

**TASMANIAN INDUSTRIAL COMMISSION**

**Industrial Relations Act 1984**

s 23 application for award or variation of award

**Minister administering the State Service Act 2000**

(T15087 of 2023)

DEPUTY PRESIDENT N M ELLIS

HOBART, 30 NOVEMBER 2023

Award variations – consent application – consent order issued – holidays with pay – Australia Day – effective from 30 November 2023

**ORDER BY CONSENT -**

**NURSES AND MIDWIVES (TASMANIAN STATE SERVICE) AWARD**

**No. 5 of 2023**

**(Consolidated)**

THE FOLLOWING CLAUSES ARE VARIED AND THE AWARD IS CONSOLIDATED:

IN PART I – APPLICATION AND OPERATION OF AWARD

CLAUSE 4 – DATE OF OPERATION

CLAUSE 5 – SUPERSESSION

IN PART VI – LEAVE AND HOLIDAYS WITH PAY

CLAUSE 1 – HOLIDAYS WITH PAY

## **PART I – APPLICATION AND OPERATION OF THE AWARD**

### **1. TITLE**

This award shall be known as the "Nurses and Midwives (Tasmanian State Service) Award".

### **2. INDEX**

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### **3. SCOPE**

This award is established in respect of employees employed in accordance with the provisions of the *State Service Act 2000*, engaged in the provision of and in the undertaking of nursing duties and for whom a classification definition is contained in this award.

### **4. DATE OF OPERATION**

This Award shall come into operation from 30 November 2023.

### **5. SUPERSESSION**

This award supersedes the Nurses and Midwives (Tasmanian State Service) Award No. 4 of 2023 (Consolidated).

**PROVIDED** that no entitlement accrued or obligation incurred is to be diminished by the supersession.

### **6. AWARD INTEREST**

- (a) The following employee organisations are deemed to have an interest in this award pursuant to section 63(10) of the *Industrial Relations Act 1984*:
  - (i) The Australian Nursing and Midwifery Federation (Tasmanian Branch)
  - (ii) The Health Services Union, Tasmania Branch
- (b) The employer deemed to be an employer organisation having an interest in this award pursuant to section 62(4) of the *Industrial Relations Act 1984*:

The Minister administering the *State Service Act 2000*

### **7. DEFINITIONS**

**'Employer'** means the Minister administering the *State Service Act 2000*

**'Employee'** means a person employed under the provisions of the *State Service Act 2000*

**'Base salary rate'** means an employee's base salary as contained in Part III of this Award exclusive of all allowances.

**'Ordinary Hours of Work'** means the ordinary hours of work for a full time employee are 38 hours per week.

## **PART II - EMPLOYMENT RELATIONSHIP AND RELATED MATTERS**

### **1. EMPLOYMENT CATEGORIES**

**'Permanent full-time employee'** means a person who is appointed to work the full ordinary hours of work each week (as defined) and who is appointed as such in accordance with section 37(3)(a) of the *State Service Act 2000*.

**'Permanent part-time employee'** means a person who is appointed to work hours that are less in number than a full-time employee and who is appointed as such in accordance with section 37(3)(a) of the *State Service Act 2000*.

- (i) A Permanent Part time employee working less than 20 hours per week may elect to accrue paid leave entitlements and holidays with pay.
- (ii) An employee who makes an election to accrue paid leave entitlements cannot revert to a loaded rate of pay.
- (iii) Part time employees working less than 20 hours per week who do not exercise an election are to receive a 20 % loading in lieu of paid leave entitlements and holidays with pay.
- (iv) The terms of this award are to apply on a pro rata basis to part time employees.

**'Fixed term employee'** means a person engaged for a specified term or for the duration of a specified task in accordance with section 37(3)(b) of the *State Service Act 2000*.

A person may be employed on a fixed term basis to:

- (i) Replace an employee on approved leave; or
- (ii) Meet intermittent or short term patient or staffing needs; or
- (iii) Undertake a specific task or project; or
- (iv) To employee a new graduate for the period to complete a post graduate training programme.

**'Casual employee'** means a person engaged on an as and when required basis for a period not exceeding one month and where the offered engagement may be accepted or rejected on each and every occasion, thus excluding a casual employee from being placed on a regular employment roster. A casual employee is paid a loading of 23% in addition to the base salary rate in lieu of paid leave entitlements and holidays with pay as prescribed by Part VI – Leave and Holidays with Pay of this award.

### **2. CONTRACT OF EMPLOYMENT**

- (a) Except as otherwise provided by the *State Service Act 2000*, employment is by the fortnight. Any employee not specifically engaged as a casual employee is deemed to be employed by the fortnight.

(b) An employee (other than a casual employee) who is ready and willing to work their normal ordinary hours of work, is entitled to be paid a full fortnight's salary at a rate fixed by this award or relevant industrial agreement.

(c) Notice of termination by Employee and Employer

(1) Notice of termination by Employee

(i) Employment is to be terminated by an employee by the giving of two weeks' notice to the employer or by the forfeiture of two weeks wages as the case may be.

(ii) Employment is to be terminated by an employee Grade 8 /9 by the giving of four weeks' notice to the employer or by the forfeiture of four weeks wages as the case may be.

(iii) In certain circumstances the period on notice as prescribed in sub-clauses (i) & (ii) may by agreement be waived by the employer.

(2) Notice of termination by the employer

(a) Employment is to be terminated by the employer by the giving of notice in accordance with the following table;

<u>Period of Service</u>	<u>Period of Notice</u>
From commencement 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

(c) In addition to the period of notice provided an employee who is aged 45 years and older with 2 or more years of service is entitled to an additional week's notice.

(d) Payment in lieu of the period of notice must be made if the appropriate period of notice is not given or in circumstances where it is agreed the period of notice is to be waived and payment in lieu substituted.

(e) The period of notice in sub-clause 2 (ii) is to read as a minimum of 4 weeks for an employee Grade 8/9.

### (3) Summary Dismissal

The employer has the right to dismiss an employee for serious misconduct or serious neglect of duty and in such circumstances the base salary rate, where applicable allowances and loadings, penalty payments and accrued entitlements are to be paid up to the time of dismissal only.

### **3. ABANDONMENT OF EMPLOYMENT**

An employee who is absent from work without justifiable cause for more than 14 days without notifying the employer of the reason for the absence, is to be considered on face value to have abandoned their employment. Service is deemed to have ceased from that time (that is, 14 days from the first day of absence).

### **4. PROFESSIONAL DEVELOPMENT**

Without limiting its nature and extent, professional development includes award bearing courses; agreed activities arising from the appraisal process; employer-initiated activities such as committees, seminars to introduce new developments, methodology, administrative and conceptual changes; and activities for individuals or groups of employees which have been approved by the employer.

- (i) It must be evident to the employer that the activity will provide employees with skills and or knowledge which will either:-
  - (a) Enable them to better undertake the work which they currently perform; or
  - (b) Enhance their career prospects within the nursing and midwifery profession; or
  - (c) Enable them to undertake a broader range of tasks within the State nursing and midwifery service.
- (ii) The establishment of professional development programs or activities is to be undertaken in consultation with employees occupying positions affected by these programs or activities; and reflect needs determined by performance management and business management frameworks.
- (iii) Any costs associated with fees (excluding Higher Education Charges), from prescribed courses, textbooks and materials incurred in connection with undertaking professional development approved by the employer is to be reimbursed upon production of evidence of such expenditure.
- (iv) Where the employer pays the cost of course registration fees the employee is to, when directed to do so, disseminate the knowledge gained to other employees in their workplace. This may be done through in service education



sessions at ward level or by the production of a short paper outlining the knowledge gained.

- (v) Travel and accommodation costs incurred by an employee undertaking professional development approved by the employer in accordance with this clause, which exceed those normally incurred in travelling to and from work, are to be reimbursed upon production of evidence of such expenditure.
- (vi) Approved courses are those professional development activities which have been approved by the employer and which an employee is required by the employer to attend.
- (vii) The employer and employees should agree on criteria for continuing professional development having regard to the cost, accessibility and availability of courses relevant to the needs of the individual employee and of the employee's workplace.
- (viii) It is acknowledged that employees in rural and remote locations must, where practicable, have equal access to professional development opportunities. This may encompass alternative modes of delivery of professional development opportunities and may require the employer to give consideration to the increased travel time and costs associated with attendance at such professional development opportunities where such consideration is not unreasonably used as a criterion for non-approval of attendance.
- (ix) Unions who are deemed to have an interest in this Award are to be provided statistics on a quarterly basis on the status of nurse/midwifery employer assisted study leave by division, classification and region upon request.

## **5. WORK, HEALTH AND SAFETY**

- (a) For the mutual benefit of the parties the employer and employees are required to acknowledge, commit to and assume responsibility for maintaining a safe and healthy work environment in accordance with applicable legislation.
- (b) The employer and employees will aim to achieve best practice in preventing and minimising workplace injuries, illnesses and absences from work in order to:
  - (a) Improve workplace health and safety performance;
  - (b) Improve return to work performance; and
  - (c) minimise human and workplace costs of injury or illness
- (c) Extended absence from the workplace through illness or injury

Subject to any specific medical advice and consistent with employee well-being, a manager or an appropriate person nominated for this purpose, is to maintain regular contact with an employee who is absent from work for any period exceeding five working days due to personal injury, illness or workers' compensation.

The role of the designated person is to provide appropriate support, advice and assistance to the employee to enable their return to work at the earliest opportunity and if need be, offer advice as to entitlements and any impending workplace changes.

This sub-clause is part of a positive workplace culture in assisting the employee's return to the workplace.

Without limiting the employer's obligations, where an employee indicates the contact is counterproductive the manager is to cease this approach.

### **PART III – SALARIES AND RELATED MATTERS**

#### **1. SALARIES**

An employee appointed or promoted to a position within a classification or level prescribed by this award shall be paid at the salary rate determined for the relevant classification or level as hereinafter set forth.

	\$
(a) Student Enrolled Nurse	
1st year of training	37161
2nd year of training	37622
(b) Student Nurse	
1st year of training	37735
2nd year of training	38195
3rd year of training	38655

**PROVIDED** that a student nurse, who has successfully completed the examination prescribed by the Nursing Board for the Certificate of General Nursing, Geriatric Nursing, Psychiatric Nursing or Mental Deficiency Nursing, shall be paid from the beginning of the first full pay period to commence after the date of passing the said examination and until such time as registration is granted, a salary rate of \$38366 per annum.

**PROVIDED** that the employee in receipt of a rate of pay attaching to a year of service provided by this award immediately prior to the first pay period to commence on or after 10 July 1992 shall from that date be paid at the salary attaching to the year of service to this award in accordance with the translation provided therein.

(c) Enrolled Nurse	
Pay point Y1	39715
Pay point Y2	40248
Pay point Y3	40784
Pay point Y4	41322
Pay point Y5	41742
(d) Registered Nurse - Level 1	
1st year of service	41977
2nd year of service	43348
3rd year of service	44686
4th year of service	46022
5th year of service	47359
6th year of service	48697
7th year of service	50034
8th year of service and thereafter	51261

(e) Registered Nurse - Level 2	
1st year of service	52599
2nd year of service	53376
3rd year of service	54267
4th year of service and thereafter	55158

(f) Registered Nurse - Community Health, Family and Child Health	
1st year of service	48697
2nd year of service	51261
3rd year of service	52599
4th year of service	53376
5th year of service	54267
6th year of service	55158

**PROVIDED** the commencing salary of an employee with more than 6 or 7 years relevant experience shall be not less than the 1st or 2nd year of service respectively.

**PROVIDED FURTHER** that in addition to the above salary rates an allowance of \$1302.80 per annum may be paid if, in the opinion of the employer, the duties and responsibilities of such employee warrant such allowance.

(g) Registered Nurse - Level 3	
1st year of service	56831
2nd year of service	57835
3rd year of service	58839
4th year of service and thereafter	59842

(h) Registered Nurse - Level 4 Assistant Director of Nursing	
Grade 1	65189
Grade 2	69091
Grade 3	72993

(i) Registered Nurse - Level 5 Director of Nursing	
Grade 1	65188
Grade 2	68536
Grade 3	72993
Grade 4	77452
Grade 5	85251
Grade 6	93055

- (j) Nurse undertaking postgraduate training

For all Registered Nurses who elect to undertake a course of post-basic training, salary will be at the Level 1 rate according to the employee's year of experience.

**PROVIDED** that where employees are required by the employer to undertake a course of study, salary will be maintained at the employee's award rate.

**PROVIDED FURTHER** where an Enrolled Nurse elects to undertake a course of post-basic training, that employee will be paid at his/her existing salary rate whilst undergoing such training.

## **2. SALARY INCREMENTS**

**'Year of service'** means a minimum of 365 days of employment including rostered days off, holidays with pay, paid recreation leave and paid personal leave.

Progression for all classifications for which there is more than one wage point, shall be by annual increments, having regard to the acquisition and utilisation of skills and knowledge through experience in his or her practice setting(s) over such period.

### **(a) Full-time employees**

- (i) Except where otherwise specifically determined by this award, or subject to the provisions of the *State Service Act 2000*, an employee, while holding a position within a classification or level in respect of which a salary is prescribed by this award and who for not less than twelve months has been in receipt of a salary less than the maximum salary prescribed for such classification, shall be entitled to receive the annual increment prescribed for such classification until the maximum salary is reached.

**PROVIDED** that an employee who was an employee on the date of this award shall be entitled to receive such increment on the anniversary of the date upon which she/he received her/his last salary increment in respect of her/his present position.

- (ii) An employee whilst continuing to hold the same office or position shall, unless the employer otherwise determines, be deemed for the purposes of this clause, to have been in receipt of a salary during any period of leave without pay in the twelve months immediately following the date upon which the employee's previous salary increment was awarded.
- (iii) Notwithstanding anything contained in this award, no employee shall be entitled to receive any increase in salary by virtue of this clause unless, in the opinion of the employer, his/her conduct, diligence and efficiency during the twelve months immediately prior to the date from which such increase would be payable shall have been satisfactory.

(b) Part-time employees

The appropriate weekly rate shall be in accordance with the salary prescribed, in accordance with the actual experience of the employee in the field in which the employee is employed. Otherwise the granting of increments shall be subject to the same restrictions as apply to full-time staff.

**3. ACCELERATED ADVANCEMENT**

(a) Registered nurses

(i) Subject to 3(a)(ii), a Registered nurse level 1 shall be entitled to progress one increment on that person's first appointment following registration with the Nursing Board of Tasmania, or at any one time during the person's employment history as a Registered nurse level 1, on attainment of the following:

- (1) a UG1 degree in nursing; or
- (2) registration in another branch of nursing or on another nursing register maintained by the Nursing Board of Tasmania where the employee is working in a particular practice setting which requires the additional registration; or
- (3) successful completion of a post-registration course of at least twelve months duration, by an employee required to perform the duties of a position to which the course is directly relevant.

(ii) A Registered nurse level 1 who has been advanced once in accordance with 3(a)(i) shall not be entitled to further advancement under this clause.

(iii) Existing incremental dates shall not be affected by progression in accordance with the above clause.

(b) Enrolled nurses

(i) Pay point progression

- (1) Must be based on a change in work value, having regard to the acquisition and utilisation of skills and knowledge through experience in his or her practice setting/s over such period.
- (2) **PROVIDED** that an employee's progression may be deferred or refused by the employer, provided that any such deferral or refusal is referable only to the terms specified for each Pay point in Clause 5 - Classification herein, and is not unreasonable nor arbitrarily imposed by the employer. It shall be considered unreasonable if the employer has refused to provide

training and/or opportunities to work in various practice settings in the employer's establishment.

(3) Appeal and review

An employee may appeal a deferral or refusal imposed under 3(b)(i)(2) herein, provided that where such appeal results in a revocation of the employer's decision, Pay point progression shall be deemed to operate and be payable from the employee's anniversary date for such progression pursuant to 3(b)(i)(1) of this subclause.

(4) Paragraph 3(b)(i)(2) herein, shall not operate to prevent:

- (A) a review, initiated by either the employer or employee, of a deferral or refusal imposed pursuant to 3(b)(i)(2); and/or
- (B) the lifting of such a deferral or refusal at and operative from such date; where circumstances have changed such that the employee appropriately falls within the terms specified for his/her next Pay point (as defined).

(5) An appeal or review, for the purposes of this subclause, shall be undertaken and resolved in accordance with Part VIII – Consultation and Dispute Settling Procedures, Clause 1.

(ii) Accelerated advancement

(1) Subject to 3(b)(ii)(B) of this subclause, an employee (other than an enrolled nurse appointed in his/her first year of experience at Pay point Y2 pursuant to Clause 5(p)(i)(6) in this Part, shall be entitled to accelerated advancement by one Pay point:

- (A) for possession of a post-enrolment qualification recognised by the employer; or
- (B) on completion of a post-enrolment course of at least six months duration;

where such an employee is required to perform duties to which such training is directly relevant.

(2) An employee who has advanced in accordance with 3(b)(ii)(1) of this subclause shall not be entitled to further accelerated advancement pursuant to this subclause.

(3) Recognition of training experience and skill

All relevant training, experience and skills as an enrolled nurse, other than such experience pre-dating any break of five or more consecutive years, shall be counted for the purposes of:  
determining the appropriate Pay point on appointment for employees appointed thereafter.

(c) Enrolled Nurse Upgrade to Registered Nurse

- (i) An enrolled nurse who completes the conversion course to registered nurse will, if already a permanent employee, be supported by the Agency in requesting approval by the Head of State Service to promote/appoint the employee without advertising to be a registered nurse and being assigned to a vacant registered nurse position if one is available.
- (ii) Where there is no vacancy for a registered nurse and subject to the Head of State Service approving the promotion/appointment without advertising to a registered nurse, the employee will be held against a holding position until such time as a vacancy arises. A nurse's area of clinical specialisation will be taken into account where-ever possible in the assignment of duties.
- (iii) If an enrolled nurse's position is to be upgraded to a registered nurse on the obtainment of prerequisite qualifications, an application to promote/appoint the employee without advertising will be supported by the Agency to the Head of State Service. An enrolled nurse promoted/appointed to an upgraded classification of registered nurse grade 3 will do so at no lesser salary than that which the employee was in receipt of immediately prior to the promotion/appointment occurring.

(d) Registered Nurse and Enrolled Nurse Re- Entry to Practice Programmes

- (i) Registered Nurse and Enrolled Nurse Re-Entry to Practice Programmes  
Agencies remain committed to previously registered nurses and enrolled nurses undertaking re-entry to practice programmes. However re-entry to practice programmes are subject to the capacity of a particular hospital to accommodate clinical placements, the turnover rate of nursing staff, expected nursing workforce requirements and other relevant factors.
- (ii) A registered nurse who has completed the re-entry to practice program is to be paid in accordance with the following principles:
  - (A) An employee who has been out of a clinical practice setting for a period of between five (5) and ten (10) years is to be remunerated at Grade 3, Year 1 for a period of twelve (12) months and then at a rate that is to be determined by their previous level of clinical experience as determined by the Agencies and in accordance with the relevant award provisions.



- (B) An employee who has been out of a clinical practice setting for a period of greater than ten (10) years is to be remunerated at Grade 3, Year 1 and thereafter salary progression shall be in accordance with the relevant award provisions
- (iii) An enrolled nurse who has successfully completed a re-entry to practice programme is to be remunerated at Grade 2, at a point of the salary scale that recognises relevant previous experience/ increment and salary progression thereafter shall be in accordance with relevant award provisions.

#### **4. NEW APPOINTMENTS AND PROMOTIONS**

Except where otherwise specifically determined in this award, the commencing salary of an employee either on first appointment or on promotion to a position within a classification or level in respect of which a salary scale is prescribed by this award shall be the minimum salary for that position on the appropriate scale, except in any case where, in the opinion of the employer the qualifications and the practical experience in nursing duties of such person or employee, justify a higher salary.

#### **5. CLASSIFICATIONS**

- (a) Registered nurse - level 1 shall mean a registered nurse who is not otherwise classified within a level of registered nurse positions.
- (b) Registered nurse - level 2 shall mean a registered nurse who:
  - (i) has demonstrated competence in basic nursing practice and the ability to provide direct care in more complex nursing care situations; and
  - (ii) has the ability and skills to provide guidance to Registered nurses - level 1; and
  - (iii) is appointed as such; and
  - (iv) is employed within a clinical unit.
- (c) Registered nurse - community health/family and child health shall mean a Registered nurse employed in one of these settings and who is not otherwise classified.
- (d) Registered nurse - level 3 shall mean a registered nurse who may be referred to as Clinical nurse consultant, Nurse manager, or Staff development nurse. A Registered nurse - level 3 shall be appointed to the Clinical, Management or Staff Development stream:
  - (i) Clinical nurse consultant

A nurse who coordinates the delivery of care in a clinical unit and may provide direct care to selected patients/clients with complex care requirements and is accountable for standards of nursing care in a clinical unit.

(ii) Nurse manager

A nurse who is responsible and accountable for the management of resources within a management unit.

(iii) Staff development nurse

A nurse who is responsible for the conduct, evaluation and planning of education programs and/or staff development for a specified group of nurses or education programs for patients/clients and others.

(iv) Registered nurse level 3 shall include the following specialist nurse classifications:

Cardiac rehabilitation coordinator;  
Clinical nurse educator;  
Discharge planning nurse/coordinator;  
Infection control nurse/coordinator;  
Palliative care nurse;  
Stomal therapy nurse;  
Total parental nutrition nurse;  
Wound care coordinator.

