TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s23 application for award or variation of award

The Minister administering the State Service Act 2000
(T13949 of 2012)

POLYTECHNIC AND SKILLS INSTITUTE TEACHING STAFF AWARD

DEPUTY PRESIDENT TIM ABEY HOBART, 20 August 2012

Award variation – meal and living away from home allowances – consent matter – award varied – operative date ffpp 17/8/12

ORDER BY CONSENT -

No. 3 of 2012
(Consolidated)

AMEND THE **POLYTECHNIC AND SKILLS INSTITUTE TEACHING STAFF AWARD** BY VARYING PART IV CLAUSES 5 – MEAL ALLOWANCES AND 9 – LIVING AWAY FROM HOME ALLOWANCE AND BY DELETING CLAUSES 6 and 10, AND BY RENUMBERING CLAUSES 7, 8 AND 9 AS 6, 7 AND 8; AND THE AWARD IS CONSOLIDATED:

PART I – APPLICATION AND OPERATION OF AWARD

1. TITLE

This award is to be known as the "Polytechnic and Skills Institute Teaching Staff Award".

2. INDEX

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3. SCOPE

This award is established in respect of employees employed under the terms of the *State Service Act 2000* in the Department of Education (Tasmanian Polytechnic) and the Skills Institute and whose duties are encompassed by the classification definitions of this award.

4. DATE OF OPERATION

This award will come into operation from the first full pay period to commence on or after first full pay period on or after 17 August 2012.

5. SUPERSESSION

This award supersedes the Polytechnic and Skills Institute Teaching Staff Award, No. 2 of 2012 (Consolidated).

6. AWARD INTEREST

(a) The following employee organisation is deemed to have an interest in this award pursuant to Section 63(10) of the *Industrial Relations Act 1984*,

The Australian Education Union, Tasmanian Branch (AEU)

(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

'Employer' means the Minister Administering the State Service Act 2000.

'Head of Agency' means the Chief Executive Officer of the Skills Institute or the Secretary of the Department of Education

'Teacher' means an employee appointed to undertake teaching duties associated with functions at a campus or other place approved by the Head of Agency and who occupies a position classified under this award as Teacher, Advanced Skill Teacher 1, Learning Leader, Unit Leader or Senior School Psychologist.

PART II - EMPLOYMENT RELATIONSHIP AND RELATED MATTERS

1. EMPLOYMENT CATEGORIES

'Casual employee' means an employee who is engaged to work for a period not exceeding five consecutive days, or on an irregular basis, as and when directed by the employer. Question this in light of use of Sessionals/Relief

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

'Fixed-Term' means a person who either:

(a) is employed to relieve a full-time or part-time employee for specific periods of leave; or

(b) is employed temporarily for specific duties over a period of time determined by the employer prior to the term of employment commencing.

PROVIDED that the employment of a person under paragraph (a) or paragraph (b) above shall require of the employer that the period of engagement be specified as to the number of hours, days or weeks to be worked; with the further proviso that where the period of engagement is specified as twenty consecutive working days or less the terms of employment shall be the same as those defined for relief employees.

'Full-time employee' means a person engaged to work for the full ordinary hours prescribed.

'Part-time employee' means a person other than a full-time, casual, relief or sessional employee, engaged to work regularly in each pay period for less hours than an equivalently-classified full-time employee.
Part-time employees are entitled to pro rata conditions of employment according to the fraction of their appointment.

'Relief employee' means a person engaged to teach on an irregular basis as and when required for a period not exceeding 20 consecutive working days.

'Sessional Employee' means a person appointed as a sessional employee under the *State Service Act 2000* to deliver a single session or multiple sessions.

2. TEACHING AND DELIVERY REQUIREMENTS

(a) A full time employee is engaged for a total of 1400 hours per annum, exclusive of recreation leave and public holidays.

For the purpose of this clause this work can be divided into:

(i) Delivery Activities – up to 1300 hours per annum

(ii) Development Activities – nominally 100 hours per annum

(b) Band 2 Employees

Band 2 employees shall have a direct teaching load of up to 476 hours per annum, excluding time allocated for meal breaks.

3. 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 Band, Level of a classification in respect of which salary scales are 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 practical experience of such person or employee justify a higher salary.

For the purposes of this clause a **'promotional position'** means a position higher than Band 1 Level 9.

4. PROFESSIONAL DEVELOPMENT

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

(b) It must be evident that the activity will provide employees with skills/knowledge which will either:

(i) enable them to better undertake their work; or

(ii) enhance their career prospects; or

(iii) multi-skill them, thus enabling them to undertake a broader range of tasks within the department.

(c) The parties agree that the establishment of professional development programs/activities shall be undertaken in consultation with employees occupying positions classified under this award.

(d) All costs associated with standard fees for prescribed courses, prescribed textbooks and materials that are incurred in connection with the undertaking of professional development will be reimbursed by the employer upon production of receipts by the employee.

Travel and accommodation costs incurred by an employee undertaking professional development in accordance with this clause that exceed those normally incurred in travelling to and from work will be reimbursed by the employer upon production of evidence of such expenditure.

For the purposes of this award, 'prescribed courses' are those professional development activities that have been approved by the employer and which the employee is required to attend.

5. RESIGNATION OF EMPLOYEES

An employee shall give notice, in writing, four weeks before the date on which the resignation takes place.

PROVIDED that an employee in the Tasmanian Skills Institute shall give a minimum of two weeks notice.

6. TEACHER REGISTRATION (Tasmanian Polytechnic)

The responsibility to maintain a current registration with the Teachers' Registration Board rests with the individual teacher employee.

In accordance with the *Teacher Registration Act 2000,* a teacher employee must have a current registration issued by the Teachers' Registration Board.

Except in circumstances beyond the employee's control, where a teacher is not currently registered as detailed above, the employee will not be paid salary until a current registration certificate is issued.

