

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s23 application for award or variation of award

Minister administering The State Service Act 2000

(T15044 of 2023)

DEPUTY PRESIDENT N ELLIS

HOBART, 5 JULY 2023

Award variation – standardised TSS clauses inserted - definitions to include fixed-term relief employee - Instructional Load Clarification – allowances -attendance pre and post school terms - salary progression adjustments – consent application - consent order issued - operative date for Part 1, clause 7, Part II, clauses 1, 2, 6 and 7, and Part III, clause 4 (Classification bands – relief Teachers) and clause 6 Higher Duty Allowance effective from 27 June 2023 - operative date for Part III - Clause 4 Classification Band is the first full pay period commencing on or after 1 March 2023 - operative date for the remaining clauses (TSS standard clauses) is from the first full pay period on or after 1 March 2023.

ORDER BY CONSENT -

TEACHING SERVICE (TASMANIAN PUBLIC SECTOR) AWARD

**No. 2 of 2023
(Consolidated)**

THE FOLLOWING CLAUSES ARE VARIED AND THE AWARD IS CONSOLIDATED:

IN PART I – APPLICATION AND OPERATION OF AWARD

CLAUSE 4 – DATE OF OPERATION

CLAUSE 6 – SUPERSESSION

CLAUSE 7 – DEFINITIONS

IN PART II – EMPLOYMENT RELATIONSHIP AND RELATED MATTERS

CLAUSE 1 – EMPLOYMENT CATEGORIES

CLAUSE 2 – INSTRUCTION LOAD

CLAUSE 6 – TEACHER YEAR

CLAUSE 7 – TEACHER REGISTRATION

IN PART III – SALARIES AND RELATED MATTERS

CLAUSE 4 – CLASSIFICATION BANDS

CLAUSE 6 – HIGHER DUTIES ALLOWANCE

CLAUSE 10 – SUPERANNUATION (NEW CLAUSE)

IN PART VI – LEAVE AND HOLIDAYS WITH PAY

CLAUSE 1 – COMPASSIONATE AND BEREAVEMENT LEAVE

CLAUSE 3 – PARENTAL LEAVE

CLAUSE 5 – PERSONAL LEAVE

CLAUSE 10 – FAMILY VIOLENCE LEAVE

CLAUSE 11 – ABORIGINAL CULTURAL LEAVE (NEW CLAUSE)

CLAUSE 12 – DISABILITY LEAVE (NEW CLAUSE)

CLAUSE 13 – FOSTER AND KINSHIP CARE LEAVE (NEW CLAUSE)

CLAUSE 14 – GENDER AFFIRMATION LEAVE (NEW CLAUSE)

CLAUSE 15 – SURROGACY LEAVE (NEW CLAUSE)

PART I – APPLICATION AND OPERATION OF AWARD

1. TITLE: Teaching Service (Tasmanian Public Sector) 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 and who occupy positions whose duties are encompassed by the classification definitions of this award.

4. DATE OF OPERATION

This award shall come into operation from 27 June 2023.

5. 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;

- (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.

6. SUPERSESION

This award supersedes the Teaching Service (Tasmanian Public Sector) Award No. 1 of 2023.

7. DEFINITIONS

College means one of the following colleges: Claremont College, Elizabeth College, Hellyer College, Hobart College, Launceston College, Newstead College, Rosny College, The Don College.

Department means Department of Education.

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

Expression of interest means an application by an employee in response to a notification by the employer of the existence of a fixed-term vacancy within the Department.

Relief Employee' means '**Fixed-term relief employee** as defined in Part II, Clause 1

School means a worksite established by the Department for the purpose of providing instruction or support of instruction.

School and college year means the total number of working days in each calendar year that schools and colleges are open for students.

Secretary means the Head of the Department of Education.

Special school means a school maintained by the State for the provision of special education (which is the process of providing additional services for any child or other person whose educational progress would be seriously endangered without special help).

Teaching staff means employees who occupy positions classified under this award as Teacher, Advanced Skills Teacher, Advanced Skills School Psychologist, Assistant Principal, Principal, School Psychologists, School Psychologist (Behavioural) and Senior School Psychologists.

Union means the Australian Education Union, Tasmanian Branch.

PART II EMPLOYMENT RELATIONSHIP AND RELATED MATTERS

1. EMPLOYMENT CATEGORIES

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

Fixed-Term employee 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 for specific duties over a period of time determined by the employer.

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.

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

Permanent Part-time employee means a person other than a full-time or relief 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.

Fixed Term relief employee means a person engaged to teach on an irregular basis by the employer as and when required but does not include any person employed on a part-time, full-time or permanent basis.

2. INSTRUCTIONAL LOAD

- (a) Instructional load means timetabled face-to-face (or online) teaching time with students such as; whole or part-class teaching, intervention groups, home groups, assemblies and fitness and/or wellbeing programs, or the equivalent activities.
- (b) For the purpose of this definition additional activities that are voluntarily undertaken by teaching staff and are not approved variations of their instructional load will not form part of the instructional load.
- (c) The instructional load in each fortnight for a full-time teacher classified within Band 1, shall be no more than:
 - (i) Primary staff – 42 hours per fortnight;
 - (ii) Secondary staff – 40 hour per fortnight;
 - (iii) Senior secondary (11-12) staff shall not exceed more than 700 hours per annum (equivalent of 35 weeks at 20 hours per week)
 - (iv) Every hour of instructional load (as defined) undertaken after 5.00 p.m. shall be counted as 1.5 hours towards an employee's fortnightly instructional load;
 - (v) Approved time spent after 5.00 pm by VET teachers on workplace visits for the purpose of student assessment will be credited at the rate of time and one half against the teacher's fortnightly instructional load.

- (d) Band 1 teachers who operate across three or more schools in a given week shall be entitled to additional self-directed time (SDT) equivalent to one hour per week, pro rata. All workplaces have equal responsibility for providing their portion of the additional self-directed time (SDT).
- (e) All Band 1 teachers are entitled to non-teaching time inside the hours of the school's provision of educational instruction eg. Between the start of the school day for student learning and the end of the school day, excluding recess and lunch break times.
- (f) A minimum of fifty percent of a Band 1 teachers non-teaching time shall be timetabled inside the hours of the school's provision of education instruction as self-directed time (SDT).
 - (i) SDT is time when teachers undertake work related activities at their own direction for the purpose of individual planning, preparation, assessment and communication with families.
 - (ii) SDT will not include reporting work or any direction to participate in collaboration meetings, professional learning communities, staff meetings, professional learning or the equivalent activities.
- (g) In addition to the above, all Band 1 teachers are entitled to a further two hours per fortnight (or pro rata) that is quarantined for SDT following the completion of the school day for education instruction subject to on-site requirements.
- (h) The supervision of students during on-site hours before the start of the school day commences and at the end of the school day, including bus duty, shall be shared by teaching and senior staff fairly, taking into consideration staff consultation and the roles and responsibilities of staff.
- (i) Band 1 teachers are to be available for attendance at staff meetings at the conclusion of the school day for a maximum of 100 hours per annum (pro rata).
- (i) Band 2 and Band 3 employees may be required to attend additional staff meetings, in accordance with their Statement of Duties (SOD).
- (ii) Provided that part of an employee's Professional Activity Days requirements may be allocated to providing additional staff meetings after school, up until 5.00pm. This will not be at the expense of self-directed non-teaching time.

3. NEW APPOINTMENTS AND PROMOTIONS

Except where otherwise specifically determined in this award, the commencing salary to a person or 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.

- (a) For the purposes of this clause a promotable position means duties classified higher than Band 1 Level 13.
- (b) For the purposes of this clause the promotion process means the advertising of a vacancy at the classification level of Band 2 or above, and the selection, on the basis of merit, of an employee to be assigned the classification and duties.

- (c) Full teacher registration as certified by the Teachers Registration Board is an essential requirement for appointment and/or promotion and/or the assignment of duties to a vacancy classified at a promotable level.
- (d) The essential requirement to hold full teacher registration for out of school based promotable vacancies or duties is at the discretion of the employer.
- (e) Band 2 and Band 3 school psychologists do not require full teacher registration for appointment and/or promotion and/or the assignment of duties.

4. GRADUATE ENTRY LEVEL

The graduate entry level for four (4) and five (5) year trained teachers is Band 1 Level 5. Following appointment, 4 and 5 year trained teachers progress through the salary scale as per the existing Award provisions.

5. PROFESSIONAL DEVELOPMENT

- (a) Without limiting its nature and extent professional development includes award bearing courses; agreed activities arising from the appraisal process; school/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.

6. TEACHER YEAR

- (a) Teaching staff in schools other than colleges shall, in addition to when schools are open for students, be in attendance for:

- one day prior to the students' first school day of each year; and
 - one day after the students' final school day of the year, except that teachers in schools in isolated areas (as defined) shall leave on the same day as students.
- (b) In respect of colleges, teaching staff shall commence and complete the teacher year one week earlier than teaching staff in other schools.
- (c) Teaching staff in schools and colleges shall be in attendance for the equivalent of an additional five days per year. These five additional days may be utilised for such purposes as professional development, curriculum development, school planning or for such other purposes as determined by the employer.
- (d) Senior School Psychologists shall be in attendance for two weeks in addition to attendance days in (a) or (b) of this clause, at times mutually agreed to by the employer and employee.
- (e) From January 2024, teaching staff in schools other than colleges shall, in addition to when schools are open for students, be in attendance for:
- three days immediately prior to the students' first school day of each year; and
 - one day after the students' final school day of the year, except those teachers in schools in isolated areas (as defined) shall leave on the same day as students.

7. TEACHER REGISTRATION

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

In accordance with the *Teachers 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 employee is not currently registered as detailed above, the employee will not be paid salary until a current registration certificate is issued.

This clause does not apply to Education Support Specialist roles.

8. NOTICE OF TERMINATION

- (a) Notice of termination by employee
- Employment is to be terminated by an employee by the giving of two weeks' notice to the employer or by the forfeiture of two weeks wages as the case may be.
- (b) Notice of termination by employer
- (i) Employment is to be terminated by the employer by the giving of notice in accordance with the following:
- (ii)
- | <u>Period of Service</u> | <u>Period of Notice</u> |
|---|-------------------------|
| From commencement and up to the completion of 3 years | 2 weeks |
| 3 years and up over the completion of 5 years | 3 weeks |

5 years and over

4 weeks

- (iii) In addition to the period of notice provided an employee aged 45 years and older with 2 or more years of service is entitled to an additional week's notice.
- (iv) Payment in lieu of the period of notice must be made if the appropriate period of notice is not given or in circumstances where it is agreed the period of notice is to be waived and payment in lieu substituted.

(c) Summary Dismissal

The employer has the right to dismiss an employee for serious misconduct or serious neglect of duty in such circumstances salary is to be paid up to the time of dismissal only.

9. WORK, HEALTH AND SAFETY

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

(c) Extended absence from the workplace through illness or injury.

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

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

This subclause is part of a positive workplace culture is assisting the employee's return to the workplace.

Without limiting the employer's obligations, where an employee indicates the contact is counterproductive the principal/supervisor is to cease the approach.

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	Effective from FFPP on or after 1 March 2018	Effective from FFPP on or after 1 March 2019	Effective from FFPP on or after 19 August 2019	Effective from FFPP on or after 1 March 2020
	Salary	Salary	Salary	Salary
Band 1, Level 1	59,245	60,489	60,640	\$61,913
Band 1, Level 2	61,105	62,388	62,544	\$63,857
Band 1, Level 3	62,972	64,294	64,455	\$65,809
Band 1, Level 4	64,827	66,188	66,354	\$67,746
Band 1, Level 5	68,159	69,590	69,764	\$71,229
Band 1, Level 6	71,671	73,176	73,359	\$74,900
Band 1, Level 7	75,360	76,943	77,135	\$78,755
Band 1, Level 8	79,249	80,913	81,116	\$82,818
Band 1, Level 9	83,328	85,078	85,291	\$87,082
Band 1, Level 10	87,569	89,408	89,631	\$91,514
Band 1, Level 11	91,634	93,558	93,792	\$95,762
Band 1, Level 12	96,233	98,254	98,500	\$100,569
Band 1, Level 13	97,763	99,816	100,066	\$102,167
Band 2	102,689	104,845	105,108	\$108,386
Band 3 -Assistant Principal	114,927	117,340	117,634	\$120,103
Band 3 Principals Former Classification Methodology				

Band 3, Level 1	114,927	117,340	117,634	\$120,103
Band 3, Level 2	121,266	123,813	124,122	\$126,730
Band 3, Level 3	127,569	130,248	130,574	\$133,316
Band 3, Level 4	137,054	139,932	140,282	\$143,228
Band 3, Level 5	145,491	148,546	148,918	\$152,044
Band 3, Level 6	150,822	153,989	154,374	\$157,616
Band 3, Level 7	155,768	159,039	159,437	\$162,785
Band 3, Level 8	161,742	165,139	165,551	\$169,029
Band 3 Principals New Classification Methodology				
Band 3, Level 1	121,820	124,378	124,689	\$127,307
Band 3, Level 2	129,873	132,600	132,932	\$135,724
Band 3, Level 3	137,921	140,817	141,169	\$144,134
Band 3, Level 4	145,975	149,040	149,413	\$152,551
Band 3, Level 5	154,028	157,263	157,656	\$160,967
Band 3, Level 6	162,081	165,485	165,898	\$169,383
Band 3 – Non School Based Principals				
Band 3, Level 1	102,689	104,845	105,108	\$107,314
Band 3, Level 2	109,248	111,542	111,821	\$114,169
Band 3, Level 3	114,927	117,340	117,634	\$120,103
Band 3, Level 4	123,473	126,066	126,381	\$129,035
Band 3, Level 5	131,072	133,825	134,159	\$136,977
Band 3, Level 6	135,876	138,729	139,076	\$141,997
Band 3, Level 7	140,333	143,280	143,638	\$146,654

Band 3, Level 8	145,714	148,774	149,146	\$152,278
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2. SALARY PROGRESSION

- (i) Progression within Band 1 from one level to the next is to occur on the anniversary date of appointment predicated upon an assessment of the requirements established in the employee's performance management plan from the previous 12 months and certification that performance has been satisfactory.
- (ii) Performance for progression is determined through a performance management plan. The performance management plan must, as a minimum, contain:
 - (1) A listing of the performance outcomes and specific requirements for an individual employee according to the duties and responsibilities required by their role;
 - (2) Be reviewed annually and involve at least one discussion between the employee and their principal/supervisor;
 - (3) Involve a discussion concerning the employee's training and development needs;
 - (4) Include a clear statement of outcomes including whether the employee's performance has met the required standards and agreed training or development needs have been undertaken, whether salary progression will be approved and/or any action is being considered where underperformance is identified.
- (iii) The employee is not to be disadvantaged by any delay in the timing of the performance management plan discussion and progression within Band 1 from one level to the next is to occur on the employee's anniversary date if assessment is satisfactory and the employee is available to undertake the assessment.
- (iv) **PROVIDED** that the employer may defer or refuse to advance a teacher in the incremental scale if the employee does not meet the criteria, only if the following process has been undertaken:
 - (1) Where the performance of an employee is such as to make it probable that the next increment will not be recommended, the principal will counsel the employee and explain clearly the criteria that must be met and how the employee has failed to fulfil these criteria;
 - (2) As part of this counselling the principal must provide every opportunity through mentoring, guidance and support to assist employees to meet the criteria;
 - (3) The process outlined in subclauses (iv)(1) and (iv)(2) 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.