(e) Registered nurse - level 4 shall mean a registered nurse who may be Assistant director of nursing - clinical, Assistant director management, Assistant director of nursing - staff development.

(i) Assistant director of nursing - clinical

A nurse who is responsible for the formulation, coordination and direction of policies for clinical nursing practice and is accountable for the standards of nursing care in an assigned number of clinical units.

(ii) Assistant director of nursing - management

A nurse who is responsible and accountable for management resources in an assigned number of management units.

(iii) Assistant director of nursing - staff development

A nurse who is responsible for the coordination and development of education programs, namely pre-registration courses or post-basic courses approved by the Nursing Board of Tasmania, or staff development programs.

- (f) Registered nurse - level 4 - grade 1 means a Registered nurse - level 4 employed in or in connection with the delivery of nursing services in the, North-West Regional Hospital, Mental Health Services, Disability Services or WP Holman Clinics.
- (g) Registered nurse - level 4 - grade 2 means a Registered nurse - level 4 employed in or in connection with the delivery of nursing services at the Royal Hobart Hospital or Launceston General Hospital.
- (h) Registered nurse - level 4 - grade 3 means a Registered nurse - level 4 appointed or promoted to a grade 3.
- (i) Registered nurse - level 5 shall mean a Registered nurse appointed as the Chief Nursing Officer or as a Director of Nursing responsible and accountable for the overall coordination of the Nursing Division.
- (j) Registered nurse - level 5 - grade 1 means a Registered nurse - level 5 employed in or in connection with the delivery of nursing services at King Island District Hospital, Risdon Prison Hospital and Ouse District Hospital.
- (k) Registered nurse - level 5 - grade 2 means a Registered nurse - level 5 employed in or in connection with the delivery of nursing services at, North Eastern Soldiers Memorial Hospital, West Coast District Hospital, Smithton District Hospital and St Helens District Hospital.
- (l) Registered nurse - level 5 - grade 3 means a Registered nurse - level 5 appointed or promoted as such.
- (m) Registered nurse - level 5 - grade 4 means a Registered nurse - level 5 employed in or in connection with the delivery of nursing services at North-West Regional Hospital.
- (n) Registered nurse - level 5 - grade 5 means a Registered nurse - level 5 employed in or in connection with the delivery of nursing services at, Royal Hobart Hospital or Launceston General Hospital or the Chief nursing officer.
- (o) Registered nurse - level 5 - grade 6 means a Registered nurse - level 5 appointed or promoted as such.
- (p) Enrolled nurse
  - (i) **Enrolled nurse** means an employee:
    - (1) whose training or education is deemed satisfactory for the purposes of enrolment on a register or roll as a nurse other than as a registered nurse (as defined); and
    - (2) who is subject to the regulations and/or by-laws of the Nursing Board of Tasmania and who holds a current practising certificate as such.

- (3) **In service training** means the formal and/or informal work related learning activities undertaken by an employee through opportunities provided by the employing agency, which contribute to an employee's professional development and efficiency by:
- (A) the acquisition and updating of skills and knowledge beneficial to effective performance within a team; and/or
  - (B) reducing the degree of direct supervision required by the employee; and/or
  - (C) enhancing the breadth and/or depth of knowledge and skills required by an employee in a specific area and/or range of areas of nursing practice, as the case may be.
- (4) **Supervision** means the oversight, direction, instruction, guidance and/or support provided to an employee by the registered nurse responsible for ensuring such an employee is not placed in situations where required to function beyond his or her preparation and competence. Specifically:
- (A) **direct supervision** means the employee works side by side continuously with a registered nurse responsible for observing and directing his or her activities in circumstances where, in the judgement of the registered nurse, such an arrangement is warranted in the interests of safe and/or effective practice;
  - (B) **indirect supervision** means such other supervision provided to an employee assuming responsibility for functions delegated by a registered nurse in circumstances where, in the judgement of the registered nurse accountable for such delegation, direct supervision of the employee is not required.
- (5) Pay point Y1 means the Pay point to which an employee shall be appointed as an enrolled nurse, where the employee possesses and may be required to utilise a level of nursing skill and knowledge based on:
- (A) Training and experience
    - (aa) the satisfactory completion of a hospital based course of training in nursing of not more than twelve months duration leading to enrolment as an enrolled nurse (as defined);
    - (bb) the satisfactory completion of a course of training of twelve months duration in a specified branch of nursing leading to enrolment on a register or roll maintained by a State/Territory nurses registration board; or

(cc) the satisfactory completion of a course of training of twelve months duration in a branch of nursing leading to the possession of a qualification required by the employer in the employee's employment;

(dd) and practical experience of up to but not more than twelve months in the provision of nursing care and/or services, and, the undertaking of in-service training, subject to its provision by the employing agency, from time to time.

(B) Skill indicators

The employee has:

(aa) limited or no practical experience of current situations; and

(bb) limited discretionary judgement, not yet developed by practical experience.

- (6) **Pay point Y2** means the Pay point to which an employee shall be appointed or shall progress from Pay point Y1, having been assessed as being competent at Pay point Y1, where the employee possesses and may be required to utilise a level of nursing skill and knowledge based on:

(A) Training and experience

(aa) The satisfactory completion of a hospital based course of general training in nursing of more than twelve months duration and/or 500 or more hours theory content or a course accredited at advanced certificate level leading to enrolment as an enrolled nurse; or

(bb) in addition to the experience, skill and knowledge requirements specified for Pay point Y1 (as defined), not more than one further year of practical experience in the provision of nursing care and/or services; and

(cc) the undertaking of in-service training, subject to its provision by the employing agency, from time to time.

(B) Skill indicators

An employee is required to demonstrate some of the following in the performance of his or her work:

- (aa) a developing ability to recognise changes required in nursing activity and in consultation with the registered nurse, implement and record such changes, as necessary; and/or
  - (bb) is able to relate theoretical concepts to practice; and/or
  - (cc) requires assistance in complex situations and in determining priorities.
- (7) **Pay point Y3** means the Pay point to which an employee shall be appointed or progress from Pay point Y2, having been assessed as being competent at Pay point Y2, where the employee possesses and may be required to utilise a level of nursing skill and knowledge based on:
  - (A) Training and experience

In addition to the experience, skill and knowledge requirements specified for Pay point Y2 (as defined), not more than one further year of practical experience in the provision of nursing care and/or services; and the undertaking of in service training, subject to its provision by the employing agency, from time to time.
  - (B) Skill indicators

An employee is required to demonstrate some of the following in the performance of his or her work:

    - (aa) an ability to organise, practise and complete nursing functions in stable situations with limited direct supervision; and/or
    - (bb) the use of observation and assessment skills to recognise and report deviations from stable conditions; and/or
    - (cc) demonstrated flexibility in the capacity to undertake work across a broad range of nursing activity and/or competency in a specialised area of practice; and/or
    - (dd) uses communication and interpersonal skills to assist in meeting psychosocial needs of individuals/groups.
- (8) **Pay point Y4** means the Pay point to which an enrolled nurse (as defined) shall be appointed or progress from Pay point Y3, having been assessed as being competent at Pay point Y3, where such an employee possesses and may be required to utilise a level of nursing skill and knowledge based on:
  - (A) Training and experience

In addition to the experience, skill and knowledge requirements specified for Pay point Y3 (as defined), not more than one further year of practical experience in the provision of nursing care and/or services; and the undertaking of in-service training, subject to its provision by the employing agency, from time to time.

(B) Skill indicators

An employee is required to demonstrate some of the following in the performance of his or her work:

- (aa) demonstrable speed and flexibility in accurate decision making; and/or
- (bb) organises own workload and sets own priorities with minimal direct supervision; and/or
- (cc) uses observation and assessment skills to recognise and report deviations from stable conditions across a broad range of patient and/or service needs; and/or
- (dd) uses communication and interpersonal skills to meet psychosocial needs of individual/groups.

- (9) **Pay point Y5** means the Pay point to which an enrolled nurse (as defined) shall be appointed or shall progress from Pay point Y4, having been assessed as being competent at Pay point Y4, where such an employee possesses and may be required to utilise a level of nursing skill and knowledge acquired on the basis of:

(A) Training and experience

In addition to the experience, skill and knowledge requirements specified for Pay point Y4 (as defined), not more than one further year of practical experience in the provision of nursing care and/or services; and the undertaking of relevant in-service training, subject to its provision by the employing agency, from time to time.

(B) Skill indicators

An employee is required to demonstrate all of the following in the performance of his or her work:

- (aa) contributes information in assisting the registered nurse/s with development of nursing strategies/improvements within the employee's own practice setting and/or nursing team, as necessary; and

- (bb) responds to situations in less stable and/or changed circumstances resulting in positive outcomes, with minimal direct supervision; and
- (cc) demonstrates efficiency and sound judgement in identifying situations requiring assistance from a registered nurse.

## **6. CALCULATION FOR THE PAYMENT OF SALARY**

### **(a) Calculation of Fortnightly Salary**

The formula to be used in calculating an employee's fortnightly salary is:

'Annual salary' ÷ by the number of 'working days in a relevant financial year'  
multiplied by 10

**'Annual Salary'** means the salary given under this Part.

**'Working Days in Relevant Financial Year'** means the total number of working days (excluding Saturdays and Sundays) in the relevant financial year. The total number of days to be used in any one financial year is 260, 261 or 262 in accordance with the actual calendar for that financial year.

The formula is consistent with the provisions of the Financial Management and Audit Regulations 2003.

### **(b) Calculation of Hourly Rate for Part-Time Employees**

Subject to subclause (a) of this clause, the hourly rate of pay to be paid to a part-time employee is to be calculated is 1/38 of the salary as calculated in sub-clause (a) above.

An additional loading is to be paid to part time employees engaged to work less than twenty hours per week who elect to not to receive paid leave entitlements and holidays with pay.

### **(c) Calculation of Hourly rate for Casual Employees**

Subject to subclause (a) of this clause, the hourly rate of pay to be paid to a casual employee is to be calculated is 1/38 of the salary as calculated in sub-clause (a) above.

An additional loading is to be paid to a casual employee in lieu of paid leave entitlements and holidays with pay.



(d) Calculation of Allowances for Overtime Purposes

An employee is to be paid overtime and penalty rates on the base rate of pay [as defined] except when an employee is in receipt of higher duties allowance in which case the allowance is to be included in the calculation for overtime and penalty rates.

(e) Calculation of the Rate of Overtime and Penalty Payments and Shift Penalties for Casual and Part Time Employees who are in receipt of a loading

For casual or part time employees who are in receipt of a loading, the loading is to be taken into account before calculating shift penalties including penalty rates for Saturdays, Sundays and Holidays with Pay, but is not to be taken into account when calculating overtime payments

## **7. PAYMENT OF SALARY**

(a) Time and Frequency of Payment

- (i) Wages, including overtime, shall be paid during working hours, at intervals of not more than two weeks and not later than the end of rostered day shift on Wednesday
- (ii) When a holiday with pay as prescribed in Part VI Leave and Holidays with Pay coincides with a normal pay day wages are to be paid on the last working day prior to the holiday with pay
- (iii) Payment of wages is to be by direct deposit into a financial institution nominated by the employee.
- (iv) The present pay day, time of payment and method of payment, are not to be varied, except after consultation with the employee[s] concerned and an agreed phasing in period.

(b) Late Payment of Salary

Except in circumstances beyond the employer's control and subject to 7 (b)(ii) an employee kept waiting for their wages on a normal pay day for more than a quarter of an hour after the end of rostered day shift on that day is to be paid overtime rates after that quarter of an hour with a minimum payment of a quarter of an hour.

- (i) Subject to 7(b)(iii), the provisions of 7(b)(i) are to have no effect in circumstances where payment cannot be effected on pay day and the employer and an employee[s] agree to alternative method of payment
- (ii) If the employer fails to effect payment as agreed in sub-clause 7 b(ii), sub-clause 7 b(ii) is of no standing and payment to an employee[s] is to be made in accordance with sub-clause 7 b(i) until payment is made.

(c) Payment on Termination of Employment

- (i) Where employment is terminated, salary and allowances due are, where practicable, to be paid to the employee on the day of termination.
- (ii) If payment on the day of termination is not practicable, the employer is to, as soon as possible deposit salary and allowances due into a financial institution nominated by the employee, or any other arrangement for payment as may be agreed between the employer and the employee.
- (iii) Part 2 (State Service Salaries) of the *Financial Management and Audit Regulations* 2003 provides for the payment of salary after the death of an employee.

(d) Advice of Pay Details

- (i) Pay advice details must at least include the requirements prescribed by the *Industrial Relations Act* 1984.
- (ii) Pay advice details may be provided by way of an electronic employee self-service system (ESS), where appropriate.

## **8. SUPERANNUATION**

(a) Superannuation arrangements for employees are prescribed in:

- (i) the *Public Sector Superannuation Reform Act 2016* (PSSR Act)
- (ii) any regulations made for the purposes of the PSSR Act; and
- (iii) the Tasmanian Accumulation Scheme Trust Deed created pursuant to the PSSR Act.

(b) An employee is to be a member of the Tasmanian Accumulation Scheme established by the PSSR Act, unless the employee elects in writing to their employer to become a member of another complying superannuation scheme.

(c) An employee who had existing superannuation arrangements in place prior to the commencement of this award continues to be subject to those arrangements.

(d) Additional Employer Superannuation Contributions

The provisions of this clause apply in addition to the rights, entitlements or obligations of the Employer or an employee under the PSSR Act or any regulations made under it.

In this clause:

“complying superannuation scheme” means a superannuation scheme that is a complying superannuation fund for the purposes of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

“default fund” means a superannuation fund that is nominated under section 20(1) of the PSSR Act to be a default fund.

(i) **Accumulation Scheme Members**

(1) For any period of unpaid parental leave in the first 12 months the employer will make fortnightly additional employer superannuation contributions on behalf of the employee to the default fund or to another complying superannuation scheme if the employee has so elected in writing, at the following rate:

$$\text{EmpCont} = (\text{NRP}/26) \times \text{C\%} \quad \text{EmpCont} \quad - \quad \text{Additional} \quad \text{Employer} \\ \text{Superannuation Contribution}$$

NRP – Normal rate of pay for employee as defined in by Part VI – Leave and Holidays with Pay, Clause 2 Parental leave, subclause (a)(viii)

C% - relevant "charge percentage" specified in section 19 of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth, as amended from time to time

(2) For a period of paid parental leave for which an employee, in accordance with a relevant Award, has decided to take the period of paid parental leave on half pay as provided for by Part VI – Leave and Holidays with Pay, Clause 2 Parental leave, subclause (c) Maternity Leave, the employer will make fortnightly additional employer superannuation contributions on behalf of the employee to the default fund or to another complying superannuation scheme if the employee has so elected in writing, at the following rate:

$$\text{EmpCont} = 0.5 \times (\text{NRP}/26) \times \text{C\%} \quad \text{EmpCont} \quad - \quad \text{Additional} \quad \text{Employer} \\ \text{C\%} \quad \text{Superannuation Contribution}$$

NRP – Normal rate of pay for employee as defined in by Part VI – Leave and Holidays with Pay, Clause 2 Parental leave, subclause (a)(viii)

C% - relevant "charge percentage" specified in section 19 of the *Superannuation*

*Guarantee (Administration) Act 1992* of the Commonwealth, as amended from time to time

(3) For any period when an employee is absent from work either totally or partially due to a workers compensation claim and in receipt of a workers compensation weekly payment, the employer will make additional employer superannuation contributions on behalf of the employee to the default fund or to another complying superannuation scheme if the employee has so elected in writing, at the following rate:

$$\text{EmpCont} = \text{WP} \times \text{C\%} \quad \text{EmpCont} - \text{Additional Employer Superannuation Contribution}$$

WP – Workers compensation weekly payment paid to employee

C% - relevant "charge percentage" specified in section 19 of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth, as amended from time to time

(ii) **Defined Benefit Scheme members**

(1) For any period of parental leave in the first 12 months during which an employee is not paid salary or is paid salary of half their normal rate of pay and the employee elects not to pay, is taken to have elected not to pay or is precluded by the rules of the Defined Benefit Scheme from paying, their own contributions to the Scheme, the employer will make fortnightly additional employer superannuation contributions on behalf of the employee for that period to the default fund or to another complying superannuation scheme if the employee so elects in writing, at the following rate:

$$\text{EmpCont} = [(\text{NRP}/26) - \text{AS}] \times \text{C\%} \quad \text{EmpCont} - \text{Additional Employer Superannuation Contribution}$$

NRP – Normal rate of pay for employee as defined in by Part VI – Leave and Holidays with Pay, Clause 2 Parental leave, subclause (a)(viii)

AS – Actual salary paid to employee while on parental leave

C% - relevant "charge percentage" specified in section 19 of the

*Superannuation*                      *Guarantee*  
*(Administration) Act 1992 of the*  
Commonwealth, as amended from time to time

(2) For any period when an employee is absent from work either totally or partially due to a workers compensation claim, and in receipt of a workers compensation weekly payment and the employee elects not to pay, or is precluded by the rules of the Defined Benefit Scheme from paying, their own contributions to the Scheme, the employer will make additional employer superannuation contributions on behalf of the employee for that period to the default fund or to another complying superannuation scheme if the employee so elects in writing, at the following rate:

$$\text{EmpCont} = \text{WP} \times \text{C\%} \quad \text{EmpCont} \quad - \quad \text{Additional} \quad \text{Employer} \\ \text{Superannuation Contribution}$$

WP – Workers compensation weekly payment paid to employee

C% - relevant "charge percentage" specified in section 19 of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth, as amended from time to time

## **9. SALARY SACRIFICE BY EMPLOYEES**

### **(a) Superannuation**

- (i) An employee may elect to salary sacrifice a proportion of their award salary to a complying superannuation scheme of their choice, as defined in the *Public Sector Superannuation Reform Act 1999*, subject to compliance with any Tasmanian or Commonwealth government directive and legislation.
- (ii) Administrative costs incurred as a result of an employee entering into or amending a salary sacrifice agreement will be met by the employee.
- (iii) Salary for all purposes, including superannuation for employees entering into salary sacrifice agreement, will be determined as if a salary sacrifice agreement did not exist.
- (i) Salary sacrifice agreements will be annual with employees being able to renew, amend or withdraw. An employee may withdraw at any time from a salary sacrifice agreement.

### **(b) Other Benefits**

- (i) An employee may elect to sacrifice a proportion of their award salary for non-salary (excluding novated lease of vehicles) and superannuation benefits subject to compliance with any Tasmanian or Commonwealth government directive and legislation.
- (ii) Any Fringe Benefit Tax or direct administrative costs incurred as a result of a salary sacrifice arrangement will be met by the employee.
- (iii) Salary for all purposes, for employees entering into a salary sacrifice arrangement, will be calculated as if the salary sacrifice arrangement did not exist.
- (iv) Salary sacrifice arrangements will be annual based on the Fringe Benefit Reporting Year with employees being able to renew, amend or withdraw. An employee may withdraw from a salary sacrifice arrangement at any time.

#### **10. SALARY PACKAGING FOR EMPLOYEES**

- (a) An employee who is employed in a public hospital may elect, up to the amount allowed under relevant legislation, to take a proportion of their award/agreement salary in a form selected from a list of options offered by the employer.
- (b) Fringe Benefit Tax and any administrative costs incurred as a result of an employee entering into or amending a salary packaging arrangement is to be met by the employee
- (c) Salary for all purposes, including superannuation for employees entering into a salary packaging arrangement, is to be determined as if the salary packing arrangement did not exist.
- (d) Salary packaging arrangements are to be annual and based on a Fringe Benefit reporting year. The employee is able to renew or amend the agreement annually. An employee may withdraw at any time from a salary packaging arrangement.
- (e) Where an employee ceases to be employed by the employer in an eligible position the salary packaging arrangement is to cease to have application as at the date of cessation.

## **11. TASMANIAN MINIMUM WAGE**

In accordance with s 47 AB of the *Industrial Relations Act 1984* (the *Act*) the minimum weekly wage for an adult full time employee is the Tasmanian Minimum Wage as determined by the Tasmanian Industrial Commission, pursuant to s 35 (10A) of the *Act*. The Tasmanian Minimum Wage is \$812.60 per week effective from 1 August 2022.

**PROVIDED** this clause has no application to employees engaged under a contract of training or to an employee who is in receipt of a supported wage assessment.

## **PART IV – ALLOWANCES**

In addition to the salary rates prescribed in Part III – Salaries and Related Matters, Clause 1, the following allowances shall be paid.

### **1. IN CHARGE ALLOWANCE**

#### **1.1 Registered Nurse Grade 3**

A Registered Nurse Grade 3 who is directed or required to take charge of a clinical or management unit for more than half a shift is to be paid an allowance of \$24.91 for each shift worked.

#### **1.2 Registered Nurse Grade 4**

- (i) A Registered Nurse Grade 4 who is required to be in charge of another Registered Nurse Grade 4 in a clinical management unit for more than half a shift is to be paid an allowance of \$16.60 for each shift worked.
- (ii) A Registered Nurse Grade 4 who is the only Registered Nurse Grade 4 rostered on a shift and who is directed and required to be in charge of a clinical or management unit for more than half a shift is to be paid an allowance of \$24.91 for each shift worked.

