

CITATION: *Award for Employees in Direct Client Services - Department of Communities,
Child Safety and Disability Services 2012
Repeal and New Award (A/2010/85)*
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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 - s. 130 - award review

**AWARD FOR EMPLOYEES IN DIRECT CLIENT
SERVICES - DISABILITY SERVICES QUEENSLAND 2003**

(Matter A/2010/85)

DEPUTY PRESIDENT SWAN
DEPUTY PRESIDENT BLOOMFIELD
COMMISSIONER THOMPSON

10 May 2012

AWARD REVIEW

After reviewing the above Award as required by s. 130 of the *Industrial Relations Act 1999*, this Commission orders that the Award be repealed and the following Award be made as from 10 May 2012.

**AWARD FOR EMPLOYEES IN DIRECT CLIENT SERVICES - DEPARTMENT
OF COMMUNITIES, CHILD SAFETY AND DISABILITY SERVICES 2012**

PART 1 - APPLICATION AND OPERATION

1.1 Title

This Award is known as the Award for Employees in Direct Client Services - Department of Communities, Child Safety and Disability Services 2012.

1.2 Arrangement

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1.3 Award coverage

1.3.1 This Award applies to employees of the Chief Executive, Department of Communities, Child Safety and Disability Services, whose rates of pay are fixed by this Award and who are for the purposes of this Award:

- engaged in employment at a residential care facility; and
- appointed pursuant to section 119 of the *Public Service Act 2008*; or

- appointed pursuant to section 148 of the *Public Service Act 2008*.

1.3.2 The provisions of the *Public Service Act 2008* and the Regulations made pursuant to that Act shall apply to employees where applicable and should be read in conjunction with this Award.

1.4 Date of operation

This Award takes effect from 29 September 2003.

1.5 Parties Bound

This Award is binding on employees as prescribed in clause 1.3 and the chief executive of the Department of Communities, Child Safety and Disability Services, and on The Australian Workers' Union of Employees, Queensland and on Together Queensland, Industrial Union of Employees and the members of those Unions.

1.6 Definitions

1.6.1 The "Act" means the *Industrial Relations Act 1999* as amended or replaced from time to time.

1.6.2 "Classification Level" - comprises a number of paypoints in a particular stream through which employees will be eligible to progress.

1.6.3 "Commission" means the Queensland Industrial Relations Commission.

1.6.4 "Continuous Shift Work" means work done by employees where the hours of work are regularly rotated in accordance with a shift roster covering a 24 hour per day operation over a 7 day week.

1.6.5 "Direct Services Support Officer" means an employee principally employed to provide administrative and other support to staff and clients of the Department of Communities, Child Safety and Disability Services necessary to ensure the effective operation of accommodation services, particularly outside regular office hours.

1.6.6 "Forensic Disability Worker (Clinical Support)" means an employee:

- (a) employed in a continuous shift work arrangement to deliver lifestyle and skills support for clients of the Forensic Disability Service and support clinical intervention/treatment programs; and
- (b) who has completed the Certificate IV in Disability or approved equivalent or has ability to undertake the Certificate IV in Disability within a prescribed timeframe; and
- (c) who has the ability to complete forensic specific training within a prescribed timeframe.

1.6.7 "Forensic Disability Worker (Clinical Support and Shift Co-ordination)" means an employee:

- (a) employed in a continuous shift work arrangement to deliver lifestyle and skills support for clients of the Forensic Disability Service and support clinical intervention/treatment programs; and
- (b) who is responsible for appropriate deployment of staff on a shift by shift basis and arranging the smooth transition of shift changes and identifying and responding to staff shortages; and
- (c) who has completed the Certificate IV in Disability or approved equivalent or has ability to undertake the Certificate IV in Disability within a prescribed timeframe; and
- (d) who has the ability to complete forensic specific training within a prescribed timeframe.

1.6.8 "Generic Level Statement" means a broad, concise statement of the duties, skills and responsibilities indicative of a given Classification Level.

1.6.9 "Increment" means for all employees an increase in salary from one paypoint to the next highest paypoint.

1.6.10 "Majority of Employees Concerned " means 50 % plus one of the employees in the Work Unit.

1.6.11 "Paypoint" -means the specific rate of remuneration payable to employees within a Classification Level.

1.6.12 "Residential Care Officer" means an employee who has completed the Certificate IV in Disability or an approved equivalent qualification and who has been appointed as such.

- 1.6.13 "Shift Work" means work done by separate relays of employees working recognised hours, preceding, during or following the ordinary working hours on a regular rotating basis provided on a shift roster.
- 1.6.14 "Union" means The Australian Workers' Union of Employees, Queensland or Together Queensland, Industrial Union of Employees.
- 1.6.15 "Team Leader" means an employee who has completed a Certificate IV in Disability (or approved equivalent) and has been appointed as such.

PART 2 - FLEXIBILITY

2.1 Enterprise flexibility

- 2.1.1 As part of a process of improvement in productivity and efficiency, discussion should take place at each enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction and to encourage consultative mechanisms across the workplace.
- 2.1.2 The consultative processes established in an enterprise in accordance with clause 2.1 may provide an appropriate mechanism for consideration of matters relevant to clause 2.1.1. Union delegates at the place of work may be involved in such discussions.
- 2.1.3 Any proposed genuine agreement reached between an employer and employee/s in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 6 of the Act and is to have no force or effect until approval is given.

2.2 Procedures to implement facilitative Award provisions

Wherever facilitative provisions appear in this Award which allow for determination of the conditions of employment by agreement between the chief executive and the Union or the chief executive and the majority of employees affected, the following procedures apply:

- 2.2.1 Facilitative Award provisions can be negotiated between management and employees who are directly affected by such proposals or between management and the Union depending upon the particular Award provisions.
- 2.2.2 Employees may be represented by their local Union delegate/s and shall have the right to be represented by their local Union official/s.
- 2.2.3 Facilitative award provisions can only be implemented by agreement.
- 2.2.4 In determining the outcome from facilitative provisions, neither party should unreasonably withhold agreement.
- 2.2.5 Agreement is defined as obtaining consent of greater than 50% of employees directly affected or of the Union depending upon the particular Award provisions.
- 2.2.6 Where a provision refers to agreement by the majority of employees affected, all employees directly affected shall be consulted as a group. Should the consultation process identify employees with specific concerns which relate to either equity or occupational health and safety issues such concerns may be catered for on an individual basis subject to operational requirements.
- 2.2.7 Any agreement reached must be documented, and shall incorporate a review period.
- 2.2.8 Where the agreement relates to either the working of ordinary hours on other than a Monday to Friday basis, the introduction of Shift Work or change to the shift roster the relevant Unions are to be notified in writing at least one week in advance of agreement being sought.

PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

3.1 Prevention and settlement of disputes

The objectives of this procedure are the avoidance and resolution of any disputes over matters covered by this Award, by measures based on the provision of information and explanation, consultation, co-operation and negotiation.

- 3.1.1 Subject to legislation, while the dispute procedure is being followed, normal work is to continue except in the case of a genuine safety issue. The *status quo* existing before the emergence of a dispute is to continue whilst the procedure is being followed. No party shall be prejudiced as to the final settlement by the continuation of work.
- 3.1.2 There is a requirement for management to provide relevant information and explanation and consult with the

appropriate employee representatives.