PROVIDED that 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.

PROVIDED FURTHER that 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.

PROVIDED ALWAYS that the process outlined in subclause (iv) must not in any way be utilised to replace the procedures for dealing with disciplinary or inefficiency matters.

3. CLASSIFICATION DEFINITIONS

Advanced skills School Psychologist means an employee assigned a classification of Band 2 who has progressed to this level through appointment or promotion and: :

- (a) who is registered as a psychologist within Tasmania in accordance with the provisions of the *Health Practitioner Regulation National Law (Tasmania) Act 2010*; or
- (c) who is employed to work with students and families and to provide supervision and leadership for School Psychologists; and
- (d) whose work, without limiting the nature and extent of it, may involve educational and psychological assessment and diagnosis; assisting Senior School Psychologists with the supervision and leadership of School Psychologists including professional learning, professional practice supervision and interagency liaisons and building capacity of school communities to improve students' access, participation and achievement.

Advanced skills teacher (AST) means those positions classified at Band 2. Progress to this level is through appointment or promotion. The duties are instructional and classroom-based with employees demonstrating exemplary teaching practice. The statement of duties will define any additional curriculum and administrative responsibilities for a particular position.

Without limiting their nature and extent the additional responsibilities may involve the employee in advising the principal on the management of a particular sector of the school or college; providing staff leadership and supervision; counselling and administrative duties.

Assistant principal means those positions classified at Band 3 described as assistant principal positions. Progress to this position is by appointment or promotion.

This position will embrace the peak classification of the advanced skills teacher concept as well as defining positions of assistant principal. The position description will define any additional curriculum and administrative responsibilities for a particular position. Without limiting their nature and extent, the additional responsibilities may involve the employee in assisting the principal in the general management and administration of a school or college, and to act for the principal as required.

Certificated teacher means a teacher who has satisfactorily completed an approved course of teacher training at an approved teachers' college, university, college of advanced education or institute and who is academically qualified for the award of the Tasmanian Teachers' Certificate and shall include a two, three, four or five-year trained teacher.

Education officer means an employee appointed as such who is employed in one of the service branches of the Department, who holds either:

- (a) the qualifications for appointment as a three or four-year trained teacher as defined in this award; or

- (b) a degree or diploma, in an approved course of study, of a recognised university, college of advanced education, technical college or institute plus a wide practical experience in the field of work in which he/she is employed, where such qualification and practical experience are deemed by the employer to be of at least equivalent standard to that of a three-year trained teacher; or
- (c) specialist qualifications and practical experience in an appropriate field of work deemed by the employer to be at least equivalent of subclause (b).

Education Support Specialist means an employee who holds a Diploma Education Support, Associate Degree Education Support and/or relevant tertiary qualifications, and who provides support with the delivery of instructional practices and contributes to the improved learning outcomes of students, including high level instructional or differentiated support, small group work and student supervision in a range of key areas involving Early Childhood Education, Literacy and Numeracy, Special Education and Behavioural Support.

Four-year trained teacher means a certificated teacher who:

- (a) has satisfactorily completed a four-year course at an approved teacher training institution; or
- (b) is a graduate of an approved university 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.

Principal refers to those positions in Band 4 which are described as principal positions and which are required to take charge of the administrative and educational program of a school or college. Progression shall be through appointment or promotion and shall be in accordance with the classifications as set out in Clause 4 – Classification Bands of this Part.

Principal education officer means a certificated teacher who holds the requirement for appointment as an Education Officer, and who in addition is responsible for directing the activities in a service area.

School Psychologist means an employee:

- (a) who is registered as a psychologist within Tasmania in accordance with the provisions of the *Health Practitioner Regulation National Law (Tasmania) Act 2010*; or
- (b) who possesses a degree with a qualification in psychology which will enable registration following a period of supervised practice as a School Psychologist; and
- (c) who is employed to work with children and students in schools, Child and Family Learning Centres and colleges; and
- (d) whose work, without limiting the nature and extent of it, may involve undertaking intellectual assessments; diagnosing learning difficulties; establishing remedial programs; counselling students; advising teachers; and liaising with parents.

School Psychologist (Behavioural) means a school psychologist classified at Band 2 and who, as a behavioural specialist is appointed to the Respectful Schools Support Team.

Senior Education Manager/Director: the assignment of duties and responsibilities that provide leadership, management and oversight of significant education programs, initiatives or systems on a state-wide basis that have a direct impact throughout the Department.

Senior education officer means a certificated teacher classified at Band 2 who holds the requirements for appointment as an education officer, and who in addition is responsible for the development and implementation of a particular education program in a service area.

Senior School Psychologist means an employee assigned a classification of Band 3 who has progressed to this level through appointment or promotion and:

- (a) who is registered as a psychologist within Tasmania in accordance with the provisions of the *Health Practitioner Regulation National Law (Tasmania) Act 2010*; and
- (b) whose work, without limiting the nature and extent of it, and in addition to undertaking some case work and demonstrating exemplary skills, is responsible for:
 - (i) administrative and supervisory duties connected with the provision and coordination of services provided by School Psychologists; and
 - (ii) providing a supportive service to schools, colleges, Child and Family Learning Centres and families who may be experiencing difficulty managing the learning, behavioural and/or emotional problems of children.

Teacher means an employee holding one or more of the following qualifications:

5-year trained;

4-year trained;

3-year trained;

2-year trained;

uncertificated;

for the purpose of teaching students Kindergarten to Grade 12 and who is classified within Band 1.

The duties are predominantly those of an instructional nature, normally classroom- based.

Three-year trained teacher means a certificated teacher who:

- (a) has satisfactorily completed a three-year course of college training at an approved teachers' college, university, college of advanced education or institute; or
- (b) is a graduate of an approved university and holds in addition the education subjects for the Tasmanian Teachers' Certificate; or
- (c) possesses the qualifications required for a two-year trained teacher and in addition has completed further subjects at an approved institution which are deemed by the employer to qualify such teacher for three-year status; or
- (d) possesses qualifications deemed by the employer to be at least equivalent to either one or other of the above.

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

Two-year trained teacher means a certificated teacher who:

- (a) has satisfactorily completed at least a two-year course of teacher training at an approved teachers' college, university, college of advanced education or institute; or
- (b) holds qualifications deemed by the employer to be at least equivalent thereto.

Uncertificated teacher means a teacher who is not qualified as a certificated teacher.

Duties of Band 1 Level 13 employees

Teacher

- (a) The significant role of this position is an instructional one, classroom-based with some additional curriculum and administrative duties.
- (b) The nature of the duties and responsibilities shall be determined at the school/college level by negotiation between the Band 1 Level 13 employee and the school/college planning committee. If agreement cannot be reached, the principal shall make a determination which shall be final.
- (c) Where a Band 1 Level 13 employee is allocated non-teaching duties and responsibilities, then non-contact time shall be determined at the school/college level and provided from the individual school/college allocation.
- (d) Without limiting their nature and extent, the type of non-teaching duties that may be allocated are responsibility for a small subject department; coordination of the resources in a defined curriculum area; participation in the development of school policy and curriculum; and general education leadership and administrative duties.
- (e) A Band 1 Level 13 employee may also be responsible for trainee teachers from tertiary institutions; assisting in the induction programs for new teachers; and teaching or assisting teachers who teach students with learning difficulties/behaviour problems.

School Psychologist

- (a) The primary responsibilities of a School Psychologist with an assigned classification of Band 1 Level 13 is case-load work involving assessment, advisory and counselling services, with some additional training, induction, and professional development.
- (b) The nature of the duties and responsibilities will be determined at the regional (Learning Service) level by negotiation between the Band 1 Level 13 School Psychologist, the Senior School Psychologist and Advanced Skills School Psychologist. If agreement cannot be reached, the Student Support Leader will make the final determination.
- (c) Where a Band 1 Level 13 School Psychologist is allocated non-case-load duties and responsibilities, then non-case load time shall be determined at the regional (Learning Service) level.
- (d) Without limiting their nature and extent, the type of non-case-load duties that may be allocated include participation in the development and implementation of policy regarding School Psychology services; providing appropriate learning experiences for trainee students from tertiary institutions; providing an orientation/induction program for newly appointed School Psychologists; providing professional development activities for teachers and other employees; assisting schools in Learning Service on formulation and implementation of whole-of-school strategies

and policies concerning student behaviour and learning problems; coordinating and providing advice on resources to School Psychologists within the Learning Service.

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.

Classification Bands – Teachers, Principals, non-school based Principals and Senior Education Managers/Directors

Band 1

Level 1	Less than four year trained, initial appointment
Level 2	
Level 3	
Level 4	Four-year trained, initial appointment
Level 5	Five-year trained and B.Ed Hons., initial appointment
Level 6	Five-year trained omit this level
Level 7	Maximum level for employees with less than three years training
Level 8	
Level 9	Five-year trained omit this level; three-year trained spend two years on this level
Level 10	Three-year trained spend two years on this level
Level 11	
Level 12	
Level 13	Maximum level for registered teachers

An employee is eligible to progress to this salary point provided they have been at Band 1 Level 12 for 12 months or more and have full teacher registration as certified by the Teachers Registration Board (TRB). For those teachers who do not meet the progression criteria, progression may occur from the date of certification by the TRB of full teacher registration provided the individual has been at Band 1 Level 12 for 12 months or more.

Band 2 Advanced Skills Teacher or Senior Education Officer

Band 3 Assistant Principal of a school or college or Senior School Psychologist

Band 3A Principal – New classification methodology from 1 January 2013

Level 1	Less than 200 weighted enrolments
Level 2	210-350 weighted enrolments
Level 3	360-500 weighted enrolments
Level 4	510-750 weighted enrolments
Level 5	760-990 weighted enrolments
Level 6	1000 and above weighted enrolments

Band 3B Non School Based Principals

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

Band 3C	Principal – Former classification methodology
Level 1	Principal of a school with less than 101 students
Level 2	Principal of a school with 101 to 200 students
Level 3	(a) Principal of a special school with less than 50 students (b) Principal (District support school)
Level 4	(a) Principal of a school or college with 201 to 300 students (b) Principal of a special school with 50 or more students (c) Principal education officer 1
Level 5	(a) Principal of a school or college with 301 to 450 students (b) Principal education officer 2 (c) Manager (district support service) (d) Manager (state-wide support service)
Level 6	Principal of a school or college with 451 to 799 students
Level 7	Principal of a school or college with 800 to 999 students
Level 8	Principal of a school or college with over 999 students

Band 4 Senior Education Manager/Director

- Level 1
- Level 2

Principal classification methodology from 1 January 2013

Where any school principal position becomes vacant, either fixed-term or permanent, on or after 1 January 2013, the school shall be classified in accordance with the following:

Every student = 1 weighting
 Aboriginal students = 1.5 weighting
 SDR students = 2.5 weighting

Take the result of student enrolments weighted for Aboriginality and SDR and then weight again by the relevant OENI as follows:

<.30 = 1 weighting
 .30-.39 = 1.1 weighting
 .40-.49 = 1.2 weighting
 .50-.59 = 1.3 weighting
 .60-.69 = 1.4 weighting
 .70-.79 = 1.6 weighting
 .80 and above = 1.8 weighting

School/Principal Classification	Total Weighted Enrolments
Level 1	Less than 200
Level 2	210–350
Level 3	360–500
Level 4	510–750
Level 5	760–990
Level 6	1000 and above

PROVIDED that the employer may determine that a classification for a particular school should be at a higher level than the formula allows due to the school's complexity or exceptional circumstances.

PROVIDED FURTHER that the employer will consult with the Union regarding individual school classification as per the previous proviso.

PROVIDED FURTHER that the employer may appoint persons to out-of-school principal positions at any of the aforementioned levels of Band 3A depending upon the nature of the work and level of responsibility.

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

- (a) **PROVIDED** that employees with no previous relevant experience shall, on commencement of employment, be placed in Band 1 on the following salary level in accordance with their qualifications
 - (i) Less than four-year trained - Level 1.
 - (ii) Four-year trained - Level 4.
 - (iii) Bachelor of Education with Honours from the University of Tasmania - Level 5.
 - (iv) Five or more years trained - Level 5.
- (b) **PROVIDED ALWAYS** that subject to Clause 2 - Salary Progression of this Part, employees in Band 1 shall progress in the following ways to the stated levels:
 - (i) Employees with less than three years of training shall progress to a maximum Level 7 by annual incremental steps.
 - (ii) Employees with three years of training shall progress to Level 9 by annual incremental steps. Further progress to Level 11 shall be by incremental steps every two years.
 - (iii) Employees with four years of training shall progress to Level 13 by annual incremental steps.
 - (iv) Employees with a Bachelor of Education with Honours shall progress to Level 13 by annual incremental steps.
- (c) Employees who are at least five-year trained shall progress to Level 13 by annual incremental steps. However, they shall omit Levels 6 and 9.
 - (i) **PROVIDED FURTHER** 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.
 - (ii) **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.
 - (iii) **PROVIDED FURTHER** that an education officer on the determination of the employer, having regard to the tertiary qualifications and practical experience of such an employee, shall be classified within Band 1.

- (iv) **PROVIDED FURTHER** that an employee classified as a senior education officer shall be placed on Band 2 Level 3.

CLASSIFICATION BANDS – School psychologists and senior school psychologists

Band 1

- Level 4 Psychology qualification only initial appointment
- Level 5 Dual qualified or Masters initial appointment
- Level 6 Dual qualified or Masters omit this level
- Level 7
- Level 8
- Level 9 Dual qualified or Masters omit this level
- Level 10
- Level 11
- Level 12 Provided that school psychologists can progress to Band 1 Level 12 without full teacher registration as certified by the Teachers Registration Board but cannot progress to Band 1 Level 13 without Registration as a psychologist within Tasmania in accordance with the provisions of the *Health Practitioner Regulation National Law (Tasmania) Act 2010*.
- Level 13 Maximum level for all School Psychologists

Band 2 Advanced Skills School Psychologist

Band 3 Senior School Psychologist

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

- (d) **PROVIDED** that employees with no previous relevant experience shall, on commencement of employment, be placed in Band 1 on the following salary level in accordance with their qualifications:
- (i) Tertiary psychology qualification (excludes Masters) – Level 4
 - (ii) Masters in psychology – Level 5
 - (iii) Tertiary psychology and teaching qualifications (dual qualifications) - Level 5
- (e) **PROVIDED ALWAYS** that subject to Clause 2 - Salary Progression of this Part, employees in Band 1 shall progress in the following ways to the stated levels:
- (i) Employees with a tertiary psychology qualification only shall progress to Level 12 by annual incremental steps but cannot progress to Band 1 Level 13 without Registration as a psychologist within Tasmania in accordance with the provisions of the *Health Practitioner Regulation National Law (Tasmania) Act 2010*.
 - (ii) Employees with both tertiary psychology and teaching qualifications (dual qualifications) or Masters shall progress to Level 13 by annual incremental steps. However, they shall omit Levels 6 and 9.
 - (iii) A psychologist who commences employment on Level 4 and subsequently attains teaching qualifications and is in receipt of a salary which is less than the minimum salary for a dual qualified school psychologist, shall be advanced to that salary level increment applicable to a dual qualified school

psychologist and, thereafter, she/he shall receive increments in accordance with those applicable to a dual qualified school psychologist.

