repair work, in the State, excluding the County of Yancowinna, within the jurisdiction of the Footwear Manufactures (State) Industrial Committee.
- 52.5 This award shall not apply to employees on footwear repair work, except where such repair work involves the repair of a factory fault and such repair is being made in the factory where the footwear was manufactured, or except where half soles, tip fillers or top pieces are being cut for repair work than that performed in the shop or factory where such work is cut.
- 52.6 This award shall not apply to employees on bespoke boot making, except where such work is only incidental to the employer's main business of manufacturing footwear by machine or mass production methods.
- 52.7 It is the intention of the parties to this award to achieve the principal object in section 3(f) of the *Industrial Relations Act 1996* by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.
- 52.8 In particular, the parties to this award shall ensure equal remuneration for men and women doing work of equal or comparable value.

Accordingly, in fulfilling their obligations under the disputes settlement procedure, the parties to whom this award applies must make every endeavour to ensure that neither the award provisions nor their operation are directly or indirectly discriminatory in their effects.

Nothing in this clause is to be taken to affect:

- (1) any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth or State anti discrimination legislation;
- (2) an employee, employer or registered organisation, pursuing matters of discrimination in any state or federal jurisdiction, including by application to the Anti-Discrimination Board;

## PART B

### MONETARY RATES

**Table 1 - Wages**

The following rates of pay are payable from the beginning of the first pay period to commence on or after 7 September 2007.

Adult Rates of Pay - Clause 8

Classification Skill Level	Minimum Weekly Award Wage Rate * \$
Trainee	531.40
1	541.10
2	563.60
3	584.50
4	618.20
5#	659.90

\* The weekly award wage rate for ordinary hours combines the base rate, supplementary payment and arbitrated safety net adjustments and State Wage Case decisions awarded since May 1991 Review of Wage Fixing Principles.

# Wage Band

### Junior Rates of Pay - Clause 15

	Percentage of Skill Level 1 Skill Level 1 = \$541.10 %	Minimum Weekly Award Rate \$
Under 16 years of age	44%	238.10
16 years and under 17 years	55%	297.60
17 years and under 18 years	66%	357.15
18 years and under 19 years	77%	416.65
19 years and under 20 years	86%	465.35
20 years and under 21 years	94%	508.65
At 21 years of age	Appropriate Adult Rate	

### Apprentice Rates of Pay - 4 Year Term - Clause 12

Experience Four Year Term	% of Skill Level 3 (Skill Level 3 = \$584.50)	Minimum Weekly Award Rate \$
1st year		
1st six months	47%	274.70
2nd six months	55%	321.50

2nd year		
1st six months	60%	350.70
2nd six months	65%	379.95
3rd year		
1st six months	75%	438.40
2nd six months	80%	467.60
4th year		
1st six months	90%	526.05
2nd six months	95%	555.30

### Apprentice Rates of Pay - 3 Year Term - Clause 12

Experience Four Year Term	% of Skill Level 3 (Skill Level 3 = \$584.50)	Minimum Weekly Award Rate \$
1st year		
1st six months	60%	350.70
2nd six months	65%	379.95
2nd year		
1st six months	75%	438.40
2nd six months	80%	467.60
3rd year		
1st six months	90%	526.05
2nd six months	95%	555.30

**Table 2 - Other Rates and Allowances**

The allowances in this table shall be payable from the beginning of the first pay period to commence on or after 7 September 2007.

Item No.	Clause No.	Brief Description	Amount \$
1	10	Leading Hands - 3 to 10	23.15 per week
2		11 to 20	35.45 per week
3		21 or more	44.55 per week
4	24.4	Meal Allowance	9.00
5	26.6.2	Change of shift without 2 days' notice	17.10
6	43.1	First-aid Attendants - 1 - 50 employees 51 employees or more	10.50 13.20

## APPENDIX A

The following concessions are binding on employers bound by the above award:

### 1. Tradesman's Rate

No footwear tradesman shall be downgraded within a period of 12 months prior to taking the long service leave or 12 months prior to payment for pro rata long service leave upon termination by the employer other than for serious or wilful misconduct.

This does not prevent mutual agreement being reached between the employer and the employee to the contrary.