PART III – SALARIES AND RELATED MATTERS

1. SALARIES

A teacher employed in a classification listed in Clause 3 – Classification Definitions and Clause 4 – Classification Bands of this Part will be paid the minimum rate of salary, inclusive of recreation leave allowance, as listed for the relevant classification and band in the table as shown below:

Classification	Salary Per Annum $
BAND 1	
Level 1	50,632
Level 2	54,232
Level 3	59,349
Level 4	62,571
Level 5	65,624
Level 6	69,002
Level 7	72,512
Level 8	75,880
Level 9	78,509
BAND 2	
Level 1	85,035
Level 2	88,899
BAND 3	
Level 1	85,035
Level 2	90,466
Level 3	95,169
Level 4	102,245
Level 5	108,538
Level 6	112,516
Level 7	116,207
Level 8	120,663

2. SALARY PROGRESSION

(a) Progression through the salary rates for a Band 1 employee will be by annual increments, having regard to the teacher acquiring skills and professional knowledge and applying these in the workplace over such a period. The skills and professional knowledge will be demonstrated by objective criteria developed through a consultative process between the Parties.

(b) The employer may defer or refuse to advance a teacher in the incremental scale if the employee does not meet the criteria, provided that the following process has been undertaken:

(i) where the performance of an employee is such as to make it probable that the next increment will not be recommended, the manager/supervisor will counsel the employee and explain clearly the criteria that must be met and how the employee has failed to fulfil these criteria;

(ii) as part of this counselling the manager/supervisor must provide every opportunity through mentoring, guidance and support to assist employees to meet the criteria;

(iii) the process outlined in subclauses (b)(i) and (b)(ii) of this clause must be commenced early enough to ensure the employee receives sufficient notice to enable improvement in performance to meet the required criteria. This period must be at least three months before a decision to defer or refuse an increment is taken.

(c) Where a decision is made to defer or refuse an increment, the employee will be notified as soon as possible, in writing, and the reasons for the decision will be given.

(d) An employee whose incremental advancement has been refused or deferred may seek to have the decision reviewed by lodging a written request through the dispute settling procedure in this award, Part VII, Clause 1 - Avoidance and Settlement of Disputes. If this review is successful, then the incremental advancement will be backdated to the original due date. The review process must be completed within two months of the request for the review being made.

(e) The process outlined in subclause (b) must not in any way be utilised to replace the procedures for dealing with disciplinary or inefficiency matters.

3. CLASSIFICATION DEFINITIONS

'Advanced skills teacher 1 (AST1) (Band 1 Level 9)' means an employee appointed as such, who has advanced teaching skills and provides educational leadership, guidance and mentoring to employees in respect to preparation, delivery and assessment, evaluation and other techniques related to teaching duties.

'Four-year trained teacher' means a teacher who:

(a) has satisfactorily completed a four-year course at a recognised tertiary institution;

or

(b) is a graduate of a recognised tertiary institution and in addition holds an approved Diploma of Education; or

(c) possesses qualifications deemed by the employer to be at least equivalent to either one or other of the above.

'Five-year trained teacher' means a graduate of an approved university or other recognised tertiary institution who holds a degree requiring a minimum of four years full-time study, and in addition holds a Diploma of Education from an approved university or other recognised tertiary institution, or possesses qualifications equivalent thereto.

'Instrumental musician' means an employee appointed to work with individual students for the purpose of developing instrumental musician skills.

'School Psychologist' means an employee that

(a) is registered as a psychologist within Tasmania in accordance with the provisions of the *Psychologists Registration Act 1976*; or

(b) possesses a degree with a four year qualification in psychology which will enable registration following two years of supervised practice as a school psychologist.

(c) Such a person is employed to work with students.

(d) Without limiting the nature and extent of their work it may involve the employee in undertaking intellectual assessments; diagnosing learning difficulties; establishing remedial programs; counselling students; advising teachers; and liaising with parents.

'Senior School Psychologist
means an employee who has progressed to this level through appointment or promotion and who is qualified as a teacher and:

(a) is registered as a psychologist within Tasmania in accordance with the provisions of the *Psychologists Registration Act 1976* ; or

(b) possesses a degree with a four year qualification in psychology which will enable registration following two years of supervised practice as a school psychologist.

(c) Without limiting their nature and extent, as well as undertaking some case work and demonstrating exemplary skills, the Senior Psychologist:

(i) Is responsible for administrative and supervisory duties connected with the provision and co-ordination of services by School Psychologists;

(ii) Provides a supportive service to educational institutions and families who may be experiencing difficulty managing the learning, behavioural and/or emotional problems of students.

'Supervisor' means an employee who is classified at Band 2 or higher and who as part of their duties is responsible for overseeing the work of employee(s).

'Training period' means that period of time normally required to complete the course undertaken.

4. CLASSIFICATION BANDS

An employee appointed or promoted to a classification prescribed by this award shall, subject to satisfying the criteria, prescribed in Clause 2 - Salary Progression of this Part, be paid at the salary rate determined for the relevant classification as set forth in Clause 1 – Salaries of this Part.

BAND 1

Level 1	
Level 2	Four year trained initial appointment
Level 3	five year trained and B.Ed. Hons. initial appointment
Level 4	
Level 5	
Level 6	Five year trained omit this level
Level 7	
Level 8	

Level 9 Maximum salary level (Advanced Skills Teacher 1)

PROVIDED that for teachers who will be teaching and assessing training package qualifications access to Level 9 will require:

(a) 12 months service on level 8; and

(b) the completion of the Certificate IV in TAA or equivalent; and

(c) a tertiary degree with appropriate education units; or

(d) consistent involvement in professional development activities related to teaching and learning, including return to industry, over at least a 3-year period.

BAND 2

Level 1 Head of Department 1 (Learning Leader- Tasmanian Polytechnic and Unit Leader Tasmanian Skills Institute,

Level 2 Head of Department 2

PROVIDED that appointments to Head of Department 1 apply only where 7000 annual teaching hours or less are taught. Where more than 7000 annual teaching hours are taught a Head of Department 2 classification will apply.

BAND 3

Level 1
Level 2
Level 3
Level 4
Level 5
Level 6
Level 7
Level 8

Employees shall be placed upon appointment, on the appropriate level according to their qualifications and previous relevant experience.

PROVIDED that a teacher in Band 1 who is less than four-year trained, who becomes qualified as a four-year trained teacher and who is in receipt of a salary less than the minimum salary available to a four-year trained teacher with no previous relevant experience, he/she shall be advanced to that minimum salary and, thereafter, receive increments in accordance with those applicable to a four-year trained teacher.