Part-time employees

- (a) 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.
- (b) Provided that in the case of part-time employees who are employed to teach exclusively after 5.00 p.m. the rate of pay will be on an hourly basis determined in accordance with the following formula:

Hourly rate = Salary per annum divided by (40 X 35)

where salary is determined in accordance with experience and qualifications as for full-time teachers. Teachers employed in accordance with these provisions shall be entitled to be remunerated for whatever hourly period of employment has been agreed between the employer and the teacher subject to the requirement that such part-time employees shall receive one hour of additional attendance time for every hour of classroom teaching.

- (c) **PROVIDED ALWAYS** that where such part-time employees are not able or willing to meet the requirement for additional attendance time, such teachers may be employed for a weekly period which includes less than one hour of additional attendance time for every hour of classroom teaching but no less than 40% of the additional attendance time normally required.

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:

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

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

For the purposes of this formula, salary means:

- Band 1 Level 1: Not holding the Tasmanian Teachers' Certificate (TTC).
- Band 1 Level 5: Less than four-year trained but holding the TTC or equivalent.
- Band 1 Level 7: Four-year (or more) trained, but holding the TTC or equivalent.

5. PAYMENT OF SALARY

- (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:

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

- (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, salary due to an employee:
- is 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.
- The salary due to an employee also includes any award prescribed higher duties allowance or district allowance to which she/he is entitled.
- (c) Salary 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 salary shall be by direct deposit into an account and financial institution nominated by the employee.
- (d) The employer shall not deduct from salary due to an employee any monies unless it is authorised in writing by the employee.
- (i) Where the salary due to an employee is not available by the close of business on the designated pay day, she/he shall notify the employer as soon as practicable. The reporting procedures should be known by the employees, and must allow the use of facsimile or email facilities.
- (ii) Following a report, as provided for in paragraph (i), the employer shall ensure that the salary due to an employee is made available to her/him within two working days of the report being made.
- (e) Should the salary due to an employee not be available as provided for in paragraph (ii), and it can be demonstrated that the non-receipt of salary 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 salary due to her/him for each

working day, or part thereof, until the salary due to her/him have been made available.

6. HIGHER DUTIES ALLOWANCE

- (a) Where an employee is requested to perform temporarily the duties of an employee with a higher classification for a period of 5 days or more the employee shall be paid a higher duties allowance for such period.

PROVIDED ALWAYS that an expression of interest may be called for on a school, college, district or state-wide basis. An expression of interest shall 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 one school term, and in all other cases where a superintendent, principal or supervising officer is unable to recommend the appointment of a suitable available person from within the school, college, unit or section.

- (b) 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.
- (c) 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.
- (d) 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.

- (e) For the purposes of this subclause reference to employee does not include fixed-term employees.
- (f) Where an employee receiving an allowance as prescribed in paragraph (a) proceeds on approved paid leave (excluding long service leave) or personal leave the employee will continue to receive that allowance provided that the duties continue after the period of such leave.
- (g) This clause does not apply to Education Support Specialist roles.

7. 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 the classifications in the award.

8. 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

Assessed Capacity (subclause (c)) %	Relevant Minimum Wage %
70	70
80	80
90	90

PROVIDED that the minimum amount payable must be not less than \$95 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 the 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 the Tasmanian Industrial Commission within ten 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 \$95 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).

9. TASMANIAN MINIMUM WAGE

In accordance with s.47 AB of the *Industrial Relations Act 1984* (the *Act*) the minimum weekly wage for an adult full time employee is the Tasmanian Minimum Wage as determined by the Tasmanian Industrial Commission pursuant to s.35 (10A) of the *Act*.

The Tasmanian Minimum Wage is \$812.60 per week operative from 1 August 2022.

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

10. SUPERANNUATION

In this clause:

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

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

"employee's fund" means the default fund or another complying superannuation scheme if the employee has so elected in writing.

(a) Superannuation arrangements for employees are prescribed in:

(i) the *Public Sector Superannuation Reform Act 2016* (PSSR Act); and

(ii) any regulations made for the purposes of the PSSR Act.

(b) An employee is to be a member of the default fund, unless the employee elects in writing to their employer to become a member of another complying superannuation scheme.

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

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

(i) **Accumulation Scheme Members**

- (1) For all periods of unpaid parental leave the employer will make fortnightly additional employer superannuation contributions on behalf of the employee to the employee's fund, at the following rate:

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

NRP – Normal rate of pay for employee as defined by Part VI, Clause 3(a)(x).

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

- (2) For a period of paid parental leave for which an employee, in accordance with a relevant Award, has decided to take the period of paid parental leave on half pay as provided for by Part VI – Leave and Holidays with Pay, Clause 3 Parental leave, subclause (c) Paid Primary Caregiver Leave, the employer will make fortnightly additional employer superannuation contributions on behalf of the employee to the employee's fund, at the following rate:

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

NRP – Normal rate of pay for employee as defined in by Part VI, Clause 3(a)(x).

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

- (3) After a continuous period of four weeks personal leave without pay and for the remainder of that employee's continuous period of personal leave without pay, the employer will make fortnightly additional employer superannuation contributions on behalf of the employee to the employee's fund, at the following rate:

$\text{EmpCont} = (\text{NSR}/26) \times \text{C\%}$ EmpCont – Additional Employer Superannuation Contribution

NSR – Normal salary rate for the employee as defined in by Part I – Application and Operation of the Award, Clause 7 Definitions.

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

- (4) For any period when an employee is absent from work either totally or partially due to a workers compensation claim and in receipt of a workers compensation weekly payment, the employer will make additional employer superannuation contributions on behalf of the employee to the employee's fund, at the following rate:

$$\text{EmpCont} = \text{WP} \times \text{C\%}$$

EmpCont – Additional Employer Superannuation Contribution

WP – Workers compensation weekly payment paid to employee

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

(ii) **Defined Benefit Scheme members**

- (1) For all periods of:

- (A) unpaid parental leave during which the employee elects not to pay, is taken to have elected not to pay or is precluded by the rules of the Defined Benefit Scheme from paying, their own contributions to the Scheme; and
- (B) paid parental leave for which an employee, in accordance with a relevant Award, has decided to take the period of paid parental leave on half pay as provided for by Part VI – Leave and Holidays with Pay, Clause 3 Parental leave, subclause (c) Paid Primary Caregiver Leave,

the employer will make fortnightly additional employer superannuation contributions on behalf of the employee for that period to the employee's fund, at the following rate:

$$\text{EmpCont} = [(\text{NRP}/26) - \text{AS}] \times \text{C\%}$$

EmpCont – Additional Employer Superannuation Contribution

NRP – Normal rate of pay for employee as defined in by Part VI, Clause 3(a)(x).

AS – Actual salary paid to employee while on parental leave

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

- (2) After a continuous period of four weeks personal leave without pay and for such time during the remainder of that employee's continuous period of personal leave without pay where the employee is precluded by the rules of the Defined Benefit Scheme from paying, their own contributions to the Scheme, the employer will make fortnightly additional employer superannuation contributions on behalf of the employee for that period to the default fund or to another complying superannuation scheme if the employee so elects in writing, at the following rate:

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

NSR – Normal salary rate for the employee as defined by Part I, Clause 7.

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

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

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

WP – Workers compensation weekly payment paid to employee

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

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 telephone, freight, fuel and depreciation costs.
- (b) Isolated area means any area, centre, district or location, embraced by the Commonwealth Taxation Zone B prescription, together with such areas, centres, districts or locations as may be approved by the Tasmanian Industrial Commission, including the following: King Island, Flinders Island, Cape Barren Island, Maria Island and Bruny Island.
- (c) Where an employee is stationed in one or the other of the following districts, the employee is to be paid an allowance in accordance with the rates:

Category R

Remote locations approved as such by the Tasmanian Industrial Commission including Bass Strait Islands, Maria Island, Bruny Island:

Employee with dependent relatives residing with them	\$4618.00
Other (no dependants)	\$2308.00

Category B

Locations under the Commonwealth Taxation Zone B prescription:

Employee with dependent relatives living with them	\$2308.00
Other (no dependants)	\$1154.00

Category S

Special locations as may be approved by the Tasmanian Industrial Commission:

Employee with dependent relatives living with them	\$1154.00
Other (no dependants)	\$578.00

- (d) Where a part-time employee is eligible for an allowance under paragraph (b) such allowance is not to be subject to any proportionate reduction.

PROVIDED that an employee who has dependants residing with the employee is to be regarded as an employee without dependants if their partner or spouse, of entitlement arising from employment, is in receipt of a district allowance.

PROVIDED FURTHER that a part-time employee working in more than one part-time role is not to receive an allowance in excess of that paid to a full-time employee.

- (e) District allowance rates are to be adjusted from 1 July each year in accordance with the annual percentage change between March of the previous year and March of the current year as specified in Australian Bureau of Statistics, tables 3 and 4 CPI:

2. LEAVE EXPENSES – BASS STRAIT ISLANDS

- (a) Where an employee is stationed on the Bass Strait Islands and enters upon leave of absence the employee is entitled, four times in every year, to be paid the return fare reasonably incurred by the employee for themselves and for any dependent member of their family resident on the Bass Strait Islands, travelling from their station to the nearest seaport or airport on the mainland of this State. Such travel is to 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:

Provided that:

- (i) an employee may in substitution for travel to the nearest seaport or airport in this State, travel to any other seaport or airport in this State or to Melbourne;
- (ii) for the purpose of obtaining emergency medical or dental treatment for an employee or dependent member of their family resident on the Bass Strait Islands an employee is to, by way of reimbursement, be paid the return fare reasonably incurred for travel from the employee's station to the nearest centre in this State, or to Melbourne, whereat such treatment can be obtained. Such reimbursement is to be in substitution for one or both of the return fares for the person concerned, more particularly set forth in this paragraph;
- (ii) 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. SPECIAL ALLOWANCE

An employee appointed to a position specified in this subclause may, on the determination of the employer, having regard to the qualifications of such employee and the duties and responsibilities of his/her position whilst holding such position, be paid an allowance at the appropriate rate.

Location	Rate Per Annum
	\$
Hagley Farm School Environment Centre	
Principal	8246
Teacher-in-charge	5506
Teacher	4131
Woodbridge Marine Study Centre	
Principal	8246
Teacher-in-charge	4131
Teacher	2843
Mt. Cameron Field Study Centre	
Teacher-in-charge	5506
Molesworth Environment Centre	
Teacher-in-charge	4131

PROVIDED that for the purpose of these allowances, no salary plus allowance payable to any teacher in a non-promotional position shall exceed the salary plus allowance (if any) payable to the Teacher-in-charge of the Centre.

4. FIRST AID ALLOWANCE

- (a) An employee nominated by the employer to perform first aid duties and who is the current holder of a Workplace Certificate 2 HLTF301B, National Training Package, or an equivalent certificate, is to be an allowance of \$831.00 per annum.
- (b) Where an employee requires an employee to obtain a first aid qualification, the employer is to pay all associated costs, and where necessary, is to provide paid time off for the purpose of undertaking first aid training leading to an appropriate first aid qualification such as a Workplace Certificate 2, HLTF301B, National Training Package.
- (c) An employee nominated to perform first aid duties is to be allowed to undertake refresher courses as in paragraph (b) of this subclause providing the employer still requires the employee to perform such duties.

5. CAMPING ALLOWANCE

- (i) An employee who is required to camp overnight in a tent, hut or similar type of accommodation in performing their duties is to be paid a camping allowance of \$47.25 for each overnight stay.
- (ii) However, an employee who is required to carry a tent and equipment, including consumables, to a work site in order to undertake duties is to be paid a camping allowance of \$67.85 for each overnight stay.
- (iii) This allowance is compensation for all working conditions such as travelling over rough terrain and for work undertaken in severe climatic conditions.
- (iv) The employer is to provide all meals and consumables of a reasonable standard by direct payment to a supplier.
- (v) Where the employer chooses not to provide meals and consumables the employee is entitled to purchase food and consumables up to the value of \$59.05 for each overnight stay, or is entitled to be paid an allowance of \$59.05 for meals and consumables for each overnight stay.
- (vi) The allowances specified in this clause are drawn from Clause 6(e) Meal Allowances of this Part and are adjusted in sub-clause (v) with that rate being the aggregate of the meal rates of Clause 6(e); and sub-clause(i) being 80% of the rate of sub-clause (v); and sub-clause (iii) being the rate of sub-clause (i) plus the Incidentals rate of the same ATO Determination that provides these meal rates..

6. MEAL ALLOWANCES

(a) Where an employee is required to commence duty not less than one and 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 (e)

(b) An employee required to work 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.

(c) 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 allowances prescribed in subclause (e) of this clause if:

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

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

(d) Meal Allowance – Excess Rates

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

(e) Meal Allowance – Rates

Rate of Allowance

(i) Breakfast	\$14.60
(ii) Lunch (or midday meal)	\$16.45
(iii) Dinner (or evening meal)	\$28.00

The rates contained above are derived from the Australian Taxation Office (ATO) Taxation Determination TD2021/6, 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.

Rate of Allowance

For each meal provided by the employee	\$3.50
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7. 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.

8. 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 is to be paid for such use in accordance with the following rates:

Annual kilometres travelled on duty in a financial year	Cents per kilometre	
	Rate 1 2 litres and above	Rate 2 Less than 2 litres
First 10,000 kilometres	93.47 (100%)	80.38 (86%)
Any additional kilometres	49.54 (53%)	43.00 (46%)

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

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 is to be paid in accordance with the following rates:

Annual kilometres travelled on duty in a financial year	Cents per kilometre	
	Rate 3 2 litres and above	Rate 4 Less than 2 litres
First 10,000 kilometres	62.31 (100%)	53.59 (86%)
Any additional kilometres	33.02 (53%)	28.66 (46%)

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

RATES 1 and 3 Apply to motor vehicles generally recognised as having an engine capacity of 2:00 litres or more and include rotary engines.

RATES 2 and 4 Apply to motor vehicles generally recognised as having an engine capacity of less than 2:00 litres.

(d) The rates specified in subclauses (a) and (b) of this clause, are not to be varied as a consequence of National Wage Decisions. The rates are to be varied upon application subsequent to 30 March and 30 September of 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 3 variations for the first 10,000 kilometres travelled are to be calculated in accordance with formula specified in decision T.33 of 1985 dated 13 June 1985.

