

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s35 application to determine Tasmanian Minimum Wage
s23 application for award or variation of award

The Minister administering the State Service Act 2000

(T13917 of 2012)
(T13928 of 2012)
(T13931 of 2012)
(T13919 of 2012)
(T13941 of 2012)

Tasmanian Trades and Labor Council

(T13938 of 2012)

NURSES (TASMANIAN PUBLIC SECTOR) AWARD 2005

PRESIDENT P L LEARY
DEPUTY PRESIDENT T ABEY
COMMISSIONER B DEEGAN

Wage Rates - Tasmanian Minimum Wage rate determined at \$606.00pw - s.47AB – work related allowances increased by 2.9% – parental leave clause varied - Supported Wage clause deleted – Preceptor Allowance varied – Recreation Leave and Annual Leave Loading clauses varied – Provision of Employee Accommodation clause varied – operative date 12/7/12 – in Charge of Shift Allowance – Professional Development – On Call (Monday to Friday) (Saturdays Sundays and Public holidays) – Lead Apron allowance - award consolidated ffpp on or after 1/8/12

ORDER BY CONSENT -

**No. 3 of 2012
(Consolidated)**

AMEND THE **NURSES (TASMANIAN PUBLIC SECTOR) AWARD 2005** BY VARYING PART III SUPPORTED WAGE CLAUSE DELETED, CLAUSE 11 – TASMANIAN MINIMUM WAGE; PART IV CLAUSES 1(a) AND 1(b) – IN CHARGE OF SHIFT, 12 – LEAD APRON, 13 – PROFESSIONAL DEVELOPMENT, 14 – PRECEPTOR ALLOWANCE; PART V CLAUSES 2(d) SHIFT PENALTIES, 5(b)(i) ON CALL (MONDAY TO FRIDAY), 5(b)(ii) ON CALL (SATURDAYS, SUNDAYS AND PUBLIC HOLIDAYS); PART VI – CLAUSES 2 – PARENTAL LEAVE AND 5 – RECREATION LEAVE; PART VII – PROVISION OF EMPLOYEE ACCOMMODATION AND THE AWARD IS CONSOLIDATED:

PART I – APPLICATION AND OPERATION OF AWARD

1. TITLE

This award shall be known as the "Nurses (Tasmanian Public Sector) Award 2005".

2. INDEX

PART 1 – APPLICATION AND OPERATION OF AWARD

1.	Title	2
2.	Index	2
3.	Scope	5
4.	Date of Operation	5
5.	Supersession	5
6.	Award Interest	5
7.	Definitions	5

PART II – EMPLOYMENT RELATIONSHIP AND RELATED MATTERS

1.	Contract of Employment	8
----	------------------------	---

PART III – SALARIES AND RELATED MATTERS

1.	Salaries	9
2.	Salary Increments	12
3.	Accelerated Advancement	13
4.	New Appointments and Promotions	15
5.	Classification	15
6.	Calculation of Fortnightly Wages	22
7.	Payment of Wages	23
8.	Superannuation	24
9.	Salary Sacrifice by Employees	24

10.	Salary Packaging for Employees	25
11.	Tasmanian Minimum Wage	26

PART IV - ALLOWANCES

1.	In Charge Of Shift	27
2.	Correctional Health Service Allowance	27
3.	Extra Duties	27
4.	District Allowance	28
5.	Higher Duties	29
6.	Uniforms And Uniform Allowance	29
7.	Meals	29
8.	Kilometreage	31
9.	Travelling	33
10.	Leave Expenses – Bass Strait Islands	37
11.	Excess Fares	38
12.	Lead Apron Allowance	38
13.	Professional Development	39
14.	Preceptor Allowance	39
15.	Post Graduate Allowance/Enrolled Nurse Qualification Allowance	39
16.	Remote And Rural Professional Development Allowance	40

PART V – HOURS OF DUTY

1.	Day Work	41
2.	Shift work	41
3.	Overtime	46
4.	Breaks	48
5.	Call Arrangements	50

PART VI – LEAVE AND HOLIDAYS WITH PAY

1.	Holidays With Pay	52
2.	Parental Leave	52
3.	Personal Leave	62
4.	Bereavement Leave	69
5.	Recreation Leave	70
6.	State Service Accumulated Leave Scheme	75
7.	Jury Service	81
8.	Defence Force Leave	82

PART VII – PROVISION OF EMPLOYEE ACCOMMODATION AND MEALS 84

**PART VIII - CONSULTATION AND CHANGE: WORKLOAD MANAGEMENT:
GRIEVANCE AND DISPUTE RESOLUTION** 85

1.	Consultation And Change	
2.	Workload Management	
3.	Grievance And Dispute Resolution	

PART IX – WORKPLACE FLEXIBILITY 87

1.	Work-Life Balance	
2.	Enterprise Flexibility at the Workplace	
3.	Employee Workplace Flexibility Arrangements	

PART X – UNION MATTERS AND EMPLOYEE RECORDS 91

1.	Right of Entry For Union Officials	
2.	Workplace Delegates	
3.	Records of Employment	

3. SCOPE

This award is established in respect of employees employed under the terms of the *State Service Act 2000* and who occupy positions whose duties are encompassed by the classification definitions of this award.

4. DATE OF OPERATION

This award shall come into operation from first full pay period to commence on or after 1 August 2012.

5. SUPERSESION

This award supersedes the Nurses (Tasmanian Public Sector) Award 2005, No. 1 of 2012 (Consolidated) and Order No. 2 of 2012.

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*:

The Australian Nursing Federation Tasmanian Branch;

The Health Services Union of Australia, Tasmania No. 1 Branch.

(b) The employer deemed to be an employer organisation having an interest in this award, under Section 62(4) of the *Industrial Relations Act 1984* is:

The Minister administering the *State Service Act 2000*.

7. DEFINITIONS

'Afternoon shift' means a shift terminating after 6.00 p.m. and at or before midnight.

'Casual employee' means a person employed to work on an irregular basis whether full-time or part-time for a period not exceeding one month. A casual employee for working ordinary time shall be paid per hour 1/38th of the weekly rates prescribed for the work which he/she performs, plus 20%, such additional amount to be payment in lieu of annual leave, sick leave and public holidays.

'Clinical unit' means for the purposes of these definitions an area of nursing practice and, without limiting the foregoing, shall include a ward, area or place of nursing practise with a patient/client population.

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

'District hospital' means King Island District Hospital, New Norfolk District Hospital, North Eastern Soldiers Memorial Hospital, Ouse District Hospital, Smithton District Hospital, St Mary's Hospital, St Helens District Hospital, and West Coast District Hospital.

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

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

'Enrolled nurse' shall mean an employee who has completed an approved course of training and is enrolled by the Nursing Board of Tasmania under the provisions of the *Nursing Act 1995*.

'FFPP' means first full pay period.

