

T12249 of 2005

## **Legal Practitioners Agreement 2005**

**Tasmanian Industrial Commission**

***Industrial Relations Act 1984***



T12249 of 2005  
29 AUG 2005

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## 1. TITLE

This agreement shall be known as the Legal Practitioners Agreement 2005.

## 2. SCOPE

The Agreement shall be between the Minister administering the *State Service Act 2000* and the Community and Public Sector Union (State Public Services Federation) Inc and is to apply to all employees appointed to positions requiring that the person be admitted or qualified for and entitled to be admitted, as a barrister or a practitioner of the Supreme Court of Tasmania under the provisions of the Legal Profession Act 1993 as amended.

## 3. ARRANGEMENT

1. Title
2. Scope
3. Arrangement
4. Relationship to the relevant awards
5. Date and period of operation
6. Use as a precedent
7. Definitions
8. Salary Nexus Arrangement
9. Salaries
10. Classification Standards
11. Advancement between Classifications and Increments
12. Point to Point Translation
13. Translation Review Process
14. Employment
15. Practicing Certificates and Professional Development
16. Professional Conduct
17. Fee Generation
18. Signatures to the Agreement





#### 4. RELATIONSHIP TO THE RELEVANT AWARD

This agreement is to be read and applied in conjunction with the Legal Practitioners and Apprentices-At-Law Award (S097), the General Conditions of Employment Award (S085) together with all State Services Wages Agreements and extensions however titled provided that when there is any inconsistency, the provisions in this agreement shall prevail.

#### 5. DATE AND PERIOD OF OPERATION

The agreement shall take effect from the 1 July 2005 and remains in force for a period of 3 years.

#### 6. USE AS A PRECEDENT

This agreement must not be used in any manner whatsoever to obtain similar arrangements or benefits for any other workplace or occupational group.

#### 7. DEFINITIONS

The words and phrases set out below shall mean the following for the purposes of this Agreement:

**ADC** means the Office of the Anti-Discrimination Commissioner.

**Administrative Work** means the exercise of an appropriate level of responsibility and discretion in undertaking functions of an administrative nature where administration is concerned with achievement of the organisation's corporate goals through planning, organising, directing and controlling resources or activities. Administration is also concerned with the development and implementation of policy to achieve set objectives and desired outcomes.

**Appropriate Levels of Fees** means the appropriate level of fees generated having regard to the nature, volume and availability of work to generate such fees.

**Basic Legal Work** means Legal Work that could be expected to be undertaken by a Legal Practitioner who does not have a substantial body of knowledge or expertise in the particular field of law. It does not involve issues of a complex or critical nature, nor is there decision-making on priorities or deadlines. Precedent or procedures are clearly established and the exercise of independent Professional Judgement as to approach or process is not expected.

**Broad Direction** means that employees are expected to develop and achieve objectives for specific functions under their control that will ensure the attainment of results critical to the efficient operation of the work unit.

**Complex Legal Work** means Legal Work that requires the exercise of considerable Professional Judgement in the selection of the most appropriate approach and the application of a significant body of general or specialist legal knowledge.





There may be a variety of potential options from which to choose and precedent may not be clearly established or may be ambiguous. The work requires careful analysis of the subject or issues.

**Critical Legal Work** is a term used in the sense commonly accepted in relation to critical component, critical issue or critical decision. It means a cornerstone, or fundamental decision, requiring the exercise of considerable Professional Judgement of the effects of a decision within the discipline or field of work. The work may or may not be complex but carries greater risk or more serious consequences than Complex Legal Work.

**Direct Supervision** is where a person works under supervision with instruction provided. The employee is expected to apply only limited Professional Judgement, and deviations from normal routines; problems and unfamiliar situations are discussed with the supervisor. The exercise of discretion is restricted and the employee has only limited responsibility for the final outcome of work undertaken. Deadlines and priorities are given.

**General Direction** is where a person is expected to exercise the Professional Judgement necessary to undertake his or her work without supervision. Work is performed in accordance with broadly based standing instructions, policies and professional standards. Detailed or specific instructions are limited to unusual features. The person is expected to exercise discretion and a substantial degree of independent judgment in the performance of the work. They are responsible for the determination of priorities and achieving required outcomes in relation to their work.

