

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 - s. 125 - application for amendment

Department of Communities AND Together Queensland, Industrial Union of Employees and Another (A/2011/32)

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

COMMISSIONER FISHER

22 November 2011

AMENDMENT

This matter coming on for hearing before the Commission at Brisbane on 22 November 2011 this Commission orders that the said Award be amended as follows as from 22 November 2011:

1. By adding the following at the end of PART 5 in clause 1.2:

Movement between classification levels	5.8
Superannuation	5.9

2. By deleting clause 1.3.1 and inserting the following in lieu thereof:

1.3.1 This Award applies to employees of the Chief Executive, Department of Communities, 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*.

3. By deleting the words "Public Service Act 1996" from clause 1.3.2 and inserting the words "Public Service Act 2008" in lieu thereof.

4. By deleting the words "Disability Services Queensland" from clause 1.5 and inserting the words "the Department of Communities" in lieu thereof.

5. By renumbering clause 1.6.4 as clause 1.6.5 and inserting a new clause 1.6.4 as follows:

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.

6. By deleting the words "Disability Services Queensland" from renumbered clause 1.6.5 and inserting the words "the Department of Communities" in lieu thereof.

7. By renumbering existing clauses 1.6.5 to 1.6.7 as clauses 1.6.8 to 1.6.10 respectively and inserting the following in lieu thereof.

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.

8. By renumbering existing clause 1.6.8 as clause 1.6.11.

9. By deleting existing clauses 1.6.9 and 1.6.11 and renumbering existing clause 1.6.10 as 1.6.12.

10. By deleting the words "Certificate III in Community Services (Disability Work)" in renumbered clause 1.6.12 and inserting the words "Certificate IV in Disability" in lieu thereof.

11. By renumbering existing clauses 1.6.12 to 1.6.14 as clauses 1.6.13 to 1.6.15 respectively.

12. By deleting the words "Certificate IV in Disability Work" in renumbered clause 1.6.15 and inserting the words "Certificate IV in Disability" in lieu thereof.

13. By deleting the words "Public Service Commissioner" from clause 3.2.10 and inserting the words "Public Service Commission Chief Executive" in lieu thereof.

14. By inserting the following at the beginning of clause 4.3:

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 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.

15. By deleting clause 4.3.12 and inserting the following in lieu thereof:

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.

16. By deleting clause 4.3.15.

17. By deleting the words "provisions of clause 4.4.2" from clause 4.5.3 and inserting the words "provisions of clause 4.5.2" in lieu thereof.

18. By deleting clause 4.5.4 and inserting the following in lieu thereof:

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.

19. By deleting clause 4.6.1(a) and inserting the following in lieu thereof:

- (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.

20. By deleting the words "Nothing in clause 4.5 is to be taken to affect" from clause 4.6.4 and inserting the words "Nothing in clause 4.6 is to be taken to affect" in lieu thereof.

21. By deleting clause 5.1.1 and inserting the following in lieu thereof:

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

22. By deleting clause 5.2.1 and inserting the following in lieu thereof:

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.

23. By inserting a new clause 5.2.2 as follows:

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.

24. By deleting clause 5.4.1 and inserting the following in lieu thereof:

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*.

25. By deleting clause 5.5.1 and inserting the following in lieu thereof:

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.

26. By deleting clause 5.6.1 and inserting the following in lieu thereof:

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

27. By deleting the underlining beneath the words "Professional Officer level 3, Paypoint 4" in clause 5.6.2(a).

28. By renumbering clauses 5.6.2(g) to 5.6.2(i) as clauses 5.6.2(h) to 5.6.2(j) respectively and inserting a new clause 5.6.2(g) as follows:

(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.

29. By deleting the words "Public Service Commissioner" from clause 5.7.1(d) and inserting the words "Public Service Commission Chief Executive" in lieu thereof.

30. By inserting a new clause 5.8 as follows:

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.

31. By inserting a new clause 5.9 as follows:

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.

32. By deleting clause 6.1.13(a) and inserting the following lieu thereof:

- (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.

33. By deleting clause 6.1.13(c)(iii) and inserting the following in lieu thereof:

- (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

34. By inserting a new clause 6.5.4 as follows:

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.

35. By deleting clause 7.1.5 and inserting the following in lieu thereof:

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*.

36. By deleting clauses 7.2.2 and 7.2.3 and inserting the following in lieu thereof:

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*.

37. By deleting clauses 7.4.3 and 7.4.4 and inserting the following in lieu thereof:

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.

38. By deleting clause 7.5.2 and inserting the following in lieu thereof:

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.

39. By inserting a new clause 7.5.3 as follows:

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*.

40. By deleting clause 7.6.1 and inserting the following in lieu thereof:

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.

41. By deleting clauses 8.1 and 8.2 and inserting the following in lieu thereof.

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*.

42. By deleting clause 11.1.3(b) and inserting the following in lieu thereof:

(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.

43. By deleting the words "Department of Industrial Relations" from clause 11.2.4 and inserting the words "Department of Justice and Attorney-General" in lieu thereof.

44. By deleting clause 11.2.5 and inserting the following in lieu thereof:

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.

Dated 22 November 2011.

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

Operative Date: 22 November 2011
Amendment - Wages, Classifications, Allowances
Released: 8 December 2011