

## **YOUTH DETENTION CENTRE EMPLOYEES AWARD - STATE 2016**

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## **PART 1 - Title and Operation**

### **1. Title**

This Award is known as the *Youth Detention Centre Employees Award - State 2016*.

### **2. Operation**

Subject to section 824 of the Act, this Award operates from 6 April 2016.

### **3. Definitions and interpretation**

Unless the context otherwise requires, in this Award:

**Act** means the *Industrial Relations Act 1999*

**afternoon shift** means any shift commencing at or after 1200 and finishing at or after 1800 and at or before 2400

**chief executive** means the chief executive of the Department of Justice and Attorney-General

**classification level** comprises a minimum salary rate plus a number of increments through which employees will be eligible to progress

**Commission** means the Queensland Industrial Relations Commission

**continuous shift work** means work done by employees where the hours of work are regularly rotated in accordance with a shift roster covering 24 hours per day over a 7 day week

**continuous shift worker** means a person who works continuous shift work

**day** means the period from midnight to midnight on any one day

**day shift** means any shift worked as part of a non-continuous shift work system or a continuous shift work system which is not an afternoon shift or a night shift

**day work** means a single period of work (excluding a meal break) performed during the spread of ordinary hours which is not part of a non-continuous shift work or continuous shift work system

**day worker** means a person who works day work

**department** means the Department of Justice and Attorney-General

**directive** means a ruling, or part of a ruling, made under section 53 or section 54 of the *Public Service Act 2008*

**employee** means a person referred to in clause 4(a)

**increment** means for all employees an increase in salary from one paypoint to the next highest paypoint within a classification level

**night shift** means any shift commencing at or after 1800 and before 0600 the following day

**non-continuous shift work** means work regularly rotated in accordance with a roster which prescribes 2 or more shifts (day, afternoon or night) per day, but does not cover a 24 hour per day operation over a 7 day week (see continuous shift work)

**non-continuous shift worker** means a person who works non-continuous shift work

**paypoint** means the specific rate of remuneration payable to employees within a classification level

**public holiday** has the same meaning as that provided in Schedule 5 of the Act

**QES** means the Queensland Employment Standards contained in Part 2 of Chapter 2A of the Act

**rostered day off** means a day, other than a scheduled day off, on which an employee is not rostered for duty as a result of time accrued under the method of working ordinary hours implemented in accordance with clauses 15.1(b) to (e)

**scheduled day off** means:

- for an employee whose ordinary hours of duty are Monday to Friday: Saturday and Sunday
- for an employee whose ordinary hours of duty include a Saturday and/or Sunday: one of the two days each week, or four days each fortnight (and so on where 3 week or 4 week work cycles are in operation) that the employee is not rostered for duty

**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

**spread of ordinary hours** has the meaning ascribed to it in clause 15.3(a)

**TOIL** means time off in lieu of payment for overtime

**union** means one of the industrial organisations of employees mentioned in clause 4(c)

#### 4. Coverage

This Award applies to:

- (a) employees whose salaries and rates of pay are fixed by this Award and who are:
  - (i) engaged in employment at a youth detention centre; and
  - (ii) appointed pursuant to section 119 or section 148 of the *Public Service Act 2008*; and
- (b) the chief executive of the department in their capacity as employer of employees covered by this Award; and
- (c) the following industrial organisations of employees:
  - (i) The Australian Workers' Union of Employees, Queensland; and
  - (ii) Together Queensland, Industrial Union of Employees,

to the exclusion of any other award.

#### 5. The Queensland Employment Standards and this Award

This Award together with the QES provide for a minimum safety net of enforceable conditions of employment for employees covered by this Award.

## **6. Enterprise flexibility and facilitative award provisions**

### **6.1 Enterprise flexibility**

- (a) As part of a process of improvement in productivity and efficiency, discussion should take place at an enterprise level 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.
- (b) The consultative processes established in an enterprise in accordance with clause 6.1 may provide an appropriate mechanism for consideration of matters relevant to clause 6.1(a). Union delegates at the place of work may be involved in such discussions.
- (c) Any proposed genuine agreement reached between the chief executive and employees 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.