**General Supervision** is where a person is expected to exercise a degree of independence in undertaking their day-to-day work. Their Professional Judgement is such that they are not subject to the same level of control as a person receiving Direct Supervision. General instructions are given on the required objectives or outcomes and the employee is encouraged to exercise some discretion and choice in selecting the most appropriate method for completing the allotted tasks.

**LACT** means the Legal Aid Commission of Tasmania.

**Legal Practitioner** means a person appointed to a position that requires that the person be admitted, or qualified for and entitled to be admitted, as a barrister or a practitioner of the Supreme Court of Tasmania under the provisions of the *Legal Profession Act 1993*.

**Legal Work** means work requiring the application of professional legal knowledge by a Legal Practitioner.

**Novel Legal Work** means Legal Work requiring a major degree of creativity, originality, ingenuity and initiative and is of a type not normally encountered in the day-to-day operations of the work unit.

**OCS** means the Office of the Crown Solicitor.

**ODPP** means the Office of the Director of Public Prosecutions.

**OPC** means the Office of Parliamentary Counsel.

**OSG** means the Office of the Solicitor-General.



**Paralegal** means an employee who undertakes administrative and clerical work of a legal nature that does not require the skills or experience of a legal practitioner.

**Principal** means in the case of:

- ADC the Anti-Discrimination Commissioner
- the LACT, the Director
- the ODPP, the Director of Public Prosecutions;
- the OCS, the Crown Solicitor;
- the OSG, the Solicitor-General;
- the OPC, the Chief Parliamentary Counsel;
- Tasmania Police, the Commissioner of Police
- the Supreme Court of Tasmania, the Registrar
- the TPT, the Chief Executive Officer
- An employee not covered by the list appearing above, the relevant Head of Agency for that employee

or any person acting in these positions from time to time.

**Professional Development** means the acquisition of professional knowledge and expertise acquired through experience in the practice of the law.

**Professional Judgement** means the application of professional knowledge and expertise in defining objectives, solving problems, establishing guidelines, reviewing the work of others, interpreting information and providing and assessing advice or recommendations and other matters that have an element of latitude or decision making.

**Routine Legal Work** means Legal Work that requires a body of knowledge or expertise in the particular field of law. It does not involve issues of a complex or critical nature. Precedent or procedures are usually clearly established. It requires independent decision making in respect of day-to-day work, with complex, critical or novel aspects referred to more senior Legal Practitioners. The exercise of Professional Judgement as to approach or process is undertaken in consultation with more senior Legal Practitioners.

**Specific Direction** means where precise instructions are given with little or no choice provided.

**TPT** means The Public Trustee.

**Translation Review Panel** means a panel constituted under clause 13 of this Agreement.





## 8. SALARY NEXUS ARRANGEMENTS

Immediately prior to the translation of employees to the new classification standard set out in clause 10 of this Agreement, the salary of all legal practitioners employed under the Legal Practitioners Agreement 1996 will be increased by 15.45%. This will result in the following pre-translation salary levels:

Classification	Salary
<b>Level 1</b>	
1st Year	\$47,289
2nd Year	\$50,670
3rd Year	\$54,051
4th Year	\$57,440
5th Year	\$60,822
6th Year	\$64,237
<b>Level 2 - Class 1</b>	
1st Year	\$67,037
2nd Year	\$69,836
3rd Year	\$73,566
<b>Level 2 - Class 2</b>	
1st Year	\$77,304
2nd Year	\$79,168
3rd Year	\$82,900
<b>Level 3</b>	
1st Year	\$85,699
2nd Year	\$88,502
3rd Year	\$95,965
<b>Transitional Arrangement</b>	
1st Year	\$100,258

Thereafter, for the term of this Agreement, salaries will increase, **unless otherwise specified**, in accordance with a salary nexus arrangement based on a single nexus point. The single nexus point is the salary paid to a Level 3, 1<sup>st</sup> increment legal practitioner as defined under the Legal Practitioners Agreement 1996. This translates to Level 3 5<sup>th</sup> Increment under the new classification standard set out in this Agreement.