### **2. CORRECTIONAL AND MENTAL HEALTH ALLOWANCE**

In addition to an employee's base salary rate an all-purpose allowance (excluding shift penalties) of 6.5% is to be paid to employees who are engaged to undertake duties in correctional health services, forensic mental health, or secure mental health (however titled) for all hours worked.

This allowance is payable for all periods of paid leave entitlements.

### **3. MORE RESPONSIBLE DUTIES ALLOWANCE**

For the purposes of this clause reference to an employee does not include an employee employed for a fixed term or on a casual basis.

- (a) An employee is entitled to a more responsible duties allowance when the employee is directed to perform duties that are in excess of the duties of the employee's classification level or consist of partial higher duties for a period of five or more consecutive working days.



- (b) The more responsible duties allowance payable is to be in proportion to the more responsible duties undertaken compared to the employee's normal duties and by reference to the employee's salary and the work value of the more responsible duties undertaken.
- (c) An employee in receipt of an allowance according to this clause is to continue to be paid the allowance while on approved paid leave, provided that the more responsible duties would have been continuous but for the period of the paid leave and are resumed immediately on the completion of the period of paid leave.
- (d) Payment for overtime undertaken while in receipt of a more responsible duties allowance is to include the allowance prescribed by this clause subject to the overtime provisions in Part V – Hours of Work and Overtime.

#### **4. HIGHER DUTIES ALLOWANCE**

For the purposes of this clause reference to an employee does not include an employee employed for a fixed term or on a casual basis.

- (a) An employee is entitled to a higher duties allowance only when the employee is directed to perform duties that are classified higher than the employee's substantive level for a period of five or more consecutive working days. The employee is to be paid an allowance equal to the difference between the employee's normal salary level and the minimum salary level of the duties being undertaken at the higher classification level.
- (b) An employee who performs duties at the same higher classification level, as prescribed in subclause (a), for a continuous period of 12 months is eligible for salary progression, if provided for and eligible for advancement in accordance with the progression assessment in the higher classification level.
- (c) An employee who performs duties at the same higher classification level, as prescribed in subclause (a), for broken periods that aggregate 12 months in a period of three years is eligible for salary progression, if provided for and subject to progression assessment in the higher classification level.
- (d) An employee promoted to a higher classification level is to have a period of continuous higher duties immediately prior to this promotion, for which an allowance is payable, according to subclause (a), taken into account in establishing the applicable salary level and date of eligibility of future salary progression.
- (e) An employee promoted to a higher classification level is to have broken periods of higher duties prior to this promotion, for which an allowance is payable, according to subclauses (a) and (c), taken into account in establishing the applicable salary level and date of eligibility of future salary progression.

- (f) An employee in receipt of an allowance according to this clause is to continue to be paid the allowance while on approved paid leave, provided that the duties would have been continuous but for the period of the paid leave, and are resumed immediately on the completion of the period of paid leave.
- (g) Payment for overtime undertaken while in receipt of a higher duties allowance is to include the higher duties allowance prescribed by this clause, subject to the overtime provisions in Part V – Hours of Work and Overtime.
- (h) The provisions of this clause apply equally to an employee classified at Grade 3 who undertakes duties at Grade 4. Upon a successful application for advancement to Grade 4 from Grade 3 the provisions of this clause are to be taken into account in establishing the applicable salary level and date of eligibility of future salary progression.

## **5. DISTRICT ALLOWANCE**

**'Isolated area'** is any area encompassed by the Commonwealth Taxation Zone B prescription together with other areas as may be prescribed by the Tasmanian Industrial Commission including, King Island, Flinders Island, Cape Barren Island, Maria Island and Bruny Island.

- (a) Application of the Allowance  
The purpose of this allowance is to compensate for excess costs necessarily incurred by an employee living in an isolated area and without limiting the foregoing includes partial reimbursement for telephone calls, freight, fuel and depreciation costs.
- (b) Where a person is stationed permanently in one or other of the following districts he/she may, on the determination of the employer, be paid an allowance in accordance with the following rates, viz:
  - (i) Category R – remote locations approved as such by the Commission, but in any case including Bass Strait Islands, Maria Island and Bruny Island.
    - (1) Person with dependent relatives residing with him/her - \$4618.00 per annum;
    - (2) Other (no dependents) - \$2308.00 per annum
  - (ii) Category B – locations under the Commonwealth Taxation Zone B description
    - (1) Person with dependent relatives residing with him/her - \$2308.00 per annum;

(2) Other (no dependents) - \$1154.00 per annum

(iii) Category S – special locations as may be approved by the Commission

(1) Person with dependent relatives residing with him/her - \$1154.00 per annum;

(2) Other (no dependents) - \$578.00 per annum

**PROVIDED** that an employee with dependants residing with him/her shall be regarded as an employee without dependents if his/her spouse, of entitlement arising from employment, is in receipt of a district allowance.

(c) District allowance – part-time employees

The district allowance payable to full-time employees under the provisions of this award shall be paid to part-time employees on the following basis:

less than ten hours per week –  $\frac{1}{4}$  of the rates prescribed for similar full-time employees

ten hours but less than twenty hours per week –  $\frac{1}{2}$  of the rates prescribed for similar full-time employees

twenty hours but less than 30 hours per week –  $\frac{3}{4}$  of the rates prescribed for similar full-time employees

30 hours or more per week – the full amount of the rates prescribed for similar full-time employees

(d) District allowance rates are to be adjusted from 1 July each year in accordance with the annual percentage change between March of the previous year and March of the current year as specified in the Australian Bureau of Statistics, Tables 3 and 4 CPI: Groups, Weighted Average of Eight Capital Cities, Index Numbers and Percentage Changes – Column M (Index Numbers; All groups; CPI; Australia).

## **6. PROVISION OF UNIFORMS, UNIFORM ALLOWANCE, LAUNDERING AND EQUIPMENT**

(a) Employees who provide direct care and who are required to wear a uniform are to be provided with six items of uniform with community and outreach nurses to receive an additional item consisting of a warm windproof breathable jacket. Good quality outdoor weather protective clothing is to be provided. Replacement of uniform items is to be through “normal wear and tear”.

- (b) Employees who provide direct care and who are required not to wear a uniform, e.g. mental health and child and family health nurses are to be paid an allowance of \$250.00 per annum from the first full pay period on or after 1 February each year.
- (c) Part-time employees are to receive items of clothing or payment of the allowance on a pro rata basis determined by an average of the ordinary hours of work undertaken in the preceding twelve month period.
- (d) At termination of employment an employee is to return any item of clothing to the employer which was in use immediately prior to termination.
- (e) Under normal circumstances an employee supplied with a uniform is responsible for its laundering. However where a uniform, supplied by the employer is heavily soiled or contaminated (vomit, blood, faeces etc.) it may be disposed of and replaced or it may be professionally laundered by the employer.
- (f) The employer is to provide all appropriate aids necessary for the performance of work related tasks including all electronic devices however configured, precision instruments and any other associated implements.

## **7. MEALS ALLOWANCES FOR OVERTIME, DAY TRAVEL AND ON DUTY**

- (a) Where, on the determination of the Head of Agency, the nature of an employee's duties are such as to warrant free meals on duty, or where in the Head of Agency's opinion other good reason exists for the provision to an employee of free meals on duty, such meals are to be provided free of charge.
- (b) Meal Allowance – Day Travel  
An employee required by their employer to undertake duties more than 60 kilometres from the employee's normal work location and who is required to purchase breakfast or an evening meal is entitled to payment of the meal allowances prescribed in subclause (d) of this clause if:
  - (i) In respect of breakfast, duties are commenced not less than one and a half hours before employee's normal starting time; and
  - (ii) In the case of dinner, duties are performed for not less than one and a half hours after the employee's normal finishing time.
- (c) Meal Allowance – Overtime  
Where an employee is required to commence duty at their headquarters not less than one and a half hours before, or to remain on duty for not less than one and a half hours after, the normal hours of duty, and that requirement necessitates the employee obtaining a meal away from home, that employee shall, subject to this paragraph, be paid a meal allowance at the rates prescribed in subclause (d) of this clause:

PROVIDED that where an employee who is required to work overtime on a Saturday, Sunday or holiday with pay, has been given prior notice the previous day or earlier, the employee shall not be entitled to the meal allowance BUT where such prior notice has not been given the employee shall attract such payment.

(d) Meal Allowance – Rates

Rate of Allowance

Breakfast	\$14.95
Lunch	\$16.85
Dinner	\$28.65

The rates contained above are derived from the Australian Taxation Office (ATO) Taxation Determination TD2022/10, Table 1. These rates are to be adjusted from 1 July each year by taking 50% of the appropriate ATO determination for meals in Table 1 of that determination, rounded to the nearest 5 cents.

(e) Meals on duty

Subject to the determination of the employer, a replacement meal shall be provided or a cash payment made in accordance with sub-clause 7(a) to an employee whose meal (normally taken on hospital premises) is spoiled or missed due to the intervention of a situation beyond his/her control.

## **8. KILOMETREAGE**

(a) Required user category

- (i) Where an employee is required in writing by the employer to have available on a regular basis a private motor vehicle which the employee will be required to use for official purposes, and the employee agrees in writing so to do an allowance shall be paid for such use in accordance with the following rates:

<u>Annual Kilometreage Travelled</u> <u>On Duty in a Financial Year</u>	<u>Cents per kilometre</u>	
	<u>Rate 1</u> <u>2 litres and above</u>	<u>Rate 2</u> <u>less than 2 litres</u>
First 10,000 kilometres	95.83 (100%)	82.41 (86%)
Any additional kilometres	50.79 (53%)	44.08 (46%)

- (i) **PROVIDED** that where the employer wishes to withdraw the requirement to provide a private motor vehicle then, except where special circumstances exist, at least one year's notice in writing shall be given, and the notice period shall be specified to end on 30 June.

Occasional user category

<u>Annual Kilometreage Travelled On Duty in a Financial Year</u>	<u>Cents per kilometre</u>	
	<u>Rate 3</u> <u>2 litres and above</u>	<u>Rate 4</u> <u>less than 2 litres</u>
First 10,000 kilometres	63.89 (100%)	54.95 (86%)
Any additional kilometres	33.86 (53%)	29.39 (46%)

- (b) The rates specified in 8(a) and 8(b) shall not be varied as a consequence of National Wage Case decisions. The rates shall be varied upon application subsequent to 30 March and 30 September of each year after the Hobart Transportation, Private Motoring subgroup, Consumer Price Index numbers for the quarters ending 30 March and 30 September respectively, become available. The Rate 1 and Rate 3 variations for the first 1000 kilometres travelled shall be calculated in accordance with the formula specified in decision T33 of 1985 of the Tasmanian Industrial Commission dated 13 June 1985.

Variations to the other rates specified in the tables in 8(a) and 8(b) shall be calculated by applying the percentage shown in brackets to the relevant first 1000 kilometres rate (as varied) shown as 100%.

- (c) An employee shall not receive an allowance for kilometres travelled in excess of 16000 kilometres in any one financial year unless authorised by the employer concerned on the recommendation of the Head of Agency, to travel a greater distance in that year.
- (d) In addition the following allowances shall be paid to employees:
- (i) where stationed in Category R as provided in Part IV, Clause 5(b)(i) district allowance - \$30.49 per month plus \$12.21 per 1600 km travelled on duty;
  - (ii) where stationed in Category B as provided in Part IV Clause 5(b)(ii) district allowance - \$20.18 per month plus \$12.21 per 1600 km travelled on duty;
  - (iii) where authorised to use a utility, four-wheel drive motor vehicle or any other special type of motor vehicle approved by the employer - \$12.21 per month;
  - (iv) where authorised to use a trailer attached to the motor vehicle 3.65 cents for each kilometre travelled on duty with the trailer attached;
  - (v) where authorised to use a motor vehicle on work involving the regular carrying of heavy equipment - \$12.21 per month;
  - (vi) where authorised to use a motor cycle 11.90 cents for each kilometre travelled on duty.

- (e) Where an employee is required to provide a private motor vehicle in accordance with 8(a) and the distance travelled on duty in any financial year does not exceed 4000 kilometres, the employee shall be paid an allowance calculated by multiplying the appropriate rate per kilometre by the difference between the actual number of kilometres travelled on duty during that year and 4000 kilometres.
- (f) Where a part-time employee is eligible for any payment under 8(e), such allowance shall be calculated on the proportion of the total hours worked in that year by the part-time employee to the annual standard hours for a full-time employee of the same classification.
- (g) Unless otherwise directed by the employer, kilometreage on duty shall be the distance travelled from an employee's place of employment to his or her destination and return to his or her place of employment.
  - (i) Required and occasional users should be advised in writing of their normal place of employment. If a nurse is not so advised the nearest designated place of employment is to be assumed.
  - (ii) Where the employer and employee agree that it is mutually beneficial for the employee to travel directly to a destination from home or from a destination to home, that destination shall be deemed to be the place of employment in terms of this sub clause.
  - (iii) If the distance travelled in 8(h) is in excess of the distance that would be travelled to or from the employee's normal place of employment, then the allowance shall be payable on the excess distance travelled. The employees times of starting and finishing work shall take into account the extra distance travelled.
- (h) A kilometreage allowance in excess of, or at variance with, those set forth in 8(a) and 8(b) may be paid if, on the determination of the employer concerned, special circumstances exist which justify such excess or variation.
- (i) Kilometreage allowances prescribed for full-time employees under this award shall be paid in full to part-time employees.

## **9. TRAVELLING**

- (a) Travelling

The object of this clause is to ensure that an employee who is required to undertake work related travel and who is required to remain away from home overnight is to

be provided with accommodation, meals and incidental expenses without incurring out of pocket expenses.

(i) Travel Allowance Expense for Overnight Accommodation, Meal Allowances and Incidental Expense Allowance

- (1) An employee who is required to undertake work related travel requiring overnight accommodation is to be paid a travel allowance for expenses incurred calculated in accordance with the following tables:

<u>Overnight Accommodation</u>	
Accommodation Venue	Overnight Accommodation Rate
Adelaide	\$157.00
Brisbane	\$175.00
Canberra	\$168.00
Darwin	\$220.00
Melbourne	\$173.00
Perth	\$180.00
Sydney	\$198.00
Tasmania	\$147.00

<u>Meal Allowances</u>		
<u>(Preceding or following an overnight absence)</u>		
Breakfast	Applicable	\$29.90
	7.00am – 8.30am	
Lunch	Applicable	\$33.65
	12.30 – 2.00pm	
Dinner	Applicable	\$57.30
	6.00pm – 7.30pm	

<u>Incidental Expenses</u>	
Payable per overnight stay:	\$21.30

- (2) The rates contained in the tables above are derived from the Australian Taxation Office Taxation (ATO) Determination TD2022/10, Table 1. These rates are to be adjusted from 1 July each year in accordance with the appropriate ATO determination. The accommodation component of the allowance is derived from the capital city rate for each State within that Determination.

(ii) Pre-Booking and Payment of Accommodation



- (i) The employer may enter into an arrangement with a commercial provider (hotel, motel or serviced apartment) for the provision and payment of accommodation on behalf of an employee.
  - (ii) In such cases the accommodation component of the Travel Allowance Expense will not be paid.
- (iii) Payment of Actual Travel Expense
- (1) The employer and an employee may enter in an arrangement whereby it is agreed that the actual cost of accommodation and/or expenditure on meals incurred in the course of business are to be paid upon the verification of such receipts as may be tendered in support of the claim.
  - (2) In such cases the accommodation and/or meal allowances prescribed in paragraph (a)(i) of this clause are not to be paid but the actual accommodation and/or meal expenses incurred in the course of business travel are to be reimbursed to the employee.
  - (3) An employee who has entered into an arrangement in accordance with sub-clause (a)(ii)(1) above is to be paid the Incidental Expenses Allowance as prescribed in sub-clause (a)(i)(1).
  - (4) The employer may provide alternative methods of payment of travel expenses, such as through use of a corporate credit card.
- (iv) Payment for Employee Choice
- (1) An employee may choose not to stay in accommodation for which the employer has a commercial arrangement in which case the employee is to be paid the rates prescribed in paragraph (a)(i) of this clause.
  - (2) The employer may require the employee to provide evidence by way of receipt that a commercial accommodation (hotel, motel or serviced apartment) expense was incurred.
  - (3) An employee may choose not to stay overnight in commercial accommodation (hotel, motel or serviced apartment) in which case the accommodation component of the travel allowance is not payable to the employee.
- (v) Advance Payment of Travel Allowance Expense

If requested by an employee an advance payment is to be made of the estimated travelling allowance expenses payable for the period of the work related travel.

(vi) Additional Transport Costs Incurred On Work Related Travel

An employee required to undertake work related travel who incurs additional costs through the use of public transport, taxis or hire cars is to be reimbursed those costs by substantiating the actual expenses to the employer.

(vii) Conference and Training Course Incidental Allowance

An employee required to attend a training course or conference where accommodation and all meals are provided is to be paid the Incidental Expenses Allowance as prescribed in paragraph (a)(i) of this clause with the appropriate meal allowance as prescribed in clause (a)(i)(1) for any meals not provided.

(viii) Temporary Assignment of Duties at an Alternate Location

An employee required to undertake work related duties that involve travel to a location which requires accommodation for a period up to and /or exceeding three weeks, is to be paid a travelling allowance expense at the following rates:

- (1) for the first three weeks, travelling allowances in accordance with the rates prescribed in paragraph (a)(i) of this clause; and
- (2) after three weeks travelling allowances at a rate determined by the employer.

(ix) Systematic Travelling

An employee required to undertake systematic travel is to be paid a rate within the limits set out in paragraph (a)(i) of this clause as determined by the employer.

(x) Overseas Travel Allowance Expense

An employee required to undertake work related duties outside of Australia the employee is to be paid travel allowances at a rate determined and published by the Australian Taxation Office that is applicable to overseas locations, as amended from time to time.

(b) Excess Fares

An employee who in the normal course of employment is not required to travel to different locations for the performance of their duties, but with the knowledge and

approval of the employer, is required for short periods to attend work at a location other than their regular place of employment is to be paid such reasonable additional fares necessarily incurred.

**PROVIDED** that no employee is entitled to the benefits of this subclause for a period greater than three months in any one continuous period

## **10. AIR FARES FROM BASS STRAIT ISLANDS**

The object of this clause is for the payment of an allowance to compensate employees whose place of employment is on the Bass Strait Islands for air travel incurred as a consequence of residing on the Islands. It is acknowledged as a recruitment and retention strategy.

- (i) An employee whose place of employment is on the Bass Strait Islands is entitled to the payment of an allowance equivalent in value to a return economy air fare, three times in each year, for air travel taken by the employee and for any dependent member of the employee's family residing with them on the Islands. An employee is eligible to receive the allowance three times in a year for each return air fare incurred by them and any dependent member of the employee's family, once the employee has completed three months continuous service on the Bass Strait Islands
- (ii) Any dependent member of the employee's family residing with them on the Islands is eligible to a return economy air fare only if:
  - (1) they have lived with the employee on one and/or another of the Bass Strait Islands for three continuous months; and
  - (2) they meet the definition of a dependent in accordance with the *State Service Regulations 2011*, which requires that they are wholly or substantially dependent on the employee for financial support.
  - (3) Wholly or substantially dependent on the employee for financial support is defined as:

A person is taken to be wholly or substantially dependent on an employee if that person receives, or is entitled to receive, an annual income that is less than the adult minimum wage as determined from time to time by the Tasmanian Industrial Commission.

**PROVIDED** that a dependent member of an employee's family who is boarding off one or another of the Bass Strait Islands to attend an educational institution and returns to reside with the family during term breaks is eligible even though

the person may not have lived with the employee for three continuous months as prescribed in (ii) (1).

- (iii) This is an annual entitlement based on each year of service by the employee on the Islands and is not cumulative; each year stands alone.
- (iv) The employee is to be reimbursed the cost of the lowest economy air fare available from the supplier(s) for air travel to and from the Bass Strait Islands, for the route taken by the employee, up to three times each year; subject to the following conditions:
  - (1) An employee is required to travel by the most direct route from their place of employment to the nearest airport on the mainland of Tasmania. Such travel may only include travel via Melbourne when such indirect travel is the most expedient means of travelling to or returning from the nearest airport on the mainland of this State.
  - (2) The employer may enter into a commercial arrangement with one or more commercial providers for the provision and payment of air fares on behalf of an employee.
  - (3) An employee may, by agreement with the employer, substitute air travel to the nearest airport in this State for travel to any other airport in this State or to Melbourne.
  - (4) In such cases the employee will only be reimbursed the equivalent value of the return economy air fare for travel from their place of employment to the nearest airport on mainland Tasmania.
- (v) In circumstances where emergency medical or dental treatment is required for an employee or dependent member of their family residing with them on the Islands the employee may make application to be reimbursed the actual return air fare reasonably incurred for travel from the employee's place of employment to the nearest centre in Tasmania, or to Melbourne where such medical treatment can be obtained.
  - (1) The reimbursement of the actual cost of the air fare is dependent on evidence being supplied by the employee to support their application that is acceptable to a reasonable person that the emergency medical treatment had to be obtained at the nearest centre in Tasmania or in Melbourne.
  - (2) Such reimbursement is to be in substitution for the equivalent number of annual return air fares incurred for the person(s) concerned.