Variations to the other rates specified in the tables in subclause (a) and (b) of this clause, are to be calculated by applying the percentage shown in brackets to the relevant first 10,000 kilometres rate (as varied) shown as 100 per cent.

(e) An employee is not to receive an allowance for kilometres travelled in excess of 16,000 kilometres in any one financial year unless authorised by the employer concerned on the recommendation of the employer, to travel a greater distance in that year.

(f) In addition the following allowances are to be paid to employees:

- (i) 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.
- (ii) Where stationed in Category B as provided in Clause B – District Allowances, subclause (b) thereof - \$16.40 per month plus \$9.90 per 1600 kilometres travelled on duty.
- (iii) Where authorised to use a utility, four wheel drive motor vehicle or any other special type of motor vehicle approved by the controlling authority concerned - \$9.90 per month.
- (iv) 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.
- (v) Where authorised to use a motor vehicle on work involving the regular carrying of heavy equipment - \$9.90 per month.
- (vi) Where authorised to use a motorcycle - 9.67 cents for each kilometre travelled on duty.
- (g) Where an employee is required to provide a private motor vehicle in accordance with subclause (a) of this clause, and the distance travelled on duty in any financial year does not exceed 4000 kilometres, the employee shall be paid an allowance calculated by multiplying the appropriate rate per kilometre by the difference between the actual number of kilometres travelled on duty during that year and 4000 kilometres.
- (h) Where a part-time employee is eligible for any payment under subclause (g), such allowance shall be calculated on the proportion of the total hours worked in that year by the part-time employee to the annual standard hours for a full-time employee of the same classification.
- (i) Unless otherwise directed by the employer, kilometres travelled 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.
- (j) A kilometres travelled 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.

9. EXCESS TRAVEL – TEACHER APPOINTMENT AT TWO OR MORE SCHOOLS

- (a) Where a teacher (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 schools and is required to attend for duty at each school on separate days, 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 school and return, other than the base location (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 school other than the base location and return, less the distance travelled from the teacher's residence to the base location 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 schools.
- (c) The rates payable for excess travel under this subclause shall be the kilometreage allowance as set out in Clause 8 –Use of Employee’s Motor Vehicle of this Part.
- (d) For the purposes of this provision, the base location shall be defined as the school at which the major proportion of the appointment occurs. Where an appointment is evenly divided between two or more locations, the school nearest to the employee’s residence shall be designated as the base location.

10. TRAVEL 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 Expenses 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 the expenses incurred calculated in accordance with the following tables:

Overnight Accommodation

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

Meal Allowances

(Preceding or following an overnight absence)

Breakfast	Applicable 7.00am-8.30am	\$29.20
Lunch	Applicable 12.30-2.00pm	\$32.85
Dinner	Applicable 6.00pm-7.30pm	\$56.00

Incidental Expenses

Payable per overnight stay \$20.60

- (2) The rates contained in the tables above are derived from the Australian Taxation Office (ATO) Determination TD2021/6, 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 the 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 Expenses
 - (1) The employer and the employee may enter into an arrangement whereby it is agreed that the actual costs of accommodation and expenditure on meals, incidentals and all out of pocket expenses incurred in the course of business are to be paid on 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 meals 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 10(a)(iii)(1) above is to be paid the Incidental Expenses Allowance as prescribed in subclause 10 (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 chose not to stay in accommodation for which the employer has a commercial arrangement in which case the employee is to be paid a rate 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 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 10(a)(i)(1) for any meals not provided.

(viii) Temporary Assignment of Duties at an Alternative Location

An employee required to undertake work related duties that involve travel to a location which requires accommodation for a period of 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 rate determined by the employer.

(ix) Systemic 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 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.

11. ADJUSTMENT TO WAGE RELATED ALLOWANCES

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

PART V HOURS OF DUTY

1. HOURS OF DUTY

- (a) The normal hours of attendance of teaching staff in schools and colleges shall be 70 hours per fortnight. This time shall be exclusive of time allocated for lunch breaks.
- (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 2.00pm.

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 school shall be in attendance every day at least one half hour before beginning lessons.
- (d) In respect of secondary colleges teachers, the hours of duty shall be undertaken between the hours of 7.45 a.m. and 5.00 p.m. on any Monday to Friday inclusive in each week.

PROVIDED that a teacher shall not be required to be employed for more than eight hours on any Monday to Friday inclusive in each week unless the principal of the secondary college concerned approves different hours in circumstances that the principal considers exceptional.

PROVIDED FURTHER that the normal hours of attendance for Senior School Psychologists is 76 per fortnight.

PART VI - LEAVE AND HOLIDAYS WITH PAY

1. COMPASSIONATE AND BEREAVEMENT LEAVE

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

(a) Purpose

- (i) '**Compassionate Leave**' is an entitlement to paid leave available for an employee when a member of the employee's immediate family or household has a life threatening illness or injury and for whom the employee is providing care or support.
- (ii) '**Bereavement Leave**' is an entitlement to paid leave available for an employee to allow that employee to grieve and to attend to funeral and other arrangements due to a death, in the following circumstances:
 - (1) when a member of the employee's immediate family or household dies;
or
 - (2) when a baby in the employee's immediate family or household is stillborn; or
 - (3) where an employee or their spouse experiences a miscarriage.

(b) Definitions

- (i) '**Household**' in respect of an employee means any person or persons who usually reside with the employee.
- (ii) '**Immediate family**' subject to subclause (d), in respect of an employee includes a:
 - (1) spouse (including a former spouse) of the employee. Spouse means a person who is married or a person who is in a significant relationship within the meaning of the *Relationships Act 2003*.

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

 - (A) have a relationship as a couple; and
 - (B) are not married to one another or related by family.
 - (2) child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent (including foster parent, step parent or legal guardian), grandparent, grandchild, sibling or step sibling, of the employee or employee's spouse.
 - (3) The employer acknowledges that employees may have significant relationships outside of those specified in sub-clause (b)(i) and (ii) and therefore would consider an application for bereavement leave in those circumstances. The amount of any bereavement leave would be at the discretion of the employer.
- (iii) 'Personal Leave Year' is as specified in Part VI Clause 5(k) of this Award.
- (iv) For the purpose of this clause miscarriage means a spontaneous loss of an embryo or fetus before a period of gestation of 20 weeks.
- (v) For the purpose of this clause a stillborn child is a child:

- (1) who weighs at least 400 grams at delivery or whose period of gestation was at least 20 weeks; and
- (2) who has not breathed since delivery; and
- (3) whose heart has not beaten since delivery.

(c) Entitlement

- (i) An employee is entitled to compassionate and bereavement leave of up to 10 days paid leave per personal leave year on each occasion as specified in subclause (a)(i) and (ii) of this Part.
- (ii) Where an employee has had compassionate leave to provide care or support to a particular member of the employee's immediate family or household and that particular member then dies, the amount of bereavement leave that may be approved is the balance after deducting any compassionate leave taken in that personal leave year for that person.
- (iii) Paid compassionate or bereavement leave in addition to sub-clauses (c)(i) and (ii) is available at the discretion of the employer.
- (iv) Compassionate and bereavement leave is paid at the normal salary rate, as defined.
- (v) Compassionate and bereavement leave may be taken in more than one period. Bereavement leave must be taken within three months of the death of the person or pregnancy loss, however compassionate leave is only to be taken at times directly related to providing care or support to the person suffering a life threatening illness or injury.
- (vi) The entitlement of relief employees is set out in subclause (g).

(d) Aboriginal Family Relationships

- (i) The employer recognises that an Aboriginal employee may have members of their Aboriginal family who are not specified in the definition of 'immediate family' in subclauses (b).
- (ii) For the purpose of accessing the provisions of this clause, an Aboriginal employee may substitute 'Aboriginal family' in the place of 'immediate family'.
- (iii) Without limitation, 'Aboriginal family' relationships may include immediate family, extended family, kinship and cultural community relationships.
- (iv) The employer recognises that the concept of family may mean different things to different people within the Aboriginal community and that the definition of the relationships referenced in subclause (d)(iii) may be different for individual employees.
- (v) The provisions of this subclause also apply to casual employees and the entitlement provided pursuant to subclause (h).

(e) Relationship to Other Paid Leave

- (i) By written application to the employer, an employee who is absent on parental leave or surrogacy leave and who becomes entitled to compassionate or bereavement leave during that period of parental leave or surrogacy leave, may be taken to be on compassionate or bereavement leave for the approved period of compassionate or bereavement leave.

- (ii) Compassionate and bereavement leave is not available while an employee is absent from work due to paid leave for a reason other than that specified in subclause (e)(i).

(f) Evidence Requirements

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

(g) Unpaid Compassionate and Bereavement Leave

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

(h) Relief Employees

- (i) Subject to the evidence requirements in subclause (f) relief employees are entitled to leave work or to not be available to attend work, for the purposes of this clause.
- (ii) The employer and an employee are to agree on the period the employee is entitled to not be available to attend work. In the absence of agreement, an employee is entitled to not be available to attend work for up to five days per annum in the circumstances described in subclause (a)(i) and (ii) of this Part.
- (iii) The employer must not fail to re-engage a relief employee because the employee has 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. 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 recreation 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 recreation leave at the end of the jury service or at a later date according to the exigencies of the employer.

3. PARENTAL LEAVE

Subject to the terms of this clause employees are entitled to, paid parental leave for primary care givers and Secondary Caregivers, unpaid parental leave, special parental leave, Adoption Leave, and grandparent leave in connection with the birth or adoption of a child.

(a) Definitions

For the purposes of this clause:

- (i) **'Child'** means in relation to birth-related leave, a child (or children from a multiple birth) of the Employee or the Employee's Spouse or the Employee's legal surrogate; under the age of one year except for:
 - (1) Any additional period of paid Secondary Caregiver Leave accessed in accordance with subclause (f), where 'child means up to 78 weeks of age; and
 - (2) The adoption of a child where 'child' is defined as 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 their spouse or a child who has previously lived continuously with the employee for a period of six months.
- (ii) **'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 relief employee'** means a relief 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 birth or expected birth or placement or expected placement a reasonable expectation of ongoing employment on a regular and systematic basis.
- (v) **'Employee'** includes full-time, part-time, permanent, fixed term and eligible relief employees.
- (vi) **'Expected date of birth'** means the day certified by a medical practitioner to be the day on which the medical practitioner expects the employee or the employee's spouse, as the case may be, to give birth to a child.
- (vii) **'Grandchild'** means a grandchild of the employee (including step-grandchild or adopted grandchild) under the age of one year except for:
 - (1) The adoption of a grandchild where 'grandchild' is defined as a grandchild of the employee under the age of sixteen years at the day of placement.
- (viii) **'Grandparent Leave'** means parental leave for grandparents who assume the Primary Caregiver role for a grandchild.
- (ix) **'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.
- (x) **'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.
- (xi) **'Personal Leave'** for the purposes of this clause means absence due to personal illness or injury.
- (xii) **'Primary Caregiver'** means a person who assumes the principal role of providing care and attention to a child. The Primary Caregiver is the person who meets the child's physical needs more than anyone else. Only one person can be a child's Primary Caregiver on a particular day. The employer may require confirmation of Primary Caregiver status.
- (xiii) **'Secondary Caregiver'** means a person who has parental responsibility for the child but is not the Primary Caregiver.
- (xiv) **'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.
- (xv) **'State Service'** means an organisation listed in Schedule 1 of the *State Service Act 2000*.

(b) Entitlement to Unpaid Parental Leave

- (i) Subject to the provision of this clause, after 12 months continuous service an employee is entitled to up to 52 weeks unpaid parental leave in relation to the birth of a child of the employee, the employee's spouse or the employee's legal surrogate or the placement of a child with the employee; and the employee has or will have responsibility for the care of the child.

For birth parents, paid Primary Caregiver Leave may be accessed in accordance with subclause (c) and for non-birth parents, paid Secondary Caregiver Leave may be accessed in accordance with subclauses (e) and (f). Paid Adoption Leave may be accessed in the case of adoption in accordance with subclause (h) and paid grandparent leave may be accessed in accordance with subclause (i) by grandparents who assume primary caregiving responsibility for the child at the time of birth.

An employee's entitlement to 52 weeks unpaid parental leave is reduced by any amount of paid Primary Caregiver Leave, paid Secondary Caregiver Leave or Paid Adoption Leave which that employee accesses in accordance with subclauses (c), (e), (f) or (h).

- (ii) Parental Leave is only available to one employee at a time in a single unbroken period, except both the primary care giver and secondary care giver are entitled to access simultaneous parental leave in the following circumstances:

- (1) for leave in relation to the birth of the employees' child, an unbroken period of eight weeks simultaneous leave.
- (2) for Adoption Leave, an unbroken period of up to eight weeks at the time of placement of the child.

- (iii) Except where provided for otherwise in clause 2 of this part, and except for an additional period of paid Secondary Caregiver parental leave accessed in accordance with subclauses (e)(i) and (h)(iii), paid parental leave commences from the date of birth or adoption of the child.

- (iv) Parental leave may only be taken by an employee in a single unbroken period.

PROVIDED that an employee entitled to additional paid Secondary Caregiver Leave in accordance with subclauses (e)(i) and (h)(iii) may access parental leave in up to two unbroken periods.

- (v) Right to request extension to unpaid parental leave and simultaneous unpaid parental leave

- (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 a maximum of 104 weeks;

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.
 - (3) In the case of an Employee who is a member of a couple, the period of the extension cannot exceed 12 months, less any period of parental leave that the other member of the couple will have taken in relation to the Child.
- (vi) An employee is eligible, without resuming duty, for subsequent periods of parental leave in accordance with the provisions of this clause.
 - (ix) 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) Paid Primary Caregiver Leave

- (i) After 12 months continuous service an eligible employee who will be the Primary Caregiver at the time of birth of their child, will be entitled to 18 weeks paid Primary Caregiver Leave. An employee's entitlement to unpaid parental leave pursuant to subclause (b)(i) will be reduced by any amount of paid Primary Caregiver Leave accessed by that employee in accordance with this subclause.
 - (ii) The 18 weeks paid Primary Caregiver Leave is to be taken at the commencement of the period of parental leave and must be taken in a consecutive period, except in circumstances provided for in Part VI, Clause 1(e)(i).
 - (iii) Subject to subclause (c)(i) and unless agreed otherwise between the employer and employee, an employee who is pregnant may commence paid Primary Caregiver Leave as the Primary Caregiver in accordance with this subclause at any time within six weeks immediately prior to the expected date of birth. In all other cases, paid parental leave for the Primary Caregiver accessed under this subclause commences on the day of birth.
 - (iv) An employee who is pregnant and who continues to work within the six-week period immediately prior to the expected date of birth, or an employee who elects to return to work within six weeks after the birth of the child, is required to provide a medical certificate to the employer stating that the employee is fit to work on their normal duties.
 - (v) Only one employee can receive paid parental leave entitlements as the Primary Caregiver in respect of the birth of their child. An employee cannot receive Primary Caregiver Leave entitlements if:
 - (1) their spouse is, or will be, the Primary Caregiver at the time of the birth of their child, or
 - (2) their spouse has received, or will receive, paid parental leave (in connection with a requirement to act as a Primary Caregiver), Primary Caregiver entitlements, or a similar entitlement, from their employer; or
 - (3) that employee has received, or will receive, Secondary Caregiver parental leave entitlements in relation to their child.
 - (vi) The rate of pay for an employee during the period of the paid Primary Caregiver Leave is the normal rate of pay, as defined in subclause (a)(x).
 - (vii) The employee may elect to take payment for the paid period of the absence,
 - prior to the commencement of the leave or;
 - over 18 consecutive weeks at a full rate pay or;
 - over 36 consecutive weeks at half rate of pay
 - (viii) Where an employee elects to take half pay over 36 weeks, the payment beyond the 18 weeks does not increase the accrual of paid leave entitlements prescribed by this award.
- (d) Special Parental Leave
- (i) An employee who is pregnant and who has not yet commenced parental leave and who suffers an illness related to their pregnancy or is required to undergo a pregnancy related medical procedure is to be granted any paid personal leave to which the employee is entitled and such further unpaid special parental leave

as a registered medical practitioner certifies as necessary before their return to work.