### **6.2 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 employer and the union, or the employer and the majority of employees affected, the following procedures shall apply:

- (a) Facilitative award provisions can be negotiated between management and employees who are directly affected by such proposals or between management and the union depending on the particular award provisions.
- (b) Employees may be represented by their local union delegate/s and shall have the right to be represented by their local union official/s.
- (c) Facilitative award provisions can only be implemented by agreement.
- (d) In determining the outcome from facilitative provisions neither party should unreasonably withhold agreement.
- (e) Agreement is defined as obtaining consent of greater than 50% of employees directly affected or of the union depending upon the particular award provisions.
- (f) Where a provision refers to agreement by the majority of employees affected, all employees directly affected shall be consulted. This consultation shall be undertaken where practicable as a group, or in groups. 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.
- (g) Any agreement reached must be documented and shall incorporate a review period.
- (h) 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 a change to the shift roster, the relevant union/s are to be notified in writing at least one week in advance of agreement being sought.

## **PART 2 - Dispute Resolution**

### **7. Dispute resolution**

#### **7.1 Prevention and settlement of disputes - Award matters**

- (a) 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.
- (b) 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.
- (c) There is a requirement for management to provide relevant information and explanation and consult with the appropriate employee representatives.
- (d) In the event of any disagreement between the parties as to the interpretation or implementation of this Award, the following procedures shall apply:
  - (i) 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;
  - (ii) if the matter is not resolved as per clause 7.1(d)(i), 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 relevant parties to discuss the matter. This process should not extend beyond 7 days;
  - (iii) if the matter remains unresolved it may be referred to the employer for discussion and appropriate action. This process should not exceed 14 days;
  - (iv) if the matter is not resolved then it may be referred by either party to the Commission.
- (e) Nothing contained in this procedure shall prevent a union or the employer from intervening in respect of matters in dispute should such action be considered conducive to achieving resolution.

## **7.2 Employee grievance procedures - other than Award matters**

- (a) 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.
- (b) The following procedure applies to all industrial matters within the meaning of the Act:
  - 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.
  - 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 relevant parties. The employee may exercise the right to consult or be represented by such employee's union representative during the course of Stage 2.
  - Stage 3: If the grievance is still unresolved, the manager will advise the employer and the aggrieved employee may submit the matter in writing to the employer if such employee wishes to pursue the matter further. If desired by either party the matter shall also be notified to the relevant union.
- (c) The employer shall ensure that:

- (i) the aggrieved employee or such employee's union representative has the opportunity to present all aspects of the grievance; and
  - (ii) the grievance shall be investigated in a thorough, fair and impartial manner.
- (d) The employer may appoint another person to investigate the grievance. The employer may consult with the relevant union in appointing an investigator. The appointed person shall be other than the employee's supervisor or manager.
- (e) If the matter is notified to the union, the investigator shall consult with the union during the course of the investigation. The employer 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.
- (f) The procedure is to be completed in accordance with the following time frames unless the parties agree otherwise:
- 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.
  - Stage 2: Not to exceed 7 days.
  - Stage 3: Not to exceed 14 days.
- (g) If the grievance is not settled the matter may be referred to the Commission by the employee or the union.
- (h) 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.
- (i) Where the grievance involves allegations of sexual harassment an employee should commence the procedure at Stage 3.

## **PART 3 - Types of Employment, Consultation and Termination of Employment**

### **8. Types of employment**

An employee may be employed on a full-time, part-time or casual basis. Employees shall be advised, upon engagement, in writing of their employment category and, where relevant, their classification level.

#### **8.1 Full-time employment**

A full-time employee is one who is engaged to work an average of 38 hours per week as prescribed in clause 15 of this Award.

#### **8.2 Part-time employment**

- (a) A part-time employee is an employee who:
- (i) is engaged to work a regular pattern of ordinary hours each fortnight which are less than the ordinary hours worked by an equivalent full-time employee; and
  - (ii) receives, on a *pro rata* basis, the same salary and conditions of employment to those of an equivalent full-time employee who performs the same kind of work.

- (b) For each ordinary hour worked a part-time employee shall be paid no less than 1/76th of the minimum fortnightly rate of pay for their classification.
- (c) The minimum payment on any day when work is performed shall be for 2 hours' work.
- (d)
  - (i) By mutual agreement with the employer, a part-time employee may elect to change their regular pattern of ordinary hours or work additional ordinary hours above their regular hours, up to and including full-time equivalent hours. The additional hours so worked are also to be taken into account in the *pro rata* calculation of all entitlements.
  - (ii) Any such additional hours worked within the spread of ordinary hours are to be paid for at the ordinary hourly rate.
- (e) Subject to clauses 8.2(a)(i) and (d), all time worked by a part-time employee:
  - (i) in excess of the rostered hours on any one day; or
  - (ii) outside of the regular pattern of hours as agreed from time to time; or
  - (iii) in the case of a day worker, outside the spread of ordinary hours prescribed in clause 15.3, is to be paid at the appropriate overtime rate prescribed in clauses 18.2 or 18.3, as the case may be.
- (f) Part-time employees are eligible for payment of salary increments in accordance with the provisions of clause 12.5(a)(ii).