## **11. EXCESS FARES**

- (a) Employees required to attend for work at a place other than their regular place of employment shall be paid such additional fares as they may incur.
- (b) An employee required to cease work after 7.00 p.m. or 30 minutes after sunset, whichever is the later and who would be required to wait in excess of 30 minutes for public transport or who is unable to park his/her private transport within reasonable proximity of the hospital premises shall be provided with transport from work to home or vehicle (whichever is the closer).
- (c) An employee required to commence after 7.00 p.m. or 30 minutes after sunset whichever is the later and at or before 6.30 a.m., provided public transport is not available, shall, if necessary, be provided with suitable transport to work.
- (d) In either case the employee shall pay to the employer the amount of the fare that would normally have been payable had regular transport services been available.

## **12. LEAD APRON ALLOWANCE**

An employee who is required to wear a lead apron is to be paid an allowance of \$2.70 per hour or part thereof for each hour the requirement continues.

## **13. PROFESSIONAL DEVELOPMENT ALLOWANCE**

An allowance of \$363.00 per annum is to be paid from the first full pay period on or after 1 July 2021 and \$372.00 per annum is to be paid from the first full pay period commencing on or after 1 July 2022 to employees in recognition of the necessity to maintain their nationally accredited registration through continuing professional development

**PROVIDED** part time employees are to receive payment of the allowance on a pro rata basis determined by an average of the ordinary hours of work undertaken in the preceding twelve month period.

## **14. PRECEPTOR ALLOWANCE**

A Preceptor Allowance of \$2.91 per hour is to be paid to an employee who is classified at Nurse Grade 3 or Enrolled Nurse Grade 2 and who is required to act as a preceptor. This allowance is to only apply for the period of work in which the employee is required to act as the preceptor.

## **15. POST GRADUATE ALLOWANCE/ENROLLED NURSE QUALIFICATION ALLOWANCE**

An employee who obtains a relevant post graduate qualification and who works in an area relevant to that post graduate qualification shall be paid an additional allowance calculated on the employee's salaried incremental point while they continue to be employed in that relevant area.

(a) Enrolled Nurse

- (i) Advanced Diploma of Nursing 4.0%
- (ii) a specialist qualification in a relevant area of practice, recognised by the employer 2.0%

(b) Registered Nurse/Midwife

- (i) Graduate Certificate 4.0%
- (ii) Post Graduate Diploma or Degree (other than undergraduate nursing degree) 6.5%
- (iii) Masters or Doctorate 7.5%

(c) **Nurse Practitioner**

- (i) Graduate Certificate 4.0%
- (ii) Post Graduate Diploma or Degree 6.5%
- (iii) A Masters (excluding the qualification which entitles them to be endorsed by the NMBA as a Nurse Practitioner) or Doctorate 7.5%.

(d) The Bachelor of Nursing Clinical Honours (Transition to Practice) qualification is deemed equivalent of a Graduate Certificate for the purposes of this Clause.

## **16. REMOTE AND RURAL PROFESSIONAL DEVELOPMENT ALLOWANCE**

The Remote and Rural Professional Development Allowance is only payable to nurses for the period of time in which work is undertaken in areas nominated in this subclause as either a remote site or a rural site.

Remote Sites are defined as:

Cape Barren Island, Flinders Island, King Island, Queenstown, Rosebery, Strahan and Zeehan.

The Remote Professional Development Allowance is:

A Professional Development Allowance of \$3,699 per annum and an additional salary allowance of 10% calculated on the employee's salaried incremental point.

Rural Sites are defined as:

Beaconsfield, Bruny Island, Campbell Town, Deloraine, Esperance, George Town, Ouse, Scottsdale, Smithton, Southern Midlands, Swansea, St. Helens, St. Marys and Triabunna. The Rural Professional Development Allowance is:

An additional salary allowance of 4% calculated on the employee's salaried incremental point.

Applications for part or all of the Remote & Rural Professional Development Allowance must be made to the employer in advance of the relevant activity. The employer is to pay the costs of all approved Remote & Rural Professional Development, including actual travel expenses and travel allowances as prescribed by the Award prior to the activity being undertaken.

The costs of the approved Remote & Rural Professional Development will be paid by the employer at the time the application is approved up to the maximum amount prescribed by this clause.

#### **17. SABBATICAL DEVELOPMENT PROGRAMME FOR NURSE CLASSIFICATION GRADES 8 & 9**

- (a) At the completion of five years' continuous service a nurse /midwife classified at Grade 8/9 is eligible to participate in a sabbatical development programme of up to 12 weeks paid leave duration.
- (b) Each calendar year eight [8] sabbatical development programmes of up to 12 weeks paid leave duration under this clause are to be made available to nurses /midwives at classification grades 8 & 9 only.
- (c) Applications for all sabbatical development programme leave are to be submitted to the employer for approval with sufficient time and information to enable consideration of the benefits accruing to the employee and to the employer.
- (d) At the completion of the period of leave, the employer may require the employee to present to relevant peer professional group details of the knowledge gained during the period of the sabbatical development programme leave.
- (e) Sabbatical development programme leave granted and not used for whatever reason cannot be converted to a cash payment.
- (f) A nurse /midwife who undertakes an approved sabbatical leave programme is entitled to the actual cost of travel expenses and travel allowances as prescribed by Part IV – Allowances, Clause 9 Travelling of this Award to the combined value of \$30,000, exclusive of 12 weeks' paid leave entitlement.

## **18. EXTRA DUTIES**

When the employer requires an employee to temporarily perform duties for a period of less than five days that are additional to, or are of a more responsible nature than the ordinary duties of the employee's substantive classification, the employer must authorise payment of additional remuneration at a rate and for such period of time as extra duties are to be undertaken

## **19. ADJUSTMENT TO WAGE RELATED ALLOWANCES**

Unless specified separately in this Award all monetary allowances are to be adjusted from the first full pay period on or after 1 July each year by the same percentage as the salary rate for the Grade 3 Year 8 classification of the Nurses and Midwives (Tasmanian State Service) Award has increased between 1 July in the preceding year and 30 June of that year. Prior to 1 July each year the parties will make application to have the salary rates in this Award updated to reflect the rates being paid.

For the purposes of this clause the salary rates being paid for 2020 are reflected below in the table:

<b>Grading</b>	<b>Rate from ffppcoa 1/12/2020</b>	<b>Rate from ffppcoa 1/12/2021</b>
Grade 1 Year 1	\$54,606	\$55,889
Grade 1 Year 2	\$56,402	\$57,727
Grade 1 Year 3	\$58,199	\$59,567
Grade 1 Year 4	\$60,000	\$61,410
Grade 2 Year G	\$59,976	\$61,385
Grade 2 Year 1	\$61,797	\$63,249
Grade 2 Year 2	\$63,534	\$65,027
Grade 2 Year 3	\$65,359	\$66,875
Grade 2 Year 4	\$66,421	\$67,982
Grade 2S Year 1	\$69,350	\$70,980
Grade 2S Year 2	\$70,328	\$71,981



Grade 2S Year 3	\$71,304	\$72,980
Grade 2S Year 4	\$72,280	\$73,979
Grade 3 Year 1	\$66,421	\$67,982
Grade 3 Year 2	\$69,350	\$70,980
Grade 3 Year 3	\$72,280	\$73,979
Grade 3 Year 4	\$75,207	\$76,974
Grade 3 Year 5	\$78,138	\$79,974
Grade 3 Year 6	\$81,065	\$82,970
Grade 3 Year 7	\$84,001	\$85,975
Grade 3 Year 8	\$84,975	\$86,972
Grade 3 Year 9	\$85,825	\$87,842
Grade 4 Year 1	\$85,950	\$87,970
Grade 4 Year 2	\$87,903	\$89,969
Grade 4 Year 3	\$89,858	\$91,970
Grade 4 Year 4	\$90,899	\$93,035
Grade 4 Year 5	\$91,807	\$93,964
Grade 5 Year 1	\$92,321	\$94,491
Grade 5 Year 2	\$93,763	\$95,966
Grade 5 Year 3	\$95,714	\$97,963
Grade 5 Year 4	\$96,610	\$98,880
Grade 5 Year 5	\$97,577	\$99,870
Grade 6 Year 1	\$97,577	\$102,080
Grade 6 Year 2	\$99,736	\$104,421

Grade 6 Year 3	\$102,023	\$106,765
Grade 6 Year 4	\$104,314	\$107,452
Grade 6 Year 5	\$106,036	\$108,528
Grade 7a Year 0	\$106,465	\$108,967
Grade 7a Year 1	\$108,907	\$111,466
Grade 7a Year 2	\$111,346	\$113,963
Grade 7a Year 3	\$112,460	\$115,103
Grade 7b Year 1	\$113,484	\$116,151
Grade 7b Year 2	\$115,623	\$118,340
Grade 7b Year 3	\$117,761	\$120,528
Grade 7b Year 4	\$118,938	\$121,733
Grade 8 Level 1	\$119,916	\$122,734
Grade 8 Level 2	\$120,894	\$123,735
Grade 8 Level 3	\$125,969	\$128,929
Grade 8 Level 4	\$131,039	\$134,118
Grade 8 Level 5	\$140,062	\$143,353
Grade 9 Level 1	\$155,758	\$159,418
Grade 9 Level 2	\$164,302	\$168,163
Grade 9 Level 3	\$174,576	\$178,679

## **PART V - HOURS OF WORK AND OVERTIME**

### **SECTION A. COMMON CONDITIONS – DAY WORKERS AND SHIFT WORKERS**

The following clauses of this Part are to apply to all employees who are classified as either a day worker or a shift worker.

#### **1. ORDINARY HOURS OF WORK**

##### **(a) Ordinary Hours for Full Time Employees**

The ordinary hours of work for full time employees are to be an average of not more than 38 in any one week across a regular pattern of hours or a regular roster of hours.

##### **(b) Ordinary Hours for Part-time Employees**

- (i) The ordinary hours for a part-time employee are to be specified in the instrument of appointment and shall be no more than 8 hours per day.
- (ii) By agreement with the employer a part time employee may extend the ordinary hours of work on any one day or to an average of not more than 38 in any one week across a regular pattern of hours or a regular roster of hours.
- (iii) Part time employees are to be provided with a minimum of two continuous hours of work or, alternately, paid for a minimum of two hours on each occasion they are required to attend for work.

##### **(c) Minimum Engagement of Casual Employees**

A casual employee is to be given a minimum of two hours' work or pay on each occasion they are required to attend work unless otherwise mutually agreed by the employee, and employer.

#### **2. ACCRUED DAY OFF [ADO]**

- (i) An accrued day off [ADO] is a day which accrues to a full time employee by the working of additional time in excess of the ordinary hours of work each day. In order to achieve an accrued day off a full time employee is to work 152 hours over a four week period [i.e., 19 days] to enable a day off to be taken [i.e., the 20<sup>th</sup> day] in each four week cycle.
- (ii) An employee is entitled with agreement of their relevant manager to accrue up to a maximum of five accrued days off in a twelve month period. These ADOs off are to be available to be taken by mutual agreement during periods of low activity or linked to the taking of recreation leave. Employees are entitled to take the ADOs in the year in which they were accrued. Any days not so taken may be taken at a time mutually convenient to the employee and their respective manager.

### **3. BANKING OF HOURS**

- (i) A full time employee or part time employee who works more than twenty hours per week may, by agreement with the employer accrue up to 38 hours in a personal 'bank of hours'.
- (ii) By working in excess of the ordinary hours of work an employee is able to bank the excess hours worked which may be taken at a later time in lieu of payment.
- (iii) An employee who works less than their rostered daily hours shall nevertheless be paid as if those rostered hours had been worked
- (iv) An employee may work less than their ordinary hours of work at a later date as a consequence of working excess hours. However salaries are to be paid as though the employee had completed the ordinary hours of work.
- (v) For time worked in excess of the ordinary hours of work including time worked on Saturday, Sunday, Holiday with Pay or on overtime are to be taken at their ordinary time equivalent, e.g. one [1] hour worked on a holiday with pay equates to 2.5 hours to be 'banked'.
- (vi) An employee who has 'debit banked' hours is to be given first option to work prior to the engagement of on-call or casual employees
- (vii) An employee who works banked hours on a shift for which a shift penalty is payable is to receive the shift penalty for the actual hours worked on that shift
- (viii) All banked hours accrued in accordance with this clause are to be taken within 12 months of the commencement of the accrual.
- (ix) Each worksite is to keep records of each employee's banked balance of hours. Employees are to be given access to this record on their request.
- (x) If on termination of their employment an employee has a deficit of banked hours, the employer is to deduct monies owing to the employer from any entitlements owing to the employee at the time of termination at the base salary rate.

If on termination of their employment an employee has an accumulation of banked hours an employee is to be paid for those hours at the base salary rate.

### **4. MINIMUM REST BREAK AFTER OVERTIME**

- (i) When overtime work is necessary it is, whenever reasonably practicable, to be so arranged that employees have at least eight consecutive hours off duty between work of successive days or rostered shifts.
- (ii) Employees (other than casual employees) who work so much overtime between the termination of their ordinary work on one day or one shift and the commencement of their ordinary work on the next day or shift that the employee has not had at least eight consecutive hours off duty between those

times, are to, subject to this clause, be released after completion of such overtime until that employee has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

- (iii) If on the instructions of the employer, employees resume or continue work without having had eight consecutive hours off duty, they are to be paid at double their base salary rates until they have been released from duty for a continuous period of at least eight hours and they are to then be entitled to be absent until they have had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

## **5. REQUIREMENT TO WORK REASONABLE OVERTIME**

- (a) The employer may require an employee to work reasonable overtime at overtime rates of pay and the employee is to undertake the work in accordance with that requirement. No overtime is to be worked without the prior approval of the employer. An employee is to be given reasonable notice of the requirement to work overtime, where practicable.
- (b) An employee may refuse to work overtime in circumstances where working overtime would result in the employee working hours that are unreasonable having regard to:
  - (i) any risk to the employee's health and safety;
  - (ii) the employee's personal circumstances including any family responsibilities;
  - (iii) the needs of the workplace;
  - (iv) the notice (if any) given by the employer of the overtime and by the employee of their intention to refuse it; andany other relevant matter. respective manager.

## **6. CALL ARRANGEMENTS**

- (a) Close Call
  - (i) An employee may be required by the employer to remain on close call – that is, on call for duty at their place of employment.
  - (ii) An employee required to be on close call:
    - (1) if not required to commence duty is to be paid a minimum payment equivalent to six hours' at the employees base salary rate; or
    - (2) if required to commence duty is to be paid in accordance with the appropriate overtime rate, provided that such payment is to be at least

equivalent to the minimum payment as prescribed in (a)(ii)(1) of this clause.

(b) On Call

- (i) The employer may require an employee, by way of a roster or direction, to be on call away from the place of work to resume duty and the employee is required to remain:
  - (1) Fit for duty; and
  - (2) Readily contactable while so rostered or directed; and
  - (3) Able to resume duty.
- (ii) An employee required to be available Monday through Friday is to be paid an allowance of \$5.12 per hour for each hour the employee is required to be available, with a minimum payment of eight hours being \$40.93.
- (iii) An employee required is to be available on Saturday, Sunday and Holidays with Pay is to be paid an allowance of \$6.61 per hour for each hour the employee is required to be available, with a minimum payment of eight hours being \$52.67.
- (iv) An employee required to return to the workplace to resume duty is to be remunerated in accordance with the Recall to Work provisions of this clause.
- (v) An employee (other than a Grade 8 or Grade 9 nurse) required to undertake duties without returning to the workplace is to be paid at the appropriate overtime rate for a minimum period of one hour.

**PROVIDED** payment is to be calculated on the cumulative hours worked and be rounded up to the nearest hour.

**PROVIDED FURTHER** any requirement to undertake duties without returning to the work place that occurs within one hour of the commencement of the first requirement, in accordance with subclause (b)(v) of this clause, for which a minimum payment is to be made, does not attract any additional payment until the time actually worked exceeds one hour.

- (vi) The hours are to be paid as rostered and each day (midnight to midnight) shall stand alone.
- (vii) A Grade 8 or Grade 9 nurse who is required to undertake duties without returning to the workplace is to be paid at the base salary rate for a minimum period of one hour.  
**PROVIDED** payment is to be calculated on the cumulative hours worked and be rounded up to the nearest hour.

**PROVIDED FURTHER** any requirement to undertake duties without returning to the work place that occurs within one hour of the commencement of the first requirement, in accordance with subclause (b)(vii) of this clause, for which a

minimum payment is to be made, does not attract any additional payment until the time actually worked exceeds one hour.

(c) Recall to Work

When an employee is rostered in accordance with sub-clause (b) (i) of this clause is recalled to work overtime after leaving their place of employment (whether notified before or after leaving their place of employment) the employee is to be paid:

- (i) For the first recall a minimum payment of four hours' work at the overtime rate applicable to the employee's base salary rate; and
- (ii) For each subsequent recall a minimum payment of three hours' work at the overtime rate applicable to the employee's base salary rate; and
- (iii) Time reasonably spent in travelling to and from the place of employment and the return journey is to be regarded as time worked.
- (iv) An employee recalled to work is entitled to receive in addition, payment for time on call as prescribed by sub-clause (b) (ii) & (iii) of this Clause.
- (v) When an employee is recalled to work to undertake duties and that work becomes continuous within one hour of the commencement of the ordinary hours of duty, that time so worked is counted towards the ordinary hours of work on that day.

**PROVIDED** the one hour prior to the commencement of the ordinary hours of duty are to be paid at the appropriate overtime rate as per clause (c) (i) & (ii) of this clause

**PROVIDED FURTHER** the hour remaining at the end of the shift need not be worked without loss of salary. However should the employee be required to undertake duty for the remaining hour of the shift then the time so worked is to be at overtime rates as prescribed by this award.

- (vi) In circumstances where an employee has been subject to recall[s] in the immediate period preceding the commencement of the next rostered shift or the ordinary hours of work may at the initiative of either the employer or of the employee, agree to arrangements being made for a period of time away from the workplace without loss of pay, in order to ensure employee well-being, effective clinical care and a safe at work environment. In consideration of the management of employee fatigue regard is to be had to the provisions of clause 4 Minimum Rest Period after Overtime

**NOTE:** Where an employee is required to return to the work place in accordance with this clause and the period of work is continuous with the commencement of the ordinary hours of work the employee is to be paid remuneration in accordance with this clause; and in addition the base salary rate for the ordinary hours of work.

**7. MEAL BREAK WHEN REQUIRED TO WORK OVERTIME**

Unless the period of overtime is one and a half hours or less, an employee before commencing overtime is to be allowed a paid meal break of twenty [20] minutes at ordinary time rates. The employer and an employee may agree to a variation of this provision provided that no employee is to be required to work for more than five hours without a meal break.

**8. MEAL ALLOWANCE WHEN REQUIRED TO WORK OVERTIME WITHOUT NOTICE**

An employee required to work for more than two hours without being notified on the previous day or earlier of the requirement to undertake the overtime is to be supplied with a meal or alternately be paid a meal allowance of \$8.78 in lieu.

**9. REIMBURSEMENT OF CHILD CARE COSTS WHEN DIRECTED TO WORK OUTSIDE THE EMPLOYEE'S NORMAL HOURS OF WORK**

An employee who is required to work outside their normal hours or pattern of work is to be reimbursed any additional commercial child care costs incurred by the employee in undertaking this work. A claim for reimbursement is to be substantiated by appropriate receipts.

**10. CASUAL AND PART-TIME EMPLOYEES – CANCELLATION OF PROJECTED WORK ENGAGEMENTS**

- (i) Subject to a casual employee agreeing otherwise, the relevant manager is to provide twenty four (24) hours' notice of the cancellation of any projected work engagement. Any casual employee who does not receive the required notice is to be paid their base salary rate, casual loading, and where applicable shift penalties and allowances for the period the employee would have worked had the projected work engagement not been cancelled.
- (ii) Subject to a part-time employee agreeing otherwise, the relevant manager is to provide twenty four (24) hours' notice of the cancellation of any additional work engagement in excess of the employee's ordinary hours of work as defined in Clause 1 (b) of this Section. Any part time employee who does not receive the required notice is to be paid their base salary rate and,  
  
where applicable the part-time loading, shift penalties and allowances for the period the employee would have worked had the additional engagement of work not been cancelled.



- (iii) An employee whose projected work engagement is cancelled with less than twenty four (24) hours' notice is to be reimbursed any additional commercial child care costs incurred by the employee in undertaking this work. A claim for reimbursement is to be substantiated by appropriate receipts.

**PROVIDED** that the child care costs referred to in this sub-clause are to be reimbursed by the employer for the equivalent duration of the cancelled projected work arrangement.

## **SECTION B. SPECIAL CONDITIONS - DAY WORKERS ONLY**

**'Day Worker'** means an employee whose weekly ordinary hours of work are performed within the days Monday to Friday inclusive.

### **(a) Ordinary Hours of Work for Day Workers**

The ordinary hours of work for full-time day workers are to average 38 hours per week to be worked;

- (i) between the hours of 7:00am and 5.30pm on any or all of the days of the week, Monday to Friday inclusive and;
- (ii) continuously except for an unpaid meal break of at least 30 minutes, and not exceeding 60 minutes and;
- (iii) are not to exceed nine [9] on any working day.
- (iv) 76 hours within a period of 14 consecutive days or 152 hours within a period of 28 consecutive days and;
- (v) may be extended up to 7.00pm by mutual agreement between the employer, and the majority of the employees involved in a work unit and;
- (vi) work performed by day workers prior to 7.00 am and after 5.30pm is to be paid at overtime rates but is to be deemed to be part of the employee's ordinary hours of work within the period of 7.00am and 5.30pm in any fortnightly period where the ordinary hours of work have been less than 76, or less than 152 hours within a period of 28 consecutive days.