'Holiday' or **'public holiday'** means any day which is a bank holiday or bank part holiday under the *Statutory Holidays Act 2000* either throughout the State or in any particular locality thereof or any specified day or specified part day appointed by the Governor.

'Isolated area' means any area, centre, district or location embraced by the Commonwealth Taxation Zone B prescription together with such other areas, centres, districts or locations as may be approved by the Commission but in any case including the following - King Island, Flinders Island, Cape Barren Island, Maria Island and Bruny Island.

'Management unit' means, for the purposes of these definitions, a grouping of clinical units.

'Mothercraft nurse' means an employee who is enrolled as a Mothercraft nurse by the Nursing Board of Tasmania under the provisions of the *Nursing Act 1995*.

'Night shift' means a shift commencing at or after 4.00 p.m. and before 6.00 a.m.

'Part-time employee' shall mean an employee employed to regularly work for less hours per day or week than those prescribed for full-time employees.

'Registered nurse' shall mean an employee registered by the Nursing Board of Tasmania under the provisions of the *Nursing Act 1995*.

'Shift worker' means an employee whose ordinary weekly hours of work are performed in accordance with a roster which regularly includes Saturdays and Sundays.

PROVIDED always that to qualify as a shift worker for the purposes of annual leave an employee shall be rostered to perform work on not less than ten Saturdays and ten Sundays during any one leave year.

'Show day' means not more than one local show day observed on an employee's ordinary working day other than a Saturday or a Sunday in the city, town or district in which the employee is employed or such other day which in the absence of such a local show day is agreed on by the employee and the employer thereby making a total of eleven paid public holidays per year.

'Standard time' and **'Summer time'** shall bear the same meanings as are prescribed by the *Daylight Saving Act 1968*.

'Workplace' means a hospital, nursing centre, community health centre, multi-purpose health centre or other place where the employer employs nurses covered by the award.

'Year of service' means a minimum of 365 days of employment including rostered days off, public holidays, paid annual leave and paid sick leave.

PART II - EMPLOYMENT RELATIONSHIP AND RELATED MATTERS

1. CONTRACT OF EMPLOYMENT

- (a) Except as hereinafter provided, employment shall be by the fortnight. Any employee not specifically engaged as a casual employee shall be deemed to be employed by the fortnight.
- (b) An employee (other than a casual employee) willing to work, who works for less than his/her normal working fortnight, shall be entitled to his/her normal fortnight's wages.
- (c) Employment shall be terminated by two weeks' notice given by either side or by the payment or forfeiture of two weeks' wages as the case may be. In the case of executive staff the period of notice shall be one month given by either side. This shall not affect the right of the employer to dismiss an employee for serious misconduct or serious neglect of duty, in which case wages shall be paid up to the time of dismissal only.

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	29746
2nd year of training	30169

(b) Student Nurse

1st year of training	30274
2nd year of training	30696
3rd year of training	31119

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 \$30854 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	32094
Pay point Y2	32585
Pay point Y3	33077
Pay point Y4	33571
Pay point Y5	33958

(d) Registered Nurse - Level 1	
1st year of service	34174
2nd year of service	35435
3rd year of service	36665
4th year of service	37895
5th year of service	39124
6th year of service	40354
7th year of service	41584
8th year of service and thereafter	42712
(e) Registered Nurse - Level 2	
1st year of service	43942
2nd year of service	44657
3rd year of service	45476
4th year of service and thereafter	46295
(f) Registered Nurse - Community Health, Family and Child Health	
1st year of service	40354
2nd year of service	42712
3rd year of service	43942
4th year of service	44657
5th year of service	45476
6th year of service	46295

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	47834
2nd year of service	48757
3rd year of service	49680
4th year of service and thereafter	50603
(h) Registered Nurse - Level 4 Assistant Director of Nursing	
Grade 1	55520
Grade 2	59108
Grade 3	62696
(i) Registered Nurse - Level 5 Director of Nursing	
Grade 1	55519
Grade 2	58598
Grade 3	62696
Grade 4	66796
Grade 5	73969
Grade 6	81146

(d) 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

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 unreasonably 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.

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 OF FORTNIGHTLY WAGES

The fortnightly equivalents of the annual salary prescribed by this award shall be calculated by dividing the total salary payable by 26 in accordance with Regulation 7(2)(a) of the *Financial Management and Audit Regulations 1990*.

(a) Casual employees

A casual employee for working ordinary time shall be paid per hour 1/38th of the weekly rates prescribed for the work which he/she performs, plus 20% loading, such additional amount to be payment in lieu of annual leave, sick leave and public holidays.

(b) Part-time employees

For each hour worked a part-time employee shall be paid 1/38th of the weekly rate set out for the classification covering persons performing similar work on a full-time basis under the terms of this award. An additional 20% loading shall be paid to those engaged to work less than twenty hours per week in lieu of sick leave, annual leave and public holidays.

7. PAYMENT OF WAGES

(a) Time and interval 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 public holiday falls on a normal pay day wages shall be paid on the last working day prior to the public holiday.
- (iii) Payment of wages shall be by direct deposit to a bank or credit institution nominated by the employee or by another method agreed to between the employer and the employee where direct deposit facilities are not available.
- (iv) The present pay day and time of payment, or method of payment shall not be varied, except after consultation with the employee(s) concerned and an agreed phasing-in period.

(b) Late payment of wages

- (i) Except in circumstances beyond the employer's control and subject to 7(b)(ii) an employee kept waiting for his/her wages on a normal pay day for more than a quarter of an hour after the end of rostered day shift on that day shall be paid at overtime rates after that quarter of an hour with a minimum payment of a quarter of an hour.
- (ii) Subject to 7(b)(iii), the provisions of 7(b)(i) shall have no effect in circumstances whereby payment cannot be effected on pay day and the employer and employee agree to an alternative arrangement for payment.
- (iii) Should however, the employer fail to effect payment in accordance with the terms of the alternatively agreed arrangement, as provided in 7(b)(ii) the employee shall be deemed to have been kept waiting for his/her wages since pay day and shall therefore be entitled to payment in accordance with 7(b)(i) until such time as payment is effected.

- (c) Payment on termination
 - (i) Where employment is terminated, all wages due shall, where, practicable, be paid to the employee on the day of termination.
 - (ii) If payment on the day of termination is not practicable, the controlling authority shall, on the next working day of the pay office, forward all wages due to the employee to the employee's recorded home address, or any other arrangement for payment as may be agreed between the controlling authority and the employee.

8. SUPERANNUATION

- (a) Superannuation arrangements for employees are prescribed in:
 - (i) the *Public Sector Superannuation Reform Act 1999* (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.

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.
 - (iv) 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 \$606 per week operative from the first pay period commencing on or after 1 August 2012.

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 OF SHIFT

(a) 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 \$17.29 for each shift worked.

(b) 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 or management unit for more than half a shift is to be paid an allowance of \$11.55 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 \$17.29 for each shift worked.