PROVIDED FURTHER that a teacher with less than five years of training in Band 1 who, becomes a five-year trained teacher and who is in receipt of a salary which is less than the minimum salary for a five-year trained teacher with no previous relevant experience, shall be advanced to that minimum salary and, thereafter, he/she shall receive increments in accordance with those applicable to a five-year teacher.

PROVIDED ALWAYS that it is a term of this award that no employee is to be disadvantaged by the implementation of the new classification structure and any associated review process including salary levels that employees were expected to progress to under the previous employment arrangements. This guarantee will be subject

to normal satisfactory performance as required in the previous arrangements to access salary progression points.

Casual employees

Employees engaged on a casual basis shall have their salaries determined in the following manner:

(a) Casual employees shall be paid in the proportion that the hours worked bear to the normal weekly rate prescribed for the equivalent full-time employee plus a 30% loading, 20% to compensate for annual leave, personal leave and holidays with pay and 10% for duties incidental to teaching.

(b) A casual employee's term of engagement shall be by the hour with a minimum payment of three hours for each day worked.

(c) Casual teachers shall have access to the Advanced Skills Teacher 1 classification subject to meeting the required criteria.

Part-time employees

Part-time employees shall be paid such proportion of the salary of an equivalent full-time teacher as their fractional appointment bears to a full-time teacher. In arriving at this fraction, part-time employees shall perform teaching and duties other than teaching in the same proportion as do full-time teachers.

Relief employees

(a) A relief employee shall be paid a daily rate for days actually worked in accordance with the following formula:

Daily rate = Salary per annum divided by 200

where salary is determined in accordance with experience and qualifications as for full-time teachers.

(b) **PROVIDED** that a relief employee shall receive a minimum payment of two hours for each day worked. For the purpose of this provision, two hours is equivalent to 2/5ths of the daily rate applying to that teacher.

Instrumental musicians

Instrumental musicians shall be paid on an hourly basis in accordance with the following formula:

$$\text{Hourly rate} = \frac{\text{Salary per annum}}{35 \times 40} \quad \text{plus 15\% loading.}$$

The hourly rate is inclusive of payment for annual, personal leave, or holiday with pay entitlements.

For the purposes of this formula, salary means:

$51,139 per annum

Less than four-year trained but holding the TTC or equivalent.

$56,693 per annum

Four-year (or more) trained, but holding the TTC or equivalent.

PROVIDED that these salary levels will be increased by any set increases for employees under this award.

Sessional employees

Sessional employees shall be paid on an hourly basis in accordance with the following formula:

$$\text{Hourly rate} = \frac{\text{Salary per annum}}{1820} + 67.5\%$$

5. PAYMENT OF WAGES

(a) The fortnightly salary of employees shall be calculated in the following way.

(i) The employee's annual salary, inclusive of recreation leave allowance, will be divided by the number of working days, inclusive of recreation leave and public holidays, which there are in a financial year. The answer is then multiplied by ten, which is the number of working days in a fortnight.

Consequently, the formula to be used will be:

$$\frac{\text{Annual salary x ten}}{\text{Number of working days in the financial year}} = \text{fortnightly salary}$$

(ii) The daily rate of pay is determined by dividing the fortnightly rate of pay by ten.

(iii) With the exception of relief employees, the hourly rate of pay is determined by dividing the daily rate of pay by seven.

(b) For the purposes of this clause, wages due to an employee:

(i) are to be paid and calculated on a fortnightly basis; and for those who are part-time, shall be an amount calculated by multiplying the hourly or daily rate of pay by the number of hours or days worked within a fortnightly pay period.

(ii) The wages due to an employee also includes any award prescribed higher duties allowance or District allowance to which s/he is entitled.

(c) Wages due to an employee shall be available to her/him at the financial institution nominated by her/him by the close of business on the designated pay day each fortnight.

(i) An increment or an allowance, excluding those specified in subclause (b)(i) of this clause, to which the employee becomes entitled during a pay period, shall be paid to her/him no later than the end of the next pay period.

(ii) Payment of wages shall be by direct deposit into an account(s) and financial institution(s) nominated by the employee.

(d) The employer shall not deduct from wages due to an employee any monies unless it is authorised in writing by the employee.

(i) Where the wages due to an employee are not available by the close of business on the designated pay day, s/he shall notify the employer as soon as practicable. The reporting procedure's should be known by the employees, and must allow the use of facsimile or e-mail facilities.

PROVIDED that the report provided to the employer shall contain sufficient detail as to allow the employer to investigate and if required remedy the non-payment.

(ii) Following a report, as provided for in paragraph (i), the employer shall ensure that the wages due to an employee are made available to her/him within two working days of the report being made.

Should the wages due to an employee not be available as provided for in paragraph (ii), and it can be demonstrated that the non-receipt of wages due can be attributed to the action or inaction of the employer, the employee shall be entitled to an allowance which shall be equal to 5% of the fortnightly wages due to her/him for each working day, or part thereof, until the wages due to her/him have been made available.

PROVIDED that in circumstances where the employer has made a bona fide attempt to pay the full amount believed to be due to the employee at the time of payment the allowance prescribed in subclause(e) shall not apply.

(e) In circumstances where payment of wages is delayed due to reasons beyond the control of the employer, the employer shall do all things reasonable and possible to arrange an alternative method of payment as soon as it becomes known to the employer that the employees pay will be delayed.

(f) On pay day, the employer shall state in writing to the employee, the amount of salary to which she/he is entitled, the amount of tax deductions made there from, the amount of any other deduction made therefrom and the net amount being paid to her/him.

(g) Where employment is terminated, all salary due, shall, where practicable, be paid to the employee on the day of termination.

(h) If payment on the day of termination is not practicable, the employer shall, on the next working day of the pay office, forward all salary due to the employee to the employee's recorded home address, or any other arrangement for payment as may be agreed between the employer and the employee.

6. HIGHER DUTIES ALLOWANCE

Where an employee, at the request or direction of the employer performs temporarily the duties of an employee with a higher classification, for 5 or more consecutive days, that

employee shall be paid an allowance equal to the difference between the employee's own salary and the minimum salary of the higher position.