- (ii) Where a pregnancy related illness or medical procedure is continuous with the commencement of paid parental leave the aggregate of paid personal leave, special parental leave and parental leave taken by an employee is not to exceed 52 weeks.
 - (iii) Where the pregnancy of an employee terminates other than by the birth of a living child, not earlier than 28 weeks before the expected date of birth the employee is entitled to up to 52 weeks parental leave, including 18 weeks paid special parental leave, certified as necessary by a registered medical practitioner.
 - (iv) Special parental leave is in addition to compassionate and bereavement leave.
- (e) Paid Secondary Caregiver Leave
- (i) After 12 months continuous service an eligible employee who will be the Secondary Caregiver at the time of birth of their child, is entitled to 4 weeks paid Secondary Caregiver Leave. An employee's entitlement to unpaid parental leave pursuant to subclause (b)(i) will be reduced by any amount of paid Secondary Caregiver Leave accessed by that employee in accordance with this subclause. The 4 weeks paid Secondary Caregiver Leave is to be taken at the time of the birth, except in circumstances provided for in Part VI, Clause 1(e)(i).
 - (ii) An employee will also be entitled to access a further 2 weeks of accrued leave entitlements (Recreation or Long Service Leave) or as Leave Without Pay.
 - (iii) Only one parent can receive Secondary Caregiver Leave entitlements in respect to the birth of their child.
 - (iv) An employee cannot receive Secondary Caregiver Leave entitlements where the employee has received Primary Caregiver Leave entitlements in relation to their child.
 - (v) The rate of pay for an employee during the period of the paid Secondary Caregiver Leave is the normal rate of pay, as defined in subclause (a)(x).
- (f) Accessing Additional Paid Parental Leave for Secondary Caregivers who assume Primary Caregiving Responsibility
- (i) A Secondary Caregiver will be entitled to access up to an additional 12 weeks paid Secondary Caregiver Leave within the first 78 weeks of the date of birth of the child, provided that:
 - (1) The employee assumes primary caregiving responsibility for their child for the duration of the additional period of paid Secondary Caregiver Leave, by meeting their child's physical needs more than anyone else; and
 - (2) The employee's spouse is not concurrently receiving paid parental leave (in connection with a requirement to act as a Primary Caregiver), Primary Caregiver entitlements, or a similar entitlement, from their employer.
 - (3) Where an employee who has commenced additional paid Secondary Caregiver Leave under this subclause ceases to act as the Primary Caregiver for their child, the entitlement to additional paid leave under this clause will end.

- (4) An Employee cannot receive Secondary Caregiver Leave entitlements where the Employee has received Primary Caregiver parental leave entitlements in relation to their child.
 - (ii) An employee's entitlement to unpaid parental leave pursuant to subclause (b)(i) will be reduced by any amount of additional paid Secondary Caregiver Leave accessed by that employee in accordance with this subclause.
 - (iii) The rate of pay for an employee during the additional period of paid Secondary Caregiver Leave is the normal rate of pay, as defined in subclause (a)(x).
- (g) Notice and Evidence Requirements
- (i) The following notice and evidence requirements apply to periods of parental leave taken in relation to the birth of an employee's child, but do not apply to parental leave taken in relation to the adoption of a child or to grandparent leave. The notice and evidence requirements for parental leave in relation to the adoption of a child are provided in subclause (h), The notice and evidence requirements for grandparent leave are provided in subclause (i).
 - (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) at least ten weeks' notice of the expected date of birth in a certificate from a registered medical practitioner stating that the employee or their spouse is pregnant;
 - (2) at least four weeks' notice of the date on which the employee proposes to commence parental leave and the period of leave to be taken and the nature of caregiving responsibilities which the employee will assume for the period of leave sought (i.e. Primary or Secondary Caregiver);
 - (3) particulars of any period of parental leave sought or taken by the employee's spouse;
 - (4) where the employee is proposing to access the additional 12 weeks paid Secondary Caregiver Leave in accordance with subclause (f), written notice at least ten weeks in advance of the commencement of the additional period of leave confirming that the employee will assume primary caregiving responsibility for their child for the duration of the period of leave proposed;
 - (iii) An employee is not in breach of this clause if failure to give the required notice is due to the birth occurring earlier than expected date of birth or other compelling circumstances.
- (h) Paid Adoption Leave for the Adoption of a Child
- (i) Paid Adoption Leave for Primary Caregivers
 - (1) After 12 months continuous service an employee identified as the Primary Caregiver at the time of adoption of their child is entitled to 18 weeks Paid Adoption Leave continuous from the day of placement
 - (2) An employee's entitlement to 52 weeks unpaid parental leave pursuant to subclause (b)(i) will be reduced by any amount of Paid Adoption Leave accessed by that employee in accordance with this subclause, except in circumstances provided for in Part VI, Clause 1 (e)(i).

- (ii) Paid Adoption Leave for Secondary Caregivers
 - (1) After 12 months continuous service, an employee who will be the Secondary Caregiver at the time of adoption of their child is entitled to 4 weeks Paid Adoption Leave continuous from the day of placement.
 - (2) The period of Paid Adoption Leave forms part of the 52-week unpaid parental leave entitlement provided in subclause (b)(i), except in circumstances provided for in Part VI Clause 1 (e)(i).
- (iii) Additional Paid Adoption Leave for Secondary Caregivers
 - (1) A Secondary Caregiver will be entitled to access an additional 12 weeks Paid Adoption Leave within the first 78 weeks of the date of placement of their child, provided that:
 - (A) The employee assumes primary responsibility for the care of their child for the duration of the additional period of Paid Adoption Leave, by meeting their child's physical needs more than anyone else; and
 - (B) The employee's spouse is not concurrently receiving Paid Adoption Leave (in connection with a requirement to act as a Primary Caregiver), Primary Caregiver entitlements, or a similar entitlement, from their employer.
 - (C) Where an employee who has commenced additional Paid Adoption Leave under this subclause ceases to act as the Primary Caregiver for their child, the entitlement to additional paid leave under this clause will end.
 - (2) Leave accessed in accordance with this subclause forms part of the employee's 52 week unpaid parental leave entitled provided in subclause (b)(i).
- (iv) The rate of pay for an employee during the period of the Paid Adoption Leave is the normal rate of pay, as defined in subclause (a)(x).
- (v) Notice and Evidence Requirements
 - (1) The notice and evidence requirements of this subclause apply in respect of all Paid Adoption Leave and unpaid parental leave sought in connection with an employee's adoption of a child.
 - (2) An employee is to notify the employer at least 10 weeks in advance of the date of commencement of parental leave for the adoption of a child and the period of leave to be taken. An employee may commence parental 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.
 - (3) Before commencing parental leave for the adoption of a child, an employee is to provide the employer with a statutory declaration stating:
 - (A) the employee is seeking parental leave in connection with the adoption of a child; and
 - (B) whether the employee will act as the Primary or Secondary Caregiver for the period of Adoption Leave sought; and

- (4) particulars of any period of Primary or Secondary Caregiver Adoption Leave sought or taken by the employee's partner.
 - (5) An employer may require an employee to provide confirmation of the placement from the appropriate government authority.
 - (6) 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.
 - (7) 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.
- (vi) 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.
 - (vii) An employee is not entitled to parental leave for the adoption of a child 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.
- (i) Grandparent Leave
 - (i) After 12 months continuous service, an employee who is or will be the Primary Caregiver at the time of the birth or adoption of their grandchild is entitled to 18 weeks paid grandparent leave which forms part of an entitlement to 52 weeks unpaid grandparent leave.
 - (ii) To be eligible for paid and unpaid grandparent leave under this clause, the grandparent must be the person who meets the child's physical needs more than anyone else from the time of birth or adoption.
 - (iii) The period of leave commences at the time of birth or placement of the child and is to be taken in a continuous period.
 - (iv) The rate of pay for an employee during the period of paid grandparent leave is the normal rate of pay, as defined in subclause (a)(x).
 - (v) An employee is to provide at least 10 weeks written notice to the employer in advance of the expected date of commencement of grandparent leave.
 - (vi) An application for grandparent leave must include:

- (1) a statutory declaration from the employee confirming that they will assume primary caregiving responsibility for the child for the duration of the leave sought; and
 - (2) either:
 - (A) Where the leave is sought in relation to the birth of their grandchild, a certificate from a registered medical practitioner confirming the birth or the estimated date of delivery; or
 - (B) Where the leave is sought in relation their grandchild's adoption, confirmation of the placement from the appropriate government authority;
- (vii) An employee may commence grandparent leave prior to providing such notice where, through circumstances beyond the control of the employee, the birth or placement of their grandchild takes place earlier than expected.
- (viii) Only one employee in respect of each newborn grandchild or newly adopted grandchild is entitled to access grandparent leave as the Primary Caregiver under this subclause.
- (ix) An employee may only access grandparent leave under this clause for such time as they remain the Primary Caregiver for their grandchild.
- (x) An employee's entitlement to access grandparent leave under this clause ceases where another person assumes primary care responsibilities for that employee's grandchild.
- (j) 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.
- (k) Parental Leave and Other Entitlements
 - (i) An employee may, in lieu of or in conjunction with parental leave, access any accrued recreation leave or long service leave entitlements subject to the total amount of leave not exceeding 52 weeks.
 - (1) An employee may, subject to written application and approval, access any compassionate or bereavement leave they become entitled to during the period of parental leave subject to the total amount of leave not exceeding 52 weeks.
 - (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 and 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.

(l) 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 their present work, the employee is to be transferred to a safe job, if the employer deems it practicable, until parental leave under this clause commences.
- (ii) In circumstances where the employer is unable to provide a safe job for the employee the employee will continue to be paid at the normal rate of pay for the employee's ordinary hours of work for the period of the risk. The period of risk ends with the commencement of parental leave or six weeks before the expected date of birth, whichever is earlier.

(m) 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 an employee who was pregnant was moved to safe duties because of the pregnancy – immediately before the move; or
 - (2) if an employee who was pregnant began working part-time because of the pregnancy – immediately before the part-time work began; or
 - (3) otherwise – immediately before the employee commenced parental 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.

(n) 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.

(o) 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 (j) and the right to request provisions of subclause (b)(v)(1).
- (iii) Nothing in this subclause is to be construed as requiring an employer to engage a replacement employee.

(p) 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 (p)(i) above.
- (q) Lactation Breaks/Facilities
- In order that employees can better combine the demands of work and parental responsibilities, an employee is to have reasonable time and access to suitable facilities in the workplace for the purpose of expressing milk, breastfeeding, or any other activity necessary for breastfeeding and expressing in the workplace.
- (r) Surrogacy Arrangements
- An Employee whose child is born through a surrogacy arrangement which complies with Part 4 of the *Surrogacy Act 2012* (Tas), is eligible to access the parental leave entitlements outlined in this clause as a Primary or Secondary Caregiver subject to meeting the eligibility, notice and evidence requirements outlined within this clause.
- (s) Permanent Care Leave
- An Employee will be entitled to access parental leave in accordance with this clause at a time agreed with the Employer if they are granted a permanent care order in relation to the custody or guardianship of a Child pursuant to the *Children, Young Persons and Their Families Act 1997* (Tas) (or any successor to the legislation) or a permanent parenting order by the Family Court of Australia and will be the Primary or Secondary Caregiver for that child.

4. RECREATION LEAVE - TEACHING STAFF

- (a) (1) The annual recreation leave entitlement for teaching staff in every school/college shall be four weeks per annum and employees shall receive their ordinary rate of pay for such leave.
- (2) In addition to the above, teaching staff in every school/college shall be entitled to a period of 7.8 weeks additional recreation leave per annum during which time they shall not be required to attend for duty and shall receive their ordinary rate of pay for such leave.
- (3) The period of annual recreation leave and additional recreation leave described in subclauses (1) and (2) above is inclusive of holidays with pay which occur during these periods.

- (4) The time of taking annual recreation leave and additional recreation leave as per subclauses (1) and (2) above for teaching staff in every school/college shall be as per the provisions of the relevant Employment Direction issued under the provisions of the *State Service Act 2000*.

Provided that in transitioning to a four term school year in 2013 teaching staff will return to work one week earlier than previous years for the beginning of Term one 2013. This one week (five days) will be progressively reduced each year where the annual recreation leave and additional recreation leave for teaching staff exceeds 11.8 weeks in total as a result of the variations in the school calendar.

- (b) Annual recreation leave under paragraph (a) (1) shall commence one day earlier for the teachers of a State school, other than a secondary college, in a part of the State approved by the Minister as provided for in Part 3 – State Education Clause 25 of the *Education Act 1994*.
- (c) When required to meet the needs of the Department in special circumstances, the relevant Secretary may make arrangements, in individual cases, for recreation leave to be taken by a teacher at times other than the times specified in paragraphs (a) and (b).

PAYMENT IN LIEU OF RECREATION LEAVE OR RECREATION LEAVE ADJUSTMENT (PENALTY/CREDIT)

- (d) The leave entitlement in any leave year for an employee who has been granted leave without pay in excess of 20 days working days, excluding personal leave; or whose employment has been terminated, i.e. end of fixed-term contract, resignation or retirement; or whose teaching hours have varied during their leave year shall be calculated in accordance with the following formula.

$$LE = WW \times 11.8/40.2$$

where –

“LE” means leave entitlement in weeks; and

“WW” means weeks worked (including paid leave, unpaid personal leave and professional activity days or pupil free days during school terms/college terms).

The payment or adjustment of “LE” is multiplied by the weekly salary of the employee, which will be proportionate to full-time salary for part-time employees.

Provided that a week means the five working days, Monday to Friday, inclusive of public holidays and each day is 0.2 of a week.

Provided further where a Good Friday public holiday directly precedes a term break this is included in “WW”.

Provided further that the full “LE” entitlement will be rounded to 11.8 weeks.

Provided further that “LE” will be reduced by any recreation leave periods that fall during the employee’s leave year.