2. CORRECTIONAL HEALTH SERVICES ALLOWANCE

In addition to the employee's salaried incremental point [excluding shift allowances] an all-purpose allowance of 6.5% is to be paid to employees who are engaged to undertake nursing duties in Correctional Health Services for all hours worked.

PROVIDED this allowance is payable for all periods of paid leave entitlements including sick leave, annual leave and long service leave.

3. EXTRA DUTIES

Where the employer requires an employee to temporarily perform duties which are additional to, or are of a more responsible nature than the ordinary duties of the employee's position, the employer may authorise payment of additional remuneration at a rate and for such period of time as extra duties are performed.

4. DISTRICT ALLOWANCE

- (a) The purpose of this general 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 long distance phone 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 - \$2385.25 per annum;
 - (2) other (no dependents) - \$1349.47 per annum.
- (ii) Category B - locations under the Commonwealth Taxation Zone B prescription:
- (1) person with dependent relatives residing with him/her - \$1349.47 per annum;
 - (2) other (no dependents) - \$676.38 per annum.
- (iii) Category S - special locations as may be approved by the Commission:
- (1) person with dependent relatives residing with him/her - \$679.65 per annum;
 - (2) other (no dependents) - \$341.53 per annum.

PROVIDED that an employee with dependents 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 - 1/4 of the rates prescribed for similar full-time employees;

ten hours but less than twenty hours per week - 1/2 of the rates prescribed for similar full-time employees;

twenty hours but less than 30 hours per week - 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.

5. HIGHER DUTIES

Except where otherwise prescribed by this award, an employee, who, for a period of five or more days, continuously performs the duties of a position higher than that in which he/she is normally employed and satisfactorily performs the duties and assumes the full responsibilities of such higher position he/she shall be paid for the full period he/she is performing such duties, the minimum salary prescribed for such higher position.

6. UNIFORMS AND UNIFORM ALLOWANCE

- (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 jacket. Outdoor weather protective clothing is to be provided at the discretion of the relevant manager. Replacement of uniform items is to be through "normal wear and tear".
- (b) Employees who provide direct care and who are required to not wear a uniform, e.g. mental health and child and family health nurses are to be paid an allowance of \$250.00 from the first pay period on or after 1 February 2012 and annually each year thereafter.
- (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.

7. MEALS

- (a) Where an employee is required to commence duty at his/her 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 his/her obtaining a meal away from home, that employee shall, subject to this subclause, be paid a meal allowance at the following rates:

Meal	Rate of allowance
	\$
Breakfast	7.55
Lunch (or midday meal)	8.33
Dinner (or evening meal)	14.69

PROVIDED that where an employee who is required to work overtime on a Saturday, Sunday or public holiday, has been given prior notice thereof the previous day or earlier, he/she shall not be entitled to the payment of meal allowances but where such prior notice has not been given he/she shall attract such payment.

(b) Where the duties of an employee require him/her to travel from his/her headquarters and he/she is more than sixteen kilometres therefrom at his/her normal meal hour, that employee shall subject to this subclause, be paid:

(i) in the case of a meal purchased by the employee at any hotel, boarding house, or public eating place, a meal allowance at the following rates:

Meal	Rate of allowance
	\$
Breakfast	7.55
Lunch (or midday meal)	8.33
Dinner (or evening meal)	14.69

(ii) In case of a meal provided by the employee a meal allowance of \$2.40 for each meal so provided.

(iii) A meal allowance in excess of or at variance with the rates set forth in this subclause may be paid if, on the determination of the employer concerned, special circumstances existed which justified the excess or variation.

(iv) Unless agreed between the employer and employee a day worker who is unrelieved for the period of a meal break and until such relief is available shall be paid at the appropriate overtime rate.

(c) Meals on duty

Subject to the determination of the employer, a replacement meal shall be provided or a cash payment made in accordance with Part VII – Provision of Employee Accommodation and Meals, Clause 2 - Meal Charges 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:

Annual kilometreage travelled on duty in a financial year	Cents per kilometre	
	Rate 1 2 litres and above	Rate 2 less than 2 litres
First 10,000 kilometres	63.91 (100%)	54.96 (86%)
Any additional kilometres	33.87 (53%)	29.40 (46%)

- (ii) **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.

(b) Occasional user category

Where an employee is not required to provide a private motor vehicle for official use as prescribed in 10(a) but otherwise receives approval from the employer to use a private motor vehicle for official purposes on an occasional basis, an allowance shall be paid in accordance with the following rates:

Annual kilometreage travelled on duty in a financial year	Cents per kilometre	
	Rate 3 2 litres and above	Rate 4 less than 2 litres
First 10,000 kilometres	42.61 (100%)	36.64 (86%)

Any additional kilometres 22.58 (53%) 19.60 (46%)

- (c) The rates specified in 10(a) and 10(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 10(a) and 10(b) shall be calculated by applying the percentage shown in brackets to the relevant first 1000 kilometres rate (as varied) shown as 100%.

- (d) 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.
- (e) 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.
- (f) Where an employee is required to provide a private motor vehicle in accordance with 10(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.
- (g) Where a part-time employee is eligible for any payment under 10(g), 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.

- (h) 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 10(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.
- (i) A kilometreage allowance in excess of, or at variance with, those set forth in 10(a) and 10(b) may be paid if, on the determination of the employer concerned, special circumstances exist which justify such excess or variation.
- (j) 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 Expenses
 - (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:

Overnight Accommodation

<u>Accommodation</u> <u>Venue</u>	<u>Overnight</u> <u>Accommodation</u> <u>Rate</u>
Adelaide	\$157.00
Brisbane	\$201.00
Canberra	\$165.00
Darwin	\$189.00
Melbourne	\$173.00
Perth	\$176.00
Sydney	\$183.00
Tasmania	\$125.00

MEAL ALLOWANCES

(Preceding or following an overnight absence)

Breakfast	Applicable	\$23.65
	7.00am – 8.30a	
Lunch	Applicable	\$26.55
	12.30 – 2.00pm	
Dinner	Applicable	\$45.60
	6.00pm – 7.30pm	

INCIDENTAL EXPENSES

Payable per overnight stay: \$17.30

- (2) The rates contained in the tables above are derived from the Australian Taxation Office Taxation (ATO) Determination TD2011/17, 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
 - (1) 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.
 - (2) 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 3(a)(iii)(1) above is to be paid the Incidental Expenses Allowance as prescribed in sub-clause 3(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 3(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. LEAVE EXPENSES - BASS STRAIT ISLANDS

- (a) Where an employee is permanently stationed on the Bass Strait Islands and enters upon leave of absence he/she may, three times in every year, on the determination of the employer, be paid the return fares reasonably incurred by him/her and for any dependent member of his/her family, permanently resident on the Bass Strait Islands, travelling from his/her station to the nearest seaport or airport on the mainland of this State. Such travel shall include travel via Melbourne when such indirect travel is the most expedient means of travelling to or returning from the nearest seaport or airport on the mainland of this State.