On 31 May in each year of operation of this Agreement the average salary paid to equivalent legal practitioners in the following states, territories, and entities will be determined from published salaries:



- Queensland
- Western Australia
- Australian Capital Territory
- Northern Territory
- Commonwealth Director of Public Prosecutions
- Australian Government Solicitor

The average of those salaries, excluding retrospective salary increases, will be calculated and then the percentage difference between the average state/territory/entity salary and current Tasmanian salary will be calculated.

Salaries will be increased by that percentage, **unless otherwise specified**, with effect from the first full pay period after 1 July in each year.

## 9. SALARIES

On translation to the classification standard set out in clause 10 of this Agreement, the salary for each classification level in Column 1 will be that in the corresponding line of Column 2:

Column 1 - Classification	Column 2 - Salary
<b>Level 1</b>	
1st Increment	\$37,000
2nd Increment	\$42,000
3rd Increment	\$47,000
<b>Level 2</b>	
1st Increment	\$57,440
2nd Increment	\$60,822
3rd Increment	\$64,237
4th Increment	\$67,037
5 <sup>th</sup> Increment	\$69,836
<b>Level 3</b>	
1st Increment	\$73,566
2nd Increment	\$77,304
3rd Increment	\$79,168
4th Increment	\$82,900
5th Increment	\$85,699
<b>Level 4</b>	
1st Increment	\$88,502
2nd Increment	\$95,965
3rd Increment	\$100,258
<b>Level 5</b>	
Contract	\$112, 986 to \$124, 285
<b>Level 6</b>	
Contract	By negotiation





Where an employee translates to a lower salary than that payable immediately prior to translation, that employee will be translated under the classification standard but will be entitled to continue to receive the salary payable immediately prior to translation until such time as:

- the salary payable at the translation level exceeds that payable to the employee immediately prior to the translation;
- the employee's position is reclassified to a higher level;
- the employee is promoted to a position at a higher level; or
- the employee is transferred, seconded or ceases to be an employee.

The payment of the pre-translation salary in accordance with this clause is termed salary maintenance.

No salary nexus increases or increments will be payable during the payment of salary maintenance.

Where a salary range is indicated, an appointment will be made at a specific salary within that range for the duration of any contract of employment and the salary set out in the contract of employment will not be re-negotiable during the life of the contract. However, increases in salary will be payable in accordance with clause 8 of this Agreement from the first full pay period after 1 July 2006.

## **10. CLASSIFICATION STANDARDS**

The following classification standards apply to positions in which Legal Practitioners employed under the terms of this Agreement:

### **10.1 LEVEL 1 LEGAL PRACTITIONER**

A Legal Practitioner with less than 3 years' relevant post-admission experience, and may include a graduate legal practitioner.

There are 3 increments within this classification.

#### **General Descriptors - Level 1**

A junior Legal Practitioner who:

- undertakes Basic Legal Work but with Professional Development may undertake Routine Legal Work where functions are within his or her skill and competence;
- initially works under Specific Direction but with increasing Professional Development would be expected to work under Direct Supervision or General Supervision as appropriate to the nature of the work being undertaken and the skills and knowledge of the Legal Practitioner;



- with Professional Development and under Direct Supervision or General Supervision as appropriate, would be able to conduct - negotiations or consultations appropriate to the work at this level;
- with Professional Development, would be expected to develop an appreciation of the strategic context within which the Legal Work is undertaken;
- under supervision, provide legal advice in support of the management by paralegal staff of deceased estates, trusts, administration orders, conveyancing transactions, preliminary criminal prosecution phases, and debt recovery matters;
- assists more senior Legal Practitioners with research, preparation, drafting and other appropriate tasks as directed;

Work at this level may typically involve, depending on the operational area within which the legal practitioner is employed:

- the conduct and carriage, including as counsel, of preliminary, interlocutory and ancillary matters relating to civil, family and criminal proceedings;
- assist more senior practitioners in the conduct of indictable criminal matters;
- the conduct and carriage, including as counsel, of straightforward summary criminal, and lower court civil proceedings;
- undertaking straightforward conveyancing transactions;
- drawing and settling straightforward commercial documents, using established precedents and limited independent drafting skills;
- drafting straightforward legislation, assisting with the preparation of more complex legislation and attending Parliament as required to assist, under Direct Supervision, in the passage of legislation;
- drafting advice for Government and agencies on straightforward legal matters;
- taking instructions for straightforward wills, powers of attorney and deeds;
- providing straightforward legal advice, in both face to face and telephone settings, on a wide range of legal issues;
- undertaking community legal education;
- the conduct and carriage of straightforward administrative investigations.