## 2. Annual Leave - Time Workers - 17½% Loading on Termination

Notwithstanding the provisions of subclause (j) of clause 29, Annual Leave, a time worker who is in the second or subsequent year of service shall be paid the annual leave loading of 17½% on the award rate of pay on termination of employment except:

when the services of an employee are terminated by the employer for misconduct; or  
when an employee unlawfully terminates his employment.

An employee shall be deemed to commence the second year of service with the employer when the plant is reopened after the annual closedown, provided that such employee was in that employment before the closedown.

## 3. Overaward Payments

Overaward payments (excluding piece work bonus or task rates or any like system of production incentive or payment by results, attendance money annual bonus), shall be paid for sick leave, overtime, public holidays, compassionate leave and jury service.

### 53. Schedule A - Consultative Committee

Subject to the provisions of the *Industrial Relations Act 1996*:

#### 53.1 Composition -

53.1.1 A Consultative Committee shall include:

- (i) at least 50% union/employee representatives; and
- (ii) at least one senior management representative.

53.1.2 Management and the union and employees will jointly determine the size of the Committee, except that there will be no fewer than four members. The maximum number of representatives on any Committee will be ten.

53.1.3 The election/appointment of management representatives will be determined by management and the election of union/employee representatives will be determined by the union. Where there is a union delegate they must be a union/employee representative.

53.1.4 In the determination of union/employee representatives on the Committee, consideration shall be given to:

- (i) the makeup of the workforce - in particular the proportion of women, migrants and juniors;
- (ii) the size of the workforce;
- (iii) the number of distinct operations at the workplace;
- (iv) shift arrangements;
- (v) the corporate structure;
- (vi) other existing consultative mechanisms.

53.1.5 Where an enterprise is comprised of a number of sites or distinct workplaces, the number of Committees to be established shall be determined jointly by management and the union, depending on the size and operations of the enterprise and its separate components. Should more

than one Committee be established, a peak Committee shall be established to ensure a co-ordinated approach.

53.1.6 The Committee, once established, may invite persons to attend specific meetings.

53.1.7 An official of the union shall have a right to be present and participate in the deliberations of the Committee.

### 53.2 Term of Office -

53.2.1 Members elected or appointed to the Committee shall hold office for a period of twelve months, and will be required to be re-elected or re-appointed each subsequent year. It is the responsibility of each Committee member to attend meetings on a regular basis and to represent the views and opinions of those people he or she represents.

53.2.2 If a member of the Committee ceases employment with the enterprise, or resigns from the Committee, a new election or appointment shall be made in accordance with clause 531.3 of this Schedule.

53.3 Terms of Reference - The following matters shall form the basis for the work of the committees. Each committee will seek to reach agreement on the matters set out below and make recommendations to senior management who will take into account the views and the deliberations of the Committee prior to making its final decisions:

53.3.1 To implement the restructured award in the workplace.

53.3.2 To review the implications and/or impact on the enterprise of major external influences, including the Australian Government textile, clothing and footwear industrial development plan.

53.3.3 To consider the introduction of new or revised work methods/work arrangements.

53.3.4 To give consideration to the impact of technological change and other significant changes in the organisation or workplace, with regard to:

- (i) the number of employees, job specifications and current skill base; and
- (ii) the acquisition of new skills and additional training requirements.

53.3.5 To develop a framework for skills development and provision of training within their workplaces, including English language training and the provision of Foundation Education.

53.3.6 To assess proposed changes in product or product orientation for possible impacts on work method/work arrangements, employment and skill requirements.

53.3.7 To give consideration to equal employment opportunity principles in the context of award restructuring in the workplace.

53.3.8 To consider the provision of work-related childcare and, in particular, the Australian Government Work Based Child Care Program.

53.3.9 To consider other matters raised by Consultative Committee members which impact on employees or which contribute to the improved operation and efficiency of the enterprise.

### 53.4 Procedural Guidelines -

53.4.1 Chairperson - A Chairperson shall be elected by the Committee from within the Committee and shall alternate each meeting between management and union/employee representatives.