(b) **PROVIDED** that:

- (i) with the approval of the controlling authority an employee may, in substitution for travel to the nearest seaport or airport in this State, travel to any other seaport or airport in this State or to Melbourne;
- (ii) for the purposes of obtaining emergency medical or dental treatment for an employee or dependent member of his/her family, permanently resident on the Bass Strait Islands, an employee may by way of reimbursement and, with the approval of the controlling authority be paid the return fare reasonably incurred for travel from her/his station to the nearest centre in this State or to Melbourne, where at such treatment can be obtained. Such reimbursement shall be in substitution for one or all of the return fares for the person concerned, more particularly set forth in this subclause;
- (iii) the above entitlement is not cumulative, each year standing alone;
- (iv) no employee shall be eligible to receive payment for the return fares as set forth above unless such employee has first completed three months' continuous service on one or other of the Bass Strait Islands.

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 \$2.12 per hour or part thereof for each hour the requirement continues.

13. PROFESSIONAL DEVELOPMENT

An allowance of \$158.90 per annum is to be paid from the first pay period on or after 1 May 2012 and annually each year thereafter in recognition of the necessity of employees 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 \$2.30 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

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

The nature of the duties of a Nurse Practitioner (Grade 8) requires a Master's Degree in the relevant clinical area of practice for appointment to undertake these duties. The work value of these duties is reflected in the classification and salary structure. Accordingly, a Nurse Practitioner is not entitled to payment of a post graduate allowance.

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 \$3,000 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.

PART V - HOURS OF DUTY

1. DAY WORK

(a) Hours of work

- (i) The ordinary hours of work for day workers shall be an average of 38 hours per week to be worked on one of the following bases:
 - (1) 76 hours within a period of fourteen consecutive days; or
 - (2) 152 hours within a period not exceeding 28 consecutive days.
- (ii) The ordinary hours of work prescribed herein shall be worked on any day or all of the days of the week, Monday to Friday.
- (iii) The ordinary hours of work prescribed herein shall be worked in continuous periods of not more than nine hours per day, except for a meal break of not more than one hour's duration to be taken between 7.00 a.m. and 5.30 p.m. on such days.
- (iv) Work performed by day workers prior to 7.00 a.m. and after 5.30 p.m. shall be paid for at overtime rates but shall be deemed, for the purposes of this subclause, to be part of the employee's ordinary hours of work where ordinary hours of work within the period 7.00 a.m. to 5.30 p.m. in any fortnightly period have been less than 76, or less than 152 hours within a period of 28 consecutive days.

(b) Spread of hours

The spread of ordinary hours prescribed for day work nurses may be extended to 7.00 p.m. as to all, or a section of, employees by mutual agreement of the employer, and the majority of employees affected, but not so as to require any person to work more than nine hours in any one day or more than 152 hours in two consecutive fortnightly periods.

2. SHIFT WORK

(a) Ordinary hours

- (i) The ordinary hours of shift workers shall not exceed:
 - (1) eight in any one day; nor
 - (2) 48 in any one week; nor
 - (3) 88 in any fourteen consecutive days; nor

- (4) 152 in the 28 days accounting period.
- (ii) Shift workers shall work such time as the controlling authority may require, subject to the following conditions:
- (1) a shift for nurses shall consist of not more than eight hours, exclusive of meal breaks;
 - (2) except at the regular change-over of shifts an employee shall not be required to work more than one shift in each 24 hours;
 - (3) by arrangement with the employees an unpaid meal break shall be allowed on each day or shift, of a duration of not less than 30 minutes but not more than 60 minutes;
 - (4) **PROVIDED** further that in acute areas of general hospitals, by mutual agreement between the controlling authority and the representatives of employees concerned, the hours of work for night shift employees may be extended up to ten per day (exclusive of an unpaid meal break of not less than 30 minutes but not more than 60 minutes) to be paid for at the appropriate shift rate.
- (b) Rosters
- (i) There shall be a roster for shifts which shall:
- (1) provide for a rotation unless all the employees concerned desire otherwise;
 - (2) provide for not more than eight shifts to be worked in any nine consecutive days;
 - (3) not be changed until after four weeks notice, provided that an employee's place on such roster shall not be changed, except on one week's notice of such change or payment of the penalty rates more particularly set forth in 3(c)(ii) hereof. So far as employees present themselves for work in accordance therewith, shifts shall be worked according to the roster;
 - (4) provide for a minimum of two consecutive days off duty except where, by mutual agreement between the employer and the employee(s) concerned alternative arrangements are made;
 - (5) clearly stipulate a 28 day accounting period which shall include a leisure day off in addition to eight rostered days off.

(c) Meal Breaks

Employees unpaid meal break shall be taken between the beginning of the fourth hour and the end of the sixth hour provided that on a day shift a worker shall have his/her meal break not later than between the hours of 12.00 midday and 2.00 p.m.

PROVIDED that agreement may be reached between the employer and the employee to allow for special circumstances.

(d) Shift penalties

- (i) Shift workers, other than a Registered Nurse Grade 8 and 9 whilst working afternoon shift are to be paid 13.75% more than the ordinary hourly rate for the period of the shift, and 15.00% more than the ordinary hourly rate for the period of the shift from the first pay period on or after 1 July 2012.
- (ii) Shift workers, other than a Registered Nurse Grade 8 and 9 whilst working night shift are to be paid 26.25% more than the ordinary hourly rate for the period of the shift, and 27.50% more than the ordinary hourly rate for the period of the shift from the first pay period on or after 1 July 2012.

12 Hour Shift Workers

- (iii) 12 hour shift workers, other than a Registered Nurse Grade 8 and 9 whilst working a day shift are to be paid 16.00% more than the ordinary hourly rate for the period of the shift, and 16.75% more than the ordinary hourly rate for the period of the shift from the first pay period on or after 1 July 2012.
- (iv) 12 hour shift workers, other than a Registered Nurse Grade 8 and 9 whilst working night shift are to be paid 21.00% more than the ordinary hourly rate for the period of the shift, and 21.75% more than the ordinary hourly rate for the period of the shift from the first pay period on or after 1 July 2012.

PROVIDED always that notwithstanding the provisions of 2(e)(i) and 2(e)(ii) hereof, where a shift worker, by mutual arrangement with the employer works permanently on either an afternoon shift or a night shift, and where but for such arrangement a rotating or alternating roster would need to be worked such employee shall be paid 13.75% more than the ordinary salary rate for each permanent afternoon shift and 26.25% more than the ordinary rate for each permanent night shift so worked.

PROVIDED FURTHER as from the first pay period on or after 1 July 2012 the percentage amounts of 13.75% and 26.25% as detailed in the proviso above are to be read as 15.00% and 27.50% respectively.