## **10.2 LEVEL 2 LEGAL PRACTITIONER**

A Legal Practitioner with more than 2 years' relevant post-admission experience

There are 5 increments within this classification.





## General Descriptors - Level 2

A moderately experienced Legal Practitioner who:

- undertakes Basic Legal Work and progresses to undertaking Routine Legal Work;
- may initially work under General Supervision or Direct Supervision, but with Professional Development would be expected increasingly to function with General Direction;
- has acquired a body of relevant professional knowledge in a field relevant to the nature of the duties performed;
- has the skills, under the General Supervision or General Direction of a more senior Legal Practitioner, to undertake negotiations or consultations relevant to the nature of the duties performed;
- has an understanding of the strategic context within which the Legal Work is undertaken;
- exercises Professional Judgement as to approach or process in consultation with more senior Legal Practitioners;
- undertakes legal research in respect of own work and at the request of more senior Legal Practitioners in relation to more complex matters;
- assists more senior legal practitioners with research, preparation, drafting and other appropriate tasks as directed.

Work at this level may typically involve, depending on the operational area within which the legal practitioner is employed:

- the carriage and conduct of prosecutions for, and defence of, regulatory and summary offences, including appearances in all relevant courts and tribunals at first instance;
- the carriage and conduct of prosecutions for, and defence of, indictable crime, including appearances before relevant courts;
- the carriage and conduct of civil litigious and family law matters as counsel, solicitor, or instructing solicitor before all courts and tribunals at first instance;
- the carriage and conduct as solicitor of commercial and conveyancing matters which include the requirement for independent drafting of documents, and negotiation of outcomes;
- advising Government and Agencies on a wide range of legal matters, that have a limited capacity to affect good government, including matters requiring detailed legal research and the interpretation of relevant statutes;



- drafting less difficult legislation, assisting with the preparation of more complex legislation and attending Parliament as required to assist in the passage of legislation;
- drafting more complex wills, deeds of family arrangement, and enduring powers of attorney;
- providing legal advice in support of the management by paralegal staff of deceased estates, trusts, administration orders, conveyancing transactions, preliminary criminal prosecution phases, and debt recovery matters;
- the conduct and carriage of more complex investigations;
- the conduct of straightforward mediations and assisted dispute resolution procedures;
- preparing and delivering legal education presentations and seminars for specialist or professional audiences;
- reviewing and determining straightforward applications in the Probate Jurisdiction of the Supreme Court.

### **10.3 LEVEL 3 LEGAL PRACTITIONER**

An experienced Legal Practitioner who has significant relevant experience.

There are 5 increments within this classification.

#### **General Descriptors - Level 3**

An experienced Legal Practitioner who:

- primarily undertakes Routine Legal Work under General Direction but may be required to undertake Complex Legal Work and/or Legal Work of a sensitive nature under the Direct Supervision or General Supervision of a more senior Legal Practitioner;
- possesses a substantial body of professional knowledge, and may have specialised expertise in a relevant area of law;
- has the expertise and specialised skills necessary to undertake negotiations or consultations relevant to the nature of the duties performed;
- provides legal guidance involving a substantial degree of independent Professional Judgement;
- has a well-developed understanding of the strategic context within which the Legal Work is undertaken;

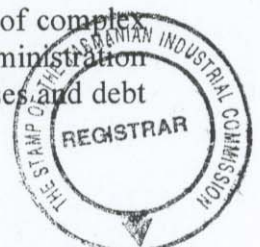




- where required, provides supervision, guidance and assistance to Legal Practitioners of a lower classification level, including allocating work, or undertaking the role of leader of a small unit requiring the coordination of the work of a number of Legal Practitioners;
- may be required to undertake Administrative Work including managing a small team of Legal Practitioners, a small work unit or allocating work across a broad range of Legal Practitioners or clerical staff;
- has responsibility for ensuring that subordinate legal practitioners uphold the highest professional standards;
- has the proven ability to guide and train other Legal Practitioners and or paralegal staff in Routine Legal Work.