- 3.2.3 In the event of any disagreement between the parties as to the interpretation or implementation of this Award, the following procedures shall apply:
- (a) the matter is to be discussed by the employee's Union representative and/or the employee(s) concerned (where appropriate) and the immediate supervisor in the first instance. The discussion should take place within 24 hours and the procedure should not extend beyond 7 days;
 - (b) if the matter is not resolved as per clause 3.1.3(a), it shall be referred by the Union representative and/or the employee(s) to the appropriate management representative who shall arrange a conference of the parties to discuss the matter. This process should not extend beyond 7 days;
 - (c) if the matter remains unresolved it may be referred to the chief executive officer or nominee for discussion and appropriate action. This process should not exceed 14 days;
 - (d) if the matter is not resolved then it may be referred by either party to the Commission for conciliation.
- 3.1.4 Nothing contained in this procedure shall prevent Unions or the Queensland Government from intervening in respect of matters in dispute, should such action be considered conducive to achieving resolution.

3.2 Employee grievance procedures

The objectives of the procedure are to promote the prompt resolution of grievances by consultation, co-operation and discussion; to reduce the level of disputation; and to promote efficiency, effectiveness and equity in the workplace.

- 3.2.1 This procedure applies to all industrial matters within the meaning of the Act.
- 3.2.2 Stage 1: In the first instance the employee shall inform such employee's immediate supervisor of the existence of the grievance and they shall attempt to solve the grievance. It is recognised that an employee may exercise the right to consult such employee's Union representative during the course of Stage 1.
- 3.2.3 Stage 2: If the grievance remains unresolved, the employee shall refer the grievance to the next in line management ("the manager"). The manager will consult with the parties. The employee may exercise the right to consult or be represented by such employee's Union representative during the course of Stage 2.
- 3.2.4 Stage 3: If the grievance is still unresolved, the manager will advise the chief executive and the aggrieved employee may submit the matter in writing to the chief executive of the organisation if such employee wishes to pursue the matter further. If desired by either party, the matter shall also be notified to the Union.
- 3.2.5 The chief executive shall ensure that:
- (a) the aggrieved employee or such employee's Union representative has the opportunity to present all aspects of the grievance;
 - (b) the grievance is investigated in a thorough, fair and impartial manner.
- 3.2.6 The chief executive may appoint another person to investigate the grievance. The chief executive may consult with the Union in appointing an investigating employee. The appointed person shall be other than the employee's supervisor or manager.
- 3.2.7 If the matter is notified to the Union, the investigating employee shall consult with the Union during the course of the investigation. The chief executive shall advise the employee initiating the grievance, such employee's Union representative and any other employee directly concerned of the determinations made as a result of the investigation of the grievance.
- 3.2.8 The chief executive may delegate such chief executive's grievance resolution powers under clause 3.2 to a nominated representative.
- 3.2.9 The procedure is to be completed in accordance with the following time frames unless the parties agree otherwise:
- (a) Stage 1 discussions should take place between the employee and such employee's supervisor within 24 hours and the procedure shall not extend beyond 7 days.
 - (b) Stage 2 is not to exceed 7 days.
 - (c) Stage 3 is not to exceed 14 days.

3.2.10 If the grievance is not settled the matter shall be referred to the Public Service Commission Chief Executive or the Commission by the employee or the Union, as appropriate, in accordance with the respective jurisdictions of the tribunals.

3.2.11 Subject to legislation, while the grievance procedure is being followed, normal work is to continue, except in the case of a genuine safety issue. The *status quo* existing before the emergence of a grievance or dispute is to continue while the procedure is being followed. No party shall be prejudiced as to the final settlement by the continuation of work.

3.2.12 Where the grievance involves allegations of sexual harassment, an employee may commence the procedure at Stage 3.

PART 4 - EMPLOYER AND EMPLOYEES' DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS

4.1 Termination of employment

4.1.1 Statement of employment

An employer shall, in the event of termination of employment, provide upon request to the employee who has been terminated a written statement specifying the period of employment and the classification or type of work performed by the employee.

4.1.2 Termination by employer

(a) An employer may dismiss an employee only if the employee has been given the following notice:

Period of Continuous Service	Period of Notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

(b) In addition to the notice in (a) above, employees 45 years old or over and who have completed at least 2 years' continuous service with the employer shall be entitled to an additional week's notice.

(c) Payment in lieu of notice shall be made if the appropriate notice is not given:

Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

(d) In calculating any payment in lieu of notice the minimum compensation payable to an employee will be at least the total of the amounts the employer would have been liable to pay the employee if the employee's employment had continued until the end of the required notice period. The total must be worked out on the basis of:

- (i) the ordinary working hours to be worked by the employee; and
- (ii) the amounts payable to the employee for the hours including for example allowances, loadings and penalties; and
- (iii) any other amounts payable under the employee's employment contract.

(e) The period of notice in this clause shall not apply in the case of dismissal for misconduct or other grounds that justify instant dismissal, or in the case of a casual employee, or an employee engaged by the hour or day, or an employee engaged for a specific period or tasks.

(f) It is not lawful for the chief executive to offset notice of termination against any period of annual leave or part thereof.

4.1.3 Notice of termination by employee

The notice of termination required to be given by an employee shall be two weeks. If an employee fails to give notice, the employer shall have the right to withhold monies due to the employee with a maximum amount equal to 2 weeks' pay.

4.1.4 Time off during notice period

During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. This time off shall be taken at times that are convenient to the employee after consultation with the employer.

4.2 Introduction of changes

4.2.1 Employer's duty to notify

- (a) Where an employer decides to introduce changes in production, program, organisation, structure or technology, that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and, where relevant, their Union or Unions.
- (b) 'Significant effects' includes termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs:

Provided that where the Award makes provision for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

4.2.2 Employer's duty to consult over change

- (a) The employer shall consult the employees affected and, where relevant, their union or unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternate employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.2.1.
- (c) For the purpose of such consultation the employer shall provide in writing to the employees concerned and, where relevant, their union or unions, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees, and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

4.3 Redundancy

The provisions of clause 4.3 will not apply to the extent that the provisions of the redundancy arrangements are contained in a Directive issued by the Minister responsible for industrial relations pursuant to section 54 of the *Public Service Act 2008*, where the Directive provides for entitlements that are superior to clause 4.3.

4.3.1 Consultation before terminations

- (a) Where an employer decides that the employer no longer wishes the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour, and that decision may lead to termination of employment, the employer shall consult the employee directly affected and where relevant, their union or unions.
- (b) The consultation shall take place as soon as it is practicable after the employer has made a decision, which will invoke the provisions of clause 4.3.1(a) and shall cover the reasons for the proposed terminations, measures to avoid or minimise the terminations and/or their adverse effects on the employees concerned.
- (c) For the purpose of the consultation the employer shall, as soon as practicable, provide in writing to the employees concerned and, where relevant, their union or unions, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out:

Provided that any employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

4.3.2 Transfer to lower paid duties

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.3.1 the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated under clause 4.1.

- (b) The employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former amounts the employer would have been liable to pay and the new lower amount the employer is liable to pay the employee for the number of weeks of notice still owing.
- (c) The amounts must be worked out on the basis of:
 - (i) the ordinary working hours to be worked by the employee; and
 - (ii) the amounts payable to the employee for the hours including for example, allowances, loadings and penalties; and
 - (iii) any other amounts payable under the employee's employment contract.

4.3.3 *Transmission of business*

- (a) Where a business is, whether before or after the date of insertion of this clause in the Award transmitted from an employer (transmittor) to another employer (transmittee), and an employee who at the time of such transmission was an employee of the transmittor of the business, becomes an employee of the transmittee:
 - (i) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
 - (ii) the period of employment which the employee has had with the transmittor or any prior transmittor shall be deemed to be service of the employee with the transmittee.
- (b) In clause 4.3.3 'business' includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or not the Corporations Law applies in the particular case) of any such business and 'transmission' includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and 'transmitted' has a corresponding meaning.

4.3.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.3.1 the employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

4.3.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.3.1 the employer shall notify Centrelink as soon as possible giving all relevant information about the proposed terminations, including a written statement of the reasons for the terminations, the number and categories of the employees likely to be affected, the number of workers normally employed and the period over which the terminations are intended to be carried out.