(e) Saturday shifts

For work on a rostered shift, the major portion of which falls on a Saturday, a shift worker, other than Registered nurses level 4 and level 5, shall be paid at the rate of time and one half of the employee's normal salary rate, but such rates shall be in substitution for and not cumulative upon the shift allowances more particularly set forth in 2(e) hereof. The provisions of this subclause shall not prejudice any right of an employee to obtain alternatively any higher rate in respect of that work by virtue of any provision of this clause.

(f) Sunday and holiday shifts

(i) Shift workers (other than Registered nurses levels 4 and 5) for work on a rostered shift, the major portion of which falls on a Sunday or public holiday, shall be paid at a rate of time and three quarters in the case of Sundays and double time in the case of a public holiday. Such rate shall be in substitution for, and not cumulative upon the shift allowances more particularly set forth in 2(e) hereof.

(ii) **PROVIDED** that:

- (1) where shifts commence between 11.00 p.m. and midnight on a Sunday or a holiday the time so worked before midnight shall not entitle an employee employed on such a shift to the Sunday or holiday rate, provided that the time worked by an employee on a shift commencing before midnight on a day preceding a Sunday or holiday and extending into such Sunday or holiday the time worked before midnight shall be regarded as time worked on such Sunday or holiday;
- (2) where shifts fall partly on a holiday that shift, the major portion of which falls on a holiday, shall be regarded as the holiday shift;
- (3) where a shift worker is required to work on a public holiday as herein defined and is granted time off in lieu thereof, the above penalty rate shall not apply.

(g) Holiday penalties - part-time employees

A part-time employee who receives a 20% loading in lieu of sick leave, annual leave and public holidays shall be paid at the rate of 1.7 times the relevant award rate for work on a public holiday.

(h) Broken shifts

- (i) Subject to the proviso hereto broken shifts shall not be worked.
- (ii) Provided that in an emergency situation a broken shift may be worked by mutual agreement between the employer and the employee. All work

performed in excess of a spread of nine hours shall be paid at the rate of double time.

(i) Night duty

- (i) Except in the case of an employee relieving on night duty for a period of less than one week, for which no penalty is payable, any employee required to work night duty in excess of thirteen weeks in any six monthly period shall be paid at the rate of double time for the night duty so performed.
- (ii) After a period of continuous night duty an employee, except as prescribed in 2(k)(i) hereof, shall not be engaged on night duty until a period of thirteen consecutive weeks has elapsed.
- (iii) The provisions of this subclause, may be varied by mutual consent of the employer and the employee concerned to suit the circumstances of the work in which case the penalty rate prescribed by 2(k)(i) hereof shall not be payable for time on night duty in excess of thirteen weeks.

(j) Daylight saving

- (i) Notwithstanding anything contained elsewhere in this clause where, by reason of the *Daylight Savings Act 1968*, summer time is prescribed as being in advance of standard time the length of any shift:
 - (1) commencing before the time prescribed by the Act for the commencement of a summer time period; and
 - (2) commencing on or before the time prescribed by such Act for the termination of a summer time period;

shall be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end thereof, the time of the clock in each case to be set to the time fixed pursuant to the Act.

- (ii) For the purpose of this subclause:
 - (1) the Act means the *Daylight Saving Act 1968*;
 - (2) standard time and summer time shall bear the same meanings as prescribed by the Act.

(k) Part-time employees

An employer is required to roster a part-time employee for a minimum of two consecutive hours work.

3. OVERTIME

(a) Allowances for overtime purposes

- (i) Allowances, other than higher duties allowance, shall not be taken into account in the compilation of overtime and penalty rates.
- (ii) Notwithstanding the foregoing the 20% loading payable to casual and part-time employees working less than twenty hours per week shall be taken into account before calculating penalty rates payable for weekend and public holiday shifts, but shall not be taken into account when calculating overtime payments.

(b) Requirement to work reasonable overtime

- (i) The employer may require any employee to work reasonable overtime at overtime rates and such employee shall work in accordance with such requirement. No overtime shall be worked without the prior approval of the employer.

An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:

- (1) any risk to employee health and safety;
- (2) the employee's personal circumstances including any family responsibilities;
- (3) the needs of the workplace or enterprise;
- (4) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
- (5) any other relevant matter.

(c) Overtime rates

(i) Day Workers

- (1) For all overtime worked, in excess of the ordinary hours of work Monday to Saturday inclusive, other than Registered nurses level 4 and level 5, payment shall be made at the rate of time and a half for the first two hours and double time thereafter. For overtime worked on a Sunday, other than Registered nurses level 4 and level 5, payment of double time and overtime performed on a public holiday, other than Registered nurses level 4 and level 5, to be paid at double time and a half.

PROVIDED that an employee who holds a position which regularly requires him/her to work on public holidays shall, where mutually agreeable, be paid, in addition to any paid time off in lieu granted by the employer, at the rate of time and a half of the ordinary salary rate for the first eight hours worked during the normal spread of hours and thereafter in accordance with the overtime rates set forth in 3(c)(3) hereof.

PROVIDED that no employee shall receive in the aggregate more than the equivalent of double time and a half of his/her ordinary rate.

- (2) Registered nurses level 5 shall not be entitled to receive payment for overtime.

PROVIDED that where circumstances so require and with the approval of the employer, Directors of Nursing at District Hospitals who work overtime on rostered nursing duties in excess of their ordinary duties as Directors of Nursing, shall be entitled to receive overtime payment at the maximum overtime rate applicable to an employee classified as a Registered nurse for all time worked on such nursing duties.

- (3) Employees engaged to work in a day work situation but outside the spread of hours applicable to day work employees in this award, shall receive penalty rates as follows:

Monday to Saturday – time and one half for the first hours and double time thereafter;

Sunday – double time;

Public Holidays – double time and a half.

- (ii) Shift workers

- (1) For work performed by a shift worker outside the ordinary hours of his/her shift, double time shall be paid. But such payment shall not apply in those cases where arrangements have been made between the employees themselves or in cases due to rotation of shifts.
- (2) **PROVIDED** always that in cases where the employer has been given less than four hours notice that an employee, rostered to relieve an afternoon or night shift worker, will not attend to do so at the proper time, such unrelieved shift worker shall be paid, for the extra time worked, at the rate of time and one half until the four hours have elapsed from the time notice was first given to the employer. For all time worked beyond the four hour spread referred to herein, the unrelieved shift worker shall be paid at the rate of double time. In all

other cases the unrelieved shift worker shall be paid at the rate of double time, until relieved.

- (3) An employee required to work overtime for more than two hours without being notified on the previous day or earlier that he/she will be so required and such period of overtime occurs at a time when a meal would customarily be taken, shall either be supplied with a meal by the employer or paid the amount of \$8.78 in lieu thereof.

(d) Rest period after overtime

- (i) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least eight consecutive hours off duty between the work of successive days.
- (ii) An employee (other than a casual employee) who works so much overtime between the termination of his/her ordinary work on one day and the commencement of his/her ordinary work on the next day that he/she has not had at least eight consecutive hours off duty between those times shall, subject to this section, be released after completion of such overtime until he/she 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 such an employee resumes or continues work without having had such eight consecutive hours off duty he/she shall be paid at double the ordinary salary rate until he/she is released from duty for such period and he/she shall then be entitled to be absent until he/she has eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absences.