Work at this level may typically involve, depending on the operational area within which the legal practitioner is employed:

- the carriage and conduct of prosecutions for, and defence of, complex regulatory and summary offences, including appearances in all relevant courts and tribunals both at first instance and on appeal;
- the carriage and conduct of prosecutions for, and defence of, indictable crime and appearances in all courts and tribunals of first instance;
- the carriage and conduct of complex civil litigious and family law matters as counsel, solicitor or instructing solicitor before all courts and tribunals at first instance;
- under the general supervision of more senior legal practitioners, undertake appellate matters before the Supreme Court of Tasmania, the Court of Criminal Appeal, the Full Court of the Supreme Court of Tasmania, the Family Court of Australia or the Full Court of the Family Court of Australia;
- the carriage and conduct as solicitor of commercial and conveyancing matters on behalf of the Crown and its instrumentalities, requiring the preparation, negotiation and settling of complex commercial issues and documentation in circumstances where there is a high degree of reliance on independent drafting and professional judgement;
- advising Government Agencies and instrumentalities on a wide range of complex legal matters which require substantial legal research and the interpretation of relevant statutes;
- under the supervision of the Solicitor-General, assisting in the preparation and presentation of constitutional matters;
- providing legal advice in support of the management by paralegal staff of complex matters involving the administration of deceased estates, trusts, administration orders, conveyancing transactions, preliminary criminal prosecution phases and debt recovery matters;



- the conduct and carriage of complex, critical and novel investigations;
- the conduct of complex mediations and assisted dispute resolution procedures;
- preparing and delivering legal education presentations and seminars for specialist and professional audiences;
- drafting moderately sensitive, complex and novel legislation, consulting and advising Ministers, Departments and Members of Parliament with respect to such legislation and attending Parliament to assist in the passage of legislation as required;
- reviewing and determining more complex applications in the Probate Jurisdiction of the Supreme Court.

#### **10.4 LEVEL 4 LEGAL PRACTITIONER**

A very experienced Legal Practitioner with an extensive body of relevant professional legal knowledge, significant expertise in a relevant area such as to be able to provide expert legal advice within that area of specialty and the demonstrated capacity to lead and supervise other Legal Practitioners.

There are 3 increments within this classification.

##### **General Descriptors - Level 4**

A very experienced Legal Practitioner who:

- undertakes Routine Legal Work, Complex and Critical Legal Work, which may be of a sensitive nature;
- operates under General Direction and exercises personal Professional Judgement in the determination of overall strategies, priorities and work standards in respect of his or her own work;
- possesses an extensive body of professional knowledge, expertise and specialised skills and operates in accordance with broad objectives applying a high degree of Professional Judgement;
- provides a high level of professional advice based on an in-depth and comprehensive knowledge of the field of law within which the person practices;
- assumes responsibility for the direction and control of subordinate Legal Practitioners including leading, directing, supervising and coordinating specific projects, a work unit, or work team and undertaking Administrative Work relevant to the work unit or team;
- has an in-depth understanding and knowledge of the strategic context within which the Legal Work is undertaken;
- has an involvement in the development of policy and the establishment of professional principles;





- has responsibility for ensuring that subordinate Legal Practitioners uphold the highest professional standards;
- may be required to undertake Administrative Work relevant to the nature of the duties performed;
- may have the responsibility to directly provide policy and strategic advice to the relevant Principal on matters of significance.