PROVIDED that:

(a) Where an employee temporarily performs such duties the allowance shall be payable for the full period of time that the employee undertakes such duties;

(b) An expression of interest may be called, on any occasion, on a workplace, campus, or State-wide basis. However, an expression of interest must be called for if it is anticipated that the period for which an employee will be required to temporarily perform the duties of an employee with a higher classification exceeds six months, and in all other cases where a supervisor is unable to recommend the appointment of a suitable available person from within the workplace or campus.

(c) Where an employee, at the request or direction of the employer performs temporarily a part of the duties of an employee with a higher classification, that employee shall receive an allowance established by reference to the proportion that the duties assumed bear to the duties of the higher position and the difference between the employee's substantive salary and the minimum salary of the higher position.

(d) Where an employee is promoted to a higher position in which that employee has previously been performing the duties in a temporary capacity, that employee shall receive the increment, as provided for in Clause 2 - Salary Progression of this Part, to which the employee would normally have been entitled had the employee been promoted to the position at the commencement of the period of acting duty.

(e) Where an employee continues to perform the higher duties as provided for in paragraph (a) for a period of more than twelve months an increment if provided for in the higher classified position shall be paid.

PROVIDED that no employee shall be entitled to receive any increase in salary by virtue of this paragraph unless the provisions of Clause 2 - Salary Progression of this Part, have been complied with.

(f) For the purposes of this subclause reference to employee does not include temporary employees.

(g) Where an employee receiving an allowance as prescribed in paragraph (a) proceeds on approved paid leave, personal leave or leave in lieu of overtime, the employee will continue to receive that allowance.

PROVIDED that the duties continue after the period of such leave.

(h) Payment for overtime shall be at the classification rate inclusive of the allowance provided for in paragraph (a).

7. MORE RESPONSIBLE DUTIES ALLOWANCE

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

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

(b) The more responsible duties allowance payable is to be in proportion to the more responsible duties undertaken compared to the employee's normal duties and by reference to the employee's salary and the work value of the more responsible duties undertaken.

(c) An employee in receipt of an allowance according to this clause is to continue to be paid the allowance while on approved leave, provided that the more responsible duties would have been continuous but for the period of the paid leave and resumed immediately on the completion of period of paid leave.

(d) Payment of overtime undertaken while in receipt of a more responsible duties allowance is to include the allowance prescribed by this clause subject to any overtime provisions.

8. RECREATION LEAVE ALLOWANCE

(a) A recreation leave allowance is incorporated in the annual salary.

(b) The allowance will be increased with the percentage of any salary increase agreed for classifications in this award.

9. SUPPORTED WAGE SYSTEM FOR PERSONS WITH DISABILITIES

This clause defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award.

In this clause:

'approved assessor' means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system

'assessment instrument' means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system

'disability support pension' means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme

'relevant minimum wage' means the minimum wage and includes any incremental adjustment prescribed in this award for the class of work for which an employee is engaged

'supported wage system' (SWS) means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: www.jobaccess.gov.au

'SWS wage assessment agreement' means the document in the form required by the Department of Education, Employment and Workplace Relations that records the employee's productive capacity and agreed wage rate

(a) Eligibility Criteria

(i) Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

(ii) This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

(b) Supported Wage Rates

Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

Assessed Capacity (subclause (c)) %	Relevant Minimum Wage %
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

PROVIDED that the minimum amount payable must be not less than $76 per week.

Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

(c) Assessment of Capacity

(i) For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

(ii) All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

(d) Lodgement of SWS Wage Assessment Agreement

(i) All SWS wage assessment agreements under the conditions of this clause, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with Tasmanian Industrial Commission.

(ii) All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Tasmanian Industrial Commission to the union by certified mail and the agreement will take effect unless an objection is notified to Tasmanian Industrial Commission within 10 working days.

(e) Review of Assessment

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

(f) Other Terms and Conditions of Employment

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this clause will be entitled to the same terms and conditions of employment as other workers covered by this award on a pro rata basis.

(g) Workplace Adjustment

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

(h) Trial Period

(i) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

(ii) During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

(iii) The minimum amount payable to the employee during the trial period must be no less than $76 per week.

(iv) Work trials should include induction or training as appropriate to the job being trialled.

(v) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under subclause (c).

10. 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 Clause 1 - Salaries of Part III - SALARIES AND RELATED MATTERS, the following allowances will be paid.

1. DISTRICT ALLOWANCES

(a) The purpose of this general allowance is to compensate for excess costs necessarily incurred by an employee in an isolated area and without limiting the foregoing includes partial reimbursement for STD, freight, fuel and depreciation costs.

(b) Where a person is stationed 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.

Category R	**Rates per annum $**
Person with dependent relatives residing with him/her	3547
Other (no dependents)	1771
Category B	
Person with dependent relatives residing with him/her	1771
Other (no dependents)	889
Category S	
Person with dependent relatives residing with him/her	889
Person with dependent relatives residing with him/her	449

(i) Category R - (Remote locations) Bass Strait Islands, Maria Island and Bruny Island.

(ii) Category B - Locations under the Commonwealth Taxation Zone B prescription.

(iii) Category S - (Special locations) Redpa.

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

(d) **PROVIDED FURTHER** that variations to the quantum of allowance or to the locations specified in Categories R and S above are subject to approval by the Tasmanian Industrial Commission.

2. LEAVE EXPENSES – BASS STRAIT ISLANDS

(a) Where an employee is 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 concerned, be paid the return fares reasonably incurred by him/her for himself/herself for any dependant 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) an employee, with the approval of the employer, 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 purpose of obtaining emergency medical or dental treatment for an employee or dependant 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 employer, be paid the return fare reasonably incurred for travel from his/her station to the nearest centre of this State or to Melbourne, whereat such treatment can be obtained. Such reimbursement shall be in substitution for one 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.

3. FIRST AID ALLOWANCE

(a) An employee who has been trained to render first aid and who is the current holder of appropriate first aid qualifications such as a certificate from St. John Ambulance or similar body shall be paid an allowance at the rate per annum as $674 if he/she is appointed by the employer to perform first aid duty.