53.4.2 Secretary - A Secretary shall be appointed for the purposes of recording minutes, preparation and distribution of agenda and other administrative duties. The administrative requirements of the position shall be provided by the employer. The person appointed to this position shall not be a member of the Committee.

53.4.3 Agenda - All members of the Committee shall have a right and a responsibility to submit agenda items. The agenda, minutes and any relevant background documentation shall be circulated one week prior to the meetings.

53.4.4 Preparation - Reasonable time in working hours shall be provided to union/employee representatives for the purpose of preparing for the meeting. Union/employee representatives and an official of the union may, at a time convenient to the employer, during working hours, hold meetings with the workforce or part of the workforce prior to meetings of the Committee.

53.4.5 Meetings - The Committee shall meet at least every two months, unless the Committee determines that it shall meet on a more frequent basis.

The meetings of the Committee shall be held at a place and time convenient to management, but shall be held during normal working hours. Attendance at Committee meetings shall be treated as and paid for as time worked.

A reasonable time limit shall be placed on the length of meetings. Enough time shall be provided to adequately deal with the agenda items. Meetings shall operate on a consensus basis.

53.4.6 Minutes - The Secretary shall minute the proceedings of each meeting of the Committee. The minutes shall be circulated to each member of the Committee within one week of the meeting, verified by Committee members prior to the next meeting, and signed by the Chairperson at the next meeting of the Committee as a true and correct record of the proceedings of the Committee.

53.4.7 Future Meetings - The date of the next meeting of the Committee shall be set at the close of the previous meeting.

53.4.8 Confidentiality - All members of the Consultative Committee and the Secretary of the Committee shall accept that, whilst the spirit of genuine consultation is to be paramount, at no time shall the Committee have placed before it any matter, the confidentiality of which is in the company's best interests, or where confidentiality has been specifically agreed upon with a third party.

53.4.9 Management Response - Senior management must formally respond to the Committee's recommendations. Normally this will take place prior to the next meeting of the Committee.

### 53.5 Feedback -

53.5.1 The minutes of the meetings of the Committee shall be kept by the Secretary and shall be available upon request to any employee or any other person approved by the Committee. As a matter of course, minutes shall be forwarded to the State Secretary of the union.

53.5.2 Minutes of the Committee shall be posted on the notice boards after ratification by the meeting.

53.5.3 Reasonable time in working hours shall be provided to union/employee representatives for the purpose of reporting back on items raised and agreements reached at the meeting. Union/employee representatives may, at a time convenient to the employer during working hours, hold meetings with the workforce or part of the workforce following meetings of the Committee.

53.6 Training - All members of the Committee shall be entitled to training in meetings procedures and relevant related skills required to ensure that they are in a position to represent their constituents and play an active role in the operation of the Committee. The nature, time and extent of training provided shall be determined between management and the union.

- 53.7 Evaluation - A review of these procedures shall be conducted at the end of each twelve months operation.

## **SCHEDULE B**

### **54. Procedures to Be Adopted in Developing an Enterprise Agreement**

The procedures to be followed in developing an enterprise agreement are as follows:

- (a) Step One - The party raising a measure or measures for consideration shall place the matter on the agenda of a forthcoming meeting of the Consultative Committee.
- (b) Step Two - The party raising the measure or measures for consideration shall outline the proposal at a meeting of the Consultative Committee and the outline shall be recorded in the minutes of the meeting. The party receiving the proposal shall not be required to respond to the proposal at that meeting.

At the same time, a written outline of the proposal shall be forwarded to the State Secretary of the union.