4. BREAKS

(a) Meal breaks - shift workers

- (i) By arrangement with the employees an unpaid meal break shall be allowed on each day or shift, of a duration of not less than 30 minutes but not more than 60 minutes.
- (ii) Where an employee is interrupted during a meal break by a call to duty, such meal break shall be counted as time worked and the employee shall be allowed a meal break as soon as practicable. Should it be impracticable for the employee to have a meal break during the remainder of his or her ordinary working hours, he or she shall receive overtime pay for the interrupted meal break.

(iii) Unless agreed between the employer and the employee a shift worker who is unrelieved for the period of the meal break and until such relief is available shall be paid at the appropriate overtime rate.

(b) Day Workers

A day worker shall have his/her meal break not later than between the hours of 12.00 midday to 2.00 p.m. unless agreement is reached between the employer and employee to allow for special circumstances.

(c) Work during meal breaks (Day Worker)

Subject to existing customs and practices a day worker, who is directed to work during a recognised meal break shall, for all work performed during such period and thereafter until a meal break is allowed, be paid at the rate of time and a half of the normal salary rate.

(d) Unrelieved meal break (Shift Worker)

(i) Unless agreed between the employer and the employee a shift worker who is unrelieved for the period of the meal break and until such relief is available shall be paid at the appropriate overtime rate.

(ii) An employee required to work overtime for more than two hours without being notified on the previous day or earlier that he/she will be so required and such period of overtime occurs at a time when a meal would customarily be taken, shall either be supplied with a meal by the employer or paid the amount of \$8.78 in lieu thereof.

(e) Meal breaks on overtime

(i) Unless the period of overtime is one and a half hours or less, an employee before starting overtime shall be allowed a meal break of twenty minutes which shall be paid for at ordinary rates. The employer and an employee may agree to any variation of this provision to meet the circumstances of the work in hand, provided that no employee shall be required to work more than five hours without a break for a meal.

(ii) An employee required to work for more than two hours without being notified on the previous day or earlier that he/she will be so required shall either be supplied with a meal by the employer or paid \$8.78 in lieu thereof.

5. 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 and not allowed to leave his/her place of employment).
- (ii) An employee held on close call shall:
 - (1) if not required to commence work be paid a minimum payment equivalent to six hours at the employee's normal salary; or
 - (2) if required to commence work - be paid in accordance with the appropriate overtime rate, provided that such payment shall be at least equivalent to the minimum payment set forth in 5(a)(ii)(1) hereof.

(b) On Call

The employer may require an employee, by way of a roster or direction, to be available to resume duty and the employee is to remain:

fit for duty;

readily contactable while so rostered or directed; and

able to resume duty.

An employee required to be on call is to be paid:

- (i) Monday to Friday - \$4.04 per hour for each hour the employee is required to be on call, with a minimum payment of \$32.35
- (ii) Saturdays, Sundays and Public Holidays - \$5.20 per hour for each hour the employee is required to be on call, with a minimum payment of \$41.56
 - (1) An employee who is required to return to the workplace to resume duty is to be remunerated in accordance with subclause (c) Call Back of this clause.
 - (2) An employee who is 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.
 - (3) Payment is to be calculated on the cumulative hours worked and rounded up to the nearest hour.

- (4) Any further requirement to undertake duties without returning to the workplace that occurs within one hour of the commencement of the first requirement, in accordance with subparagraph (3) 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.
- (5) The hours are to be paid as rostered and each day (midnight to midnight) shall stand alone.

(c) Call back

- (i) Where a rostered employee is recalled to work overtime after leaving his/her place of employment (whether notified before or after leaving such premises) the employee shall be paid:
 - (1) for the first recall a minimum payment of four hours' work at the overtime rate applicable to the employee's salary; and
 - (2) for each subsequent recall a minimum payment of three hours work at the appropriate overtime rate applicable to the employees salary.
- (ii) **PROVIDED** always that time reasonably spent in getting to and from work shall be regarded as time worked.
- (iii) An employee recalled to work shall be entitled to receive in addition, payment for time on call under 5(a) and 5(b).

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 Hour Day, Good Friday, Easter Monday, Easter Tuesday, Anzac Day, Queen's Birthday, Show Day, Cup 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 of a day that may be deemed to be a statutory holiday by the application of the Act.

- (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 required to attend for work according to subclause (c) of this clause is to receive compensation according to Part V - HOURS OF WORK AND OVERTIME FOR DAY WORK, Clause 3.
- (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.
- (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.

2. PARENTAL LEAVE

Subject to the terms of this clause employees are entitled to maternity, paternity 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:
 - (1) The day on which the employee first takes custody of the child for adoption; or
 - (2) 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 rate of salary and includes allowances which would have continued to be paid but for taking 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 paternity 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 females, maternity leave may be taken and for males paternity 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 paternity leave an unbroken period of up to three weeks at the time of the birth of the child which includes one day of paid leave for the partner to attend the birth of the child;
- (2) for adoption leave an unbroken period of up to three 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 12 weeks paid maternity leave which forms part of the 52 week entitlement provided in subclause (b)(i).

- (i) The 12 weeks paid leave is to be taken at the commencement of the period of maternity leave and must be taken in a consecutive period.
- (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) (vii) 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 12 consecutive weeks at a consistent rate of pay or;
 - over 24 consecutive weeks at a consistent rate of pay
- (iv) Where an employee elects to take half pay over 24 weeks the payment beyond the 12 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 paternity leave sought or taken by her spouse.
- (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 she is fit to work on her normal duties.

(d) Special Maternity Leave

- (i) An employee who has not yet commenced maternity leave and who suffers an illness related to her pregnancy or is required to undergo a pregnancy related medical procedure is to be granted any paid personal leave to which she is entitled and such further unpaid special maternity leave as a registered medical practitioner certifies as necessary before her 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 20 weeks before the expected date of birth the employee is entitled to up to 52 weeks parental leave, including 12 weeks paid maternity leave, certified as necessary by a registered medical practitioner.

(e) Paternity Leave

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

- (i) A certificate from a registered medical practitioner which names the other parent, states that she 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 paternity leave; and
 - (2) that the period of paternity 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 other 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 mother 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 12 weeks paid adoption leave, which forms part of the 52 week entitlement.
- (ii) 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.
- (iii) 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 care-giver of the child; and
 - (2) particulars of any period of adoption leave sought or taken by the employee's spouse.
- (iv) An employer may require an employee to provide confirmation of the placement from the appropriate government authority.
- (v) 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.
- (vi) 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.
- (vii) 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.
- (viii) 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 de facto 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) Parental Leave and Other Entitlements

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

(ii) Unpaid leave

- (1) A period of unpaid leave is available according to this clause and may form part of an employee's parental leave entitlement.
- (2) Any period of parental leave without pay in excess of 20 working days is regarded as leave without pay for accrual purposes, including for annual leave, personal leave but does not break an employee's continuity of service.