4.3.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.1.2(a) and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.3.1(a) shall be entitled to the following amounts of severance pay:

Period of Continuous Service	Severance Pay (weeks' pay)
Less than 1 year	nil
1 year but not more than 2 years	4
More than 2 years but not more than 3 years	6
More than 3 years but not more than 4 years	7
More than 4 years but not more than 5 years	8
More than 5 years but not more than 6 years	9
More than 6 years but not more than 7 years	10
More than 7 years but not more than 8 years	11
More than 8 years but not more than 9 years	12
More than 9 years but not more than 10 years	13
More than 10 years but not more than 11 years	14
More than 11 years but not more than 12 years	15

- (b) "Weeks' Pay" means the ordinary time rate of pay for the employee concerned:

Provided that the following amounts are excluded from the calculation of the ordinary time rate of pay: overtime, penalty rates, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and any other ancillary payments.

4.3.7 *Superannuation benefits*

An employer may make an application to the Commission for relief from the obligation to make severance payments in circumstances where:

- (a) the employer has contributed to a superannuation scheme which provides a particular benefit to an employee in a redundancy situation; and
- (b) the particular benefit to the employee is over and above any benefit the employee might obtain from any legislative scheme providing for superannuation benefits (currently the federal Superannuation Guarantee levy) or an award based superannuation scheme.

4.3.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.3.1(a) may terminate such employment during the period of notice, and, if so, shall be entitled to the same benefits and payments under this clause had such employee remained with the employer until the expiry of such notice:

Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

4.3.9 *Alternative employment*

An employer, in a particular case, may make application to the Commission to have the general severance pay prescription amended if the employer obtains acceptable alternative employment for an employee.

4.3.10 *Employees with less than one year's service*

Clause 4.3 shall not apply to employees with less than one year's continuous service and the general obligation on employers should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

4.3.11 *Employees exempted*

Clause 4.3 shall not apply:

- (a) where employment is terminated as a consequence of misconduct on the part of the employee; or
- (b) to employees engaged for a specific period or task(s); or
- (c) to casual employees.

4.3.12 *Employers exempted*

Subject to an order of the Commission, in a particular redundancy case, clause 4.3 shall not apply to an employer that employs employees working a total of fewer than 550 hours on average per week, excluding overtime, Monday to Sunday. The 550 hours shall be averaged over the previous 12 months.

4.3.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.3.6 are not applicable where a business is before or after the date of the insertion of this clause into the Award, transmitted from an employer (transmittor) to another employer (transmittee), in any of the following circumstances:
 - (i) where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor, and any prior transmittor, to be continuous service of the employee with the transmittee; or
 - (ii) where the employee rejects an offer of employment with the transmittee:

- (A) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmitter; and
 - (B) which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee.
- (b) The Commission may amend clause 4.3.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

4.3.14 *Incapacity to pay*

An employer in a particular redundancy case may make application to the Commission to have the general severance pay prescription amended on the basis of the employer's incapacity to pay.

4.4 Part-time employees

"Part-time employee" means an employee other than a "casual employee" as defined, who is engaged to work regular hours each work cycle and whose ordinary daily working hours are worked continuously inclusive or exclusive of meal times according to operational requirements:

Provided that the total of such hours per engagement in each work cycle be less than the ordinary working hours of a full-time employee.

The following conditions shall be applicable to part-time employees -

- 4.4.1 The spread of ordinary working hours shall be the same as those prescribed for a full-time employee under this Award;
- 4.4.2 A part-time employee shall be paid at the same hourly rate as a full-time employee would be paid for performing duty in the same classification level. A part-time employee shall be also entitled to any applicable allowances on a proportionate basis;
- 4.4.3 The public holiday provisions of this Award shall apply, provided that payment shall only be made for hours actually worked. Further a part-time employee who usually works on a day of the week on which a public holiday falls and who is not required to work on that day shall be paid for the hours which would otherwise have been worked on that day.
- 4.4.4 The working of hours in excess of the fixed hours determined under the terms of a part-time appointment should be restricted to exceptional circumstances.
- 4.4.5 Where it is essential for an officer to work beyond the daily approved part-time hours and the total number of hours worked is less than the ordinary full-time hours of duty for the office, an officer may, at the discretion of the chief executive, either:
 - (a) accrue time in lieu (where applicable) for the actual time worked in excess of the stipulated part-time hours; or
 - (b) receive payment at the ordinary hourly rate for the actual time worked in excess of the stipulated part-time hours. The additional hours so worked is taken into account in the *pro rata* calculation of all entitlements.
- 4.4.6 All provisions of this Award applicable to a full-time employee shall apply pro-rata to a part-time employee.

4.5 Casual employees

- 4.5.1 "Casual Employee" means an employee other than a part-time employee as defined, who is engaged as such and is paid on an hourly basis to work less than the ordinary working hours of a full-time employee:

Provided that the engagement of casual employees shall not be utilised by the employer to permanently fill any full-time or part-time position.

- 4.5.2 A casual employee is paid 23% in addition to the ordinary Award rates of pay for the class of work upon which such employee is engaged. Each daily engagement shall stand alone, with a minimum payment as for 2 hours' work made in respect to each engagement. Where applicable, a casual employee shall be further entitled to the provisions of overtime, weekend penalty rates and payment for work performed on public holidays.
- 4.5.3 Provided also that in addition to the provisions of clause 4.5.2, a casual employee shall be further entitled to payment of any applicable Award allowances (excluding locality allowance), based *pro rata* on the number of hours worked in relation to the ordinary hours of the Award classification.

4.5.4 Except in accordance with clauses 4.5.2 and 4.5.3, a casual employee shall not be entitled to any other Award payment.

4.6 Anti-discrimination

4.6.1 It is the intention of the parties to this Award to prevent and eliminate discrimination, as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* as amended from time to time, which includes:

(a) discrimination on the basis of sex, relationship status, pregnancy, parental status, breastfeeding, age, race, impairment, religious belief or religious activity, political belief or activity, trade union activity, lawful sexual activity, gender identity, sexuality, family responsibilities and association with, or relation to, a person identified on the basis of any of the above attributes.

(b) sexual harassment; and

(c) racial and religious vilification.

4.6.2 Accordingly in fulfilling their obligations under the disputes avoidance and grievance settling clauses, the parties to this Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.

4.6.3 Under the *Anti-Discrimination Act 1991* it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

4.6.4 Nothing in clause 4.6 is to be taken to affect:

(a) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*;

(b) an employee, employer or registered organisation, pursuing matters of discrimination, including by application to the Australian Human Rights Commission/Anti-Discrimination Commission Queensland.

PART 5 - WAGES AND WAGE RELATED MATTERS

5.1 Salaries

5.1.1 The salaries of employees covered by this Award are prescribed in Schedule 1:

Residential Care Officer	Level 3	Operational Stream
Direct Services Support Officer	Level 4	Operational Stream
Forensic Disability Worker (Clinical Support)	Level 5	Operational Stream
Forensic Disability Worker (Clinical Support and Shift Coordination)	Level 6	Operational Stream
Team Leader	Level 6	Operational Stream

5.1.2 Payment of salaries shall be by electronic funds transfer on a fortnightly basis:

Provided that payment other than this method shall be at the discretion of the employer.

5.2 Performance of higher duties

5.2.1 Subject to clause 5.2.2 the conditions and entitlements for extra remuneration for higher duties are prescribed in the Higher Duties Directive, as issued and amended by the Minister responsible for industrial relations in accordance with section 54 of the *Public Service Act 2008*:

Provided that the extra remuneration provided by the above Higher Duties Directive is paid to employees who temporarily fill positions at a higher Classification Level for at least 3 consecutive shifts.