- (c) Step Three - The Consultative Committee shall post the proposal on the notice boards. They shall endeavour to express the proposal in a manner that enables the proposal to be understood by the workforce. In particular, where there are a number of non-English speaking workers, the Consultative Committee shall consider having the proposal translated into the main languages spoken in the workplace so that all employees fully understand the proposal.
- (d) Step Four - The union/employee Consultative Committee representatives shall be granted one day's leave with pay to attend a trade union training course conducted by the union to equip them to negotiate each enterprise agreement with the employer. Where an employee has used their full entitlement to trade union training leave in accordance with clause 29, Trade Union Training Leave, the one day's leave shall be in addition to their entitlement.
- (e) Step Five - The union/employee Consultative Committee representatives and the relevant official of the union shall consult with the whole of the workforce and the section of the workforce affected by the proposal. An employer shall grant the whole of the workforce reasonable time off with pay to attend a meeting conducted by the union/employee representatives and the relevant official of the union for the purpose of consultation. In the case of a workplace where there are a number of non-English speaking workers, the employer shall favourably consider a request from the union/employee consultative committee representatives or the relevant official of the union for the engagement of interpreter(s) to assist in the meeting so that non-English speaking workers fully understand the proposal. In such case, reasonable time to conduct the meeting will be longer than in the case where an interpreter(s) is not used.
- (f) Step Six - The Consultative Committee shall then consider the proposal and the views of the workforce and attempt to reach an enterprise agreement. As necessary, the employee/union Consultative Committee representatives will refer the proposal to the workforce for comment.
- (g) Step Seven - If the Consultative Committee reaches agreement it shall record the agreement in writing and forward it to the State Secretary of the union, who shall arrange with the employer to jointly conduct a vote of the workforce affected.
- (h) Step Eight - In the case of a proposal which does not affect the provisions of the award, if a majority of the workforce affected are in favour of the proposal, the proposal shall be forwarded as a recommendation to senior management.
- (i) Step Nine - If the recommendation is accepted, then senior management shall refer the proposed agreement in writing to the State Secretary of the union for approval or otherwise. The union shall not unreasonably withhold agreement.
- (j) Step Ten - If the proposed agreement in writing is approved by the State Secretary of the union it shall be signed by senior management and the State Secretary of the union.



- (k) Step Eleven - The agreement shall then be submitted to the Industrial Relations Commission for approval.

## SCHEDULE C

### 55. Form of Indenture of Apprenticeship

This indenture, made the ..... day of ..... 20 between ..... (hereinafter called the employer") of the first part and ..... of ..... (hereinafter called the "apprentice") of the second part and ..... the apprentice (hereinafter called the ..... of the third part.

Now this indenture witnesseth:

1. This apprentice, of his own free will and with the consent of the hereby binds himself to serve his employer as his apprentice as hereinafter mentioned for the term of years, from
2. The employer covenants with the and the apprentice, and with each of them separately:
  - (a) That he will accept the apprentice as his apprentice for the said term of years, and during the term will instruct the apprentice or cause him to be instructed, in the functions or process of and will furnish the apprentice with all materials and facilities necessary to enable him to learn such functions or process as aforesaid.
  - (b) That he will pay to the apprentice weekly during the said term the rates of wage for the time being prescribed by this award of the Industrial Relations Commission of New South Wales.
3. The apprentice and covenant with the employer:
  - (a) That the apprentice shall truly and faithfully during the term, serve the employer as his apprentice aforesaid and shall diligently attend to the business and at all times willingly obey the lawful commands of the employer, and shall not absent himself from the employer's service without leave of the employer, or in accordance with the law.
  - (b) That in the case the apprentice be at any time during the term wilfully disobedient to the commands of the employer, or be habitually slothful or negligent or otherwise grossly misbehaves himself towards the employer, the employer may, subject to the approval of the appropriate State Authority, determine this indenture and discharge the apprentice from his service.
  - (c) That the employer may deduct from time to time from the wages to be paid to the apprentice such sums as may be reasonable for any loss of time occasioned by the absence of the apprentice from his employment through any cause, including rationing or suspension approved by the appropriate State Authority, but not including the acts, defaults or commands of the employer or any statutory enactment.
  - (d) That any question or difference arising between the employer and the apprentice relating to this indenture or anything contained herein or the construction or operation hereof or any rights, duties or liabilities of the employer or the apprentice hereunder, shall be determined by the said State Authority.
  - (e) That this indenture may, subject to the approval of and upon notice in writing to the said State Authority, be cancelled by mutual consent.
  - (f) That this indenture shall not be assigned, except with the approval of the said State Authority.
  - (g) That this indenture shall be handed over to the said apprentice on the completion of his terms of service herein, with a certificate of the apprentice's service endorsed thereon.

And for the true performance of all and every of the said covenants and agreements, each of the said parties bindeth himself to the other by these presents.