### **(b) Meal Breaks**

An unpaid meal break of not less than thirty (30) minutes or greater than sixty (60) minutes is to be allowed to an employee on each day after no more than five continuous hours of work and it is exclusive of time worked. By agreement between the employer and an employee, an employee may work in excess of five hours but not more than six hours at the base salary rate without a meal break.

When an employee is directed to continue to work during a recognised meal break the employee is to be paid at the rate of time and one half of the employee's base salary rate until a meal break has been taken.

(c) Overtime

**'District Hospitals'** for the purposes of sub-clause (c) (ii) (F) are King Island District Hospital, New Norfolk District Hospital, North Eastern Soldiers Memorial Hospital, Smithton District Hospital, St Mary's Hospital, St Helen's District Hospital and West Coast District Hospital.

- (i) Overtime means all time worked in excess and outside of an employee's normal ordinary hours of duty which includes:
  - (A) time worked in excess of 7.6 hours on any one day Monday to Friday inclusive; or
  - (B) Time worked outside the span of hours of 7.00am to 5.30 pm; or
  - (C) Any time worked on a Saturday, Sunday or Holiday with Pay.
- (ii) These provisions are to apply except in the following circumstances:
  - (A) Overtime is payable to all employees [ other than an employee classified at Grade 8 or 9] including an employee in receipt of an allowance for More Responsible Duties or Higher Duties as prescribed by Part IV – Allowances of this Award and subject to the provisions of this Clause.
  - (B) Sub-clause (d) of this clause does not apply to employees to whom Part IX -, Clause 3 – Employee Workplace Flexibility Agreement in circumstances where employees may vary the hours of work and overtime arrangements.
  - (C) Sub-clause (d) of this clause does not apply to employees to whom Part V - Section A, Clause 2 – Accrued Day Off applies in circumstances where an employee accumulates time towards an Accrued Day Off. These employees work 8 hours in any one day as ordinary hours.
  - (D) Sub-clause (d) of this clause does not apply to employees to whom Part V - Section A, Clause 3 – Banking of Hours applies in circumstances where an employee accumulates time to be taken off at a later time in lieu of payment.
  - (E) Sub-clause (d) of this clause does not apply to part time employees to whom Part V - Section A, Clause 1 – Ordinary Hours of Work (b)(ii) where by agreement with the employer a part time employee extends the ordinary hours of work on any one day or to an average of not more than 38 in any one week in a regular pattern of hours.
  - (F) However where circumstances require, and with the approval of the employer Directors of Nursing at District Hospitals who undertake clinical nursing duties in excess of their ordinary hours of work as Directors of

Nursing, are to be paid overtime rates at the equivalent maximum salary rate applicable to an employee classified as Registered Nurse Grade 3.

(d) Rate of Payment of Overtime

Overtime is to be paid at the following rates:

- (i) Monday to Saturday inclusive – at the rate of time and a half of the employee's base salary rate for the first two hours, and double time thereafter;
- (ii) Sundays – at the rate of double the employee's base salary rate for all time worked;
- (iii) Holidays with pay – at the rate of double time and a half of the employee's base salary rate for all time worked.

However with the agreement of the employer, an employee may elect to have a day off in lieu and be paid time and a half for the hours worked on that day up to eight hours. All time worked in excess of eight hours is to be at double time and one half of the employee's base salary rate.

**PROVIDED** no employee is to receive in aggregate not more than the equivalent of double time and one half of the base salary rate for work undertaken on a holiday with pay.

## **SECTION C. SPECIAL CONDITIONS - SHIFT WORKERS ONLY**

(a) Definitions

**'Shift Worker'** means an employee whose ordinary hours of work are performed in accordance with a shift roster which regularly includes Saturdays and /or Sundays. The whole of Section C of this Award is to apply to a nurse practitioner who is engaged as a shift worker notwithstanding any express exclusion to the contrary for Grade 8 employees.

**'Shift Roster'** specifies the commencing and finishing times of the ordinary hours of duty of a respective shift for individual employees. A shift may be rostered for day, afternoon or night.

**'Rostered Shift'** means any shift of which the employee concerned has been notified that it forms part of the ordinary hours of work within the 28 day rostered shift cycle.

**'Day shift'** means a shift worked between the hours of 7.00 am and 6.00 pm.

**'Afternoon shift'** means a shift terminating after 6.00 pm and at or before midnight.

**'Night shift'** means a shift commencing at or after 4.00pm and before 6.00am.

**'Rostered Day Off'** means a day that is specified in a shift roster on which an employee is not required to attend for work as part of the 28 day rostered shift cycle. This day is not an accrued day off as defined in Section A, Clause 2 of this Part.

(b) Ordinary Hours of Work for Shift Workers

- (i) The ordinary hours of work for a shift worker are, worked at the discretion of the employer, to average 38 hours per week exclusive of meal breaks, and are not to exceed 152 hours in a 28 consecutive days accounting period, and are to be worked according to a shift roster.
- (ii) The ordinary hours of work for a shift worker are not to exceed:
  - Eight [8] in any one [1] day [subject to rostering arrangements]; nor
  - Forty eight [48] in any one [1] week; nor
  - Eighty eight [88] in any fourteen [14] consecutive days; nor
  - One hundred and fifty two [152] in a twenty eight day [28] accounting period.
- (iii) Except at the regular change-over of shifts a shift worker [including a casual employee] shall not be required to work more than one shift in each 24 hours.
- (iv) An unpaid meal break of not more than 30 minutes and not exceeding 60 minutes is to be allowed on each shift except where a ten hour night shift is worked a paid meal break of not more than 30 minutes is to be allowed on each shift.

(c) Meal Breaks

- (i) An unpaid meal break of not less than thirty (30) minutes or greater than sixty (60) minutes is to be allowed to an employee on each shift to be taken between the commencement of the fourth hour and the conclusion of the sixth hour exclusive of the time worked.
- (ii) Unless agreed between the employer and the employee an employee who is unrelieved for the period of the meal break is to be paid at overtime rates as prescribed by sub-clause (e) Overtime until such time as relief is available to the employee.
- (iii) Where an employee is interrupted during a meal break by a requirement to return to duty, the uncompleted meal break is to be counted as time worked and the employee is to be subsequently allowed a meal break as soon as practicable. Should it be impracticable for the employee to have the meal break during the remainder of their shift, the employee is to be paid at overtime rates as prescribed by sub-clause (e) Overtime for the interrupted meal break.

(d) Shift Rosters

Shift workers are to undertake work as directed by the employer in accordance with a roster created for the working of shifts as follows:

- (i) Provide for the rotation of all employees unless agreed otherwise.
- (ii) Provide for not more than eight shifts to be worked in any nine consecutive days.
- (iii) Be not changed until after four weeks' notice, provided that an employee's place on the roster is not to be changed, except on a week's notice of the change or payment of overtime rates as prescribed in sub-clause (e) of this clause.
- (iv) Are to provide for a minimum of two consecutive days off duty except where by mutual agreement between the employer and the employee[s] concerned mutual arrangements are entered into.
- (v) Are to clearly stipulate a 28 day roster cycle which is to stipulate the shifts of work, eight rostered days off and an accrued day off within the cycle.
- (vi) Employees are to be allocated two (2) consecutive days off after a night shift. The morning upon which the night shift ends is not included as a day off but is a sleep day. Deviations from this should only be considered and rostered if the staff member has requested this roster variation.
- (vii) Employees who resume work without having had two consecutive days off following a night shift are to be paid at the appropriate overtime rate until they have been released from duty for a period of two consecutive days.
- (viii) Overtime rates will not be paid where an employee has elected to vary their roster, or due to an employee instigated shift swap or employee request, which has led to a period of less than two consecutive days off after night shift.

(e) Overtime

For all time worked in excess of or outside the ordinary working hours prescribed, or on a shift other than a rostered shift an employee [other than an employee classified at Grade 8/9] is to be paid as follows;

- (i) At double the employee's base rate of salary except;
  - (A) For all work undertaken on a Holiday with Pay as prescribed by Part VI – Leave and Holidays with Pay is to be at double time and one half of the employee's base rate of salary.
  - (B) Payment for overtime is not to be made when the time is worked either by an arrangement between the employees themselves or for the purpose of effecting the rotation of shifts.
  - (C) For the purposes of computing overtime, each day's work midnight to midnight will "stand alone".

(f) Afternoon and Night Shift Penalties

- (i) Shift workers, other than a Registered Nurse Grade 8 and 9 whilst working an afternoon shift [as defined] are to be paid 15% more than the base salary rate for the period of the shift.

- (ii) Shift workers, other than a Registered Nurse Grade 8 and 9 whilst working a night shift [as defined] are to be paid 27.50% more than the base salary rate for the period of the shift.
  - (iii) Shift workers who, by mutual agreement with the employer undertake work continuously on either an afternoon or night shift are to be paid 15% or 27.50% respectively more than the base salary rate for the shift.
  - (iv) 12 hour shift workers, other than a Registered Nurse Grade 8 and 9 whilst working a day shift [as defined by sub-clause (m)] are to be paid 16.75% more than the base salary rate for the shift.
  - (v) 12 hour shift workers, other than a Registered Nurse Grade 8 and 9 whilst working a night shift [as defined] are to be paid 21.75% more than the base salary rate for the shift.
  - (ix) A full time shift worker who works on an afternoon or night shift that does not continue for at least five successive afternoon or night shifts is to be paid at overtime rates prescribed by sub-clause [e] Overtime for shift workers of this Clause.
  - (x) A shift worker who is required to undertake a night shift (as defined) that does not rotate to day /afternoon shift is to be paid double the shift penalty.
  - (xi) Afternoon and night shift penalties for employees in receipt of a loading in lieu of paid leave entitlements and holidays with pay are to be calculated in accordance with Part III – Salary and Related Matters, Clause 6 Calculation for the Payment of Salary.
- (g) Rostered Shifts of Work undertaken on a Saturday, Sunday and Holiday with Pay by a Shift Worker.

The rates of pay detailed in this sub-clause are in substitution for, and not cumulative upon the shift penalties as prescribed in sub-clause (f) Afternoon and Night Shift Penalties of this Clause.

For shift workers, other than a Registered Nurse Grade 8 or 9 who undertake work on a rostered shift on a Saturday, Sunday or a Holiday with Pay are to be paid as follows:

- (i) Shift Work undertaken on a Saturday

For work on a rostered shift which is performed on a Saturday payment is to be time and one half of the employee's base salary rate.

- (ii) Shift Work undertaken on a Sunday

For work on a rostered shift which is performed on a Sunday payment is to be time and three quarters of the employee's base salary rate.

- (iii) Shift Work undertaken on a Holiday with Pay

For work on a rostered shift which is performed on a Holiday with Pay payment is to be double time and one half of the employee's base salary rate.

(iv) Shift Penalties are to apply to hours actually worked

Employees are to be paid shift penalties relative to the hours actually worked before and after midnight on Friday, Saturday and Sunday nights.

(h) Rostered Day-Off Which Falls on a Holiday with Pay

A full time shift worker who by the circumstances of the arrangement of their ordinary hours of work is entitled to a rostered day off which falls on a holiday with pay as prescribed in Part VI – LEAVE AND HOLIDAYS WITH PAY, Clause 1 Holidays with Pay is to be paid seven hours 36 minutes at the employee's base salary rate or with the approval of the employer forego the payment and elect to have the time, seven hours 36 minutes accrued as a day to be taken at a later time which is not to be subject to projected shift loading or recreation leave loading.

(i) Broken Shifts

Broken shifts are not to be worked except in an emergency situation and by agreement between the employer and the employee[s]. All work undertaken in excess of a spread of nine hours is to be at the rate of double time.

(j) Daylight Saving

Where an employee works on a Saturday/Sunday shift during which the time changes because of the introduction of or cessation to, daylight saving, the employee is to be paid the actual hours worked at the base salary rate as prescribed by sub-clause (g) Rostered Shifts of Work undertaken on a Saturday, Sunday and Holiday with Pay by a Shift Worker.

(k) Night Duty

(i) An employee required to work night duty in excess of thirteen weeks in any six monthly period is to be paid at the rate of double time for all excess night duty undertaken except where an employee is relieving for a period of less than one week.

(ii) After a period of thirteen weeks continuous night duty an employee is not to be re-engaged on night duty until a further period of thirteen weeks has elapsed, except as prescribed in sub-clause (l)(iii).

(iii) The terms of this sub-clause may be varied by mutual agreement between the employer and employee to meet the working environment and in such circumstances the penalty payment is not to be made for time on night duty in excess of 13 weeks.

(l) 12 Hour Shift Arrangements

(i) The employer may introduce a roster encompassing 12 hour shifts.

- (ii) The ordinary hours of work for an employee are, to be worked at the discretion of the employer, to average 38 ordinary hours per week achieved over a period not exceeding 12 months worked according to a shift roster.
- (iii) As a minimum requirement two [2] paid meal breaks of twenty [20] minutes are to be allowed to 12 hour shift workers on each shift.
- (iv) 12 hour shift arrangements introduced are subject to minimum requirements of:
  - The maximum number of continuous hours an employee is required to be on duty is 12 hours including meal breaks; and
  - For the purposes of 12 hour shifts only a day shift means a shift worked between 7.00am and 7.00pm; and
  - Proper health monitoring procedures being introduced and maintained; and
  - Suitable roster patterns being made; and
  - Proper supervision being provided; and
  - Adequate breaks being provided as in (iii); and
  - A trial or review process being jointly implemented of the arrangement; and
  - Subject to the trial or review the 12 hour shift arrangement may continue or be discontinued; and
  - 12 hour shift arrangements, where agreed are to be registered in accordance with section 55 of the *Industrial Relations Act 1984*



## **PART VI - LEAVE AND HOLIDAYS WITH PAY**

### **1. HOLIDAYS WITH PAY**

- (a) Pursuant to section 53 of the *State Service Act 2000* employees are entitled to the following as Holidays with Pay:

New Year's Day, Australia Day, Eight Hours Day, Good Friday, Easter Monday, Easter Tuesday, Anzac Day, King's Birthday, Show Day, Cup Day, (either half day or full day) Hobart Regatta Day (South of Oatlands), Recreation Day (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day;

or any other day, or part thereof, that is proclaimed from time to time according to the *Statutory Holidays Act 2000*.

- (b) An Act of the State parliament or a State Proclamation may substitute another day for any of the Holidays with Pay listed above.
- (c) Notwithstanding subclause (a) of this clause employees may be required to attend for work as prescribed by section 53(4) of the *State Service Act 2000* during any of the Holidays with Pay listed above.
- (d) An employee who is required to attend for duty on a holiday with pay is to receive remuneration in accordance with Part V – HOURS OF WORK AND OVERTIME, Section B, Clauses (c) and (d).
- (e) This clause does not affect the right to pay casual employees or part time employees working 20 hours per week or less a loading in lieu of Holiday with Pay entitlements in accordance with award provisions to that effect and Section C, sub-clause (g)(iii).
- (f) All employees are entitled to one local show day. It will be observed on a day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or, in the absence of a local show day, any other day that is agreed to between the employee and the employer.
- (g) An employee may choose to substitute the Australia Day holiday with pay for another substitution day with pay to be taken within a four-week period from 26 January, as agreed between the employee and employer.
- (h) Notwithstanding subclause (c) and (d), an employee who chooses to substitute the Australia Day holiday with pay in subclause (g) is not eligible for remuneration in accordance with Part V – HOURS OF WORK AND OVERTIME, Section B, Clauses (d) or PART V – HOURS OF WORK AND OVERTIME, Clauses (e).

## **2. PARENTAL LEAVE**

Subject to the terms of this clause employees are entitled to maternity, partner, and adoption leave, and to work part-time in connection with the birth or adoption of a child.

### **(a) Definitions**

For the purposes of this clause:

- (i) **'Child'** means a child of the employee under the age of one year except for adoption of a child where 'child' means a person under the age of sixteen years who is placed with the employee for the purposes of adoption other than a child or step child of the employee or of the spouse or a child who has previously lived continuously with the employee for a period of six months.
- (ii) For the purposes of this clause, **'continuous service'** is work for an employer on a regular and systematic basis including any period of authorised leave or absence.
- (iii) **'Day of Placement'** means in relation to the adoption of a child by an employee the earlier of the following days:

The day on which the employee first takes custody of the child for adoption; or

- (1) The day on which the employee starts any travel that is reasonably necessary to take custody of the child for adoption.
- (iv) **'Eligible casual employee'** means a casual employee employed during a period of at least 12 months, either:
  - (1) on a regular and systematic basis for several periods of employment; or
  - (2) on a regular and systematic basis for an ongoing period of employment, and who has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.
- (v) **'Employee'** includes full-time, part-time, permanent, fixed term and "eligible" casual employees.
- (vi) **'Expected date of birth'** means the day certified by a medical practitioner to be the day on which the medical practitioner expects the employee or the employee's spouse, as the case may be, to give birth to a child.
- (vii) **'Keeping in touch day'** means a day on which an employee performs work for the employer during the period of approved parental leave if:
  - (1) the purpose of performing the work is to enable the employee to keep in touch with his or her employment in order to facilitate a return to that employment after the end of the period of leave; and

- (2) both the employee and the employer consent to the employee performing work for the employer on that day(s) or time(s); and
  - (3) the day is not within 14 days after the date of birth, or day of placement, of the child to which the period of leave relates; and
  - (4) the employee has not already performed 10 days of paid work that were keeping in touch days for the employer or another entity during the period of leave.
- (viii) **'Normal rate of pay'** means an employee's base salary rate and where applicable a casual or part-time loading, shift penalties, and allowances that are prescribed by this award which would have continued to be paid other than for the period of the parental leave.

The normal rate of pay for a part-time employee with variable hours of work is calculated as the greater of the following:

- (1) the average of the hours worked by the employee over the preceding 12 months; or
  - (2) the actual hours of work at the time of commencement of leave.
- (ix) **'Parental Leave'** means adoption leave, maternity leave, special maternity leave and partner leave, as appropriate.
- (x) **'Personal Leave'** for the purposes of this clause means absence due to personal illness or injury.
- (xi) **'Spouse'** means a person who is married or a person who is in a significant relationship within the meaning of the *Relationships Act 2003*.

A **'significant relationship'** is a relationship between two adult persons who:

- (1) have a relationship as a couple; and
  - (2) are not married to one another or related by family.
- (xii) **'Primary Care Giver'** means a person who assumes the principal role of providing care and attention to a child. The employer may require confirmation of primary care giver status.
- (xiii) **'State Service'** means an organisation listed in Schedule 1 of the *State Service Act 2000*.

(b) Entitlement

- (i) After 12 months continuous service parents are entitled to a combined period of up to 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of a child. For the birth parent, maternity leave may be taken

and for non-birth parents partner leave may be taken. Adoption leave may be taken in the case of adoption.

- (ii) Parental leave is only available to one parent at a time in a single unbroken period, except both parents are entitled to access simultaneous parental leave in the following circumstances:

- (1) for maternity and partner leave an unbroken period of up to eight weeks at the time of the birth of the child.
- (2) for adoption leave an unbroken period of up to eight weeks at the time of placement of the child.

- (iii) Right to request

- (1) An employee entitled to parental leave pursuant to the provisions of this clause may request the employer to allow the employee:
  - (A) to extend the period of simultaneous unpaid parental leave provided for in this clause up to a maximum of eight weeks; and/or
  - (B) to extend the period of unpaid parental leave provided for in this clause by a further continuous period of leave not exceeding 12 months;

to assist the employee in reconciling work and parental responsibilities.

- (2) The employer is to consider a request, according to this clause and 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.
- (iv) An employee is eligible, without resuming duty, for subsequent periods of parental leave in accordance with the provisions of this clause.
  - (v) An employee employed for a fixed term contract has the same entitlement to parental leave, however the period of leave granted is not to extend beyond the term of that contract.

#### (c) Maternity Leave

After twelve months continuous service an employee is entitled to 16 weeks paid maternity leave which forms part of the 52 week entitlement provided in subclause

- (i) The 16 weeks paid leave is to be taken at the commencement of the period of maternity leave and must be taken in a consecutive period, except in circumstances provided for in Part VI, Clause 4 (d)(ii).

- (ii) The rate of pay for an employee during the period of the paid absence is the normal rate of pay, as defined in Clause 2 (a) (viii) of this Part,
  - (iii) The employee may elect to take payment for the paid period of the absence,
    - prior to the commencement of the leave or;
    - over 16 consecutive weeks at a consistent rate of pay or;
    - over 32 consecutive weeks at a consistent rate of pay.
  - (iv) Where an employee elects to take half pay over 32 weeks the payment beyond the 16 weeks does not increase the accrual of paid leave entitlements prescribed by this award.
  - (v) An employee is to provide written notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:
    - (1) at least ten weeks' notice of the expected date of birth in a certificate from a registered medical practitioner stating that the employee is pregnant;
    - (2) at least four weeks' notice of the date on which the employee proposes to commence maternity leave and the period of leave to be taken.
    - (3) particulars of any period of partner leave sought or taken by the employee's partner.
  - (vi) An employee is not in breach of this clause if failure to give the required notice is due to the date of birth occurring earlier than the presumed date.
  - (vii) Subject to subclause (c)(i) and unless agreed otherwise between the employer and employee, an employee may commence maternity leave at any time within six weeks immediately prior to the expected date of birth.
  - (viii) An employee who continues to work within the six week period immediately prior to the expected date of birth, or an employee who elects to return to work within six weeks after the birth of the child is required to provide a medical certificate to the employer stating that the employee is fit to work on their normal duties.
- (d) Special Maternity Leave
- (i) An employee who has not yet commenced maternity leave and who suffers an illness related to their pregnancy or is required to undergo a pregnancy related medical procedure is to be granted any paid personal leave to which the employee is entitled and such further unpaid special maternity leave as a registered medical practitioner certifies as necessary before their return to work.