- (e) A teacher who receives retrospective salary to 1st January in the year that teacher commenced work under regulation 6 (3) of the *State Service Regulations 2001* shall be deemed to have commenced work on that day.

- (f) If the application of the formula specified in paragraph (d) in relation to the termination of work of an employee, other than the termination of work due to death or retirement on account of sickness results in a negative figure for "LE", that amount shall be deducted from any salary payable to that employee or that employee shall refund that amount.
- (g) Notwithstanding paragraph (d), no allowance shall be paid under this clause to an employee who:
 - (i) resigns from the Department and fails to give the relevant Secretary one month's notice, in writing, of that employee's intention to so resign, unless the relevant Secretary accepts a lesser period of notice; or
 - (ii) is dismissed from the State Service for being absent from duty without leave.

RECREATION LEAVE (NON SCHOOL BASED EMPLOYEES)

Where an employee undertakes a fixed-term assignment of duties in non-teaching employment the recreation leave is as follows:

- (h) Entitlement to Recreation Leave
 - (i) A full-time employee is entitled to 147 hours of recreation for each 12 month period of continuous service (less the period of recreation leave).
 - (ii) Recreation leave for full-time employees (73.5 hours per fortnight) accrues at a rate of 5.65 hours for each fortnight worked.
 - (iii) Part-time employees are to be entitled to recreation leave prescribed in subclause (h)(i) or (h)(ii) of this clause in proportion to the hours worked compared to full-time employees.
 - (iv) Where the employer determines to close offices during the period commencing on Christmas Day and ending on New Year's Day (or any other days as may be deemed to be publicly observed as these State Service Holidays by application of the *Statutory Holidays Act 2000*), such hours not being holiday with pay will be deducted from the employee's recreation leave accrual.
- (i) Payment for the Period of Recreation Leave

The rate of salary for an employee during a period of recreation leave is the normal rate of salary the employee would have received for the ordinary hours of work during the relevant period.

An employee before going on leave may elect to be paid the amount of salary that employee would have received for the ordinary hours work during the relevant period.
- (j) Calculation of Continuous Service for the Accrual of Recreation Leave
 - (i) Service is to be deemed continuous from absences work on account of any paid leave;
 - (ii) Any paid period of leave of absence without pay of more than 20 working days in aggregate in a personal leave year is not to be deemed continuous service for the purposes of recreation leave accrual.

(k) Maximum Accrual of Recreation Leave

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

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

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

(m) Personal Leave Requirement During Recreation Leave

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

(n) Recreation Leave in Advance of Accrual

The employer may allow an employee recreation leave in advance of the accrual of leave. In this case the accrual of the recreation leave is suspended until the period of leave taken in advance has been restored by time worked.

(o) Time of Taking Recreation Leave

Recreation leave will be taken at a time or times mutually agreeable between the employer and the employee. Where no arrangement can be arrived at recreation leave will be given at a time fixed by the employer within a period not exceeding six

months for the date when the right to recreation leave has accrued and not less than four weeks' notice to the employee.

(p) Recreation Leave in One or More Periods

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

(q) Where the leave year of an employee includes employment under conditions of both subclause (d) and (h) the period under subclause (d) shall be calculated in accordance with the subclause;

where –

“WW” means weeks worked less the aggregate number of weeks of non-teaching employment.

Where the “WW” results in a recreation leave penalty as a result of undertaking a non-teaching assignment of duties the employee may transfer any recreation leave accrued during the non-teaching assignment of duties to substitute the penalty.

(r) Cancellation of Approved Recreation Leave by the Employer

(i) Where the employer cancels a period of approved recreation leave prior to the period of the leave commencing an employee is entitled to be reimbursed for any financial loss sustained including fares and accommodation.

(ii) Any claim made by an employee is to be supported by receipts and other appropriate documentation.

(iii) Any claim made by an employee is to exclude amounts recoverable by way of insurance reimbursements.

(s) Re-call to Work during a Period of Approved Recreation Leave

(i) Where an employee on approved recreation leave accepts an employer request to return to work during that period of approved recreation leave, the employer is to pay all reasonable costs associated with the return to work other than normal fares incurred travelling to and from work.

(ii) Any claim made by an employee is to be supported by receipts and other appropriate documentation.

(iii) Where an employee resumes recreation leave the employer will meet all costs associated with returning the employee to the place they were located on recreation leave prior to the recall to work.

(iv) An employee returning to work is to have their recreation leave balance credited by the hours foregone.

(v) An employee may choose to either take the re-credited recreation leave at the conclusion of the current period of leave or alternatively take the leave at another time.

5. PERSONAL LEAVE

The provisions of this clause apply to permanent and fixed-term employees but do not apply to relief employees. The entitlements of relief 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'** subject to subclause (c), 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.
 - i. 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; or
- (vi) **'Statutory Declaration'** means a declaration made in writing according to the requirements of the Oaths Act 2001 (Tas). It is an offence under section 113 of the Criminal Code, as contained in Schedule 1 of the Criminal Code Act 1924 (Tas), to make a false statement in a Statutory Declaration.

(b) Personal leave entitlement for employees

- (i) Personal leave is available to an employee, when the employee is absent:
 - (1) due to personal injury or illness; or

- (2) for the purposes of caring for an immediate family or household member who is sick and requires the employee's care and support or who requires care due to an unexpected emergency; or
- (ii) The cumulative entitlement to personal leave for an employee who is employed on a full-time basis is 20 working days for the first year of service and 10 working days for each subsequent year of service. The entitlement is granted at the commencement of the employee's leave year.
- (iii) Part time employees are entitled to the same personal leave credits as a fulltime employee but on a pro-rata basis according to the number of hours worked compared to a full-time employee. Payment for personal leave will only be made for those hours that normally would have been worked had the employee not been on personal leave.
- (iv) 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.

(c) Aboriginal Family Relationships

- (i) The employer recognises that an Aboriginal employee may have members of their Aboriginal family who are not specified in the definition of 'immediate family' in subclause (a).
- (ii) For the purpose of accessing the provisions of this clause, an Aboriginal employee may substitute 'Aboriginal family' in the place of 'immediate family'.
- (iii) Without limitation, Aboriginal family relationships may include immediate family, extended family, kinship and cultural community relationships.
- (iv) The employer recognises that the concept of family may mean different things to different people within the Aboriginal community and that the definition of the relationships referenced in subclause (c)(iii) may be different for individual employees.
- (v) The provisions of this subclause also apply to casual employees and the entitlement provided pursuant to subclause (o).

(d) 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.

(e) 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.

(f) 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 (e)(i), beyond the limit set out in clause (e)(i). In such circumstances, the employer and the employee will agree upon the additional amount that may be accessed.

(g) Sole person accessing leave

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

(h) Employee must give notice

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

(i) As far as practicable an employee absent on personal leave for personal injury or illness (except in exceptional circumstances) must inform the employer of the employee's inability to attend for duty within two hours of commencement time of normal duty on the day of the personal leave absence.

The employee is to state:

(1) the nature of the injury or illness; and

(2) the estimated duration of the absence.

(ii) As far as practicable an employee taking personal leave to care for members of their immediate family or household who are 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) As far as practicable and taking into consideration appropriate confidentiality requirements an employee experiencing family violence who is taking personal leave to attend to matters associated with family violence is to give the employer:

(1) notice prior to the absence of the intention to take leave;

(2) the reasons for taking such leave; and

(3) the estimated length of absence.

(iv) If it is not practicable for the employee to give prior notice of the absence, the employee must notify the employer at the earliest opportunity on any day leave is required and provide an estimation of the length of leave required.

(i) 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) Evidence requirements are as follows:

- (1) An employee absent on account of personal injury or illness is to provide a medical certificate from a registered health practitioner or if it is not reasonably practical for the employee to provide a medical certificate, a statutory declaration which states the reasons for which leave is required is to be provided.
- (2) Where taking leave to provide care or support to members of the employee's 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 or support by the employee.
- (3) Where taking leave to provide care or support to members of the employee's immediate family or household who require care or support due to an unexpected emergency, the employee is to provide documentation acceptable to a reasonable person stating the nature of the emergency and that such emergency resulted in the person concerned requiring care or support by the employee.
- (4) When an employee experiencing family violence is taking leave to attend to matters relating to family violence the employee is to provide documentation acceptable to a reasonable person. Documentary information or contact information (with an appropriate authority from the employee) from any of the services/professional support services listed below is considered acceptable:
 - Safe at Home Service provider (Police, Court Support and Liaison Service, Family Violence Counselling and Support Service, Legal Aid, Magistrates Court);
 - Employee Assistance Program (EAP) provider;
 - Specialist counselling or women's refuge service;
 - Legal service; or
 - Medical/health practitioner.

- (ii) If it is not reasonably practicable for the employee to give the employer a medical certificate as prescribed in paragraphs (1) and (2) or other acceptable documentation as prescribed in paragraph (3) and (4), a statutory declaration made by the employee, stating the circumstances and the reasons for which leave is required is to be provided.

(j) Days without medical certificate/statutory declaration for personal injury or illness

- (i) Leave of absence for personal injury or illness shall only be approved for periods of three days or longer, if the application for leave is accompanied by a medical certificate from a legally qualified health practitioner or if it is not reasonably practical for the employee to provide a medical certificate, statutory declaration which states the reasons for which leave is required is to be provided.
- (ii) If the employee has had at least five days absence due to personal injury or illness, in any one leave year, without a medical certificate from a legally qualified health practitioner, all subsequent applications for personal injury or illness within that

leave year, must be accompanied by such a certificate or if it not reasonably practical for the employee to provide a medical certificate, a statutory declaration which states the reasons for which leave is required is to be provided.

PROVIDED THAT further to paragraphs (i) and (ii) the employer does have the right to require an employee to provide a medical certificate for such absences described in paragraphs (i) and (ii). Such a requirement must be relayed to the employee in writing and state the reasons for the requirement.

(k) 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.

(l) 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.

(m) 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 sub-clauses (h) and (i) are met.

(n) Communicable disease

Employees in schools 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 registered health 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.

(o) Relief employees

- (i) Subject to the evidentiary and notice requirements in subclauses (g) and (h) relief 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) Relief employees who are experiencing family violence are entitled to not be available to attend work, or to leave work in accordance with the provisions of this subclause.
- (iii) 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. The relief employee is not entitled to any payment for the period of non-attendance
- (iv) 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.

6. 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 5 – 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.

7. HOLIDAYS WITH PAY

- (a) Subject to Clause IV 4(a)(3) employees, other than relief employees, are entitled to be absent from work without loss of pay on:

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

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

- (b) All employees are entitled to receive one local show day. It is to be observed on a day other than a Saturday or Sunday, in the city, town, or district in which the employee is engaged, or in the absence of a local Show Day, any other day that is agreed to between the employer and the employees.
- (c) Notwithstanding the entitlement to holidays with pay as prescribed in subclauses (a) and (b), employees shall not be entitled to holidays with pay in lieu of those days that fall during periods of recreation leave described in Clause IV – 4.

- (d) A part-time employee whose regular rostered hours do not fall on a holiday with pay is not to be paid for that day.
- (e) An employee who is absent from work on a period of leave without pay, or who is absent from work on a period of either paid or unpaid parental leave, is not to be paid for that day.

8. DEFENCE FORCE LEAVE

- (a) Subject to this clause, a permanent employee who is a part-time member of any of Australia's Defence Forces may be granted leave of absence for:
 - (i) not more than 20 working days in any leave year to enable the employee to undertake Defence Force service; and
 - (ii) not more than 10 working days in any leave year, in addition to any leave granted to that employee in that leave year under subclause (a)(i), to enable the employee to undertake initial training upon first becoming a part-time member of Australia's Defence Forces; and
 - (iii) not more than 10 working days in any leave year, in addition to any leave granted to that employee in that leave year under subclause (a)(i), to enable the employee to undertake additional Defence Force service.
- (b) The following provisions apply to and in relation to leave granted to a permanent employee under subclause (a):
 - (i) a certificate evidencing the necessity of the employee's attendance or the employee's eligibility to attend is to be submitted with the application for leave and, at the conclusion of the period of leave, the employee is to produce a certificate of attendance, and in each instance both certificates are to be signed by or on behalf of the person for the time being holding office as, or acting in the place of, the commanding officer in Tasmania or the relevant Defence Force;
 - (ii) the employee is to be paid –
 - (1) in the case of leave granted under subclause (a)(i) or (ii) an amount equal to the employee's normal salary for the period of that leave; and
 - (2) in a case which subclause (iii) applies, an amount equal to the employee's salary for the period of leave, less any naval, military or air force pay or allowance received by the employee in respect of that period.
 - (iii) if the employee, during a period of leave granted, sustains injury or contracts illness, necessitating his or her absence from duty beyond that period, the employee may be granted further leave on the following terms:
 - (1) if compensation is not paid to the employee on behalf of the Defence Force in respect of that absence, the leave may be granted as sick leave;

- (2) if compensation is so paid, and is equal to or exceeds the amount of remuneration with the employee would have received if the employee had of been granted sick leave, the leave is to be granted without pay;
 - (3) if compensation is so paid, and is less than the amount of remuneration which the employee would have receive had the employee been granted sick leave, the employee is to be paid the difference, and his or her sick leave credit is to be reduced as if the employee had been granted sick leave with pay corresponding to the amount of the difference.
- (c) A permanent employee who is required to give continuous service as a member, other than as a part-time member, of any of Australia's Defence Forces, as a result of his or her –
 - (i) voluntary enlistment at a time when Australia has been declared to be at war; or
 - (ii) call-up or conscription at any time under a law of the Commonwealth - is to be granted leave, for the period that the employee is required to continuously serve, without pay or on such other terms as the Minister may determine.
- (d) This clause applies to fixed-term employees who have completed three months' continuous service in any Agency or Agencies, but, subject to the law of the Commonwealth, if an employee's term of service will expire before the conclusion of the period of Defence Force service, leave may be granted under this clause only to the date of expiration.
- (e) Subject to subclause (f), any leave granted to an employee under this clause is to count as service for all purposes.
- (f) Where leave without pay is granted to an employee under this clause, only the period not exceeding s months is to be taken in to account for the purpose of accruing recreation leave.

9. STATE SERVICE ACCUMULATED LEAVE SCHEME

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

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

(a) Summary of Scheme

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

(b) Interpretation

The conditions and administrative arrangements in the SSALS are to be administered in conjunction with the *State Service Act 2000* and the *State Service Regulations 2001*.

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

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

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

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

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

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

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

(c) Plans

SSALS consists of arrangements known as Plans. For example:

<u>Work Period</u>	<u>Percentage of Normal Salary payable during the period of the Plan</u>	<u>Leave Period</u>
Four Years	80% "The Four over Five Year Plan"	One Year
Three Years	75% "The Three over Four Year Plan"	One Year
Twenty Months	83.3% "The 20 over 24 Month Plan"	Four Months
Eighteen Months	75% "The 18 over 24 Month Plan"	Six Months
Forty Eight Weeks	92.3% "The 48 over 52 Week Plan"	Four Weeks
Forty Weeks	76.9% "The 40 over 52 Week Plan"	Twelve Weeks
(Other Plan) "A"	$\frac{A}{A+B} \times 1 = \frac{100}{\dots}\%$ (to one decimal place)	(Other Plan) "B"
..... Years	Year Year
..... Months	The over..... Months
..... Weeks	Week Weeks

(d) Application of SSALS

- (i) The employer, after considering the operational requirements of the Agency, determines whether any Plan or Plans are to be available to employees in the Agency.