Signed, sealed and delivered by the said

Employer ..... Witness

Apprentice ..... Witness

Parent or Guardian ..... Witness

**CERTIFICATE OF AGE**

I ..... (parent’s or guardian’s name in full), do hereby solemnly declare and affirm that the within named apprentice was born on the day of .....20, and I (apprentice’s name), do likewise declare and affirm that I have been informed and verily believe that I was born on such day as aforesaid. Taken and declared at in the State of on this ..... day of ..... 20

Before me: ..... A Justice of the Peace.

**ASSIGNMENT OF THE WITHIN INDENTURE**

The within named employer ..... doth hereby with the consent of assign the within indenture, and the services there under of the within named apprentice of ..... and his executors; and the said unto doth hereby declare his acceptance of such apprentice and acknowledges himself and his executors and administrators to be bound by the covenants on the part of the employer of such apprentice, to be done and performed as fully as if he himself had entered into the same as a party under that indenture.

In witness whereof the parties hereto have set their hands and seals this ..... day of .....20

Signed, sealed and delivered by the said Employer.

..... (Seal)

of their executors or administrators.

(Consenting party or parties)

..... (Seal)

in the presence of:

**56. Schedule "D" - Broad Banding Arrangement - Historical information only**

No.	Classification	Wage Band No.
	<b>Pattern Cutting Section -</b>	
1.	Pattern cutter	6
2.	Pattern Grader - by hand-	5
	by machine	4B
3.	Pattern Maker	2
4.	All others	2
	<b>Clicking Section -</b>	
5.	Clicking, outsides leather	4B
6.	Clicking, outsides other than leather	3
7.	Clicking felt, linings, fabrics, roans, splits	3
8.	All others	2
	<b>Stuffcutting Section -</b>	
9.	Cutting leather outsoles	4B

10.	Cutting leather insoles and top pieces, channelling, ranging by hand	4B
11.	Cutting outsoles, insoles and top pieces other than leather	3
12.	Skiving leather, heel building, heel breasting, lift cutting	3
13.	Bottom unit - scouring attached heel and sole	3
14.	Cutting stiffeners and toes - leather	3
	<b>Other than leather</b>	2
15.	Heel breasting - automatic	2
16.	Automatic cutting press	2
17.	Pre-inking - automatic	2
18.	Pre-trimming - automatic	2
19.	Rounder - planet or similar	2
20.	Sole evening and grading	2
21.	Splitting machines	2
22.	Sole roughing - automatic	2
23.	Sole buffing - automatic	2
24.	Automatic feeding device	2
25.	Feeding soles or components into any automatic machine	2
26.	Wurt heel splitting	2
27.	Heel lift stacking	2
28.	Bottom unit - heel attaching	2
29.	Sole length gauging	2
30.	Cementing	1A
31.	All others	1A
	<b>Bottom Unit Assembly Section -</b>	
32.	Scouring attached heel and sole	3
33.	Skiving (leather)	3
34.	Skiving (other than leather)	2
35.	Pre-trimming - including bevelling unishanks or insoles	2
36.	Pre-inking	2
37.	Splitting	2
38.	Attaching heels to soles	2
39.	Sole length gauging	2
40.	All others	1A
	<b>Making Section -</b>	
41.	Making right through by hand	4B
42.	Pulling over by hand or machine other than automatic	4B
43.	Lasting; hand or machine other than automatic	4B
44.	First and second lasting of pumps	4B
45.	Sewing and stitching	4B
46.	Operating Goodyear rough rounding machine	4B
47.	Operating upper roughing machine	4B
48.	Inseam trimming	4B
49.	Operating stitch separator	4B
50.	Heeling, hand or machine	4B
51.	Pulling up sides, seats or backs - hand or machine	4B
52.	Operating cement press	4B
53.	Pounding	4B
54.	Lizary, Monash, lacing or plaiting of basket shoes	4B
55.	Blocking, steaming and drying of slippers	4A
56.	Ironing on the last	4A
57.	Pegging, hand or machine	4A
58.	Hungarian nailing by hand or machine, Cutlan nailing, slugging soles	4A
59.	Sole laying	4A
60.	Operating screwer	4A
61.	Automatic toe and seat lasting all descriptions	3
62.	Pulling and forepart lasting	3