(b) The number of employees who shall be appointed and be eligible to receive such an allowance in any one campus shall be determined by the employer.

(c) Where an employee receiving an allowance under this paragraph proceeds on approved leave, personal leave or leave in lieu of overtime, the employee will continue to receive that allowance provided that the duties continue after the period of such leave.

4. CAMP ALLOWANCE

(a) Where in the performance of his/her duties an employee is required to camp and tents or other means of accommodation are provided, and he/she is absent from his/her normal place of residence, he/she shall be paid a camp allowance in accordance with the rates specified.

	Rates per day $
Where a cook is provided	29.85
Where a cook is not provided	36.80

(b) The allowance will be inclusive of all special conditions such as the carrying of tents and equipment, travelling over rough terrain and for work performed in severe climatic conditions.

5. MEAL ALLOWANCES

(a) Meal Allowance – Overtime

(i) Where an employee is required to commence duty 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 which requires a meal to be obtained away from home, that employee is to be paid a meal allowance at the rates prescribed in subclause (d) of this clause.

(ii) An employee required to work overtime on a Saturday, Sunday or holiday with pay and who has received notice of this the previous day, or earlier, is not entitled to payment of the meal allowances specified in this clause.

(b) Meal Allowance – Day Travel

An employee required by their employer to undertake duties more than 60 kilometres from the employee's normal work location and who is required to purchase breakfast or an evening meal is entitled to payment of the meal allowances prescribed in subclause (d) of this clause if:

(i) in respect of breakfast, duties are commenced not less than one and a half hours before employee's normal starting time; and

(ii) in the case of dinner, duties are performed for not less than one and a half hours after the employee's normal finishing time.

(c) Meal Allowance – Excess Rates

A meal allowance claimed under subclause (a) or (b) which is in excess of the rates prescribed in subclause (d) of this clause may be paid the expense incurred if the employer considers special circumstances exist to justify the excess expense.

(d) Meal Allowance – Rates

Meal	Rate of Allowance
Breakfast	$12.20
Lunch	$13.70
Dinner	$23.35

The rates contained above are derived from the Australian Taxation Office (ATO) Taxation Determination TD2012/17, Table 1. These rates are to be adjusted from 1 July each year by taking 50% of the appropriate ATO determination for meals in Table 1 of that determination, rounded to the nearest 5 cents.

6. EXCESS FARES

An employee who in the normal course of employment is not required to travel to different locations for the performance of his/her duties, but with the knowledge and approval of the employer, is required for short periods to attend work at a location other than his/her regular place of employment shall be paid such reasonable additional fares necessarily incurred.

PROVIDED that no employee shall be entitled to the benefits of this paragraph for more than three months in any one continuous period.

7. REQUIRED USE OF EMPLOYEE'S MOTOR VEHICLE

(a) Required user category

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.

Kilometreage travelled on duty in a financial year	Cents per kilometre	
	Rate 1	Rate 2
First 10,000 kilometres	71.81	61.76
Any additional kilometres	38.06	33.03

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 of 30 June.

(b) Occasional user category

(i) Where an employee is not required to provide a private motor vehicle for official use as prescribed in subclause (a) of this clause 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 rates as set out.

Kilometreage travelled on duty in a financial year	Cents per kilometre	
	Rate 1	Rate 2
First 10,000 kilometres	47.87	41.17
Any additional kilometres	25.37	22.02

(ii) 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 2 variations for the first 10000 kilometres travelled shall be calculated in accordance with the formula as set out in subclause (a) and subclause (b)(i) of this clause.

(iii) 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 to travel a greater distance in that year.

(iv) For the purposes of subclauses (a) and (b)(i) of this clause, the rates specified therein are to apply as follows:

Rate 1 applies to motor vehicles generally recognised as having an engine capacity of 2:0 litres or more and include rotary engines.

Rate 2 applies to motor vehicles generally recognised as having an engine capacity of less than 2:0 litres.

(v) In addition the allowances as specified in this table shall be paid to employees:

(1) Where stationed in Category R as provided in Clause 1 – District Allowances, subclause (b) thereof - $24.70 per month plus $9.90 per 1600 kilometres travelled on duty.

(2) Where stationed in Category B as provided in Clause 1 – District Allowances, subclause (b) thereof - $16.40 per month plus $9.90 per 1600 kilometres travelled on duty.

(3) Where authorised to use a utility, four wheel drive motor vehicle or any other special type of motor vehicle approved by the employer concerned - $9.90 per month.

(4) Where authorised to use a trailer attached to a motor vehicle 2.97 cents for each kilometre travelled while on duty with the trailer attached.

(5) Where authorised to use a motor vehicle on work involving the regular carrying of heavy equipment - $9.90 per month.

(6) Where authorised to use a motor cycle - 9.67 cents for each kilometre travelled on duty.

(c) Where an employee is required to provide a private motor vehicle in accordance with subclause (a) of this clause 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.

(d) Where a part-time employee is eligible for any payment under subclause (c), 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.

(e) 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.

(f) A kilometreage allowance in excess of or at variance with the rates set forth in Clause 8 – Required Use of Employee's Motor Vehicle of this part may be paid if, on the determination of the employer concerned, special circumstances exist which justify such excess or variation.

8. EXCESS TRAVEL – TEACHER APPOINTMENT AT TWO OR MORE LOCATIONS

(a) Where a teacher employed in the Tasmanian Polytechnic (other than a teacher appointed as a Relief Employee as defined in Clause 3 – Classification Definitions of Part III) is appointed to two or more campuses and is required to attend for duty at each campus on separate days, and is required to use own vehicle, the teacher shall be entitled to receive an excess travel allowance.

(i) This allowance shall only apply where the total distance travelled from the teacher's residence to a campus and return, other than the base campus (as defined), is at least twenty kilometres greater than the distance travelled from the residence to the base location and return.

(ii) Excess travel shall be paid on the distance from the teacher's residence to the campus other than the base campus and return, less the distance travelled from the teacher's residence to the base campus and return.

(b) The allowance shall not be paid beyond the date that the employee ceases to be appointed and travels to two or more campuses.

(c) The rates payable for excess travel under this subclause shall be the kilometreage allowance as set out in Clause 8 – Required Use of Employee's Motor Vehicle of this Part.