Work at this level may typically involve, depending on the operational area within which the legal practitioner is employed:

- the carriage and conduct of prosecutions for, and defence of, highly complex, novel or critical regulatory and summary offences, including appearances in all relevant courts and tribunals both at first instance and on appeal;
- the carriage and conduct of highly complex criminal trials and actions in all courts, principally the Criminal Court and the Court of Criminal Appeal as senior counsel;
- the carriage and conduct of highly complex civil litigious matters in all courts and tribunals but principally in the Supreme Court and the Full Court of the Supreme Court as senior counsel;
- the carriage and conduct of highly complex, critical and novel family law matters in all relevant courts but principally in the Family Court and the Full Court of the Family Court as senior counsel;
- acting as senior counsel in Tasmanian and Federal Courts, and Tribunals as required;
- acting as a senior legal adviser in relation to major commercial undertakings which are of a high level of commercial and political significance to the State;
- negotiating, drafting and completing matters of a highly complex commercial or financial nature;
- advising in matters that have a high level of legal significance to the State or the development of the law and which may require complex legal research or statutory interpretation;
- giving substantial assistance in the preparation and presentation of constitutional matters;
- drafting highly sensitive, complex and novel legislation, consulting and advising Ministers, Departments and Members of Parliament with respect to such legislation, attending Parliament as required to assist in the passage of legislation and appear before, and provide assistance to, select committees;
- advising on legal, policy and other matters of significance and strategic importance to a GBE Board or other entity;



- reviewing and determining highly complex applications in the Probate Jurisdiction of the Supreme Court;
- the conduct of highly complex, critical or novel mediations and assisted dispute resolution procedures;
- hearing and determining applications for matters such as the taxation of costs and settling appeal books in the Supreme Court jurisdiction.

### **10.5 LEVEL 5 LEGAL PRACTITIONER**

A very experienced and highly skilled Legal Practitioner who provides expert legal services and makes a major contribution to the provision of legal services in the area of responsibility through a comprehensive and expert knowledge of the law, and the exercise of significant professional leadership. Legal Practitioners at this level will also be executive managers requiring them to apply their comprehensive legal and management skills, knowledge and experience to manage and mentor professional staff; allocate and manage resources; and provide comprehensive strategic and policy advice to relevant principals.

There are no increments within this level. Appointment is by fixed term contract at a specific salary for the duration of the contract. No re-negotiation of salary will be undertaken during the life of a contract. However, increases will be paid in accordance with clause 8 of this Agreement from the first full pay period after 1 July 2005.

#### **General Descriptors - Level 5**

A very experienced and highly skilled Legal Practitioner who:

- undertakes Complex Legal Work, Critical Legal Work, and Novel Legal Work, which may be of a sensitive nature;
- operates under Broad Direction and exercises extensive personal Professional Judgement in the determination of overall strategies, priorities and work standards in respect of his or her own work and that of subordinates;
- possesses an extensive body of professional knowledge, expertise and specialised skills and operates in accordance with broad objectives applying a high degree of Professional Judgement;
- provides a very high level of professional advice based on an extremely comprehensive knowledge of the field of law within which the person practices;
- assumes responsibility for the direction and control of subordinate Legal Practitioners including leading, directing, supervising and coordinating significant projects, a work unit, or work team;
- undertakes Administrative Work relevant to the nature of the duties performed;
- has a very detailed understanding and knowledge of the strategic context within which the Legal Work is undertaken;





- has an extensive involvement in the development of policy and the establishment of professional principles;
- has responsibility for ensuring that subordinate legal practitioners uphold the highest professional standards; and
- has a responsibility to directly provide policy and strategic advice to the relevant Principal on matters of significance.

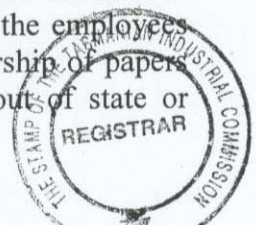
Work at this level may typically involve, depending on the operational area within which the legal practitioner is employed:

- the carriage and conduct of criminal, civil or family law matters of the highest order of complexity, with issues or consequences involved that have the capacity to have a significant effect on the development of the law or which are of a critical or extremely sensitive nature;
- acting as senior counsel in Tasmanian and Federal Courts, and Tribunals as required;
- advising Government and agencies on matters of the highest order of complexity with issues or consequences involved that have the capacity to have a significant effect on the development of the law or which are of a critical or extremely sensitive nature;
- having the conduct and carriage of constitutional legal matters on behalf of the State;
- acting as a senior commercial legal adviser, including negotiating, drafting and settling commercial legal documents in relation to matters of the highest order of complexity with issues or consequences involved that have the capacity to have a significant effect on the development of the law, the commercial interests of the State or which are of a critical or extremely sensitive nature;
- drafting legislation of the most sensitive, complex and novel nature, consulting and advising Ministers, Departments and Members of Parliament with respect to such legislation, attending Parliament as required to assist in the passage of legislation and appearing before, and provide assistance to, select committees.

#### **10.6 LEVEL 6 LEGAL PRACTITIONER**

Appointments at this level will only be made where Government has a demonstrated need for duties to be undertaken and choose to appoint a Legal Practitioner at this level.

A Legal Practitioner at this level requires a very high degree of professional knowledge and skills in a specified field of law demonstrated by wide acceptance and recognition in legal professional and government communities as a legal authority within his or her area of expertise. Excellence in legal professional leadership and an outstanding record of professional achievement are required. If working in an area where advocacy forms a significant element of the employee's work, appointment as a Senior Counsel is required at this level. Where advocacy is not a significant element of the employee's work, then matters which will be considered include scholarship, authorship of papers and publications of major significance, and a body of work carried out of state or national significance.



There are no increments within this level. Appointment is by fixed term contract at a specific salary for the duration of the contract. No re-negotiation of salary will be undertaken during the life of a contract. However, increases will be paid in accordance with clause 8 of this Agreement from the first full pay period after 1 July 2006.

### **General Descriptors – Level 6**

A highly experienced and skilled legal practitioner who will undertake legal work of the most complex, critical, novel or sensitive nature or who will supervise those undertaking such work.

In addition to the Legal Work required at this level, the officer will also be required to:

- build organisational capability and responsiveness
- implement change
- nurture internal and external relationships
- facilitate cooperation and partnerships with other agencies
- guide, mentor and develop professional staff at all levels
- develop policy within the strategic framework
- undertake Administrative Work relevant to the nature of the duties performed
- have responsibility for ensuring that subordinate legal practitioners uphold the highest professional standards.

## **11. ADVANCEMENT BETWEEN CLASSIFICATIONS AND INCREMENTS**

An employee's increment date will not alter as a result of the translation of positions to the new classification structure. The increment date for employees who, under the existing classification structures, do not have an entitlement to an increment but will receive an entitlement following translation will be 1 July 2006.

A Legal Practitioner will advance to the next increment within a classification on the certification by the relevant Principal of satisfactory performance for a period of not less than one year at the existing level and of apparent capacity to accept greater responsibility. Certification will be undertaken in the context of the Operational Area Performance Management System, or such other system as shall be approved for use by the relevant Principal.

Satisfactory performance will be assessed using a variety of criteria but will include:

- Legal skills and knowledge
- Application of legal skills and knowledge
- File management skills





- Ethical standards
- Probity
- Fee generation against allocated budget
- Client satisfaction
- Team skills and achievements
- Management and supervision of staff where applicable
- Administrative achievements where applicable
- Contribution to output and Agency objectives

Advancement between classifications is dependent on a merit-based selection for an advertised position at the next or higher classification level.

There are no increments at Levels 5 and 6. Appointment is made at a specific salary and that salary will apply throughout the duration of the contract save and except for increases in accordance with clause 8 of this Agreement payable from the first full pay period after 1 July 2006.