5.2.2 Higher duties payments will be applied to OO3 staff relieving in OO4 positions with no minimum period of relieving being required before the higher duties amount is paid.

5.3 Escort duty

5.3.1 Employees when engaged in accompanying residents to and from outings, social functions, etc., shall be allowed cost of necessary conveyance and all reasonable out of pocket expenses.

5.4 Locality allowance

5.4.1 The conditions and entitlements of locality allowances paid to employees who are appointed to work at named centres are prescribed in the Locality Allowances Directive, as issued and amended by the Minister responsible for industrial relations in accordance with section 54 of the *Public Service Act 2008*.

5.5 Clothing maintenance allowance

5.5.1 Team Leaders, Direct Service Support Officers, Residential Care Officers, Forensic Disability Workers (Clinical Support) and Forensic Disability Workers (Clinical Support and Shift Co-ordination) shall be paid a clothing allowance of \$10.10 per fortnight.

5.6 On call arrangements

5.6.1 Except where otherwise indicated these arrangements apply to Team Leaders and Residential Care Officers only.

5.6.2 (a) Where an employee is instructed to be available on call outside ordinary or rostered working hours, such employee shall be paid, in addition to their ordinary rate of pay an allowance based upon the hourly rate of the classification of Professional Officer level 3, Paypoint 4 under the *Queensland Public Service Award - State 2003* in accordance with the following scale:

- (i) where the employee is on call throughout the whole of a rostered day off or a public holiday - 95% of the hourly rate in respect of such instances;
- (ii) where an employee is on call during the night only of a rostered day off, an accrued day off or public holiday - 60% of the hourly rate per night; and
- (iii) where an employee is on call on any other night - 47.5% of the hourly rate per night.

For the purpose of calculating the hourly rate, the divisor shall be based upon a 38 hour week and calculated to the nearest 5c.

For the purpose of clause 5.6.2(a), a "night" shall be deemed to consist of those hours falling between 5.00 p.m. and 8.00 a.m. or mainly between such hours.

(b) Monday to Friday - In the event of an employee on call being recalled to perform duty, such employee shall be paid for the time worked at the prescribed overtime rate, such time to be calculated as from home and back to home with a minimum payment of 2 hours.

(c) Saturday, Sunday and public holidays - An employee performing overtime work on recall on Saturday, Sunday or a public holiday may be paid for such overtime at the appropriate overtime rate with a minimum of 2 hours inclusive of travelling time, in respect of overtime worked on a Saturday or Sunday and 4 hours in respect of overtime worked on a public holiday, or at the employee's option be granted time off at a mutually convenient time, equivalent to the number of hours worked. Such time to be calculated as from home and back to home:

Provided that an employee who works overtime on a public holiday and who is granted equivalent time off shall be paid at half the ordinary rate for the time so worked with a minimum of 4 hours:

Provided further that accrued time off in lieu shall be taken in periods mutually agreed between the Chief Executive Officer and the employee.

(d) In the event of an employee on call being requested by the Chief Executive Officer or the authorised delegate, to provide advice (without the need to return to the facility), the employee shall be paid at the prescribed overtime rate for the actual time worked up to a maximum of 2 hours on any one day:

Provided that the employee will be responsible for the recording of such requests which will require subsequent verification by the Chief Executive Officer.

(e) Any overtime payable shall be in addition to the on call allowance.

(f) Where an employee is recalled to perform work during an off duty period such employee shall be provided with transport to and from the employee's home, or be refunded the cost of such transport.

(g) The provisions of clause 6.5.4 shall apply when an employee has actually worked in excess of 2 hours inclusive of travelling time on one or more recalls.

(h) Where practicable the Chief Executive shall not require an employee to be continuously available on call for a period in excess of 6 weeks.

- (i) An employee, while on call, who is recalled to perform duties without the need to leave the employee's place of residence, will be paid for time worked with a minimum payment of one hour for each time the employee performs such duties:

Provided that should such employee be recalled again to perform duties separately within the minimum one hour period, no further payment shall apply:

Provided further that the employee will be responsible for the recording of such requests which will require subsequent verification by the Chief Executive.

- (j) On call arrangements will be implemented by agreement between the Chief Executive and the majority of affected employees in consultation with the relevant union.

5.7 Movement within classification levels

5.7.1 Movement within Classification Levels is based on meeting the following requirements:

- (a) Except in the case of a promotion or transfer and promotion from one Classification Level to another, an increase is not to be made to the salary of any employee until:
 - (i) in the case of a full-time employee, the employee has received a salary at a particular classification and payment for a period of 12 months; or
 - (ii) in the case of a part-time employee:
 - (A) the employee has received a salary at a particular classification and Paypoint for a period of at least 12 months; and
 - (B) the employee has worked 1,200 ordinary hours in such classification; or
 - (iii) in the case of a casual employee with 12 months continuous service:
 - (A) the employee has received a salary at a particular classification and Paypoint of at least 12 months; and
 - (B) the employee has worked 1,200 ordinary hours in such classification.

For the purpose of clause 5.7.1, continuous service for a casual employee ends if the employment is broken by more than 3 months between the end of one employment contract and the start of the next employment contract. Absences from work on public holidays do not break, or contribute to a break in the continuity of service.

- (b) Notwithstanding anything contained elsewhere in this Award, an employee is not entitled to receive salary increments by virtue of this Award unless:
 - (i) in the case of staff appointed at the OO3 level, or staff who have progressed to the OO4 level as part of the Department's progression scheme for Residential Care Officers ("Operational Progression OO3 to OO4 (Residential Care Officers)"), that the conduct, diligence and general efficiency of such employees have been certified to have been and to be satisfactory; or
 - (ii) in the case of other staff employed at the OO4 level or higher, performance objectives have been achieved as certified by the employer.
- (c) Consistent with the Department's policy on Achievement Planning, the Department will pay increments to employees automatically on the due date unless the relevant manager advises prior to this date that the employee's increment is to be withheld on the basis of unsatisfactory performance or conduct. For this to occur, a formal performance improvement plan must have commenced.
- (d) If any increment prescribed by this Award is temporarily withheld from an employee or there is a refusal to grant an increment the employee may make an appeal to the Public Service Commission Chief Executive under the relevant Public Service Directive.

5.8 Movement between classification levels

Movement between classification levels will be based on appointment on merit to advertised vacancies:

Provided further that:

- (a) Movement of Employees from level 3 to level 4 under this Award shall be subject to:
- (i) The employee concerned having served at least 12 months' full-time equivalent on the maximum salary prescribed for a level 3 employee; and
 - (ii) A recommendation from the Service Manager, that the applicant is worthy of promotion. The merit of the applicant is to be evaluated in relation to the prescribed criteria as outlined in the relevant Departmental policies and procedures through an assessment of a written application from the applicant.
- (b) Subject to clause 5.2 an officer promoted to a position at a higher classification level within the same stream shall be appointed to PayPoint one of that higher classification level.

5.9 Superannuation

Subject to federal legislation, the employer must comply with superannuation arrangements prescribed in the *Superannuation (State Public Sector) Act 1990* (and associated Deed, Notice and Regulation).

Where federal legislation provides for choice of fund rights to an employee subject to this Award, and that employee fails to elect which superannuation fund to which employer contributions are directed, the employer will direct contributions to such fund as prescribed by the abovementioned Queensland legislation.

PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK

6.1 Hours of Duty

- 6.1.1 Subject to the exceptions provided in clause 6.1, the ordinary hours of work is an average of 38 per week, to be worked on one of the following bases:
- (a) 38 hours within a work cycle not exceeding 7 consecutive days; or
 - (b) 76 hours within a work cycle not exceeding 14 consecutive days; or
 - (c) 114 hours within a work cycle not exceeding 21 consecutive days; or
 - (d) 152 hours within a work cycle not exceeding 28 consecutive days.
- 6.1.2 The ordinary hours of work shall not exceed 12 hours per day Monday to Sunday inclusive:
- (a) Provided that where the ordinary working hours are to exceed 8 on any day, the arrangement of hours shall be subject to the agreement of the employer and the Majority of Employees Concerned, and worked within acceptable health and safety standards.
 - (b) The daily spread of hours for employees other than shift workers is exclusive of meal times and is worked between the hours of 6.00 a.m. and 6.00 p.m.
 - (c) The ordinary hours of shift workers is inclusive of meal times.
- 6.1.3 The ordinary starting and finishing times of various groups of employees or individual employees may be staggered provided there is agreement between the employer and the Majority of Employees Concerned.
- 6.1.4 Employees are required to observe the nominated starting and finishing times for the work day, including designated breaks to maximise available working time. Preparation for starting and finishing work, including personal clean up, is in the employee's time.
- 6.1.5 *Implementation of the 38 hour week*
- (a) The 38 hour week is implemented on one of the following bases, most suitable to each location, after consultation with, and giving reasonable consideration to the wishes of the employees concerned:
 - (i) by employees working less than 8 ordinary hours each day; or
 - (ii) by employees working less than 8 ordinary hours one or more days each work cycle; or
 - (iii) by fixing one or more work days on which all employees will be off during a particular work cycle subject to the conditions prescribed in clause 6.1; or
 - (iv) by rostering employees off on various days of the week during a particular work cycle, so that each employee has one work day off during that cycle, subject to the conditions prescribed in clause 6.1.

Except where the employer and employee otherwise agree, the arrangement of ordinary hours of work will provide for a rostered day off.

6.1.6 Subject to the provisions of clauses 6.1.1, 6.1.2, 6.1.3, 6.1.4, 6.1.5, the employer and the employees may agree that the ordinary hours of work are to exceed 8 hours on any day, thus enabling more than one work day to be taken off during a particular work cycle.

6.1.7 *Rostered days off*

Notwithstanding any other provisions in clause 6.1, where the arrangement of ordinary hours of work provides for a rostered day off, the employee shall only have an entitlement to a maximum of 10 rostered days off per annum subject to the following conditions:

- (a) That the employee shall be allowed to access that entitlement only in either two 5 day blocks or one 10 day block provided that this entitlement may be attached to a period of annual leave at the employer's discretion.
- (b) That each annual entitlement of 10 rostered days off is non-cumulative and must be availed of within 18 months of the date of accrual of the first rostered day off unless otherwise approved by the employer.
- (c) That such leave does not attract any entitlement to annual leave loading.
- (d) That there is no provision for the payment in lieu of this entitlement except in circumstances where a person resigns, retires or is terminated and cannot be reasonably expected to access their entitlement.

The arrangements outlined above may be varied following negotiations between the employer and the relevant Unions.

6.1.8 *38 hour week - procedures for discussions*

- (a) Subject to clause 6.1.1 the employer and all employees concerned in each establishment shall consult over the most appropriate means of implementing and working a 38 hour week.
- (b) The objective of such consultation is to reach agreement on the method of implementing and working the 38 hour week in accordance with clause 6.1.
- (c) The outcome of such consultation shall be recorded in writing.
- (d) Notwithstanding the consultative procedures outlined above, and notwithstanding any lack of agreement by employees, the employer shall have the right to make the final determination as to the method by which the 38 hour week is implemented or worked from time to time.
- (e) Subject to clause 6.1.1 different methods of implementation of the 38 hour week may apply to individual employees, groups or sections of employees in each location concerned.

6.1.9 An employee shall be allowed not less than 10 hours off duty between shifts.

6.1.10 A fortnightly roster setting out the employee's days of duty and starting and finishing times on such days shall be displayed in a place conveniently accessible to employees at least 3 days before the commencement of each fortnight.

6.1.11 The employer shall give 24 hours' notice of any change to an employee's rostered hours or double time shall be paid for that employee's next shift.

6.1.12 Notwithstanding anything contained above, an employee shall work such time beyond 8 hours as shall be necessary for the changing of shifts and shall not receive extra payment for such time to a maximum of 15 minutes. Any time worked beyond 15 minutes on a change of shift shall be payable at overtime rates.

6.1.13 *Voluntary relief system*

- (a) The Voluntary Relief System is an arrangement whereby Team Leaders, Residential Care Officers, Direct Services Support Officers, Forensic Disability Workers (Clinical Support) and Forensic Disability Workers (Clinical Support and Shift Co-ordination) are able to mutually exchange on a voluntary basis certain hours of their shifts (referred to as "relief time") to accommodate for appointments etc.
- (b) This arrangement shall only apply if the employer is satisfied that the voluntary relief system will not be detrimental to the effective carrying out of work at the residential facility.

(c) Use of the voluntary relief system is subject to the following conditions:

- (i) Relief time is limited to 2 hours of a shift where no reason is required. However, in exceptional circumstances acceptable to the employer, a maximum period of 4 hours of a shift is allowable;
- (ii) Voluntary relief arrangements must be recorded prior to the event and must be authorised by the employer before the relief is worked;
- (iii) Relief arrangements can only be made between staff rostered to the same specific work location (whether day or nightshift). However in the case of situations within a service centre the employer may allow relief arrangements between houses within each service centre; and
- (iv) Relief time must be paid back within one calendar month of the relief being worked. In the event of disagreement arising between officers, the employer may provide assistance in resolving such disagreement.

(d) The Department will not be responsible for deductions from pay or payment for additional hours worked under these arrangements.

6.2 Meal times and rest pauses

6.2.1 Meal times

- (a) In the case of shift workers, each employee is allowed a crib break of 30 minutes, which is to be taken at such time as will not interfere with continuity of work, and no deduction is made therefore from the employee's wages.

This crib break will be extended on a *pro rata* basis for shifts that exceed 10 hours. By mutual agreement, one 60 minute crib break may be split and taken on 2 occasions in the one shift.

The entitlement to an extended crib break which may be split does not entitle staff on overtime to claim additional meal allowance. Normal meal allowance entitlements for overtime will continue to apply.

- (b) In the case of other employees, not less than 30 minutes or more than one hour shall be allowed between the 4th and 6th hours from commencement of daily duty for a meal break where the ordinary working hours are exclusive of meal times. By agreement the meal break may be taken prior to the 4th hour.

6.2.2 Rest pauses

Every employee is entitled to a rest pause of 10 minutes' duration in the employer's time in the first and second half of the working day. Such rest pauses are to be taken at times to suit the convenience of the employer and so as not to interfere with the continuity of work where work is necessary:

Provided that the employer may determine that the rest pauses may be combined into one 20 minute rest pause to be taken in the first part of the ordinary working day.

6.3 Extra payments for weekend work

All time worked up to 8 hours in any one shift between midnight Friday and midnight Saturday, shall be paid at one and a-half times the ordinary rate and between midnight Saturday and midnight Sunday, shall be paid at the rate of double time. Where more than 8 hours are worked in any one shift during the above period, double ordinary rates shall be paid for all time in excess of 8 hours.

6.4 Payment for afternoon and night shifts

15% in addition to ordinary rates for each shift shall be paid to afternoon and night shift workers, for work performed between the hours of 4 p.m. and 8 a.m. the following day.

This extra shift rate shall not apply to shift work performed on Saturday and Sunday where extra payments in terms of clause 6.3 are made.