(d) For the purposes of this provision, the base campus shall be defined as the campus at which the major proportion of the appointment occurs. Where an appointment is evenly divided between two or more campuses, the campus nearest to the employee's residence shall be designated as the base campus.

9. LIVING AWAY FROM HOME ALLOWANCES

(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

Accommodation Venue	Overnight Accommodation Rate
Adelaide	$157.00
Brisbane	$201.00
Canberra	$165.00
Darwin	$189.00
Melbourne	$173.00
Perth	$233.00
Sydney	$183.00
Tasmania	$132.00

Meal Allowances
(Preceding or following an overnight absence)

Breakfast	Applicable 7.00am – 8.30am	$24.35
Lunch	Applicable 12.30 – 2.00pm	$27.35
Dinner	Applicable 6.00pm – 7.30pm	$46.70

Incidental Expenses

Payable per overnight stay:	$17.85

(2) The rates contained in the tables above are derived from the Australian Taxation Office Taxation (ATO) Determination TD2012/17, 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 subclause 9(a)(iii)(1) above is to be paid the Incidental Expenses Allowance as prescribed in subclause 9(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 9(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 to be entitled to the benefits of this subclause for more than three months in any one continuous period.

PART V - HOURS OF DUTY

1. HOURS OF DUTY

(a) The ordinary hours of work for a full-time employee shall be 35 per week, or 70 hours per fortnight, excluding time allocated for meal breaks. A part-time employee's ordinary hours of work shall be a lesser number of weekly hours than is applicable to an equivalent full-time employee.

(b) Employees shall take a lunch break each working day of not less than 30 minutes and not more than one hour between the hours of 12 noon and 2.00 pm,

PROVIDED that where a member of the teaching staff is rostered to perform supervisory duty during the lunch break, such time shall be included in the fortnightly hours of attendance.

(c) Members of the teaching staff at a campus shall be in attendance every day, at least 15 minutes before beginning lessons.

(d) Payment for excess hours

(i) Payment for excess hours can only be made when a teacher is required to teach in excess of the annual teaching load, as provided for in the Post Year 10 Teaching Staff Industrial Agreement. The rate shall be calculated in accordance with the following formula:

$$R = \frac{S \times PR}{52 \times 31.5}$$

(ii) For the purposes of this formula:

• 'R' means the hourly rate of payment for actual teaching time performed to the nearest quarter hour; and

• 'S' means the annual salary of the teacher; and

• '52' is the number of weeks in a year; and

• '31.5' is the number of working hours in a teaching week, reduced from 35 to compensate for the necessary incidental work including preparation related to classes taught in the hours of duty in excess of normal hours of duty; and

• 'PR' = 3/2 for Monday to Saturday; and

• 'PR' = 2 for public holidays and Sundays.

(iii) Attendance hours shall be spread as evenly as possible over the period Monday to Friday inclusive.

PART VI - LEAVE AND HOLIDAYS WITH PAY

1. BEREAVEMENT LEAVE

The provisions of this clause apply to permanent and fixed-term employees but do not apply to casual and relief employees. The entitlements of casual and relief 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 will 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.

A sessional employee is entitled to bereavement leave with pay, pro-rata in proportion to sessions worked.

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

(d) **PROVIDED** that no payment will be made in respect of the employee's rostered 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 and Relief Employees

(i) Subject to the evidentiary requirements in clause (e), casual and relief 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 will agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to two days per occasion. The relief employee is not entitled to any payment for the period of non-attendance.

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

2. DEFENCE FORCE LEAVE

(a) Subject to subclause (b), a permanent employee who is a member of any of Australia's Defence Forces is entitled to leave of absence to attend one compulsory training camp or session in any year.

(b) The total period of leave of absence granted to a permanent employee under subclause (a) should not exceed 10 working days in any one year, except with the approval of the employer.

(c) A permanent employee who is granted leave under this subclause is, if that employee's salary exceeds Defence Force service pay, entitled to payment of salary equal to the difference between the two rates of payment.

(d) Where a permanent employee who is on recreation leave attends a compulsory training camp or session as a member of Australia's Defence Forces, she/he is entitled to be paid her/his full salary regardless of any pay that she/he has received from the Defence Forces.

(e) The foregoing also applies to fixed-term employees who have completed three month's service but, subject to the Commonwealth, if an employee's employment expires before the conclusion of the period for which her/his attendance at the training camp or session is required, leave shall be granted under this subclause only to the date of that expiration.

3. HOLIDAYS WITH PAY

Employees are entitled to the following as holidays with pay:

(a) New Year's Day, Australia Day, Labor Day, Good Friday, Easter Monday, Easter Tuesday, Anzac Day, Queen's Birthday, Show and Cup Day holidays (as gazetted

for the particular localities), Hobart Regatta Day (South of Oatlands), Recreation Day (where Regatta Day is not observed), Christmas Day and Boxing Day; or such other days as may be deemed to be publicly observed as the abovementioned holidays with pay.

PROVIDED that if any other day is by State Act of Parliament or State proclamation, substituted for any of the above mentioned holidays with pay, the day so substituted will be observed.

(b) Notwithstanding the provisions contained in subclause (a) employees may be required to attend work during any such holiday with pay, if the employer believes that it is in the public interest to open the agency or any section of it for the day or a portion of the holiday with pay.

Further this clause does not affect the right to pay employees a loading in lieu of holidays with pay in accordance with award provisions to that affect.

(c) Notwithstanding the entitlement to holidays with pay as prescribed in subclause (a), employees shall not be entitled to holidays with pay in lieu of those days that fall during a period of compulsory leave.

4. JURY SERVICE

(a) An employee, who is called for jury service is allowed the necessary leave of absence, on full pay, and is not to be paid jury fees but only out-of-pocket expenses allowed by the Crown.

(b) An employee who is called for jury service must advise the supervising officer as soon as possible that the employee is required for jury service.

(c) Where an employee is called upon for jury service and is on approved paid leave, she/he shall not lose the benefit of that leave, and will be credited with the time occupied with the jury service and shall be permitted to take such leave with pay at the end of the jury service or at a later date according to the needs of the employer.