63.	Slugging heels	3
64.	Rivetting, hand or machine	3
65.	Automatic feeding device	2
66.	Cutting straps to length, hand or machine	2
67.	Operating strap or lace cutting machine	2
68.	Levelling, hand or machine	2
69.	Drilling for temporary screw	2
70.	Operating loose nailer, with or without trimming attachments	2
71.	Feathering, including welt waists	2
72.	Turning (slippers)	2
73.	Laying linings and shanking	2
74.	Pulling on - all classes	2
75.	Opening and closing - channels	2
76.	Operating buzzer	2
77.	Tingling or trimming, hand or machine	2
78.	Putting on heel or toe plates	2
79.	Heel seat beating	2
80.	Operating injection moulding machine	2
81.	Operating vulcanising presses	1B
82.	Sorting lasts	1A
83.	Putting in filling, shanks, stiffeners and toes	1A
84.	Slipping off	1A
85.	Pulling out tacks and nails	1A
86.	Solutioning and cementing, hand or machine	1A
87.	Putting on studs and bars	1A
88.	Toe puff conditioning	1A
89.	Trimming wurt leaf by machine	1A
90.	Cutting thread ends after stitching	1A
91.	All others	1A
	Finishing Section -	
92.	Finishing right through by hand	4B
93.	Edge trimming	4B
94.	Operating heel trimmer, edge setter or heel scourer	4B
95.	Operating Naumkaeg and/or sandpapering machine	3
96.	Heel breasting	3
97.	All others	1A
	Upper Closing and Cleaning Sections -	
98.	Multi-purpose Machinist as defined in clause	5A,
	Definitions	3
99.	Machinist - where performed on a power machine skiving, eyeletting, hooking, beading, binding, folding, edging, perforating, gimping, swain press operation, band knife splitting	2
100.	All sewing machine operations, except lining machine and seaming	2
101.	Hot melt toe printing machine operators hand beading or folding of perimeter edges of the component pieces of the upper including straps, but excluding linings, backing pieces and bows	2
102.	Lining machinists and seamers	1B
103.	Applying toe puffs and toe puff preparations prior to completion of machine room operations, but excluding mix melt toe printing machine operators	1A
104.	All others, including sorting, inspecting or packing	1A

Historically for each worker the minimum skill level of the worker was determined by comparing their wage band with the minimum skill level table appearing below. For example, a worker in wage band 2 will have a minimum skill level of skill level 2.

Minimum skill table

Wage band	Skill level
1A, 1B	1
2, 3	2
4A, 4B	3
5	4

**57. Schedule "E" - Outdoor Work Agreements**

*Industrial Relations Act 1996*

Before the Footwear Manufacturers (State) Industrial Committee

(IRC No. \_\_\_\_\_ )

In the matter of -

The Transport Workers' Union of New South Wales Claimant

and

\_\_\_\_\_ Employer

Approval for Outdoor Work

Whereas ..... of .....

an employer bound by the abovementioned award has applied to me for permission to employ outdoor employees and I .....of .....

Industrial Registrar or Deputy Industrial Registrar under the *Industrial Relations Act 1996* having considered the application lodged by the said .....

do hereby issue this permit to the said ..... permitting it to employ as an outdoor employee the person whose name is set out hereunder, subject to the following terms and conditions:

This permit shall apply to the following employee, namely ..... who shall not permit work given under this permit to be performed by any other person.

The said employee is unable to work in the employer's factory by reason of .....

The employee to whom this permit applies shall be employed by the employer only upon the work of and shall be supplied with materials sufficient for approximately 38 hours of work in each pay week.

The said employee shall be paid not less than rates proportionate to the time work rates prescribed in the award for the class of work performed.

The said employee shall be entitled to the holidays prescribed by clause 28 Holidays, and to be paid therefor at a rate equivalent to the average amount earned per ordinary working day by the employee concerned during the week in which the holiday or holidays occur, with a maximum payment for any one holiday equivalent to one-fifth of the ordinary-time work rate prescribed in the award for the class of work performed.