6.5 Overtime

6.5.1 All time worked in excess of ordinary hours of duty is paid for as follows:

- (a) All time worked in excess of or outside of the hours prescribed is deemed overtime and paid for at the rate of

double time for shift workers;

- (b) Employees other than shift workers shall be paid for overtime at the rate of time and a-half for the first 3 hours' overtime in any one day and at the rate of double time after 3 hours' overtime in any one day;
- (c) Employees other than shift workers required to work on the first rostered day off shall be paid at one and a-half times the ordinary rate for the first 3 hours and double time thereafter, with a minimum of 3 hours;
- (d) Employees other than shift workers required to work on the second rostered day off shall be paid at the rate of double time:

Provided that a minimum of 3 hours' work or payment is made to employees other than shift workers called upon to work overtime on their days off.

6.5.2 Where an employee is recalled to perform duty after completing their normal shift or on any rostered day off the employee is paid overtime rates for such duty with a minimum payment of 2 hours at overtime rates.

If the duty performed on recall is less than 4 hours, overtime is calculated as from home and back to home.

6.5.3 Notwithstanding any other provision in clause 6.5, employees who perform work outside the prescribed hours may, by mutual agreement with the supervisor be compensated by way of accrued time on a time for time basis.

When applying clause 6.5.3, genuine consultation is to occur between the relevant supervisor and employee free from duress.

The provisions of clause 6.5.3 do not apply to any work performed on a Saturday, Sunday or a public holiday.

6.5.4 *Fatigue leave*

An employee who works so much overtime between the termination of their ordinary work on the one day and the commencement of their ordinary work on the next day so that they have not had at least 10 consecutive hours off duty between those times shall, subject to clause 6.5.4, be released after completion of such overtime until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If, on the instructions of the employer, such an employee resumes or continues work without having had 10 consecutive hours off duty, the employee shall be paid double rates until they are released from duty for such period, and the employee shall then be entitled to be absent until they have had 10 consecutive hours off duty, without loss of pay for ordinary working time occurring during such absence.

The provisions of clause 6.5.4 shall apply in the case of shift workers who rotate from one shift to another as if 8 hours were substituted for 10 hours when overtime is worked:

- (a) for the purposes of changing shift rosters; or
- (b) where a shift worker does not report for duty; or
- (c) where a shift is worked by arrangement between the employees themselves.

6.6 Meal allowance

6.6.1 If called upon to work overtime for 2 hours without receiving notice of such overtime on the previous day, employees shall be paid an allowance of \$10.00 for a meal or shall be supplied by their employer with a reasonable meal in lieu of such payment.

When an employee has provided himself with customary meals because of receipt of notice of intention to work overtime, he shall be entitled to an allowance of \$10.00 for each meal so provided in the event of the work not being performed or ceasing before the respective meal times.

PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

7.1 Sick leave

7.1.1 Sick leave (leave of absence on account of illness) on full salary will accumulate at the rate of 10 working days for each completed year of service and a proportionate amount for an incomplete year of service.

7.1.2 Leave may be taken for part of a day.

- 7.1.3 Entitlement to sick leave is conditional on the employee promptly notifying the employer of their absence and of its expected duration.
- 7.1.4 An application for sick leave of more than 3 days is to be supported by a medical certificate or any other evidence that is acceptable to the employer.
- 7.1.5 The conditions and entitlements for sick leave are prescribed in the Sick Leave Directive, as issued and amended by the Minister responsible for industrial relations in accordance with section 54 of the *Public Service Act 2008*.

7.2 Bereavement leave

- 7.2.1 Employees are granted bereavement leave on full salary on the death of a member of the employee's immediate family or household.
- 7.2.2 The conditions and entitlements for bereavement leave are prescribed in the Bereavement Leave Directive, as issued and amended by the Minister responsible for industrial relations in accordance with section 54 of the *Public Service Act 2008*.

7.3 Annual leave

- 7.3.1 Every employee (other than a casual or part-time employee) shall at the end of each year of such employee's employment be entitled to annual leave on full pay of 152 hours (4 weeks).
- 7.3.2 Where work is performed on a continuous shift work basis over a period of 7 days per week and the employees engaged in such work perform their duties in the varying shifts allocated in rotation by the officer duly authorised in that regard, every employee so engaged in shift work who has completed a full year of employment shall be allowed additional annual leave at the rate of 38 hours (1 week) per year in respect of the period during which such shifts have been worked by the employee.
- 7.3.3 Any period of annual leave shall be exclusive of any public holiday which may occur during the period of that annual leave.
- 7.3.4 If the employment of any employee is terminated before the expiration of full year of employment, such employee shall be allowed a pro rata payment, proportional to the period of service, calculated in accordance with clause 7.3.6.
- 7.3.5 All employees not engaged in continuous shift operations shall have their annual leave entitlement debited by the number of ordinary hours they would have worked between Christmas Day and New Year's Day inclusive when there is a compulsory closure of Government Establishments over the Christmas/New Year period.
- 7.3.6 *Calculation of annual leave pay*

In respect to annual leave entitlements annual leave pay (including any proportionate payments) shall be calculated as follows:

- (a) Shift workers (other than continuous shift workers) - Subject to clauses 7.3.6(d) and 7.3.6(e) the rate of wage to be paid to a shift worker (other than a continuous shift worker) shall be the rate payable for work in ordinary time according to the employee's roster or projected roster, including Saturday, Sunday or public holiday shifts.
- (b) Continuous Shift Workers - Subject to clauses 7.3.6 (d) and 7.3.6 (e) the rate of wage to be paid to a continuous shift worker shall be the rate payable for work in ordinary time according to the employee's roster or projected roster, including Saturday, Sunday or public holiday shifts, or the ordinary time rate (excluding the projected roster) plus 27 1/2% leave loading, whichever is the higher."

Clause 7.3.6 (b) has been inserted as a result of an application to amend this Award arising from the decision of the Full Bench of the Commission on 30 June 2004 (and published at (2004) 176 QGIG 509) to move to declare Industrial Agreements obsolete. Given the origin of clause 7.3.6 (b) the provisions contained within it are not to be used as a precedent for any other matter whatsoever.

- (c) All employees - Subject to clauses 7.3.6 (d) and 7.3.6 (e), in no case shall the payment by an employer to an employee be less than the sum of the following amounts:
 - (i) The employee's ordinary wage rate as prescribed by the Award for the period of the annual leave (excluding shift premiums and week-end penalty rates); and
 - (ii) A further amount calculated at the rate of 17.5% of the amounts referred to in clause 7.3.6 (c)(i).

(d) Clause 7.3.6 (c) shall not apply to any period or periods of annual leave exceeding:

- (i) 190 hours (5 weeks) in the case of employees employed in a calling where 3 shifts per day are worked over a period of 7 days per week; or
- (ii) 152 hours (4 weeks) in any other case.

(e) Clause 7.3.6 (c) shall not apply to employers (and their employees) who are already paying (or receiving) an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

7.3.7 *Leave debits*

Leave debits will be equivalent to the ordinary hours employees would have worked had they not been on paid leave. Such leave will therefore be paid and debited on the basis of hours actually taken.

7.3.8 Nothing contained in clause 7.3 shall entitle any employee to annual leave in excess of 190 hours (5 weeks) leave in each year.

7.4 **Long service leave**

7.4.1 Employees who complete 10 years' continuous service are entitled to long service leave at the rate of 1.3 weeks on full pay for each year of continuous service and a proportionate amount for an incomplete year of service.

7.4.2 Employees are entitled to take *pro rata* long service leave after 7 years' continuous service.

7.4.3 The conditions and entitlements for long service leave are prescribed in the Long Service Leave Directive, as issued and amended by the Minister responsible for industrial relations in accordance with section 54 of the *Public Service Act 2008*.

7.4.4 Employees who have completed at least 7 years' continuous service are entitled to a proportionate payment for long service leave on termination of employment in circumstances as prescribed in the Long Service Leave Directive.