(d) A sessional employee who is called for jury service is allowed the necessary leave of absence with pay in accordance with sessions worked and is not to be paid jury fees, but only out-of-pocket expenses allowed by the employer, unless the jury service falls on a day that sessions of teaching are not undertaken or the jury fees are more than the loaded hourly rate.

The sessional employee must advise the employer as soon as the notification that the employee is required for jury service is received.

5. 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 medial 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 12weeks 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) (viii) of this Part~~,~~

(iii) The employee may elect to take payment for the paid period of the absence,

- prior to the commencement of the leave or;
- over 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.

6. PERSONAL LEAVE

The provisions of this clause apply to permanent and fixed-term employees but does not apply to casual, relief and sessional employees. The entitlements of casual, relief and sessional employees are set out in clause (n).

(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) Personal leave entitlement for employees

The entitlement to personal leave for an employee who is employed on a permanent full-time basis is twenty working days for the first year of service and ten working days for each subsequent year of service.

The employer may, at any time before or after an employee has exhausted the personal leave to which she/he is entitled, grant to that employee a further entitlement of paid personal leave which shall not exceed 20 working days.

The employer may grant to an employee leave of absence for personal leave without pay for such periods, not exceeding one year in the aggregate as the employer deems appropriate.

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) 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.

(d) Personal Leave for Personal Injury or Sickness

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.

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

(i) An employee is entitled to use up to 10 days personal leave each year to care for members of their immediate family or household who are sick 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.

(iii) By agreement between an employer and an individual employee, the employee may access an additional amount of their accrued personal leave for the purposes set out in clause (h)(i), beyond the limit set out in clause (h)(i). In such circumstances, the employer and the employee will agree upon the additional amount that may be accessed.

(f) 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.

(g) Employee Must Give Notice

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

(i) 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.

As far as practicable 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 sick 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.

(h) Evidence Supporting Claim

Subject to subclause (i) 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) When 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) When 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, the employee shall provide a statutory declaration made by the employee, stating the illness of the person concerned and where applicable that such illness or unexpected emergency requires care by the employee.

(i) 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 five working days without a medical certificate in any personal leave year.

(j) 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 as prescribed, 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.

(k) 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.

(l) 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 sick and require care and support or who require care due to an expected emergency. The employer and the employee will 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 (g) and (h) are met.

(m) Communicable disease

Employees in campuses who contract a communicable disease or illness specified by the National Health and Medical Research Council and on the department's intranet site shall absent themselves from duty and be granted leave with pay, without prejudicing or affecting their personal leave entitlements.

(i) The illnesses or diseases listed on the intranet site are classified as specific communicable diseases. Other diseases or illnesses may be added for the duration of a particular epidemic.

(ii) Applications for Communicable diseases leave must be clearly marked to that effect, and accompanied by a medical certificate from a qualified medical practitioner which identifies the disease or illness.

(iii) The employer must consult with the Union prior to providing written notice to employees of an intention to vary the list of diseases on the intranet site.

(n) Casual, Relief and Sessional Employees – Caring Responsibilities

(i) Subject to the evidentiary and notice requirements in subclauses (g) and (h) casual, relief and sessional 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 sick 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 will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to two working days per occasion. A relief employee is not entitled to any payment for the period of non-attendance.

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

7. RECREATION LEAVE

(a) Entitlement

(i) An employee is entitled to a maximum of 11 weeks (55 days) recreation leave for each completed year of service.

(ii) The recreation leave entitlement is calculated in accordance with the following formula:

$$\frac{\text{number of weeks worked} \times 11}{41} \text{ less leave taken.}$$

PROVIDED that this formula will not change where the flexible component of recreation leave is reduced in accordance with Subclause (b)(ii) of this award.

(iii) Where recreation leave is credited in advance the employee is required to complete sufficient work to earn that leave and should insufficient work be completed the employee will be required to repay any leave debit.

(iv) Recreation Leave is comprised of 4 weeks (20 days) of compulsory leave and 7 weeks (35 days) of flexible leave for each completed year of service.

(v) Compulsory leave is to be taken at the following times:

(A) 17 days commencing on 24 December (or on the Friday prior to 24 December where the 24th is on a weekend) inclusive of any public holidays; and

(B) 3 days commencing after Easter Tuesday each year.

(vi) Flexible leave can be taken at any time during the year in a manner as agreed between the employer and the employee, subject to operational and business requirements of a particular team.

(vii) Flexible leave is to be taken in the calendar year of accrual and is not to be carried forward to the next leave year other than in exceptional circumstances where the employee is required to do so at the request of the Head of Agency.

(viii) Where an employee is injured or becomes ill while absent on flexible leave for a period of three (3) or more consecutive days the employer may, on receipt of a written application, credit the employee with a period of flexible leave which is equal to the number of working days during which the employee was injured or ill if:

(A) the employee has sufficient sick leave credits to enable the number of working days during which the employee was injured or ill to be deducted; and

(B) a medical certificate from a registered health practitioner is provided relating to that illness or injury.

For the purpose of this subclause, registered health practitioner is as provided under the Tasmanian State Service Award.

PROVIDED that the re-crediting of flexible leave will not automatically entitle an employee to carry forward any unused flexible leave to the next leave year.

(b) Purchase of Flexible Leave

(i) The flexible component of recreation leave may, following mutual agreement between the employer and the employee, be reduced to meet the needs of the employer.

(ii) Employees who enter into an agreement to reduce the flexible component of their recreation leave shall be:

(A) compensated for each week of leave foregone at a rate that is calculated on their annual salary per week, exclusive of all allowances;

(B) required to complete an increased annual teaching load as a result of proceeding on less flexible leave and there will be no entitlement to excess hours as outlined under Part V, Clause 1(d) of this award unless the increased annual teaching load, as a result of proceeding on less flexible leave, is exceeded.

PROVIDED that any such agreement shall be in writing and signed by both parties to the agreement, which will include details of the additional salary that will be received and the increased annual teaching load that is to be undertaken as a result of proceeding on less flexible leave.

PROVIDED FURTHER that an employee may rescind such agreement by notifying the employer in writing of their intention to do so. Any rescission will result in flexible leave being re-credited after the employee has repaid the relevant proportion of compensation previously paid in lieu of the leave.