- (ii) Where a pregnancy related illness or medical procedure is continuous with the commencement of maternity leave the aggregate of paid personal leave, special maternity leave and parental leave, including parental leave taken by a spouse, is not to exceed 52 weeks.
- (iii) Where the pregnancy of an employee terminates other than by the birth of a living child, not earlier than 28 weeks before the expected date of birth the employee is entitled to up to 52 weeks parental leave, including 16 weeks paid maternity leave, certified as necessary by a registered medical practitioner.

(e) Partner Leave

After twelve months continuous service an employee is entitled to 3 weeks paid partner leave which forms part of the 52 week entitlement provided in subclause (b)(i) to be taken at the time of the birth, except in circumstances provided for in Part VI, Clause 4 (d)(ii).

In addition, an employee will also be entitled to access a further 2 weeks of accrued leave entitlements (Recreation or Long Service Leave) or as Leave Without Pay.

An employee is to provide to the employer at least ten weeks' notice prior to each proposed period of partner leave, with:

- (i) A certificate from a registered medical practitioner which names the other parent, states that the other parent is pregnant and the expected date of birth, or states the date on which the birth took place; and
- (ii) An employee is to provide written notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:
  - (1) the proposed dates to start and finish the period of partner leave; and
  - (2) that the period of partner leave will be taken to become the primary care-giver of a child; and
  - (3) particulars of any period of parental leave sought or taken by the birth parent.

An employee is not in breach of subclause (e) if the failure to give the required period of notice is due to the birth occurring earlier than expected, or due to the death of the other parent of the child, or other compelling circumstances.

(f) Adoption Leave

- (i) After twelve months continuous service an employee identified as the primary care giver is entitled to 16 weeks paid adoption leave, which forms part of the 52 week entitlement, except in circumstances provided for in Part VI, Clause 4 (d)(ii).

- (ii) After twelve months continuous service an employee who is a partner but not identified as the primary care giver is entitled to 3 weeks paid partner leave continuous from the day of placement, except in circumstances provided for in Part VI, Clause 4 (d)(ii).
- (iii) An employee is to notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice where, through circumstances beyond the control of the employee, the adoption of a child takes place earlier than expected.
- (iv) Before commencing adoption leave, an employee is to provide the employer with a statutory declaration stating:
  - (1) the employee is seeking adoption leave to become the primary caregiver of the child; and
  - (2) particulars of any period of adoption leave sought or taken by the employee's partner.
- (v) An employer may require an employee to provide confirmation of the placement from the appropriate government authority.
- (vi) Where the placement of a child for adoption with an employee does not proceed or continue, the employee is to notify the employer immediately and the employer is to nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.
- (vii) An employee is not in breach of this clause as a consequence of failure to give the required periods of notice if the failure is due to a requirement of an adoption agency to accept earlier or later placement of a child, or due to the death of a spouse, or other compelling circumstances.
- (viii) An employee seeking to adopt a child is entitled to unpaid leave to attend any compulsory interviews or examinations that are necessarily part of the adoption procedure. The employee and the employer are to agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. If available paid leave, other than personal leave, may be taken instead.
- (ix) An employee is not entitled to paid Adoption Leave unless the child that is, or is to be, placed with the employee for adoption:
  - (1) is, or will be, under 16 as at the day of placement, or the expected day of placement, of the child; and
  - (2) has not, or will not have, lived continuously with the employee for a period of 6 months or more as at the day of placement, or the expected day of placement of the child; and
- (3) is not (otherwise than because of adoption) the child of the employee or the employee's spouse or partner.

(g) Variation of Period of Parental Leave

With the agreement of the employer an employee may shorten or extend the period of parental leave, provided the maximum of 52 weeks is not exceeded. Any such change is to be notified at least four weeks prior to the commencement of the requested changed arrangements.

- (h) (i) An employee may, in lieu of or in conjunction with parental leave, access any accrued recreation leave or long service leave entitlements subject to the total amount of leave not exceeding 52 weeks.

- (a) An employee may, subject to written application and approval, access any compassionate or bereavement leave they become entitled to during the period of parental leave subject to the total amount of leave not exceeding 52 weeks.

(i) Transfer to a Safe Job

- (i) Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee is to be transferred to a safe job, if the employer deems it practicable, until maternity leave commences.
- (ii) In circumstances where the employer is unable to provide a safe job for the employee the employee will continue to be paid at the normal rate of salary for the employee's ordinary hours of work for the period of the risk. The period of risk ends with the commencement of maternity leave or six weeks before the expected date of confinement, whichever is earlier.

(j) Returning to Work After a Period of Parental Leave

- (i) An employee is to notify of their intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.
- (ii) An employee is to notify of their intention to return to work on a part-time basis after a period of parental leave at least 8 weeks prior to the expiration of leave to enable the employer to satisfy the requirements of these provisions.
- (iii) When an employee returns to work after a period of parental leave an employee is entitled to undertake the duties allocated to them immediately before proceeding on parental leave and which the employee would have continued to undertake but for taking parental leave:
- (1) if the female employee was moved to safe duties because of the pregnancy – immediately before the move; or
  - (2) if the female employee began working part-time because of the pregnancy – immediately before the part-time work began; or



- (3) otherwise – immediately before the employee commenced maternity leave, except duties for which the employee was in receipt of a higher or more responsible duties allowances, unless the employee resumes those duties upon returning to work.
- (iv) If those duties no longer exist, the employer is to assign similar duties at the same classification, as appropriate, to the employee.
- (k) Right to Request
  - (i) An employee entitled to parental leave pursuant to the provisions of subclause (b)(i) may request the employer to allow the employee 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.
  - (ii) The employer is to 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 suitable replacement staff, loss of efficiency and effectiveness, the specialised nature of the work and the impact on customer service.
  - (iii) An employee may return to work on a modified basis that may involve the employee:
    - (1) working on different days or at different times, or both; and/or
    - (2) working on fewer days or for fewer hours or both, and/or
    - (3) undertaking different duties at the same classification;

than the employee worked immediately before commencing parental leave, other than for an employee to whom subclause (i) of this Parental Leave clause applied.
- (l) Replacement Employees
  - (i) A replacement employee is an employee specifically engaged or promoted or transferred for a fixed-term as a result of another employee proceeding on parental leave.
  - (ii) Prior to engagement, a replacement employee is to be informed of the fixed-term nature of the employment and of the rights of the employee who is being replaced, including that the engagement may be subject to variation according to subclause (g) and the right to request provisions of subclause (b)(iii).
  - (iii) Nothing in this subclause is to be construed as requiring an employer to engage a replacement employee.

(m) Communication During Parental Leave

- (i) Where an employee is on parental leave and a decision has been made to introduce significant change at the workplace, the employer is to take reasonable steps to:
  - (1) make information available in relation to any significant effect the change is to have on the status or responsibility level of the duties assigned to the employee prior to commencing parental leave; and
  - (2) provide an opportunity for the employee to discuss any significant effect the change is to have on the status or responsibility level of the duties assigned to the employee prior to commencing parental leave.
- (ii) The employee is to 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.
- (iii) The employee is to also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with subclause (m)(i) above.

(n) Lactation Breaks and Facilities

In order that employees can better combine the demands of work and parental responsibilities, an employee is to have reasonable time and access to suitable facilities in the workplace for the purpose of expressing milk, breastfeeding or any other activity necessary for breastfeeding or expressing in the workplace.

### **3. PERSONAL LEAVE**

(a) **Definitions**

- (i) **'Health Practitioner'** means a registered health practitioner registered or licensed as a health practitioner under an appropriate law of Australia.
- (ii) **'Household'** in respect of an employee means any person or persons who usually reside with the employee.
- (iii) **'Immediate family'** in respect of an employee includes:
  - 1. Spouse (including a former spouse) of the employee. Spouse means a person who is married or a person who is in a significant relationship within the meaning of the *Relationships Act 2003*.

A significant relationship is a relationship between two adult persons who:

- a. have a relationship as a couple; and

- b. are not married to one another or related by family.
- 2. Child or an adult child (including an adopted child, a step child or an exnuptial child), parent (including foster parent step parent or legal guardian), grandparent, grandchild, sibling or step sibling, of the employee or employee's spouse.
- (iv) **'Medical Certificate'** issued by a registered health practitioner is taken to be a medical certificate for the purpose of this clause if it is issued in respect of the area of practice in which the practitioner is registered or licensed under an appropriate law of Australia that provides for the registration or licensing of health practitioners.
- (v) **'Ordinary Hours of Work'** for the purposes of calculating Personal Leave entitlements include all hours worked, other than overtime hours, to a maximum of 76 hours per fortnight except where a formal 72/80 hour per fortnight roster pattern is in place in which case a maximum of 72 or 80 hours per fortnight respectively will apply.
- (vi) **'Personal Leave'** means provided for:
  - 1. personal illness or injury; or
  - 2. to provide care or support to a member of the employee's immediate family or household who is ill or injured; or
  - 3. to provide care or support to a member of the employee's immediate family or household due to an unexpected emergency.
- (vii) **'Personal Leave Year'** means 12 months of continuous paid employment from the commencement of employment including periods of paid leave but excluding periods within which an employee is receiving a loading in lieu of leave entitlements.
- (viii) **'Statutory Declaration'** means a declaration made in writing according to the requirements of the *Oaths Act* 2001 (Tas). It is an offence under section 113 of the *Criminal Code*, as contained in Schedule 1 of the *Criminal Code Act* 1924 (Tas), to make a false statement in a Statutory Declaration.

(b) **Personal Leave Entitlements**

- (i) This clause does not apply to employees who are in receipt of a loading in lieu of paid leave entitlements.
- (ii) Personal Leave is available to an employee who is absent:
  - 1. Due to personal illness or injury; or
  - 2. For the purposes of caring for an immediate family or household member who is sick and requires the employee's care and support; or
  - 3. To provide care to a member of the employee's immediate family or household due to an unexpected emergency.

- (iii) Paid Personal Leave accrues progressively on a fortnightly basis according to the ordinary hours of work.
- (iv) Personal Leave is paid for those hours that would normally have been worked had the employee not been on Personal Leave.
- (v) Personal Leave is paid at the employee's base salary rate plus any applicable allowances but excludes any overtime, or any shift penalties associated with rostered shifts on afternoons, nights, weekends, or holidays with pay.
- (vi) If the period during which an employee takes paid personal leave includes a day or part-day that is a holiday with pay, the employee is not on paid personal leave on that holiday with pay. In such circumstances the employee does not accrue a Public Holiday leave day.
- (vii) Personal Leave may be taken for part of a single day.
- (viii) An employee is not entitled to take paid Personal Leave for a period during which the employee is receiving workers compensation payments.
- (ix) Except by agreement, an employee is not to use Personal Leave for caring purposes where another person is providing care.
- (x) For each ordinary hour of work performed, the employee will accrue an entitlement to 0.077 hours of paid Personal Leave (up to a full time equivalent of 152 hours per annum).
- (xi) Paid Personal Leave accruals that are unused in any Personal Leave year are carried forward to the next Personal Leave year.
- (xii) Where an employee has exhausted all paid personal leave entitlements, they are entitled to take unpaid personal leave to care for members of their immediate family or household who are ill and require care and support or who require care due to an unexpected emergency. The employer and the employee are to agree on the period. In the absence of agreement, the employee is entitled to take up to two working days per occasion, provided the notice and evidentiary requirements are met.

(c) **Additional Conditions for Fixed-Term Employees**

- (i) A period of Personal Leave does not extend the period of employment.

(d) **Employees in receipt of a loading in lieu of paid leave entitlements**

- (i) Subject to the evidentiary and notice requirements, employees in receipt of a loading in lieu of paid leave entitlements are entitled to not be available to attend work, or to leave work to provide care to a member of the employee's immediate family or household, who requires care and support due to a personal illness or injury affecting the member or an unexpected emergency.

The employer and the employee are to agree on the period for which the employee is 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 two

working days per occasion. The employee is not entitled to any payment for the period of non-attendance.

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

(e) **Notice Requirements**

- (i) An employee is required to provide notice in writing for Personal Leave to be approved.
- (ii) As far as practicable an employee absent on Personal Leave for personal injury or illness (except in exceptional circumstances) must inform the employer of the employee's inability to attend for duty within two hours of commencement time of normal duty on the day of the personal leave absence. The employee is to state:
  - 1. the nature of the injury or illness; and
  - 2. the estimated duration of the absence.
- (iii) As far as practicable an employee taking personal leave to care for members of their immediate family or household who are ill and require care and support, or who require care due to an unexpected emergency, is to give the employer:
  - 1. notice prior to the absence of the intention to take leave;
  - 2. the name of the person requiring care and their relationship to the employee;
  - 3. the reasons for taking such leave; and
  - 4. the estimated length of absence.
- (iv) If it is not practicable for the employee to give prior notice of the absence, the employee must notify the employer at the earliest opportunity on any day leave is required and provide an estimation of the length of leave required.

(f) **Evidence Supporting Claim**

- (i) When taking Personal Leave an employee is to provide the employer with evidence acceptable to a reasonable person that the employee was unable to attend for duty for the period of Personal Leave.
- (ii) The evidence the employee is required to provide is:
  - 1. for leave on account of personal injury or illness, a medical certificate from a registered health practitioner;
  - 2. for leave to provide care and support to a member of the employee's immediate family, or a member of the employee's household, because of a personal illness or injury affecting the member, a medical certificate

from a registered health practitioner stating the person concerned is ill or injured; and that such illness or injury requires care by the employee;

3. for leave to provide care to a member of the employee's immediate family or household, due to an unexpected emergency, documentation acceptable to a reasonable person stating the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee;
- (iii) If it is not reasonably practicable for the employee to give the employer a medical certificate as prescribed in paragraphs (1) and (2) or other acceptable documentation as prescribed in paragraph (3), a Statutory Declaration made by the employee, stating the circumstances and the reasons for which leave is required is to be provided.
- (iv) An employee may take an aggregate of no less than 38 hours or 5 full rostered shifts of any duration (whichever is greater in terms of hours worked) of Personal Leave in any Personal Leave year without being required to provide evidence in support of their application.
- (v) Where an absence is for 3 or more consecutive rostered shift days, in which case the evidentiary requirements of sub-clauses (ii) and (iii) apply.

Personal Leave on account of personal illness or injury will not be granted to an employee who is suspected of being absent from duty without sufficient cause, and in order to satisfy the employer that there was or was not sufficient cause, the employer may direct an employee to undergo a medical examination by a registered health practitioner selected and paid for by the employer at any reasonable time and place and with reasonable notice.

#### **4. COMPASSIONATE AND BEREAVEMENT LEAVE**

##### **(a) Purpose**

Compassionate and bereavement leave is an entitlement for permanent and fixed term employees, but not for casuals and part-time employees in receipt of a loading unless otherwise specified, to paid leave when a particular member of an employee's immediate family or household has a life threatening illness or injury and/or dies.

**'Compassionate Leave'** is available for an employee when a member of the employee's immediate family or household has a life threatening illness or injury and for whom the employee is providing care or support.

**'Bereavement Leave'** is available for an employee when a member of the employee's immediate family or household dies, to allow the employee to grieve and to attend to funeral and other arrangements due to the death.

(b) Definitions

(i) **'Household'** in respect of an employee means any person or persons who usually reside with the employee.

(ii) **'Immediate family'** in respect of an employee includes a:

(1) spouse (including a former spouse) of the employee. Spouse means a person who is married or a person who is in a significant relationship within the meaning of the *Relationships Act 2003*.

A significant relationship is a relationship between two adult persons who:

(A) have a relationship as a couple; and

(B) are not married to one another or related by family.

(2) child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent (including foster parent, step parent or legal guardian), grandparent, grandchild, sibling or step sibling of the employee or employee's spouse.

(3) The employer acknowledges that employees may have significant relationships outside of those specified in (i) and (ii) of this sub-clause and therefore would consider an application for compassionate and/or bereavement leave in those circumstances. The amount of any compassionate and/or bereavement would be at the discretion of the employer.

(iii) **'Personal Leave Year'** is as specified in Part VI Clause 3(c) of this Award.

(c) Paid Leave Entitlement

(i) In the event of a life threatening illness, injury, and/or death of a particular member of the employee's immediate family or household, an employee is entitled to compassionate and bereavement leave of up to ten (10) days' paid leave per personal leave year per member of the employee's immediate family or household.

(ii) Where an employee has had compassionate leave to provide care or support to a particular member of the employee's immediate family or household and that particular member then dies, the amount of bereavement leave that may be approved is the balance after deducting any compassionate leave taken in that personal leave year for that person.

(iii) Paid compassionate or bereavement leave in addition to sub-clauses (i) and (ii) is available at the discretion of the employer.

- (iv) Compassionate and bereavement leave is paid at the normal salary rate, as defined.
- (v) Compassionate and bereavement leave may be taken in more than one period. Bereavement leave must be taken within three months of the death of the person however compassionate leave is only to be taken at times directly related to providing care or support to the person suffering a life threatening illness or injury.
- (vi) The entitlements of casual employees are set out in subclause (h).

(d) Relationship to Other Paid Leave

- (i) By written application to the employer, an employee who is absent on recreation leave who becomes entitled to compassionate or bereavement leave during that period of recreation leave, may be credited with an amount of recreation leave equivalent to the number of working days of compassionate or bereavement leave approved and taken during that period of recreation leave.
- (ii) By written application to the employer, an employee who is absent on parental leave and who becomes entitled to compassionate or bereavement leave during that period of parental leave, may be taken to be on compassionate or bereavement leave for the approved period of compassionate or bereavement leave.
- (iii) Compassionate and bereavement leave is not available while an employee is absent from work due to paid leave for a reason other than that specified in subclause (i) or (ii).

(e) Rostered Days Off

This clause does not apply when an employee is absent from work due to a rostered or accrued day off.

(f) Evidence Requirements

An employee is to provide evidence satisfactory to a reasonable person, to support an application for compassionate and/or bereavement leave specified by this clause.

(g) Unpaid Compassionate or Bereavement Leave

An employee may take a period of unpaid compassionate and/or bereavement leave by agreement with the employer.

(h) Casual Employees and Part time Employees in Receipt of a Loading



- (i) Subject to the evidence requirements in subclause (f), casual employees are entitled to not be available to attend work, or to leave work for the purposes of this clause.
- (ii) The employer and an employee are to agree on the period the employee is entitled to not be available to attend work. In the absence of agreement, an employee is entitled to not be available to attend work for up to five (5) days per annum in the event of a life threatening illness or injury to a member of the employee's immediate family or household and/or upon the death of that particular member. The casual employee or part-time employee in receipt of the loading is not entitled to any payment for the period of non-attendance.

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

## **5. RECREATION LEAVE**

### **(a) Entitlement to Recreation Leave**

- (i) A full-time employee is entitled to 152 hours of recreation leave for each twelve month period of continuous service (less the period of recreation leave).
- (ii) Recreation leave for full-time employees accrues at the rate of 5.85 hours for each fortnight worked.
- (iii) Shift workers (as defined) are entitled to an additional 38 hours of recreation leave for each twelve month period of continuous service.
- (iv) An employee with twelve months continuous service who is engaged for part of a twelve monthly period as a shift worker is entitled to additional recreation leave for each period the employee is engaged as a shift worker in proportion to the time worked compared to a full-time shift worker.
- (v) Part-time employees are to be entitled to recreation leave prescribed in subclause (a)(i) or (a)(ii) of this clause in proportion to the hours worked compared to full-time employees.
- (vi) A casual employee or part time employee in receipt of a loading in lieu of paid leave entitlements and holidays with pay as prescribed by Part II, Clause 1 of the Award is not entitled to receive paid recreation leave.
- (vii) Where the employer determines to close offices during the period commencing on Christmas Day and ending on New Year's Day (or any other days as may

be deemed to be publicly observed as these State Service Holidays by the application of the *Statutory Holidays Act 2000*), such hours not being Holidays with Pay will be deducted from the employee's recreation leave accrual.

(b) Payment for the Period of Recreation Leave

The rate of salary for an employee during a period of recreation is the base salary rate and any applicable allowances the employee would have received for the ordinary hours of work during the period of the leave.

An employee before going on leave may elect to be paid the amount of salary that employee would have received for the ordinary hours of work during the relevant period.

(c) Calculation of Continuous Service for the Accrual of Recreation Leave

- (i) Service is to be deemed continuous for absences from work on account of any paid leave except to the extent of not more than 91 days of personal leave in any twelve monthly period;
- (ii) Any period of leave of absence without pay of more than twenty working days in aggregate in a personal leave year is not to be deemed continuous service;  
for the purposes of recreation leave accrual.