(iii) Keeping in Touch Days

- (1) This provision enables an employee to perform work for the employer on a keeping in touch day while they are on approved parental leave. If the employee does so, the performance of that work does not break the continuity of the period of paid or unpaid parental leave.
- (2) The employer cannot request an employee attend on a keeping in touch day until a minimum of 6 weeks (42 days) after the birth, or day of placement, of the child. However, the employee may request to the employer that they attend a keeping in touch day 14 days after the date of birth, or day of placement, of the child.

- (3) An employee is eligible to perform paid work for the employer up to 10 working days as keeping in touch days for each of the periods prescribed below:
 - (A) a period of paid or unpaid parental leave taken during the employee's available parental leave period; and
 - (B) a period of unpaid parental leave taken as an extension of the leave referred to in paragraph (A) for a further period immediately following the end of the available parental leave period.
 - (4) The period worked by the employee as a keeping in touch day may be for part of a single day.
 - (5) If, during a period of unpaid parental leave, an employee performs work for the employer on a keeping in touch day taking that leave or performing that work does not have the effect of extending the period of unpaid parental leave.
 - (6) If, during a period of paid parental leave, an employee performs work for the employer on a keeping in touch day performing that work will extend the period of that paid leave but will not extend the period of unpaid parental leave.
- (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) If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such time as is certified necessary by a registered medical practitioner.
- (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.

3. PERSONAL LEAVE

The provisions of subclauses (a) to (o) apply to permanent and fixed-term employees but do not apply to casuals and part time employees in receipt of a loading, unless otherwise specified. The entitlements of casual employees and part time employees in receipt of a loading are set out in subclause (p).

(a) Definitions

(i) **'Health Practitioner'** means a registered health practitioner registered or licensed as a health practitioner under an appropriate law of the State of Tasmania.

(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 the State of Tasmania that provides for the registration or licensing of health practitioners.

(v) **'Personal Leave'** means leave provided for:

(1) personal illness or injury; or

(2) to care for members of their immediate family or household who are sick and require care and support; or

- (3) to care for members of their immediate family or household who require care due to an unexpected emergency.

(b) Amount of Personal Leave

- (i) Personal leave is available to an employee, when the employee 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 who requires care due to an unexpected emergency.
- (ii) Personal leave accrues according to length of service. Part-time employees are entitled to the same personal leave credits as a full-time employee but on a pro-rata basis according to the number of hours worked compared to full time employees. Payment for personal leave will only be made for those hours that would normally have been worked had the employee not been on personal leave.

(c) Personal Leave for Permanent Employees

An employee is entitled to a maximum accrual of 152 hours in each personal leave year

A part-time employee who works between 20 – 30 hours per week is entitled to a maximum accrual of 114 hours in each personal leave year. A part-time employee who works 30 hours or more per week is entitled to a maximum accrual of 152 hours in each personal leave year.

- (i) Payment for personal leave will only be made for those hours that would normally have been worked had the employee not been on personal leave.
- (ii) An employee is entitled to leave on full pay (excluding shift or weekend allowances, overtime or penalties) where their application complies with this provision.
- (iii) If the period during which an employee takes paid personal leave includes a day or part-day that is a public holiday, the employee is not on paid personal leave on that public holiday.

(d) Accumulation of Personal Leave

- (i) Personal leave accrues progressively during a year of service according to the employee's ordinary hours of work.

- (ii) If the full period of personal leave as prescribed in subclause (b) of this clause is not taken in any personal leave year, the proportion that is not taken is cumulative from year to year without limitation.

(e) Personal Leave Entitlement for Fixed Term Employees

The entitlement to personal leave for an employee who is employed on a full-time fixed term basis is credited in advance after 20 working days of service and:

- (i) provides for 5.65 hours leave for each completed fortnight of service up to 152 hours for each completed full year of service;
- (ii) unused personal leave credits accumulate and carry forward each year;
- (iii) if in any personal leave year personal leave with full pay is exhausted personal leave without pay is available provided the absences are appropriately certified by a registered health practitioner consistent with subclause (k) of this clause;
- (iv) a period of personal leave does not extend the period of employment;
- (v) for employees employed for less than 12 months personal leave is credited in direct proportion of their employment compared to full-time equivalent employment.
- (vi) A fixed term employee who has completed:
 - (1) 12 months continuous service and is to complete further continuous service is entitled to personal leave according to subclause (c), as if that employee was a permanent employee. (f) change from Fixed Term Employment to Permanent Employment Status

A fixed-term employee who becomes a permanent employee is entitled to personal leave according to subclause (c), as if the employee had been appointed as a permanent employee on the first day of continuous service and calculations of entitlements are to be made accordingly.

(g) The Effect of Workers Compensation

An employee is not entitled to take paid personal leave for a period during which the employee is receiving workers' compensation.

(h) Personal Leave for Personal Injury or Illness

An employee is entitled to use the full amount of their personal leave entitlement for the purposes of personal illness or injury, subject to the conditions set out in this clause.

(i) Personal Leave to Care for an Immediate Family or Household Member

(i) An employee is entitled to use personal leave each year 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, subject to the conditions set out in this clause.

(ii) Leave may be taken for part of a single day.

(j) Sole Person Accessing Leave

In normal circumstances an employee is not to take leave for caring purposes where another person has taken leave to care for the same person.

(k) Employee Must Give Notice

An employee is required to provide notice in writing for leave to be approved.

(i) 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.

(ii) 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.

(iii) 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.

(l) Evidence Supporting Claim

Subject to subclause (m) when taking personal leave the employee is to prove to the satisfaction of the employer that the employee was unable to attend duty on the day or days on which personal leave is claimed.

- (i) Where evidence is required and where reasonably practicable to do so;
 - (1) An employee absent on account of personal injury or illness is to provide a medical certificate from a registered health practitioner
 - (2) Where taking leave to care for members of immediate family or household who are sick and require care and support the employee is to provide a medical certificate from a registered health practitioner stating the illness of the person concerned and that such illness requires care by the employee
 - (3) Where taking leave to care for members of immediate family or household who require care due to an unexpected emergency, the employee is to provide documentation acceptable to the employer stating the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.
- (ii) If it is not reasonably practicable for the employee to give the employer a medical certificate a statutory declaration by the employee, stating the illness of the person concerned and where applicable that such illness or unexpected emergency requires care by the employee

(m) Days Without Medical Certificate for Personal Injury or Illness

- (i) Where leave is granted under this clause for personal leave for personal illness or injury for a period of three or more consecutive working days, the third and subsequent days are without pay unless the leave is supported by a medical certificate from a registered health practitioner.
- (ii) A medical certificate is required for each personal leave absence for personal illness or injury after the employee has taken an aggregate of thirty eight hours without a medical certificate in any personal leave year.
- (iii) If an employee is absent on personal leave on the day immediately preceding or immediately following the leisure day off, the employee is to provide a medical certificate from a registered health practitioner in support of the absence taken.