- (ii) The employer may make any Plan or Plans available to employees in an Agency or an employee or employees can request the employer that a Plan be made available to them.
 - (iii) A Plan may be made available to any permanent employee (full or part-time) including an employee who works shifts. A Plan may be made available to any temporary employee the term of whose contract of employment is sufficient to cover the period of the Plan.
 - (iv) The Employer determines:
 - (1) whether one or more Plans will be made available to all or only some of the employees;
 - (2) whether particular Plans will be made available to particular categories of employees;
 - (3) whether quotas will apply to the number of employees who may participate in a Plan, and whether quotas will apply to any category of employees;
 - (4) the selection arrangements where quotas are imposed; and
 - (5) the commencement date of any Plan.
 - (v) Where an employee participating in a Plan is promoted, transferred, seconded or otherwise moved either into another Agency or within their own Agency, the Head of the Agency in which the employee is thereafter employed will, after consultation with the employee and taking into account the operational requirements of the Agency, determine whether or not the employee is able to continue on their Plan.
 - (vi) If the Head of Agency determines under subclause (d)(v) that the employee is not able to continue on their Plan, the Employer may forthwith terminate the employee's Plan whereupon the employee becomes entitled to a period of accumulated leave which bears the same proportion to the total leave period of the Plan as the period worked under the Plan bears to the total work period, to be remunerated at the percentage of normal salary payable during the period of the Plan. The employee may apply to the Employer at any time to take that leave, and it is to be granted as soon as can be, consistent with the operational requirements of the Agency.
- (e) How to Participate in SSALS
- (i) Where the Head of an Agency offers a Plan to an employee the employee may elect to participate in the Plan by lodging an election in writing with the Employer in any form which the Employer may approve.
 - (ii) The Head of the Agency may accept or reject an election to participate made in accordance with subclause (e)(i).
 - (iii) The employer will notify the employee in writing if the employee's election has been disapproved.
 - (iv) Where the employee's election is approved, the employer will endorse approval on the form of election which was lodged by the employee, and will provide the employee with a copy of that endorsed form.

- (v) An employee's election under subclause (e)(i) does not entitle the employee to participate in a Plan until it is approved by the employer in accordance with subclause (e)(iv).
- (vi) A participating employee wishing to withdraw from a Plan must apply in writing to their employer who may refuse the application if he or she considers such refusal to be reasonably required to meet the operational requirements of the Agency.

(f) Conditions and Administrative Arrangements

- (i) Work period to be completed prior to period of leave.

The work period specified in a Plan must be completed before a participating employee can commence the leave period specified in that Plan.

- (ii) Suspension of plan

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

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

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

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

- (iii) Accumulated leave

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

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

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

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

- (iv) Payment during the leave period

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

(v) Salary progression

Salary progression will continue throughout the period of a Plan.

(vi) Superannuation

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

It is the responsibility of a participating employee to obtain any personal superannuation advice from the Retirement Benefits Fund Board or from the employee's own adviser(s).

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

An Agency's superannuation responsibilities and financial obligations for participating employees depend upon the nature of the employment arrangements for each participating employee.

(vii) Other compulsory deductions from pay

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

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

(viii) Voluntary deductions from pay

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

(ix) Administrative records

An Agency administering a Plan must maintain proper separate records of accruals based upon that Plan.

(x) Recreation leave

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

(xi) Personal leave

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

Personal leave entitlements will accrue throughout the period of the Plan and access to those entitlements will be in accordance with the Tasmanian State Service Regulations and any relevant Award provisions.

(xii) Parental leave

Where a participating employee is absent on parental leave, either within the work period of a Plan or during the leave period, the employee's participation in the Plan is not affected by that parental leave. Salary arrangements established by the Plan apply during parental leave.

(xiii) Other leave

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

(xiv) Long service leave

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

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

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

(xv) State Service holidays (public holidays)

The leave period of a Plan is to be extended by the number of State Service holidays (public holidays) falling within it.

(xvi) Workers compensation

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

(xvii) Cessation of employment

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

10. FAMILY VIOLENCE LEAVE

(a) Purpose of Family Violence Leave

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

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

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

(b) Definitions

- (i) **'An employee experiencing family violence'** means a person against whom family violence is directed.
- (ii) **'Family Violence'** is conduct as defined by s.7 of the *Family Violence Act 2004* against a member of an employee's immediate family or household.
- (iii) **'Household'** means any person or persons who usually reside with the employee.
- (iv) **'Immediate family'** subject to subclause (c) in respect of an employee includes:
 - (1) spouse (including a former spouse) of the employee. Spouse means a person who is married or a person who is in a significant relationship within the meaning of the *Relationships Act 2003*.

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

- (A) have a relationship as a couple; and
 - (B) are not married to one another or related by family.
- (2) child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent (including foster parent step parent or legal guardian), grandparent, grandchild, sibling or step sibling, brother-in-law, sister-in-law, son-in-law or daughter-in-law of the employee or employee's spouse.
 - (3) The employer acknowledges that employees may have relationships outside of those specified in sub-clause (b)(iii) and (b)(iv) and therefore would consider an application for family violence leave in those circumstances. The amount of any family violence leave would be at the discretion of the employer.

(c) Aboriginal Family Relationships

- (i) The employer recognises that an Aboriginal employee may have members of their Aboriginal family who are not specified in the definition of 'immediate family' in subclause (b)(iv).

- (ii) For the purpose of accessing the provisions of this clause, an Aboriginal employee may substitute 'Aboriginal family' in the place of 'immediate family'.
 - (iii) Without limitation, Aboriginal family relationships may include immediate family, extended family, kinship and cultural community relationships.
 - (iv) The employer recognises that the concept of family may mean different things to different people within the Aboriginal community and that the definition of the relationships referenced in subclause (c)(iii) may be different for individual employees.
 - (v) The provisions of this subclause also apply to casual employees and the entitlement provided pursuant to subclause (k).
- (d) Amount of Family Violence Leave
- (i) Family violence leave is paid leave of up to 20 days per personal leave year as specified in Part VI, Clause 5(k) (non-cumulative) and is available to an employee who is experiencing family violence. This leave may be taken in hours.
 - (ii) A Head of Agency (or authorised person) may approve paid family violence leave in addition to the family violence leave entitlement prescribed in this subclause.
- (e) Payment of Family Violence Leave
- Family violence leave is paid at the employee's normal salary rate, as defined.
- (f) Evidence for Family Violence Leave
- (i) Where practicable, an employee who requests family violence leave is required to satisfy the employer of this request with no reasonable request to be denied for immediate and short-term absences.
 - (ii) All reasonable action is to be taken by the employer to protect an employee's identity and maintain their confidentiality and privacy in approving, managing and recording leave under this clause.
 - (iii) Any documentation provided by an employee as evidence to support an application for family violence leave is to be returned to the employee without being copied or recorded in any way and no information regarding family violence leave is to be kept on an employee's personnel file without the employee's express written permission.
 - (iv) Evidence that may be provided to support an application for leave under this clause includes, but is not limited to, documentation or contact information (with appropriate authority from the employee) from professional support services such as:
 - Safe at Home Service provider (Police, Court Support and Liaison Service, Family Violence Counselling and Support Service, Legal Aid, Magistrates Court);
 - Employee Assistance Program (EAP) provider;
 - Specialist counselling or refuge service;
 - Legal or financial service; or
 - Medical/Health practitioner.

(g) Access to Personal Leave

An employee who is providing support to a person who is a member of the employee's immediate family or household and who is, or has been, experiencing family violence, may be granted personal leave according to the provisions of Part VI, Clause 5(k), Personal Leave.

(h) Other Support Options

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

(i) Employee to Give Notice

(i) As far as practicable, and taking into consideration privacy and confidentiality requirements, an employee who is experiencing family violence and who requires leave to attend to matters associated with family violence is to provide the employer with:

- (1) prior notice of the requirement for leave; and
- (2) the estimated duration of the leave.

(ii) If it is not practicable for the employee to provide prior notice of the requirement for leave notification consistent with sub-clause (i) should be provided at the earliest opportunity.

(j) Contact Officer for Family Violence

(i) Each Agency is to provide support for employees who are experiencing family violence and to notify employees of the name of the nominated Contact Officer(s).

(ii) A nominated Contact Officer(s) is to be trained in family violence and related issues such as sensitivity, privacy, raising awareness, providing access to support and referral services, proposing reasonable adjustments to work arrangements, family violence risk assessment and risk management.

(iii) An employee who is experiencing family violence may seek the support of a nominated Agency Contact Officer, their immediate supervisor, their union delegate or an Agency employee who the employee nominates as their contact person.

(iv) Where requested by an employee, the Agency Contact Officer or employee nominated contact person is to liaise with the employee's supervisor/ manager on the employee's behalf and recommend the most appropriate form of support and management.

(k) Relief Employees

(i) Subject to the provisions of this clause, relief employees who are experiencing family violence are entitled to leave work or to not be available to attend work.

(ii) The employer and an employee are to agree on the period the employee is entitled to not be available to attend work. In the absence of agreement, an employee is entitled to not be available to attend work for up to 20 days per occasion.

(iii) The employer must not fail to re-engage a relief employee because the employee has 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.

11. ABORIGINAL CULTURAL LEAVE

(a) Purpose of Aboriginal Cultural Leave

Aboriginal Cultural Leave enables an Aboriginal employee to be absent from work to engage in Aboriginal Cultural practices and meet Cultural expectations as an active Aboriginal community member during their employment. This may include participating in significant Aboriginal Cultural events and activities, complying with cultural observances and/or fulfilling cultural obligations.

(b) Definitions

- (i) Aboriginal employee** for the purpose of this clause means an employee who is an Aboriginal and/or Torres Strait Islander person and who:
 - (1) meets the Tasmanian Government's eligibility requirements for Aboriginal and Torres Strait Islander programs and services; and
 - (2) has identified as Aboriginal and/or Torres Strait Islander in Employee Self Service or the relevant employment management system.
- (ii) 'Aboriginal Cultural events and activities'** refers only to Aboriginal community business and for the purpose of this clause does not include:
 - (1) NAIDOC Week activities and the TSS Aboriginal Employee Network Workshops and Gathering. The employer supports the attendance of Aboriginal employees at these events (where occurring in paid time) and recognises that their attendance is legitimate business and forms part of their ordinary duties. In these circumstances, attendance at these events will be counted as time worked and therefore the employee is not required to access Aboriginal Cultural Leave to attend.
 - (2) Any activities where the employee receives payment (for example, payment to work a mutton bird season; payment to deliver a Welcome to Country, or a similar event, ceremony and/or activity; payment to sit on a board or committee).
 - (3) Government events, meetings and/or activities (e.g. sitting on a government Aboriginal advisory or reference groups), except for government events and/or activities which are Aboriginal-led and exclusively for Aboriginal participants. Noting that in accordance with subclause (b)(ii)(1), the employer supports the attendance of Aboriginal employees at the TSS Aboriginal Employee Network Workshops and Gathering and therefore an Aboriginal employee is not required to access Aboriginal Cultural Leave to attend those events.
- (iii) 'Cultural obligations'** for the purpose of this clause may include, without limitation: cultural and ceremonial obligations under Aboriginal lore, customary or traditional law; or family, customary or community obligations.

(c) Amount of Aboriginal Cultural Leave

- (i)** An Aboriginal employee, other than a relief employee, is entitled to leave of up to five days paid leave per personal leave year as specified in Part VI, Clause 5(k)(non-cumulative). This leave may be taken in hours.
- (ii)** Aboriginal Cultural Leave may be taken for part of a single day.
- (iii)** Aboriginal Cultural Leave is credited to an employee on the first day of appointment and will be replaced with a new credit on the date each subsequent personal leave year commences.

- (iv) Aboriginal Cultural Leave does not accumulate and is not paid out on cessation of employment.
- (d) Payment of Aboriginal Cultural Leave
 - (i) Aboriginal Cultural Leave is paid at the normal salary rate which the employee would have received for the ordinary hours of work during the relevant period.
- (e) Notice and Application
 - (i) An Aboriginal employee should provide notice to the employer at the earliest reasonable opportunity of their intention to access leave under this clause.
 - (ii) An employee is to make an application to the employer to access Aboriginal Cultural Leave. The application is to include supporting information which relates to the connection between the application and the purpose of this clause.
 - (iii) Where the employer does not approve an application for Aboriginal Cultural Leave, the employer is to provide supporting reasons for the decision in writing to the employee, and if appropriate the employee and employer may discuss alternative arrangements.
- (f) Relief employees
 - (i) Relief employees are entitled to leave work or not be available to attend work, for the purposes of this clause.
 - (ii) The employer and an employee are to agree on the period the employee is entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to five days per annum in the circumstances described in sub-clauses (a) and (b).
 - (iii) A relief employee is not entitled to any payment for the period of non-attendance.
 - (iv) The employer must not fail to re-engage a relief employee because the employee has 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.

12. DISABILITY LEAVE

- (a) Purpose
 - (i) Disability leave is available to an employee to enable them to be absent from duty for the purpose of activities (including attending appointments) associated with their long-term physical or psychological disability.
- (b) Eligibility
 - (i) Disability leave is available to an employee (except for a relief employee) who lives with a disability.
 - (ii) For the purpose of this clause, disability is defined as a long-term physical, mental, cognitive, intellectual or sensory impairment.
 - (iii) The entitlement for relief employees is provided at subclause (g).

(c) Entitlement

- (i) An eligible employee is entitled to paid disability leave of up to five days per personal leave year as specified in Part VI, Clause 5(k).
- (ii) Disability leave is non-cumulative and is not paid out on cessation of employment.
- (iii) Disability leave is available from the first day of appointment.
- (iv) Disability leave is credited to an employee on the first day of appointment and will be replaced with a new credit on the date upon which each subsequent personal leave year commences.
- (v) Disability leave is available for the purpose of activities associated with an employee's disability including, but not limited to, any of the following:
 - (1) To attend an appointment with a registered health practitioner.
 - (2) To attend treatment, rehabilitation, therapy or counselling.
 - (3) To attend tests or assessments.
 - (4) To receive delivery of, fitting, repairing, maintaining and undergoing training in use of orthoses, prostheses, adaptive equipment, or other aids.
 - (5) To obtain wheelchair or other equipment or to undertake maintenance or replacement of such equipment.
- (vi) The period of leave accessed by an employee may be greater than the duration of the activity or appointment to facilitate travel time and recovery.
- (vii) Disability Leave may be taken for part of a single day.
- (viii) Disability leave is not to be used as a substitute for an employee's personal leave entitlement provided in Part VI, Clause 5.