(d) Maximum Accrual of Recreation Leave

An employee is not to accrue more than two years entitlement to recreation leave. The employer is to make arrangements with the employee to take recreation leave in the next year of accrual. The arrangement agreed to between the employee and the employer for the taking of excess accrued recreation leave must be adhered to.

(e) Employer is to Enable Recreation Leave to be Taken

- (i) The employer is to make such arrangements as are practicable to allow each employee leave of absence annually for recreation and may, where necessary, cause a roster to be prepared at the commencement of each year allocating recreation leave to the employees in respect of that year.
- (ii) If it is not possible to grant leave of absence for recreation to an employee in any one year, due to work requirements or for any other sufficient reason, the employer is to permit leave to be taken by the employee in the subsequent year in addition to the recreation leave for that year.
- (iii) For the purposes of subclause (d) the total number of hours of recreation leave that an employee may have accumulated at the end of a year is not to exceed the recreation leave that the employee is entitled to for two leave years.

(f) Personal Leave Requirements During Recreation Leave

- (i) An employee who is injured or ill, or is required to care for a member of the employee's immediate family or household while absent on recreation leave may, on written application to the employer, be credited with a period of annual leave equal to the number of working days for which the employee was injured or ill, or required to care for a member of the employee's immediate family or household.
- (ii) Where, in accordance with subclause (f)(i) above, the employer re-credits an employee with recreation leave, a deduction of that number of days will be made from any personal leave credit to which the employee is entitled.
- (iii) An application made under subclause (f)(i) of this clause is to be accompanied with a certificate from a registered health practitioner.

(g) Cancellation of Approved Recreation Leave by the Employer

- (i) Where the employer cancels a period of approved recreation leave an employee is entitled to be reimbursed for any financial loss sustained in fares and accommodation.
- (ii) Any claim made by an employee is to be supported by receipts and other appropriate documentation.
- (iii) Any claim made by an employee is to exclude amounts recoverable by way of insurance reimbursements.

(h) Re-call to Work during a period of Approved Recreation Leave by the Employer

- (i) The employer may request an employee to return to work during a period of approved recreation leave. All costs associated with the return to work are to be met by the employer excluding normal fares incurred travelling to and from work.
- (ii) Any claim made by an employee is to be supported by receipts and other appropriate documentation.
- (iii) Where an employee resumes recreation leave the employer, if required, is to meet all costs associated with returning the employee to their former abode.
- (iv) Where an employee is required to return to work, the employee shall be paid double time for all hours worked on the day on which the employee is required to return to work. The employee will not be re-credited any recreation leave for the day on which they have been returned to work.

- (v) The employee may choose to return to the remainder of their recreation leave following the shift for which they have been required to return to work, or return to their ordinary roster at ordinary pay and have the remainder of their leave re-credited.

(i) Payment for Recreation Leave on Termination

If, at any time after twenty (20) days of continuous employment, the employment of an employee ends, and the employee has a period of accrued recreation leave, the employer is to pay the employee the amount that would have been payable to the employee in accordance with sub-clause (b) had the employee taken that period of leave.

(j) Recreation Leave in Advance of Accrual

- (i) The employer may allow an employee recreation leave in advance of the accrual of leave. In this case the accrual of recreation leave is suspended until the period of leave taken in advance has been restored by time worked.
- (ii) Where recreation leave or part of it has been granted pursuant to subclause (h)(i) before the right to it has accrued, and the employee employment is terminated before completing the twelve months continuous service in respect of the leave that was granted, and the amount paid by the employer to the employee for the annual leave or part taken in advance exceeds the amount which the employer is required to pay to the employee under subclauses (g)(i) and (g)(ii) of this clause, the employer is not to be liable to make any payment to the employee under subclauses (g)(i) and (g)(ii) of this clause, and is to be entitled to deduct the amount of excess from any remuneration payable to the employee upon the termination of employment.

(k) Time of Taking Recreation Leave

Recreation Leave will be taken at a time or times mutually agreeable between the employer and the employee. Where no agreement can be arrived at recreation leave will be given at a time fixed by the employer within a period not exceeding six months from the date when the right to recreation leave has accrued and not less than four weeks' notice to the employee.

(l) Recreation Leave in One or More Periods

Recreation leave may be granted and taken in a number of separate periods, including the granting and taking of a single day's leave.

(m) Cashing out of Recreation Leave

- (i) An employee and employer may agree for the employee to cash out a particular amount of their accrued recreation leave.

- (ii) The amount of recreation leave to be cashed out cannot result in the employee's remaining accrued entitlement being less than one (1) year's entitlement.
  - (iii) Cashing out of a particular amount of excess recreation leave must be by separate agreement in writing between the employer and the employee.
  - (iv) The employee is to be paid the amount of salary that would have been payable had the employee taken the leave that is now forgone.
  - (v) The employee and the employer are to agree on an amount of accrued recreation leave that the employee is required to access in the year in which the leave is to be cashed out.
- (n) Recreation Leave Loading

During a period of recreation leave an employee is to be paid a loading calculated as follows:

#### Day Workers

A day worker, during a period of recreation leave is to be paid a loading of 17.5% of their normal rate of salary.

#### Shift Workers

A shift worker, during a period of recreation leave is to be paid a loading of 17.5% of their normal rate of salary, or shift loadings and weekend penalty rates as per the employee's projected shift roster whichever is the greater.

For the purpose of sub-clause (n) normal rate of salary includes any higher duties allowance or all-purpose allowances payable to the employee concerned, however where the loading is calculated on the basis of 17.5% of the normal rate of salary, the loading is not to exceed an amount that would be payable to a Nurse Grade 4, Year 2.

- (o) Part Time Employees in receipt of a Loading

A part time employee in receipt of a loading in lieu of paid leave entitlements and holidays with pay as prescribed by Part II, Clause 1, is entitled to elect to take up to four weeks' leave without pay in any one leave year. Leave without pay granted under this provision is not cumulative and is to be taken by mutual agreement between the employer and the employee.

## **6. STATE SERVICE ACCUMULATED LEAVE SCHEME**

An employee is to be entitled to participate in the State Service Accumulated Leave Scheme under the terms and conditions specified in this clause.

The scheme is to be known as the State Service Accumulated Leave Scheme (SSALS).

(a) Summary of Scheme

The SSALS allows the employer to approve Plans under which participating employees will, by taking a reduction in normal salary for a given period, become entitled at the end of that period to a pre-determined amount of special ("accumulated") leave during which they will be paid salary at the same reduced rate.

(b) Interpretation

The conditions and administrative arrangements in the SSALS are to be administered in conjunction with the *State Service Act 2000* and the State Service Regulations 2011.

**'Accumulated leave'** means the period of time that is accumulated under the Plan as leave during a work period.

**'Leave period'** means the period specified in a Plan when a participating employee is absent from work on accumulated leave.

**'Normal salary'** means for the purposes of this clause only the salary that would be paid to a participating employee if that person was not participating in a Plan and includes salary expressed as an annual rate, fortnightly rate, weekly rate, daily rate or hourly rate. It includes all allowances that are paid as an annual rate, fortnightly rate, weekly rate, daily rate or hourly rate but not overtime payments and shift work penalty rates unless they are paid as a component of an annualised rate.

**'Operational requirements'** means the need to ensure that the Agency is to be operated as effectively, efficiently and economically as possible.

**'Participating employee'** means an employee whose election to participate in a Plan has been approved by the employer.

**'Plan'** means an arrangement in the SSALS consisting of a specified work period followed by a specified leave period.

**'Work period'** means the period specified in a Plan when an employee is at work.

(c) Plans

The SSALS consists of arrangements known as Plans. For example:

Work Period	Percentage of Normal Salary payable during the period of the Plan	Leave Period
Four Years	80% "The Four over Five Year Plan"	One Year
Three Years	75% "The Three over Four Year Plan"	One Year

Work Period	Percentage of Normal Salary payable during the period of the Plan	Leave Period
Twenty Months	83.3% "The 20 over 24 Month Plan"	Four Months
Eighteen Months	75% "The 18 over 24 Month Plan"	Six Months
Forty Eight Weeks	92.3% "The 48 over 52 Week Plan"	Four Weeks
Forty Weeks	76.9% "The 40 over 52 Week Plan"	Twelve Weeks
(Other Plan) "A"	A      100 A+B x 1 = .....% (to one decimal place)	(Other Plan) "B"
..... Years	Year	..... Year
..... Months	The ..... over..... Month Plan"	..... Months
..... Weeks	Week	..... Weeks

(d) Application of SSALS

- (i) The employer, after considering the operational requirements of the Agency, determines whether any Plan or Plans are to be available to employees in the Agency.
- (ii) The employer may make any Plan or Plans available to employees in an Agency or an employee or employees can request the employer that a Plan be made available to them.
- (iii) A Plan may be made available to any permanent employee (full or part-time) including an employee who works shifts. A Plan may be made available to any temporary employee the term of whose contract of employment is sufficient to cover the period of the Plan.
- (iv) The employer is to determine:
  - (1) whether one or more Plans will be made available to all or only some of the employees;
  - (2) whether particular Plans will be made available to particular categories of employees;
  - (3) whether quotas will apply to the number of employees who may participate in a Plan, and whether quotas will apply to any category of employees;
  - (4) the selection arrangements where quotas are imposed; and
  - (5) the commencement date of any Plan.

- (v) Where an employee participating in a Plan is promoted, transferred, seconded or otherwise moved either into another Agency or within their own Agency the employer is to, after consultation with the employee and taking into account the operational requirements of the Agency, determine whether or not the employee is able to continue on their Plan.
  - (vi) If the employer determines under subclause (d)(v) that the employee is not able to continue on their Plan, the employer may forthwith terminate the employee's Plan whereupon the employee becomes entitled to a period of accumulated leave which bears the same proportion to the total leave period of the Plan as the period worked under the Plan bears to the total work period, to be remunerated at the percentage of normal salary payable during the period of the Plan. The employee may apply to the employer at any time to take that leave, and it is to be granted as soon as can be, consistent with the operational requirements of the Agency.
- (e) How to Participate in SSALS
- (i) An employee may elect to participate in the Plan by lodging an election in writing with their Agency in any form which the Agency may approve.
  - (ii) The employer may accept or reject an election to participate made in accordance with subclause (e)(i).
  - (iii) The employer will notify the employee in writing if the employee's election has been disapproved.
  - (iv) Where the employee's election is approved, the employer will endorse approval on the form of election which was lodged by the employee, and will provide the employee with a copy of that endorsed form.
  - (v) An employee's election under subclause (e)(i) does not entitle the employee to participate in a Plan until it is approved by the employer in accordance with subclause (e)(iv).
  - (vi) A participating employee wishing to withdraw from a Plan must apply in writing to the employer who may refuse the application if such refusal is reasonably required to meet the operational requirements of the Agency.
- (f) Conditions and Administrative Arrangements
- (i) Work Period to be completed prior to Period of Leave
 

The work period specified in a Plan must be completed before a participating employee can commence the leave period specified in that Plan.
  - (ii) Suspension of Plan
 

The employer on the application of the employee, or otherwise can, in writing suspend a Plan.



In deciding to suspend a Plan, either on application of the employee or otherwise, the employer will take into account the employee's circumstances and response to any proposal to suspend, and what is reasonably required to meet the operational requirements of an Agency. Suspension may occur either during the work period or the leave period of the Plan, and will be for such period as may be specified by the employer in the instrument by which the Plan is suspended.

Where the total period of the Plan comprises five years or more (for example a four over five Plan) the Plan may only be suspended with the agreement of the employee.

An employee is entitled to compensation for reasonable expenses incurred by the employee, but not otherwise recoverable, as a result of the employer's decision to suspend the Plan otherwise than on the application of the employee.

(iii) Accumulated Leave

Accumulated leave is to be managed in accordance with any legislative requirements and with any guidelines which may be issued by the employer which are not inconsistent with the SSALS.

A record is to be kept to show at all times the exact amount of the accumulated leave for each participating employee.

On withdrawal from a Plan, the accumulated leave is to be taken immediately or either wholly or in part at a later time approved by the employer, at the percentage of normal salary payable during the period of the Plan. It is not to be paid out unless the participating employee's employment ends.

Where a participating employee moves to another Agency the exact amount of the accumulated leave and salary for that employee is to be transferred to that Agency not later than twenty working days after the date of movement.

(iv) Payment during the Leave Period

During the leave period the participating employee is to receive salary at the percentage of normal salary payable during the period of the Plan. Normal employment conditions will apply as if the employee was on annual leave. An employee may, on request, receive a lump sum payment in either one or two instalments.

(v) Salary Progression

Salary Progression will continue throughout the period of a Plan.

(vi) Superannuation

Superannuation contributions are to be paid throughout the period of a Plan and in accordance with the rate of salary applicable under the Plan.

It is the responsibility of a participating employee to obtain any personal superannuation advice from their fund provider or from the employee's own adviser(s).

A participating employee's superannuation contributions (where the employee is a contributor to a superannuation scheme other than Retirement Benefits Fund) and entitlements depend upon the employment arrangements for that employee.

The employer's superannuation responsibilities and financial obligations for participating employees is dependent upon the nature of the employment arrangements for each participating employee.

(vii) Other Compulsory Deductions from Pay

Compulsory deductions from pay will be made throughout the period of a Plan.

**('Compulsory deductions'** include garnishees, salary attachments, court orders, etc.)

(viii) Voluntary Deductions from Pay

Voluntary deductions from pay (including life insurance premiums, private health fund premiums, union membership fees etc.) made by the employer at the request of an employee is to continue throughout the period of the Plan.

(ix) Administrative Records

The employer is to maintain proper separate records of accruals based upon that Plan.

(x) Recreation Leave

Recreation leave entitlements accrue throughout the period of the Plan and will be taken otherwise than during the leave period of a Plan at the percentage of normal salary payable during the period of the Plan. Whenever taken, entitlements will be deducted from credits in the normal manner.

(xi) Personal Leave

Personal leave entitlements taken during the period of a Plan will be taken at the rate of salary applicable under the Plan and will be deducted from credits in the normal manner.

Personal leave entitlements will accrue throughout the period of the Plan and access to those entitlements will be in accordance with the Award provisions.

(xii) Parental Leave

Where a participating employee is absent on parental leave, either within the work period of a Plan or during the leave period, the employee's participation

in the Plan is not affected by that parental leave. Salary arrangements established by the Plan apply during parental leave.

(xiii) Other Leave

Payment of all other leave entitlements (including leave on account of special circumstances, bereavement leave, leave of absence with or without pay, Defence Force leave, leave for jury service, leave in lieu of overtime, etc.) taken during the currency of a Plan will be at the rate of salary applicable under the Plan. Such entitlements will when taken be deducted from credits in the normal manner, and are to be taken otherwise than during the leave period of a Plan.

(xiv) Long Service Leave

Long service leave is provided for in the *Long Service Leave (State Employees) Act 1994*.

Long service leave entitlements accrue throughout the work period of a Plan. The leave period is not to be regarded as a period of employment in calculating length of employment for the purposes of the Act, but is not to be taken as interrupting the continuous employment of a participating employee. Long service leave entitlements are to be taken otherwise than during the leave period of a Plan.

Where a participating employee is absent on long service leave in the work period of a Plan the employee's participation in the Plan is not postponed for the duration of that long service leave, and salary is to be paid at the rate of salary applicable under the Plan.

(xv) Holidays with Pay

The leave period of a Plan is to be extended by the number of Holidays with Pay falling within it.

(xvi) Workers Compensation

A Plan is to be suspended during any period of incapacity for which the worker is entitled to compensation under the provisions of the *Workers Rehabilitation and Compensation Act 1988*, effective from the day before the commencement of the period of incapacity and terminating upon the last day of the incapacity. Upon suspension of a Plan in accordance with this provision, the employee reverts to normal salary entitlement.

(xvii) Cessation of Employment

Where a participating employee ceases to be employed in the Tasmanian State Service, the Plan will thereupon terminate and the employer will pay in one lump sum to that former employee, or to that person's estate, the exact amount of that former participating employee's accumulated leave entitlement less the prescribed income tax and any other compulsory deductions not later than twenty working days after termination.

## **7. JURY SERVICE**

- (a) An employee required for jury service is to be granted the necessary leave of absence on full pay, and is not permitted to claim jury fees but only those out of pocket expenses (e.g.: parking fees) as determined by the Crown.
- (b) An employee is to advise the employer as soon as the notification is received for the requirement to undertake jury service.
- (c) An employee required for jury service who is on recreation leave is to be credited with the time occupied with the jury service. The employee is to be permitted to take any re-credited recreation leave at the end of the original period of leave or at a later date according to the work demands of the employer.

## **8. DEFENCE FORCE LEAVE**

**'Normal Rate of Pay'** means an employee's base salary rate, and where applicable a part time loading, shift penalties, and allowances that are prescribed by this award that would have continued to be paid other than for the period of the defence force leave.

- (a) A permanent employee who is a part time member of any of the Australian Defence Forces is entitled to authorised leave up to:
  - (i) 10 working days in any leave year to enable the employee to undertake initial training upon becoming a part time member of Australia's Defence Forces; and
  - (ii) 20 working days in any leave year to enable the employee to undertake Defence Force service; and
  - (iii) A further 10 working days in any leave year to enable the employee to undertake additional Defence Force service.
- (b) Prior to proceeding on leave the employee is to provide to the employer a certificate verifying either the obligation or eligibility to attend Defence Force service; and upon completing the period of leave a certificate indicating completion of the service signed for and on behalf of the Australian Defence Forces.
- (c) During the period of authorised leave the employee is to be paid their normal rate of pay except as prescribed in (a)(iii) where the employee is to be paid their normal rate of pay less any amount received by way of salary and /or allowances from the Australian Defence Forces.
- (d) During the period of authorised leave the employee incurs an injury or illness that prevents the employee from resuming normal duty at the conclusion of the period of leave, the employee is to be granted

- (i) Leave without pay if the employee receives compensation that is equal to or greater than their normal rate of pay;
  - (ii) Personal Leave – with [subject to sufficient leave credits being available] or without pay if compensation is not paid; or
  - (iii) A combination of personal leave with pay, subject to sufficient leave credits being available or without pay and compensation in circumstances where the compensation received by the employee is less than the employee's normal rate of pay.
- (e) A permanent employee who is required to give continuous service as member other than a part time member, of any of Australian Defence Forces, as a result of their:
- (i) Voluntary enlistment at a time when the Commonwealth of Australia has been declared to be at war; or
  - (ii) Conscription at any time under a law of the Commonwealth of Australia; is to be granted leave, for the period that the employee is required to continuously serve, without pay or on such other terms as the employer may determine.
- (f) The provisions of this clause apply to a fixed term employee who has been engaged continuously for three months, but any period of Defence Force leave does not extend the end date as specified in the instrument of appointment.
- (g) Defence Force leave is to count as continuous service. However where the period of absence is in excess of 6 months in any leave year it is not to be taken into account in accruing recreation leave.

## **9. EMERGENCY SERVICE LEAVE**

**'Normal Rate of Pay'** means an employee's base salary rate, and where applicable a casual or part time loading, shift penalties, and allowances but excluding overtime, availability and call-back payments that are prescribed by this award that would have continued to be paid other than for the period of the emergency service leave.

Emergency Service Leave is leave for a voluntary emergency management activity.

- (a) An employee engages in a voluntary emergency management activity if, and only if:
- (i) the activity involves dealing with an emergency or natural disaster; and
  - (ii) the activity is undertaken on a voluntary basis (whether or not the employee directly or indirectly receives or agrees to receive an honorarium, gratuity or similar payment wholly or partly for engaging in the activity); and
  - (iii) the employee is a member of a recognised emergency management body; and

- (1) the employee was requested by or on behalf of the body to engage in the activity; or
  - (2) no such request was made but it would be reasonable to expect that it was likely that such a request would have been made if the circumstances had permitted.
- (b) A recognised emergency management body is a body, or part of a body, that has a role or function under a plan that is prepared by the Commonwealth or by the State that deals with emergencies and/or natural disasters; or
  - (i) is a fire fighting, civil defence or rescue body, or part of such body; or
  - (ii) is any other body, or part of a body, a substantial purpose of which involves:
 

securing the safety of persons or animals, protecting property or otherwise responding in an emergency or natural disaster.
- (c) An employee who engages in a voluntary emergency management activity may apply to be absent from their employment without loss of pay if the period consists of one or more of the following:
  - (i) the time the employee engages in the activity; and
  - (ii) reasonable travelling time associated with the activity; and
  - (iii) reasonable rest time immediately following the activity consistent with work, health and safety considerations including fatigue management.
- (d) Notice
 

An employee who is absent from their employment on account of engagement in a voluntary emergency management activity must provide notice to the employer of their absence from their usual workplace.

The notice is to be given to the employer as soon as practicable (which may be after the activity has commenced) and is to advise the employer of the period or the expected period of the absence.
- (e) Evidence
 

An employee who has given notice of absence must, if required by the employer, provide evidence that is satisfactory to a reasonable person that the employee is or was participating in an eligible emergency activity.
- (f) Salary and Accruals
  - (i) During a period of authorised Emergency Service Leave the employee is to be paid their normal salary rate including projected shift loadings but excluding overtime, availability and call back payments; and

(ii) the period of authorised Emergency Service Leave is continuous service for the purpose of leave accruals arising from the provisions of this award.