(n) Calculation of Personal Leave Year

- (i) A personal leave year for the purpose of this clause means 12 months of continuous paid employment from the commencement of employment including periods of paid leave.
- (ii) For any period of leave without pay, excluding personal leave without pay, taken by an employee of more than 20 working days in aggregate in any personal leave year the whole of that period is not to count as service for the purpose of calculating the personal leave accrual date.

(o) Verification of Illness

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.

(p) Unpaid Personal Leave

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 requirements of subclauses (k) and (l) are met.

(q) Casual Employees and Part Time Employees in Receipt of a Loading – Caring Responsibilities

- (i) Subject to the evidentiary and notice requirements in subclauses (k) and (l) casual employees are entitled to not be available to attend work, or to leave work if they need 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.
- (ii) The employer and the employee are to agree on the period for which the employee is to be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to two working days per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

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

4. BEREAVEMENT LEAVE

The provisions of subclauses (a) to (e) apply to permanent and fixed-term employees but do not apply to casuals, unless otherwise specified. The entitlements of casual employees are set out in subclause (g).

(a) 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:
 - (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.

(b) Paid Leave Entitlement

In the event of the death of a member of the employee's immediate family or household an employee is to be granted bereavement leave upon application being made to and approved by the employer without loss of pay or entitlement to continuous service for a period of up to ten days with the discretion of the employer to grant additional paid leave.

(c) Relationship to Other Paid Leave

This clause has no application where it coincides with any other entitlement to another period of paid leave.

(d) Rostered Days Off

PROVIDED that no payment will be made in respect of the employee's rostered or accrued days off

(e) Evidence Requirements

The employer may request evidence of death in the form of a death notice, or other written evidence furnished by the employee to the satisfaction of the employer.

(f) Unpaid Bereavement Leave

The employee may take unpaid bereavement leave by agreement with the employer.

(g) Casual Employees and Part Time Employees in Receipt of a Loading

(i) Subject to the evidentiary requirements in subclause (e), casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of an immediate family or household member.

(ii) The employer and the employee are to agree on the period for which the employee is to be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to two days per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

(iii) The employer must not fail to re-engage a casual employee because the employee 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) Casual employees and part time employees in receipt of a loading are not entitled to 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 normal rate of salary the employee would have received for the ordinary hours of work during the relevant period.

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 require 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) An employee returning to work is to have their recreation leave balance credited by the hours foregone.
 - (v) An employee may choose to either take the re-credited recreation leave at the conclusion of the current period of leave or alternatively take the leave at another time.
- (g) Allowance in Lieu of Recreation Leave on Termination
 - (i) After twenty consecutive working days of service, an employee whose employment is terminated will be paid an allowance in lieu of any accrued recreation leave.
 - (ii) The allowance is the normal rate of annual salary, determined in accordance with subclause (b) of this clause, payable to the employee at the time of termination.
- (h) 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.

(i) 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.

(j) 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.

(k) Payment in Lieu Prohibited

Except as provided in subclause (g) and subclause (h) of this clause payment will not be made in lieu of recreation leave.

(m) Annual 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 (m) 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.

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 2001*.

'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 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:

<u>Work Period</u>	<u>Percentage of Normal Salary payable during the period of the Plan</u>	<u>Leave Period</u>
Four Years	80% "The Four over Five Year Plan"	One Year
Three Years	75% "The Three over Four Year Plan"	One Year
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)	$\frac{A}{A+B} \times \frac{100}{1} = \dots\%$ (to one decimal place)	(Other Plan)
"A"		"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 Head of Agency determines:
 - (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 Head of the Agency in which the employee is thereafter employed will, 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 Head of Agency determines under subclause (d)(v) that the employee is not able to continue on their Plan, the Head of Agency 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 Head of Agency

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) Where the Head of an Agency offers a Plan to an employee the employee may elect to participate in the Plan by lodging an election in writing with the Head of Agency in any form which the Head of Agency may approve.
- (ii) The Head of the Agency may accept or reject an election to participate made in accordance with subclause (e)(i).
- (iii) The Head of Agency will notify the employee in writing if the employee's election has been disapproved.
- (iv) Where the employee's election is approved, the Head of Agency 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 Head of Agency in accordance with subclause (e)(iv).
- (vi) A participating employee wishing to withdraw from a Plan must apply in writing to their Head of Agency who may refuse the application if he or she considers such refusal to be 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 Head of Agency 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 Head of Agency 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 the 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 Head of Agency 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 Head of Agency'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 relevant Head of Agency 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 Head of Agency, 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 the Retirement Benefits Fund Board 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 depends upon the employment arrangements for that employee.

An Agency's superannuation responsibilities and financial obligations for participating employees depends 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 Agency at the request of an employee is to continue throughout the period of the Plan.

(ix) Administrative Records

An Agency administering a Plan must 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 Tasmanian State Service Regulations and any relevant 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) State Service Holidays (Public Holidays)

The leave period of a Plan is to be extended by the number of State Service holidays (public holidays) 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 Head of the Agency 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

- (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; or
 - (ii) Personal Leave – with [subject to sufficient leave credits being available] or without pay if compensation is not paid
 - (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.

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 major changes in work arrangements and practices that are likely to have significant effects on employees the Agency is to notify the employees who may be affected by the proposed changes and the relevant union/s prior to the implementation of any changes.
- (b) Major change in work arrangements and practices that are likely to have significant impact on employees include those matters that may be directly linked to public sector restructuring processes including amalgamations and the implementation of new technologies, systems and workplace practices that improve productivity and efficiency and the quality and quantity of organisational outcomes.
- (c) The employer is to consult with the relevant employees and relevant union/s to discuss the introduction of any changes referred to in subclause (b) and the effects the changes are likely to have on employees and measures proposed to avoid or reduce the adverse effects of such changes on employees.
- (d) For the purposes of this clause, consultation is not simply advice on what is about to happen. Consultation is providing the employee(s), union(s) or other relevant persons, with genuine opportunity to influence the decision or decision maker. Consultation is not joint decision making or a barrier to the prerogative of management to make decisions. The employee(s), union(s), or other relevant persons must be given a reasonable opportunity to suggest alternative proposals in a timely manner. The employer is to give proper consideration to any alternative proposals, and communicate these considerations to the proposer(s).
- (e) A register of changes made by the Agency following the processes of this clause is to be maintained by the employer.

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) 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.
- (d) 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

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 ENTRY FOR UNION OFFICIALS

Right of entry for union officials is in accordance with the provisions of the *Industrial Relations Act 1984* (as amended).

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*.

Tim Abey
ACTING PRESIDENT

10 August 2012