## 12. POINT TO POINT TRANSLATION

Practitioners employed at the levels contained in the column headed "Previous Structure" will translate to the levels in the column headed "New Structure" on the date of operation of this Agreement and will be paid the salaries indicated in the column headed "Salary" from the date of operation of this Agreement, save and except for those employees who are entitled to salary maintenance in accordance with clause 9 of this Agreement:

Previous Structure	New Structure	Salary
	<b>Level 1</b>	
Level 1/1	1st Increment	\$37,000
Level 1/2	2nd Increment	\$42,000
Level 1/3	3rd Increment	\$47,000
	<b>Level 2</b>	
Level 1/4	1st Increment	\$57,440
Level 1/5	2nd Increment	\$60,822
Level 1/6	3rd Increment	\$64,237
Level 2/1/1	4th Increment	\$67,037
Level 2/1/2	5 <sup>th</sup> Increment	\$69,836
	<b>Level 3</b>	
Level 2/1/3	1st Increment	\$73,566
Level 2/2/1	2nd Increment	\$77,304
Level 2/2/2	3rd Increment	\$79,168
Level 2/2/3	4th Increment	\$82,900
Level 3/1	5th Increment	\$85,699
	<b>Level 4</b>	
Level 3/2	1st Increment	\$88,502
Level 3/3	2nd Increment	\$95,965
Level 4	3rd Increment	\$100,258
	<b>Level 5</b>	
	Contract	Between \$112, 986 - \$124, 285
	<b>Level 6</b>	
	Contract	By negotiation





### 13. TRANSLATION REVIEW PROCESS

A letter of advice will be forwarded to each employee setting out the outcome of the translation process for the employee and the review process available to the employee under this Agreement.

An employee may request a review of the outcome of the translation process by submitting a written request for review. The written request is to be received by the Director Corporate Services, Department of Justice within 28 days of the date of the letter of advice.

The request for review must contain the grounds on which the employee seeks a review.

The Director Corporate Services, Department of Justice will convene a translation review panel to determine the request for review. The translation review panel will consist of:

- the relevant Principal
- the Director Corporate Services, Department of Justice
- the President of the Tasmanian Industrial Commission

The translation review panel will determine the application on its merits. The panel may ask the applicant to provide additional information either orally or in writing.

The translation review panel may take any steps that it sees as necessary or appropriate in order to determine the application on its merits.

Where the translation review panel finds that a proposed classification level is incorrect it may substitute another classification level and issue a notice to the applicant accordingly. The panel will advise the relevant Head of Agency of its decision and request that Head of Agency seek approval from the State Service Commissioner for the direct selection of the employee to the substituted classification level.

Where the translation review panel finds that the proposed classification level is correct, it will issue a notice to the applicant accordingly. The translation review panel will also advise the applicant of his or her appeal rights under Section 50 of the *State Service Act 2000*.

Any decision of the translation review panel takes effect from the date of operation of this agreement.

### 14. EMPLOYMENT

Employment as a legal practitioner will be in accordance with the *State Service Act 2000* and will be permanent employment, employment for a fixed term or employment for the duration of a specified task.

All appointments at Levels 5 and 6 will be made by a fixed term contract not exceeding five years in length.



## **15. PRACTISING CERTIFICATES AND PROFESSIONAL DEVELOPMENT**

Where any legal practitioner employed under the terms of this Agreement is required to hold a Practising Certificate and to pay the prescribed fee, such fees will be paid by the relevant operational area.

Legal practitioners employed under the terms of this Agreement acknowledge that they have an individual responsibility to ensure that they maintain the currency of their legal knowledge and skills within their area of expertise or employment.

## **16. PROFESSIONAL CONDUCT**

All legal practitioners employed under the terms of this agreement:

- (a) shall observe the same rules and standards of professional conduct and ethics as those that a private legal practitioner is, by law or the custom of the legal profession, required to observe in the practice of the legal profession; and
- (b) is subject to the same professional duties as those to which a private legal practitioner is, by law or the custom of the legal profession, subject.

## **17. FEE GENERATION**

All legal practitioners in billing areas have the responsibility of ensuring that appropriate levels of fees are generated.





## 18. SIGNATURES TO THE AGREEMENT

**For and on Behalf of:**

**The Minister Administering the State Service Act**

Name: Philip Baker

Signature: 


Witness: David Hodgson

Date: 25. 8. 05

**For and on Behalf of:**

**The Community and Public Sector Union  
(State Public Service Federation Tasmania) Inc.**

Name: Tom Lynskey

Signature: 

Witness: Matthew Johnston

Date: 25. 08. 05



**This Agreement is registered pursuant to Section 56(1) of the Industrial Relations Act 1984**