Upon completion of twelve months continuous service as an outdoor employee for the said employer, the said employee shall be allowed a period of twenty-eight consecutive days leave annually which shall be paid for at a rate equivalent to the average amount earned per week by the employee concerned during the twelve months immediately preceding the date upon which the leave becomes due. Subject to the foregoing, the provisions of clause 29, Annual Leave, shall, so far as applicable, apply to the said employee.

The work to be done pursuant to this permit shall not be performed elsewhere than in the permittee's own dwelling place.

The employer shall keep a record of the work performed by the said employee and the wages paid, such record to be correctly entered up in ink not less than once in each week. Where the said record is kept other than in the time and wages book or record specified in clause 39, Time and Wages Book, then the said time and wages book or record shall contain an entry showing the employee's name, address, occupation and the fact that the said employee is an outdoor worker.

The said record shall be open for inspection by the Secretary of the union or his nominee as if the said record were a time book within the meaning of the said clause 38.

This permit shall be revocable on two days' notice by either the employer or the employee or on behalf of the said branch for causes shown.

This permit shall remain in force until ..... but the terms thereof may be extended on the application of the employer.

Dated this ..... day of .....19 .....

Industrial Registrar

**Footwear Manufactures (State) Industrial Committee**

Industries and Callings

All persons engaged in wholly or partly designing or cutting patterns for boots, shoes, sandals or slippers from metal or any other material and/or wholly or partly manufacturing boots, shoes, sandals and slippers of every description, and cutting or preparing half soles, tip fillers or top pieces when such half soles, tip fillers or top pieces are cut or prepared for repair work in the State, excluding the County of Yancowinna;

Excepting -

- Employees engaged in the making of boots to special order (bespoke bootmaking) and repairers;
- Employees engaged in the manufacture of footwear containing rubber which requires vulcanization;
- Employees engaged in the making of articles (other than patterns) or material used in the manufacture of boots, shoes, sandals or slippers.

E. A. R. BISHOP, Commissioner.



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(582)

**SERIAL C6504**

## SADDLERY, LEATHER, CANVAS AND PLASTIC MATERIAL WORKERS' (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 109 of 2008)

Before Commissioner Bishop

19 February 2008

### VARIATION

1. Delete subclause (b), of clause 4, Wage Rates, of the award published 8 February 2002 (331 I.G. 120), and insert in lieu thereof the following:
  - (b) The rates of pay in this award include the adjustments payable under the State Wage Case 2007. These adjustments may be offset against:
    - (i) any equivalent overaward payments; and/or
    - (ii) award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.
  
2. Delete Part B, Monetary Rates, and insert in lieu thereof the following:

### PART B

#### MONETARY RATES

**Table 1 - Rates of Pay**

Group	Former Rate Per Week \$	SWC 2007 \$	New Rate Per Week \$
A	559.70	20.00	579.70
B	556.00	20.00	576.00
C	553.80	20.00	573.80
D	549.80	20.00	569.80
E	538.80	20.00	558.80
F	533.10	20.00	553.10
G	530.90	20.00	550.90
H	529.80	20.00	549.80
I	527.10	20.00	547.10
J	523.80	20.00	543.80
K	522.10	20.00	542.10
L (all others)	521.00	20.00	541.00
L (glove manufacture with less than 6 months' experience)	515.90	20.00	535.90
M	513.40	20.00	533.40

**Table 2 - Allowances**

Item No.	Clause No.	Brief Description	Amount \$
1	4(e)	Leading Hand 1-5 employees	24.00 per week
2	4(e)	Leading Hand 6-10 employees	30.40 per week
3	4(e)	Leading Hand 11-15 employees	41.70 per week
4	4(f)	First Aid	10.00 per week
5	7(a)	Repairing Harness - Offensive Nature	0.43 per hour
6	7(b)	Repairing Canvas - Offensive Nature	0.42 per hour
7	8(b)	Operating a Forklift	0.48 per hour
8	12(c)	Meal Allowance - more than one & one half hours overtime	10.80
9	12(c)	Meal Allowance - where employee has provided a meal and not required to work	9.90

3. This variation shall take effect from the beginning of the first full pay period to commence on or after 19 February 2008.

E. A. R. BISHOP, Commissioner

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