(g) Illness or Injury Occurring During a Period of Authorised Leave

If, during a period of authorised Emergency Leave, the employee incurs an injury or illness that prevents the employee from resuming normal duty at the conclusion of the period of leave, the employee is to be granted personal leave, as prescribed, as follows:

- (i) personal leave without pay if the employee receives compensation that is equal to or greater than their normal rate of pay; or
- (ii) personal leave with pay if compensation is not paid; or
- (iii) personal leave with pay at a rate that is the difference between the employee's normal rate of pay and the compensation received if the compensation is less than the employee's normal rate of pay; or
- (iv) personal leave without pay if personal leave paid credits are not available.

## **10. FAMILY VIOLENCE LEAVE**

(a) Purpose of Family Violence Leave

Family violence leave is available to an employee who is experiencing family violence for the purpose of:

- Attending medical/counselling/legal/financial appointments;
- Organising safe housing, child care, or education services;
- Maintaining support networks with children, family and significant others; and
- Undertaking other related activities.

The privacy and confidentiality of an employee who has applied for or taken family violence leave is of primary importance.

(b) Definitions

- (i) **'An employee experiencing family violence'** means a person against whom family violence is directed.
- (ii) **'Family Violence'** is conduct as defined by s.7 of the *Family Violence Act 2004* against a member of an employee's immediate family or household.
- (iii) **'Household'** means any person or persons who usually reside with the employee.
- (iv) **'Immediate family'** in respect of an employee includes:

- (1) spouse (including a former spouse) of the employee. Spouse means a person who is married or a person who is in a significant relationship within the meaning of the *Relationships Act 2003*.

A significant relationship is a relationship between two adult persons who:

- (A) have a relationship as a couple; and
  - (B) are not married to one another or related by family.
- (2) child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent (including foster parent step parent or legal guardian), grandparent, grandchild, sibling or step sibling of the employee or employee's spouse.
  - (3) The employer acknowledges that employees may have relationships outside of those specified in sub-clause (b)(iii) and (b)(iv) and therefore would consider an application for family violence leave in those circumstances. The amount of any family violence leave would be at the discretion of the employer.
- (v) **'Normal rate of pay'** means an employee's base salary rate and where applicable a casual or part-time loading, shift penalties, and allowances that are prescribed by this award which would have continued to be paid but for taking family violence leave.

(c) Amount of Family Violence Leave

- (i) Family violence leave is paid leave of up to 10 days per personal leave year as specified in Part VI, Clause 3(c) (non-cumulative) and is available to an employee who is experiencing family violence. This leave may be taken in hours.
- (ii) A Head of Agency (or authorised person) may approve paid family violence leave in addition to the family violence leave entitlement prescribed in this sub-clause.

(d) Payment of Family Violence Leave

Family violence leave is paid at the employee's normal salary rate, as defined.

(e) Evidence for Family Violence Leave

- (i) Where practicable, an employee who requests family violence leave is required to satisfy the employer of this request with no reasonable request to be denied for immediate and short-term absences.
- (ii) All reasonable action is to be taken by the employer to protect an employee's identity and maintain their confidentiality and privacy in approving, managing and recording leave under this clause.



- (iii) Any documentation provided by an employee as evidence to support an application for family violence leave is to be returned to the employee without being copied or recorded in any way and no information regarding family violence leave is to be kept on an employee's personnel file without the employee's express written permission.
- (iv) Evidence that may be provided to support an application for leave under this clause includes, but is not limited to, documentation or contact information (with appropriate authority from the employee) from professional support services such as:
  - Safe at Home Service provider (Police, Court Support and Liaison Service, Family Violence Counselling and Support Service, Legal Aid, Magistrates Court);
  - Employee Assistance Program (EAP) provider;
  - Specialist counselling or refuge service;
  - Legal or financial service; or
  - Medical/Health practitioner.

(f) Access to Personal Leave

An employee who is providing support to a person who is a member of the employee's immediate family or household and who is, or has been, experiencing family violence, may be granted personal leave according to the provisions of Part VI, Clause 3(i), Personal Leave.

(g) Other Support Options

In addition to leave for family violence issues the employee, their Agency contact person and their manager should consider and implement, as appropriate, relevant measures to support the employee including but not limited to, increased workplace security, alternative duties, flexible work arrangements and counselling through an Employee Assistance Provider or specialist service provider.

(h) Employee to Give Notice

- (i) As far as practicable, and taking into consideration privacy and confidentiality requirements, an employee who is experiencing family violence and who requires leave to attend to matters associated with family violence is to provide the employer with:
  - (1) prior notice of the requirement for leave; and
  - (2) the estimated duration of the leave.
- (i) If it is not practicable for the employee to provide prior notice of the requirement for leave notification consistent with sub-clause (i) should be provided at the earliest opportunity.

(i) Contact Officer for Family Violence

- (i) Each Agency is to provide support for employees who are experiencing family violence and to notify employees of the name of the nominated Contact Officer(s).
- (ii) A nominated Contact Officer(s) is to be trained in family violence and related issues such as sensitivity, privacy, raising awareness, providing access to support and referral services, proposing reasonable adjustments to work arrangements, family violence risk assessment and risk management.
- (iii) An employee who is experiencing family violence may seek the support of a nominated Agency Contact Officer, their immediate supervisor, their union delegate or an Agency employee who the employee nominates as their contact person.
- (iv) Where requested by an employee, the Agency Contact Officer or employee nominated contact person is to liaise with the employee's supervisor/ manager on the employee's behalf and recommend the most appropriate form of support and management.

(j) Casual Employees

- (i) Subject to the provisions of this clause, casual employees who are experiencing family violence are entitled to leave work or to not be available to attend work.
- (ii) The employer and an employee are to agree on the period the employee is entitled to not be available to attend work. In the absence of agreement, an employee is entitled to not be available to attend work for up to ten days per occasion.
- (iii) The employer must not fail to re-engage a casual employee because the employee has accessed the entitlement provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

## **PART VII - PROVISION OF EMPLOYEE ACCOMMODATION AND MEALS**

Where an employee occupies a residence or part of a residence that is owned or leased by the employer or is provided with light, board or other facilities or amenities of a similar nature the employee is to pay a reasonable amount for the consideration.

The reasonable amount is not to exceed an amount as may be determined from time to time by the Real Estate Institute of Tasmania relevant to a particular locality.

## **PART VIII – CONSULTATION AND CHANGE: WORKLOAD MANAGEMENT: GRIEVANCE AND DISPUTE RESOLUTION**

### **1. CONSULTATION AND CHANGE**

- (a) Where an Agency proposes changes in work arrangements and practices that are likely to impact employees, the Agency is to consult with the employees who may be affected by the proposed changes and the relevant union/s prior to a final decision being made to implement that change.

- (b) Consultation is undertaken because all parties acknowledge that by discussing proposed changes with the employees who may be affected by the change and giving consideration to their views and feedback, a better informed decision occurs.

Consultation is not joint decision making or a barrier to the prerogative of management to make decisions; nor is it simply advice on what is about to happen. It is a process that informs affected employees about proposed change and provides them with a genuine opportunity to influence the outcome before a final decision is made.

- (c) While employees should be consulted on all change that is likely to affect them the extent of any consultation process should be based on the materiality or impact of the change and the number of employees likely to be impacted by the change.

Employees and the relevant unions should be provided with access to relevant information about a change proposal, be given a reasonable opportunity to provide feedback and be provided with a response to any reasonable alternatives put forward.

- (d) For Consultation should involve four clear stages:
  - (i) Formulation of ideas or proposals;
  - (ii) Consultation on a proposal;
  - (iii) Considering responses and providing feedback; and
  - (iv) Making a final decision and implementing it.
- (e) Agencies are to maintain a register of changes subject to this process. The employer will maintain a register of major changes subject to this process. Employees and relevant unions may request access to these registers.
- (f) Subject to sub-clauses (g) & (h), in the event that outsourcing of a service or services supplied by an Agency is under consideration by that Agency, consultation is to occur in line with this clause. This will include identification of the actual service, program and functions to be outsourced, the services, programs and functions that are to remain, reasons and impact on employees.
- (g) Where the outsourcing of an in-house service is being considered by an Agency and that service will continue to be provided within the State Service, but by an external organisation, information will be provided on the following matters as a minimum:

- (i) The current cost of the service;
  - (ii) Impact on current employment arrangements, including salaries, job security and reasons for outsourcing;
  - (iii) Future costs, where available, including contract management costs on an outsourced service, program or function;
  - (iv) Description of the service, program or functions to be outsourced and those that are to remain;
  - (v) Service quality requirements;
  - (vi) Risk assessment should the outsourced provider cease to continue the service.
- (h) Prior to the implementation of a decision to tender Agencies will provide the opportunity for the employees and /or their union to submit a case to meet the requirements for undertaking the service, program or function.

## **2. WORKLOAD MANAGEMENT**

- (a) The employer is to ensure that supervisors and managers are aware that the tasks allocated to employees must not exceed what can reasonably be performed in the hours for which they are employed.
- (b) The employer is to ensure that supervisors and managers implement procedures to monitor the hours worked of the employees they supervise and where employees regularly work hours in excess of the hours for which they are employed to perform their jobs, changes (technology, responsibility, and extra resources) will be implemented.
- (c) An employee who believes they have been allocated duties that exceed those that can be reasonably performed in the time allocated for them to be undertaken should formally advise their manager. Where practicable to do so the employee should suggest how their allocated tasks can be prioritised.
- (d) A manager who has been advised in accordance with sub-clause (c) should respond promptly to the employee's concerns. Where the manager acknowledges the workload is excessive the response should include a plan to reduce the workload to a manageable level. If the manager does not accept that the workload is excessive the response should outline such reasons.
- (e) To minimise workload issues the employer is to make every effort to ensure vacancies are filled within three months. If it appears likely this period will be exceeded supervisors and/or managers will consult affected employees, giving the reasons why the vacancy will not be filled and advising how the workloads will be managed having regard to (a) and (b) above.

- (f) In most circumstances temporary vacancies will be filled as they arise. Where a vacancy is not to be filled supervisors and managers will consult affected employees, giving the reasons why the vacancy will not be filled and advising how the workload will be managed having regard to (a) and (b) above.

### **3. GRIEVANCE AND DISPUTE RESOLUTION**

- (a) When a possible dispute or grievance arises the employee(s) should in the first instance discuss the issue(s) with their immediate supervisor.
- (b) The employee(s) may choose to be represented or assisted with the issue(s) by a workplace union delegate or by another person.
- (c) If the meeting is not resolved a further discussion is to be arranged between the employee and more senior level of management.
- (d) Should discussions fail to resolve the grievance /dispute, the issue(s) may be referred to the appropriate union (if applicable) and to management representatives.
- (e) If the issue(s) remains unresolved, either party may refer the dispute /grievance to the Tasmanian Industrial Commission for conciliation /arbitration and settlement.
- (f) Whilst a dispute/grievance is being dealt with through this process the status quo will remain and work will continue without disruption.
- (g) However where a safety issue is involved immediate priority will be given to the resolution of it having regard to recognised safety standards and relevant legislation. This may involve the cessation of work where an employee's safety is at immanent risk.
- (h) Further the operation of this clause does not remove or lessen the right of an employee to seek redress through the provisions of the *State Service Act 2000* or any other applicable legislation.

## **PART IX – WORKPLACE FLEXIBILITY**

**‘Workplace’** means for the purposes of this Part a hospital, nursing centre, community health centre, multi-purpose centre, or any other place where the employer employs nurses covered by this Award

### **1. WORK-LIFE BALANCE**

- (a) Flexible working arrangements assist employees to balance work and non-work commitments. The adoption or extension of work-life balance arrangements may require innovation in respect of supervision, scheduling of meetings, training opportunities, hours of work, and how, where and when work is performed.
- (b) Without limiting the kind of arrangements that may be suitable in any individual instance, work-life balance arrangements could include non-standard and variable starting and/or finishing times, part-time work, and job sharing.
- (c) In considering an employee’s request for flexible work arrangements, the employer is to take into account the employee’s family and other, relevant, commitments.
- (d) Such requests are to be considered in light of the operational needs of the employer but will not be unreasonably refused. Employees are to be given the reasons if requests for flexible working arrangements are not approved.

### **2. ENTERPRISE FLEXIBILITY AT THE WORKPLACE**

The employer or employees may wish to pursue an agreement at an individual workplace as to how the award may be varied to enable the workplace to operate more efficiently according to its particular needs. The following process is to apply:

- (a) A consultative mechanism and procedures appropriate to the size, structure and needs of the workplace is to be established.
- (b) For the purposes of the consultative process the employees may nominate a union representative or another person to represent their interests.
- (c) In circumstances where agreement is reached an application is to be made to the Tasmanian Industrial Commission.

### **3. EMPLOYEE WORKPLACE FLEXIBILITY ARRANGEMENTS**

- (a) Employee Workplace Flexibility Arrangements
  - (i) An individual employee, or group of employees, and the Head of Agency (or delegate) may agree to vary the application of certain terms of this award to

meet the genuine needs of individual employee/s subject to the Agency's business requirements.

- (ii) An employer and employee, or group of employees, may enter into an arrangement that allows for ordinary hours to be performed at any time without the payment of overtime or penalty allowances that would otherwise apply.
  - (iii) In any negotiations concerning an alteration of the hours of work or the spread of hours the employer and the employee are to consider the following matters:
    - (1) The maximum efficiency of the operation of the Agency;
    - (2) The retention of normal productivity levels within the Agency;
    - (3) Any flexibility in an agreement that enables part or full days to be taken off may include, but are not limited to Monday or Friday and may not be limited to the same recurring day of the week.
  - (iv) In utilising these provisions regarding hours of work the parties should consider all relevant issues such as:
    - (1) The span of hours;
    - (2) Maximum hours that can be worked in specified periods;
    - (3) The rate and applicability of overtime penalty rates;
    - (4) The provision of a rostered or accrued day off;
    - (5) Record keeping.
- (b) Entering and Terminating Workplace Flexibility Arrangements
- (i) Each individual employee and the Agency must genuinely reach agreement without coercion or duress.
  - (ii) The terms the employee/s and the Agency may agree to vary are those relating to:
    - (1) hours of work and arrangements for when work is performed;
    - (2) overtime rates;
    - (3) shift and penalty rates;
    - (4) allowances;
    - (5) availability and recall provisions; and
    - (6) substituting another day for a holiday with pay.



- (iii) The agreement may be terminated:
    - (1) by the employee/s or the Agency by giving a minimum of four weeks' notice of termination, in writing, to the other party; or
    - (2) at any time, by written agreement between the Agency and the employee/s.
  - (iv) Where agreement has been reached with employees within a workplace the agreement is to continue until such time as a vote of all employees, the majority voting in favour terminate the agreement.
- (c) Administration of Workplace Flexibility Arrangements
- (i) The agreement between the employee/s and the Agency is to:
    - (1) be confined to vary only one or more of the terms listed in paragraph (ii) of subclause (b) of this clause;
    - (2) be in writing detailing the relevant award clause(s) that are proposed to be excluded or modified by the operation of the agreement and how the relevant award clause(s) are to be applied;
    - (3) record with the name and signature of the employee/s and, if the employee is under 18 years of age, the employee's parent or guardian and Head of Agency or delegate;
    - (4) detail how the agreement does not disadvantage each individual employee in relation to the individual employee's overall terms and conditions of employment;
    - (5) state the date the agreement commences and the period for which it operates;
    - (6) state the date by which this arrangement is to be reviewed but in any case be no longer than two years from commencement;
    - (7) notwithstanding subclause (5), the agreement is to continue in effect after that date of expiry unless withdrawn from by either party in writing.
  - (ii) The Agency must provide a copy of the agreement to the following and retain a copy of the agreement in accordance with section 75 of the *Industrial Relations Act 1984* on the individual's personal file:
    - (1) the employee;
    - (2) Director, Public Sector Management Office; and
    - (3) a union with relevant industrial coverage.
- (d) Union Participation in Negotiating a Workplace Flexibility Agreement

- (i) If an employee is a member of a union which has an interest in this award pursuant to section 63(10) of the *Industrial Relations Act 1984*, the employee may choose to be represented by that union to meet and confer with the Agency about the implementation of a Workplace Flexibility Agreement.
- (ii) The union must be afforded the opportunity to participate in negotiations regarding the proposed implementation of flexibility provisions under this clause.
- (iii) Union involvement does not mean that the consent of the union is required prior to the introduction of agreed flexibility arrangements.

## **PART X - UNION MATTERS AND EMPLOYEE RECORDS**

### **1. RIGHT OF EXISTING AND NEW EMPLOYEES TO REPRESENTATION IN THE WORKPLACE**

- (a) The employer recognises the legitimate right of the unions to represent its employees who are members, or eligible to become members of those unions. The employer acknowledges the rights of its employees to be represented by and meet with their union representatives in the workplace.
- (b) The *Industrial Relations Act* 1984 prescribes the purpose and manner under which unions may exercise right of entry in the workplace. The employer will grant access in accordance with the *Industrial Relations Act* 1984.
- (c) In addition the employer will:
  - (i) Allow union officials [organisers, industrial officers etc.] who are appointed by their union, to enter the employer's workplaces for normal union business or to represent employees, meet with management or members and to distribute or post material, provided that work is not disrupted and at a time during normal working hours which the unions and the employer agree upon;
  - (ii) Allow unions with relevant coverage to meet with new employees who are members, or who are eligible to become members, of those unions, at a time during normal working hours which the union[s] and the employer agree upon, and which will be conveyed to employees and;
  - (iii) Allow an employee, subject to their appropriate authorisation to make a deduction from salary on each pay day payable to a union in respect of an amount of money specified in such authorisation.

### **2. WORKPLACE DELEGATES**

- (a) Workplace union delegates will have recognition by the employer through:
  - (i) the right to be treated fairly and to perform the role as workplace delegates without any discrimination in employment, and the right to be treated with respect and without victimisation by management representatives.
  - (ii) The right to formal recognition by the employer that endorsed union delegates speak on behalf of union members in their workplaces and that issues raised by delegates will be dealt with promptly and appropriately.
  - (iii) The right to have workplace union structures, such as delegates' and worksite committees, recognised and respected.
  - (iv) The right to represent members on workplace issues.

- (v) The right to representation on consultative committees, genuine consultation and reasonable access to information about the workplace.
  - (vi) The right to reasonable paid time:
    - (1) to represent the interests of members to the employer;
    - (2) to represent the interests of members in industrial tribunals;
    - (3) to consult with union members;
    - (4) to participate in the operation of the union;
    - (5) to research and prepare prior to all negotiations with management;
    - (6) an opportunity to explain the benefits of union membership to employees including new employees at the time they enter into employment.
  - (vii) The right to call meetings of members and invite non-members to discuss union business.
- (b) Workplace delegates are to have access to facilities, including:
- (i) where practicable, access to a private room to meet with individual members and perform union business.
  - (ii) reasonable access to telephone, facsimile, post, photocopying, internet and e-mail facilities for the purpose of carrying out work as a delegate and consulting with workplace colleagues and the union.
  - (iii) the right to place union information on an appropriate notice board in a prominent location in the workplace.
  - (iv) access to information relevant to the workplace and/or workplace issues, including appropriate awards, agreements, statements of duty, departmental and governmental policies and, where available, staff lists.
- (c) Workplace delegates are to have:
- (i) an entitlement to five days paid training leave in any one calendar year to attend union-endorsed union courses and attendance at union conferences.
  - (ii) Recognition that the time associated with travel for country delegates may require additional time to paragraph (i) above.
  - (iii) The skills acquired by an employee undertaking the role of a workplace delegate form part of the evaluation criteria for performance management, salary

progression and overall career advancement wherever those identified skills are also required by the classification band of that delegate.

- (iv) The employee is to notify the employer of the skills acquired and their relevance for the evaluation of performance and for salary progression.
- (d) Workplace delegates' roles may extend beyond the workplace and the delegates are to have access to reasonable time:
- (i) to promote union issues, for participation on committees, and to assist delegate development, including paid work in the union office negotiated between the union and the employer on a case by case basis;
  - (ii) for participation in internal union forums and committees (e.g. branch or national conferences). Generally, members are elected to these roles under the registered union rules.
  - (iii) In dispersed or remote workplaces the delegate structure may require co-ordinating delegates and that these delegates may require a greater amount of time to perform their duties.
  - (iv) Delegates will have access to leave without pay for the purposes of working for a union. Any such period of leave will be considered as service for salary increment purposes and is not to constitute a break in service for other purposes. Delegates will be entitled to undertake the duties which they undertook immediately before taking up such positions with the union.

### **3. NOTICE BOARD**

The employer is to permit a notice board of suitable size to be erected in its work locations to facilitate communication on work place issue between employees and/or their unions.

### **4. RECORDS OF EMPLOYMENT**

The employer is to maintain records of employment as required by section 75 of the *Industrial Relations Act 1984*.

## **PART XI – MISCELLANEOUS CONDITIONS OF EMPLOYMENT**

### **1 EDUCATION ASSISTANCE EXPENSES**

- (a) Employees appointed to work and live on the Bass Strait Islands who have a dependent child/children attending school shall be reimbursed for actual costs associated with the transferring of that child/children from one school to another, up to the limit of \$702 per child.
- (b) Education expenses are restricted to the following:
  - (i) Uniform purchase;
  - (ii) School levies;
  - (iii) Replacement prescribed text books; and
  - (iv) Other expenses as approved by the employer



19 December 2023