7.5 **Family leave**

7.5.1 The provisions of the *Family Leave (Queensland Public Sector) Award - State 2012* (including carer's leave) apply.

7.5.2 The entitlements to unpaid family leave include:

- (a) maternity leave;
- (b) spousal leave;
- (c) adoption leave;
- (d) surrogacy leave;
- (e) part-time work;
- (f) carer's leave;
- (g) bereavement leave; and
- (h) cultural leave.

7.5.3 The entitlements and conditions for paid family leave are prescribed in the Paid Parental Leave Directive, as issued and amended by the Minister responsible for industrial relations in accordance with section 54 of the *Public Service Act 2008*.

7.6 **Special leave**

7.6.1 All employees (other than casuals) are entitled to special leave as prescribed in the Special Leave Directive, as issued and amended by the Minister responsible for industrial relations in accordance with section 54 of the *Public Service Act 2008*. The categories of special leave include:

Emergency or compassionate grounds;
Sporting competitions;
Floods, cyclones, bushfires, etc.;

Emergency management courses;
Attendance at emergencies;
Platelet etc. donors;
Blood donors;
Pre-retirement seminars;
Special leave without salary;
Election leave;
Local government leave;
Declared emergency situation or state of disaster; and
Defence reserve forces.

7.7 Public holidays

7.7.1 All work done by any employee on the following public holidays is paid for at the rate of double time and a-half with a minimum of 4 hours:

- 1 January;
- 26 January;
- Good Friday;
- Easter Saturday (the day after Good Friday);
- Easter Monday;
- 25 April (Anzac Day);
- The Birthday of the Sovereign;
- Christmas Day;
- Boxing Day; or
- any day appointed under the *Holidays Act 1983*, to be kept in place of any such holiday

7.7.2 Labour Day

All employees covered by this Award are entitled to be paid a full day's wage for Labour Day (the first Monday in May or other day appointed under the *Holidays Act 1983* to be kept in place of that holiday) irrespective of the fact that no work may be performed on that day, and if any employee actually works on such day, the employee will be paid a full day's wage for that day and in addition a payment for the time actually worked by them at one and a-half times the ordinary rates prescribed for such work with a minimum of 4 hours.

7.7.3 Annual show

All work done by employees in a district specified from time to time by the Minister responsible for industrial relations, by notification published in the Gazette on the day appointed under the *Holidays Act 1983* to be kept as a holiday in relation to the annual agricultural, horticultural or industrial show held in the principal city or town as specified in such notification of such district is paid for at the rate of double time and a-half with a minimum of 4 hours.

7.7.4 Where an employee is rostered off on any public holiday such employee will be paid an additional day's wage, for each such day on which they are rostered off.

7.7.5 Double time and a-half

For the purpose of clause 7.7, where the rate of wages is a weekly rate, "double time and a-half" means one and a-half day's wages in addition to the prescribed weekly rate *pro rata* if there is more or less than a day.

7.7.6 Substitution

Where there is agreement between the Majority of Employees Concerned and the employer, and subject to statutory limitations, other ordinary working days may be substituted for public holidays specified in clause 7.7.

Provided that where an employee is subsequently required to work on such substituted days, the employee is paid the rate applicable for the holiday that has been substituted.

7.7.7 Christmas Day

(a) If Christmas Day (i.e. 25 December) falls on a Saturday or a Sunday and the public holiday is observed on another day, an employee working shift work or an employee who does not ordinarily work on Monday to Friday of each week who is required to work on Christmas Day (i.e. 25 December) is to be paid at the usual rate for work performed on a Saturday or a Sunday (i.e. ordinary rate plus applicable weekend shift penalty) as the case may be, plus a loading of 50% of the ordinary hourly rate.

(b) An employee who receives the loading under clause 7.7.7(a) and who is required to work on the public holiday

gazetted in lieu of Christmas Day, shall also be entitled to the appropriate public holiday penalty rates for that day.

7.8 Jury service

- (a) An employee, other than a casual employee, required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the ordinary pay the employee would have been paid if the employee was not absent on jury service.
- (b) Alternatively, by agreement, fees (other than meal allowance) received by the employee to attend jury service will be paid to the employer and the employer will continue to pay the employee their ordinary pay for the time the employee was absent on jury service.
- (c) Employees shall notify their employer as soon as practicable of the date upon which they are required to attend for jury service and shall provide their employer with proof of such attendance, the duration of such attendance and the amount received in respect thereof.
- (d) If the employee is not required to serve on a jury for a day or part of a day after attending for jury service and the employee would ordinarily be working for all or part of the remaining day, the employee must, if practicable, present for work at the earliest reasonable opportunity.
- (e) "Ordinary pay" means the rate of pay that an employee would normally expect to receive for working ordinary hours on an ordinary day of the week, including any over-award payment. "Ordinary pay" excludes overtime, penalty rates of all types - including those attaching to working ordinary hours (for example) on a Saturday, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and other ancillary payments of a like nature.

PART 8 - TRANSFERS, TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK

8.1 Transfer and appointment expenses

These are the expenses that may be paid on behalf of an eligible employee when appointed or transferred from one centre to another, including:

the conveyancing of self, family and effects to the centre to which the employee is transferred;
board and lodging; and
other items of expenditure related to taking up duty

and are prescribed in the Transfer and Appointment Expenses Directive, as issued and amended by the Minister responsible for industrial relations in accordance with section 54 of the *Public Service Act 2008*.

8.2 Travelling and relieving expenses

An eligible employee who is required to:

- travel on official duty; or
- to take up duty away from the employee's usual place of work to relieve another employee; or
- to perform special duty;

is allowed actual and reasonable expenses or allowances for accommodation, meals and incidental expenses necessarily incurred by the employee.

The conditions and entitlements for travelling and relieving expenses are prescribed in the International Travelling, Relieving and Living expenses Directive and the Domestic Travelling and Relieving Expenses Directive, as issued and amended by the Minister responsible for industrial relations in accordance with section 54 of the *Public Service Act 2008*.

PART 9 - TRAINING AND RELATED MATTERS

9.1 Training, learning and development

9.1.1 The parties to this Award recognise that in order to increase efficiency and productivity a greater commitment to learning and development is required.

9.1.2 Accordingly, the parties commit themselves to developing a more highly skilled and flexible workforce and providing employees with career opportunities through appropriate training to acquire additional skills and

knowledge for performance of their duties.

- 9.1.3 Within each agency a consultative mechanism and procedures involving representatives of management, employees and public sector unions shall be established as determined by the chief executive having regard to the size, structure and needs of that agency.
- 9.1.4 Following consultation the chief executive shall develop a learning and development strategy consistent with:
- (a) the current and future needs of the agency;
 - (b) the size, structure and nature of the operations of the agency;
 - (c) the need to develop vocational skills relevant to the Agency through courses conducted wherever possible by accredited educational institutions and providers.
- 9.1.5 Learning and development may be both on-the-job or off-the-job and either internal or external to the organisation.
- 9.1.6 Learning and development provided should assist employees in obtaining accredited competencies, knowledge and skills.
- 9.1.7 All such learning and development should be directed at enabling employees to enhance skills relevant to duties to be performed. Employees will be expected to attend scheduled learning and development activities.

PART 10 - OCCUPATIONAL HEALTH AND SAFETY MATTERS, EQUIPMENT, TOOLS AND AMENITIES

10.1 Workplace Health and Safety

The provisions of relevant workplace health and safety legislation apply.

PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS

Preamble

Clauses 11.1 and 11.2 replicate legislative provisions contained within the Act. In order to ensure the currency of existing legal requirements parties are advised to refer to sections 366, 372 and 373 of the Act as amended from time to time.