(d) Notice and Evidence Requirements

- (i) An employee is to provide notice to the employer at the earliest reasonable opportunity of the request for leave and the length of leave required.
- (ii) An employee is to make an application to the employer for disability leave accompanied by supporting documentary evidence where appropriate.
- (iii) Documentary evidence may include any of the following:
 - (1) A medical certificate from a registered health practitioner operating within their scope of practice;
 - (2) A written referral, issued by a registered health practitioner;
 - (3) A statutory declaration;
 - (4) Other reasonable forms of documentation.

(e) Rate of payment

- (i) Disability Leave is paid at the employee's normal salary rate, as defined.

(f) Effect on other entitlements

- (i) Employees who are unable to attend work due to illness related to their disability may utilise personal leave.

- (ii) Disability leave will count as continuous service for all purposes.
- (g) Relief employees
 - (i) Subject to the notice and evidence requirements in subclause (d) relief employees are entitled to leave work or not be available to attend work, for the purposes of this clause.
 - (ii) The employer and an employee are to agree on the period the employee is entitled to not be available to attend work. In the absence of agreement, an employee is entitled to not be available to attend work for up to one working day per occasion.
 - (iii) A relief employee is not entitled to any payment for the period of non-attendance.
 - (iv) The employer must not fail to re-engage a relief employee because the employee has 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.

13. FOSTER AND KINSHIP CARE LEAVE

- (a) Purpose
 - (i) Foster and kinship care leave enables an employee to provide care to a child or young person, through a foster care or kinship care arrangement.
- (b) Eligibility
 - (i) Foster and kinship care leave is available to an employee, other than a relief employee, who is providing care for a child or young person through a foster care arrangement or kinship care arrangement, that has not been determined to be permanent.
 - (ii) For the purpose of this clause, foster care and kinship care arrangements are defined as the provision of short-term, long-term, emergency or respite care for a child or young person through a formal arrangement facilitated by a government or non-government service provider.
 - (iii) For the purpose of this clause, 'child' and 'young person' have the meanings as defined by the *Children, Young Persons and Their Families Act 1997* (Tas) (or any successor to the legislation).
- (c) Entitlement
 - (i) An eligible employee is entitled to paid foster and kinship care leave proportionate to the duration of the care arrangement for each application, up to a maximum of 10 days paid leave per personal leave year as specified in Part VI, Clause 5(k).
 - (ii) Foster and kinship care leave is non-cumulative and will not be paid out on cessation of employment.
 - (iii) Foster and kinship care leave is credited to an employee on the first day of service and will be replaced with a new credit upon the commencement of each subsequent personal leave year.
 - (iv) Foster and kinship care leave may be taken as a single day or as a block of days, commensurate with the duration of the caring arrangement.

- (d) Notice and Evidence Requirements
 - (i) An employee is to make an application to the employer for foster and kinship care leave, accompanied by supporting documentary evidence.
 - (ii) Documentary evidence may include:
 - (1) Documents from a recognised government or non-government provider through which the care arrangement is facilitated;
 - (2) Documents from a registered health practitioner;
 - (3) Documents relating to current and previous court orders granting responsibility for a foster child.
- (e) Rate of payment
 - (i) Foster and kinship care leave is paid at the employee's normal salary rate.

14. GENDER AFFIRMATION LEAVE

- (a) Purpose
 - (i) Gender affirmation leave is available to employees to enable them to be absent from duty for the purpose of undertaking activities associated with that employee's process of affirming their gender.
- (b) Eligibility
 - (i) Gender affirmation leave is available to an employee (other than a fixed-term relief employee) who is undergoing a process of affirming their gender.
 - (ii) Employees may affirm their gender in a number of ways, including through medical, social, and legal changes. An employee is not required to be undergoing specific types of changes, including surgery, to access leave under this clause.
- (c) Entitlement
 - (i) An eligible employee undergoing a process of gender affirmation is entitled to the following, subject to the notice and evidence requirements of this clause:
 - (1) up to 4 weeks paid leave; and
 - (2) up to 48 weeks unpaid leave.
 - (ii) Gender affirmation leave is available for the purpose of activities associated with an employee's gender affirmation including, but not limited to, any of the following:
 - (1) Medical or psychological appointments; or
 - (2) Hormonal appointments; or
 - (3) Surgery and associated appointments; or
 - (4) Appointments to alter the Employee's legal status or amend the Employee's gender on legal documentation; or
 - (5) Any other similar necessary appointment, procedure or event to give effect to the employee's transition as agreed with the employer.
 - (iii) The period of leave accessed by the employee may be greater than the duration of their appointment or procedure, to facilitate travel and recovery.

- (iv) Gender affirmation leave may be taken as consecutive, single or part days as agreed with the employer.
 - (v) An employee may be granted gender affirmation leave from the first day of appointment.
 - (vi) An employee may access an entitlement to gender affirmation leave provided by sub-clause (c)(i) up until 52 weeks after they commence the process of affirming their gender. For clarity, nothing in this subclause prevents an employee from accessing gender affirmation leave at a point in time before they commence the process of affirming their gender or living as a member of that gender provided that the leave is accessed for the purpose outlined at subclauses (c)(ii) and (iii).
 - (vii) Gender affirmation leave is non-cumulative and will not be paid out on cessation of employment
- (d) Notice and Evidence Requirements
- (i) An employee wishing to access gender affirmation leave should discuss their intention to take leave with the employer as soon as reasonably practicable.
 - (ii) An employee is to make an application to the employer for gender affirmation leave accompanied by supporting documentary evidence where appropriate.
 - (iii) Documentary evidence may include any of the following:
 - (1) A medical certificate from a registered health practitioner or registered professional operating within their scope of practice; and/or
 - (2) A written referral, issued by a registered health practitioner, to a counsellor; and/or
 - (3) A document issued by a counsellor; and/or
 - (4) A legal or other document issued by a state, territory or federal government organisation; and/or
 - (5) A statutory declaration.
- (e) Rate of payment
- (i) Gender affirmation leave is paid at the employee's normal salary rate, as defined.
- (f) Effect on other entitlements
- (i) Paid gender affirmation leave will count as service for all purposes.
 - (ii) The total period of gender affirmation leave without pay in excess of 20 working days within a personal leave year is regarded as leave without pay for accrual purposes, including for recreation leave and personal leave but does not break an employee's continuity of service.
- (g) Relief Employees
- (i) Subject to the notice and evidence requirements in subclause (d), relief employees are entitled to not be available to attend work for the purpose of this clause.
 - (ii) The employer and an employee are to agree on the period the employee is entitled to not be available to attend work.
 - (iii) The employer must not fail to re-engage a relief employee because the employee has 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.

15. SURROGACY LEAVE

(a) Purpose

- (i) Surrogacy leave is available to support an employee who has entered into a formal surrogacy arrangement.

(b) Definitions

- (i) **'Eligible relief employee'** means a relief employee employed during a period of at least 12 months, either:
 - (1) on a regular and systematic basis for several periods of employment;
 - (2) on a regular and systematic basis for an ongoing period of employment, and who has, but for the pregnancy, a reasonable expectation of ongoing employment.
- (ii) **'Employee'** includes full-time, part-time, permanent, fixed term and eligible relief employees (as defined).
- (iii) **'Normal rate of pay'** means an employee's rate of salary and includes allowances which would have continued to be paid but for taking surrogacy 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.

(c) Eligibility

- (i) Surrogacy leave is available to an employee who has entered into a formal non-commercial surrogacy arrangement to give birth to a child. A formal surrogacy arrangement is one which is entered into in accordance with the *Surrogacy Act 2012* (Tas) (or any successor legislation).
- (ii) An employee must have completed a period of 12 months continuous service to be eligible for surrogacy leave.
- (iii) An employee eligible for surrogacy leave is not entitled to parental leave in accordance with Clause 2 of this Part.

(d) Entitlement

- (i) An eligible employee who has entered into a formal surrogacy arrangement is entitled to up to six weeks paid leave in relation to the birth of a child.
- (ii) The six weeks paid leave is to be taken in a consecutive period.

(e) Commencement and Period of Surrogacy Leave

- (i) Unless otherwise agreed with the employer, an employee is to commence surrogacy leave within six weeks immediately prior to the expected date of birth.

- (ii) An employee who returns to work within six weeks after the birth of the child is required to provide a medical certificate to the employer stating that the employee is fit to work on their normal duties.
 - (iii) Where an employee has exhausted their paid surrogacy leave entitlement, before six weeks following the birth of the child, the employee may access any accrued recreation leave or long service leave entitlement in accordance with Clause 15(i) of this Part.
 - (iv) Nothing in subclause (e)(iii) will prohibit an employee from accessing personal leave or any other leave entitlement they become eligible for during this period.
- (f) Continuing to work while pregnant
 - (i) An employee who continues to work within the six week period immediately prior to the expected date of birth is required to provide a medical certificate to the employer stating that the employee is fit to work on their normal duties.
- (g) 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 their present work, the employee is to be transferred to a safe job, if the employer deems it practicable, until surrogacy leave commences.
 - (ii) In circumstances where the employer is unable to provide a safe job for the employee the employee will continue to be paid at the normal rate of pay for the employee's ordinary hours of work for the period of the risk. The period of risk ends with the commencement of surrogacy leave or six weeks before the expected date of birth, whichever is earlier.
- (h) Rate of Payment
 - (i) The rate of pay for an employee during the period of the paid surrogacy leave is the normal rate of pay, as defined at subclause (b) (iii).
- (i) Surrogacy Leave and Other Entitlements
 - (i) Paid surrogacy leave and unpaid special surrogacy leave will count as continuous service for all purposes.
 - (ii) An employee may access any accrued recreation leave or long service leave entitlements, as well as any other form of leave they become eligible for, in conjunction with surrogacy leave.
- (j) Special Surrogacy Leave
 - (i) An employee who has not yet commenced surrogacy leave and who suffers an illness related to their pregnancy or is required to undergo a pregnancy related medical procedure is to be granted any paid personal leave to which the employee is entitled and such further unpaid special surrogacy leave as a registered medical practitioner certifies as necessary before their return to work.
 - (ii) Where the pregnancy of an employee terminates other than by the birth of a living child, not earlier than 28 weeks before the expected date of birth, the employee is entitled to access six weeks paid surrogacy leave.

(k) Notice and Evidence Requirements

- (i) An employee is to provide written notice to the employer in advance of the expected date of commencement of surrogacy 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 surrogacy leave and the period of leave to be taken.
- (ii) An employee is not in breach of this clause for if failure to give the required notice is due to the date of birth occurring earlier than the expected date.
- (iii) Prior to the commencement of surrogacy leave, the employee is to provide evidence of the formal surrogacy arrangement to which the employee has entered into.

PART VII – CONSULTATION AND DISPUTE RESOLUTION

1. CONSULTATION AND CHANGE

- (a) Where the employer proposes changes in work arrangements and practices that are likely to impact employees, the employer is to consult with the employees who may be affected by the proposed changes and the Union prior to a final decision being made to implement that change.
- (b) Consultation is undertaken because all parties acknowledge that by discussing proposed changes with the employees who may be affected by the change and giving consideration to their views and feedback, a better informed decision occurs.
- (c) Consultation is not joint decision-making or a barrier to the prerogative of management to make decisions; nor is it simply advice on what is about to happen. It is a process that informs affected employees about proposed change and provides them with a genuine opportunity to influence the outcome before a final decision is made.
- (d) While employees should be consulted on all change that is likely to affect them, the extent of any consultation process should be based on the materiality or impact of the change and the number of employees likely to be impacted by the change.
- (e) Employees and the Union should be provided with access to relevant information about a change proposal, be given a reasonable opportunity to provide feedback and be provided with a response to any reasonable alternatives put forward.
- (f) Consultation should involve four clear stages:
 - (i) Formulation of ideas or proposals;
 - (ii) Consultation on a proposal;
 - (iii) Considering responses and providing feedback; and
 - (iv) Making a final decision and implementing it.
- (g) The Department is to maintain a register of changes subject to this process. The employer will maintain a register of major changes subject to this process. Employees and the Union may request access to these registers.
- (h) Subject to subclauses (g) and (h), in the event that outsourcing of a service or services supplied by an Agency is under consideration by that Agency, consultation is to occur in line with this clause. This will include identification of the actual service, program and functions to be outsourced, the services, programs and functions that are to remain, reasons and impact on employees.
- (i) Where the outsourcing of an in-house service is being considered by an Agency and that service will continue to be provided within the State Service, but by an external organisation, information will be provided on the following matters as a minimum:
 - (i) The current cost of the service;
 - (ii) Impact on current employment arrangements, including salaries, job security and reasons for outsourcing;
 - (iii) Future costs, where available, including contract management costs on an outsourced service, program or function;

- (iv) Description of the service, program or functions to be outsourced and those that are to remain;
- (v) Service quality requirements;
- (vi) Risk assessment should the outsourced provider cease to continue the service
- (j) Prior to the implementation of a decision to tender, the Agency will provide the opportunity for the employees and/or the Union to submit a case to meet the requirements for undertaking the service, program or function.

2. 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 employee 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 employee plus his or her nominated representative, if any, and senior management.
 - (iii) At any time during (a)(i) and (a)(ii), the employee may choose to be represented by a delegate/official of the Union 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 Secretary and the Union or another nominated representative for the employee.
- (c) If the dispute matter cannot be resolved as prescribed by subclauses (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 an employee has a reasonable concern about an imminent risk to his or her health and safety.

3. PLANNING COMMITTEE

A planning committee may be established in a school/college to advise and assist the principal with strategic planning within that school/college. The committee shall consist of members of the teaching staff elected by the school/college teaching staff. The principal or his/her nominee shall also be a member.

4. 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.

5. WORKLOAD MANAGEMENT

- (a) An employee who believes they have been allocated duties that exceed those that can be reasonably performed in the time allocated for them to be undertaken should formally advise their principal/supervisor. Where practicable to do so, the employee should suggest how their allocated tasks can be prioritised.
- (c) A principal/supervisor who has been advised in accordance with subclause (a) should respond promptly to the employee's concerns. Where the principal/supervisor acknowledges the workload is excessive the response should include a plan to reduce the workload to a manageable level. If the principal/supervisor does not accept that the workload is excessive the response should outline such reasons.

6. FLEXIBLE 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 Union shall be advised by the employer of an intention to commence discussions with employees on an agreement under this clause.
 - (iv) The Union must be a party to the agreement.
 - (v) The Union 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.

PART VIII - PROTECTIVE CLOTHING

1. PROTECTIVE CLOTHING

Where, on the determination of the employer, an employee's official duties are such as to necessitate the wearing of protective clothing including wet weather gear, the employer shall provide that employee with an allowance.

- (a) The allowance shall be paid upon appointment and as required following that appointment.
- (b) The employer and the majority of employees will, by agreement, formulate a list of appropriate protective clothing items, for each category of employees and the allowance will be sufficient for the employee to purchase the items on that list.

PART IX – AWARD COMPLIANCE AND UNION MATTERS

RIGHT OF EXISTING AND NEW EMPLOYEES TO REPRESENTATION IN THE WORKPLACE

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



6 July 2023