PROVIDED ALWAYS that such arrangements are to be entered into on an annual basis.

(c) Work During Periods of Compulsory Leave

(i) An employee may, following mutual agreement between the employer and the employee, continue to undertake duties during periods of compulsory leave.

(ii) Employees who enter into an agreement to undertake duties during periods of compulsory leave shall either be:

(A) re-credited with the equivalent period of leave which is to be taken in that calendar year; or

(B) compensated for any leave foregone at a rate that is calculated on their annual salary per week.

(d) Payment of Recreation Leave on Termination

(i) Where the employment of an employee is terminated by resignation, retirement, dismissal, death or otherwise, and the employee's period of employment at the time of separation exceeds 20 consecutive working days, there shall be paid to the employee an allowance in lieu for pro-rata recreation leave, calculated in accordance with the formula outlined in subclause (a)(ii) above.

(ii) Any pro-rata recreation leave payment may be reduced by one week (5 days) should an employee fail to provide the required notice in Part II, Clause 5 of this award, in writing, of that employee's intention to resign.

(e) All employees will retain their existing recreation leave entitlements and arrangements including the time of taking of leave. Changes will only be made to the time of taking leave by agreement between the employer and the employee in accordance with the provisions of this clause.

RECREATION LEAVE (NON TEACHING EMPLOYMENT)

(f) Recreation Leave shall be twenty working days per year, which shall include any days, not being Holidays on which State public offices are closed during the period commencing on Christmas Day and ending on the day after New Year's Day.

(g) Employees:

(i) Who are regularly required to perform duties outside normal working hours; or

(ii) whose services are on call outside working hours;

may be granted recreation leave in addition to that provided for in sub-clause (f) of this clause.

(h) The total number of days of recreation leave an employee may have accumulated at the end of a leave year shall not exceed the recreation leave the employee is entitled to for two years leave.

However, if such an entitlement is exceeded due to the requirements of the employer, the employer shall make arrangements for that leave to be taken during the next leave year, and the employee shall take that leave.

(i) Where an employee is injured or becomes ill while on recreation leave, the employer, on receipt of a written application by or on behalf of the employee, shall deem the leave to be personal leave, and credit the employee with the same number of days as recreation leave.

PROVIDED that any application by or on behalf of the employee is accompanied by a certificate by a legally qualified medical practitioner, or a statutory declaration, in relation to the injury, or illness.

(j) Where the leave year of an employee includes employment under conditions of both subclause (a) (ii) and (f) the period under subclause (a) (ii) shall be calculated in accordance with the subclause (a) (ii), where the number of weeks worked is less the aggregate number of weeks of non-teaching employment.

8. SPECIAL LEAVE

The employer may grant to an employee leave with pay:

(a) in the event of the serious illness of a near relative for a period not exceeding three working days; this leave is in addition to personal leave as provided for in Clause 6 – Personal Leave of Part VI.

(b) for the purpose of representing the State in a sport for a period not exceeding five working days in any year;

(c) for the purpose of representing Australia in a sport for a period not exceeding ten working days in any year;

(d) to attend any court of law when subpoenaed;

(e) to participate in emergency service activities authorised by the employer.

PART VII – CONSULTATION AND DISPUTE RESOLUTION

1. AVOIDANCE AND SETTLEMENT OF DISPUTES

(a) In the event of a dispute arising in the workplace, the procedure to be followed to resolve the matter will be as follows:

(i) The teacher and his or her supervisor will meet and confer on the dispute matter; and

(ii) If the dispute is not resolved at that meeting, the parties will arrange for further discussions between the teacher plus his or her nominated representative, if any, and senior management.

(iii) At any time during (a)(i) and (a)(ii), the teacher may choose to be represented by the relevant union delegate/official or other employee representative.

(b) If the dispute matters cannot be resolved by the procedure prescribed by subclause (a), discussions will be held between representatives of the Head of Agency and the Union or another nominated representative for the teacher.

(c) If the dispute matter cannot be resolved as prescribed by subclause (a) and (b) it may be referred to the Tasmanian Industrial Commission.

(d) While the parties attempt to resolve the matter, work will continue as normal unless a teacher has a reasonable concern about an imminent risk to his or her health and safety.

2. PLANNING COMMITTEE

A planning committee may be established in a campus to advise and assist with strategic planning within that campus.

3. WORKPLACE REPRESENTATIVE TRAINING

A workplace representative shall be entitled to and the employer shall grant, up to two days' leave with pay each year, non-cumulative, to attend courses on the following conditions:

(a) the scope, content and level of the courses are directed to the enhancement of the operation of the settlement of dispute/dispute resolution procedure;

(b) reasonable notice is given by the union and the workplace representative;

(c) the taking of leave is arranged having regard to the operational requirements of the employer;

(d) the workplace representative taking such leave shall be paid at the rate they would be paid had they not attended such training;

(e) leave of absence granted pursuant to this clause shall count as service for all purposes of this award.

4. FLEXIBILE WORKING ARRANGEMENTS

(a) Notwithstanding anything contained in this award, but subject to the provisions of this clause, an agreement may be entered into between the employer and all or some of the employees engaged by the employer.

(b) An agreement shall be subject to the following requirements:

(i) The majority of employees affected by the change must genuinely agree to the change.

(ii) The agreement taken as a whole shall not confer a lesser benefit to any employee than is available under the award.

(iii) The Australian Education Union shall be advised by the employer of an intention to commence discussions with employees on an agreement under this clause.

(iv) The AEU must be a party to the agreement.

(v) The AEU shall not unreasonably oppose any agreement.

(c) An enterprise agreement shall be signed by the parties, being the employer and the union and contain the following:

(i) The term of the agreement.

(ii) The parties covered by the agreement.

(iii) The classes of employees covered by the agreement.

(iv) The means by which a party may retire from the agreement.

(v) The means by which the agreement may be varied.

(vi) Where appropriate the means by which any dispute arising in respect to the agreement may be resolved.

(d) Any agreement that seeks to vary a provision of this award shall be referred to the Tasmanian Industrial Commission.

Tim Abey
ACTING PRESIDENT

20 August 2012