11.1 Right of entry

11.1.1 Authorised industrial officer

- (a) An "Authorised industrial officer" is any Union official holding a current authority issued by the Industrial Registrar.
- (b) Right of entry is limited to workplaces where the work performed falls within the registered coverage of the Union.

11.1.2 Entry procedure

- (a) The authorised industrial officer is entitled to enter the workplace during normal business hours as long as:
 - (i) the authorised industrial officer alerts the employer or other person in charge of the workplace to their presence; and
 - (ii) shows their authorisation upon request.
- (b) Clause 11.1.2(a)(i) does not apply if the authorised industrial officer establishes that the employer or other person in charge is absent.
- (c) A person must not obstruct or hinder any authorised industrial officer exercising their right of entry.
- (d) If the authorised industrial officer intentionally disregards a condition of clause 11.1.2 the authorised industrial officer may be treated as a trespasser.

11.1.3 Inspection of records

- (a) An authorised industrial officer is entitled to inspect the time and wages record required to be kept under section 366 of the Act.

- (b) An authorised industrial officer is entitled to inspect such time and wages records of any former or current employee except if the employee:
 - (i) is ineligible to become a member of the Union; or
 - (ii) has made a written request to the employer that they do not want their record inspected.
- (c) The authorised industrial officer may make a copy of the record, but cannot require any help from the employer.
- (d) A person must not coerce an employee or prospective employee into consenting, or refusing to consent, to the inspection of their records by an authorised industrial officer.

11.1.4 *Discussions with employees*

An authorised industrial officer is entitled to discuss with the employer, or a member or employee eligible to become a member of the Union:

- (a) matters under the Act during working or non-working time; and
- (b) any other matter with a member or employee eligible to become a member of the Union, during non-working time.

11.1.5 *Conduct*

An authorised industrial officer must not unreasonably interfere with the performance of work in exercising a right of entry.

11.2 Time and wages record

11.2.1 An employer must keep, at the place of work in Queensland, a time and wages record that contains the following particulars for each pay period for each employee, including apprentices and trainees:

- (a) the employee's award classification;
- (b) the employer's full name;
- (c) the name of the award under which the employee is working;
- (d) the number of hours worked by the employee during each day and week, the times at which the employee started and stopped work, and details of work breaks including meal breaks;
- (e) a weekly, daily or hourly wage rate - details of the wage rate for each week, day, or hour at which the employee is paid;
- (f) the gross and net wages paid to the employee;
- (g) details of any deductions made from the wages; and
- (h) contributions made by the employer to a superannuation fund.

11.2.2 The time and wages record must also contain:

- (a) the employee's full name and address;
- (b) the employee's date of birth;
- (c) details of sick leave credited or approved, and sick leave payments to the employee;
- (d) the date when the employee became an employee of the employer;
- (e) if appropriate, the date when the employee ceased employment with the employer; and
- (f) if a casual employee's entitlement to long service leave is worked out under section 47 of the Act - the total hours, other than overtime, worked by the employee since the start of the period to which the entitlement relates, worked out to and including 30 June in each year.

11.2.3 The employer must keep the record for 6 years.

11.2.4 Such records shall be open to inspection during the employer's business hours by an inspector of the Department of Justice and Attorney-General, in accordance with section 371 of the Act or an authorised industrial officer in accordance with sections 372 and 373 of the Act.

11.2.5 Consistent with the Attendance - Recording and Reporting Requirements (including Public Holidays) Directive, as issued and amended by the Minister responsible for industrial relations in accordance with section 54 of the *Public Service Act 2008*, the Chief Executive may specifically exempt those employees who have been, or who are a class of office from a system for recording starting and finishing times, meal breaks and absences from duty.

11.3 Union delegates

11.3.1 The parties acknowledge the constructive role democratically elected Union delegates undertake in the workplace in relation to Union activities that support and assist members. That role will be formally recognised, accepted and supported.

11.3.2 Public sector employees will be given full access to Union delegates/officials during working hours to discuss any employment matter or seek Union advice, provided that service delivery is not disrupted and work requirements are not unduly affected.

11.3.3 Provided that service delivery and work requirements are not unduly affected, delegates will be provided convenient access to facilities for the purpose of undertaking Union activities. Such facilities include: telephones, computers, e-mail, photocopiers, facsimile machines, storage facilities, meeting rooms and notice boards. It is expected that management and delegates will take a reasonable approach to the responsible use of such facilities for information and communication purposes.

11.3.4 Subject to the relevant employee's written approval and any confidentiality provisions, delegates may request access to documents and policies related to a member's employment.

11.4 Union encouragement

11.4.1 The parties recognise the right of individuals to join a union and will encourage that membership. However, it is also recognised that union membership remains at the discretion of individuals.

11.4.2 An application for Union membership and information on the relevant Union/s will be provided to all employees at the point of engagement.

11.4.3 Information on the relevant Union/s will be included in induction materials.

11.4.4 Union representative(s) will be provided with the opportunity to discuss union membership with new employees.

11.4.5 Where requested by public sector Unions, agencies and public sector units will provide payroll deduction facilities for Union subscriptions.

11.5 Industrial relations education leave

11.5.1 Industrial relations education leave is paid time off to acquire knowledge and competencies in industrial relations. Such knowledge and competencies can allow employees to effectively participate in consultative structures, perform a representative role and further the effective operation of grievance and dispute settlement procedures.

11.5.2 Employees may be granted up to 5 working days (or the equivalent hours) paid time off (non-cumulative) per calendar year, approved by the chief executive (or delegated authority) of the agency, to attend industrial relations education sessions.

11.5.3 Additional leave, over and above 5 working days non-cumulative (or the equivalent hours) in any one calendar year may be granted where approved structured employees' training courses involve more than 5 working days (or the equivalent). Such leave will be subject to consultation between the chief executive (or delegated authority) of the agency, the relevant Union and the employee.

11.5.4 Upon request and subject to approval by the chief executive (or delegated authority) of the agency, employees may be granted paid time off in special circumstances to attend Management Committee Meetings, Union Conferences, and ACTU Congress.

11.5.5 The granting of industrial relations education leave or any additional special leave should not impact adversely on service delivery, work requirements or the effectiveness and efficiency of the agency/work unit concerned. At the same time such leave shall not be unreasonably refused. At the discretion of the chief executive of the

agency/public sector unit concerned, public sector employees may be granted special leave without pay to undertake work with their Union.

SCHEDULE 1

Salaries

Operational Stream Level	Paypoint	Total wage rate per fortnight \$
OO2	1	1,499.90
OO2	2	1,539.80
OO2	3	1,580.60
OO2	4	1,621.20
OO3	1	1,645.60
OO3	2	1,677.10
OO3	3	1,711.30
OO3	4	1,746.90
OO4	1	1,818.20
OO4	2	1,875.20
OO4	3	1,932.30
OO4	4	1,988.90
OO5	1	2,039.50
OO5	2	2,104.80
OO5	3	2,170.70
OO5	4	2,236.20
OO6	1	2,331.30
OO6	2	2,391.80
OO6	3	2,451.60
OO7	1	2,566.10
OO7	2	2,627.10
OO7	3	2,688.20

NOTE: The classifications of OO5 and OO7 will be used as required by the employer and where the positions meet the appropriate work level standards and job evaluation system requirements.

The above rates of pay incorporate adjustments based upon the State Government Departments Certified Agreement 2006 (CA/2006/308) as at 31 July 2009.

The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2011 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage adjustments. This arbitrated wage adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this Award which are above the wage rates prescribed in the Award. Such payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, award amendments to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under previous State Wage Cases or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset arbitrated wage adjustments.

Dated 10 May 2012.

By the Commission,
[L.S.] G.D. SAVILL,
Industrial Registrar.

Operative Date: 10 May 2012