### **8.3 Casual employment**

- (a)
  - (i) A casual employee is an employee who is engaged and paid as such.
  - (ii) A casual employee cannot be employed to work more ordinary hours than are worked by an equivalent full-time employee each week or fortnight, as the case may be.
  - (iii) The engagement of a casual employee shall not be utilised by the employer to permanently fill any full-time or part-time position.
- (b) A casual employee is entitled to receive, on a *pro rata* basis, the same pay and conditions of employment, other than leave entitlements, to those of an equivalent full-time employee who performs the same kind of work.
- (c) For each ordinary hour worked a casual employee shall be paid no less than 1/76th of the minimum fortnightly rate of pay for their classification plus a casual loading of 23%.
- (d) Each casual engagement stands alone with a minimum payment as for 2 hours' work.
- (e) The casual loading of 23% is paid instead of annual leave, paid personal/carer's leave, notice of termination, redundancy benefits and the other attributes of full-time or part-time employment. The loading constitutes part of the casual employee's salary for the purpose of calculating overtime, weekend penalties, public holiday and shift payments, where relevant.
- (f) Casual employees shall be entitled to receive overtime, weekend penalties and public holiday penalty payments in accordance with the terms of this Award.



- (g) Casual employees are eligible for payment of salary increments in accordance with the provisions of clause 12.5(a)(iii).
- (h) The long service leave entitlement of casual employees is recorded in clause 22.

#### **8.4 Probationary employment**

- (a) Except where the employer and an employee agree to a different period or no period of probation prior to commencement of employment, the engagement of a full-time or part-time employee will in the first instance be subject to a probationary period of three months duration. If a period of probation of longer than three months is agreed, it must:
  - (i) be agreed in writing; and
  - (ii) be a reasonable period having regard to the nature and circumstances of the employment.
- (b) The employer may terminate the employment of an employee who is on probation at any time during the probationary period.
- (c) Where an employee's service is considered satisfactory or where an employee's service exceeds the designated probationary period or agreed extension the employee's appointment will be deemed to be confirmed.

#### **8.5 Anti-discrimination**

- (a) In fulfilling their obligations under this Award, the parties must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects. Discrimination includes:
  - (i) discrimination on the basis of sex, relationship status, family responsibilities, 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 and association with, or in relation to, a person identified on the basis of any of the above attributes;
  - (ii) sexual harassment; and
  - (iii) racial and religious vilification.
- (b) Nothing in clause 8.5 is to be taken to affect:
  - (i) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*;
  - (ii) an employee, employer or registered organisation, pursuing matters of discrimination, including by application to the Australian Human Rights Commission/Anti-Discrimination Commission Queensland.

### **9. Termination of employment**

#### **9.1 Notice of termination by the employer**

Notice of termination by the employer is provided for in Division 9 of the QES. Clauses 9.2 to 9.5 supplement the QES provisions.

## **9.2 Notice of termination by an employee**

Unless otherwise agreed between the employer and an employee the notice of termination required by an employee, other than a casual employee, will be two weeks or two weeks' salary forfeited in lieu. If an employee fails to give the required notice the employer will have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate of salary for the period of notice not provided.

## **9.3 Notice cannot be offset**

In the absence of mutual agreement between the employer and the employee, annual leave or any part thereof cannot be considered as or nominated as notice for the purpose of giving notice of termination of employment.

## **9.4 Job search entitlement**

Where the employer has given notice of termination to an employee for reasons other than redundancy, the employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

## **9.5 Statement of employment**

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

# **10. Redundancy**

## **10.1 Redundancy pay**

Redundancy pay is provided for in Division 9 of the QES. Clauses 10.2 to 10.9 supplement the QES provisions.

*Note: Where a directive about redundancy and retrenchment covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.*

## **10.2 Consultation before termination**

- (a) Where the employer decides that the employer no longer wishes the job an employee/s 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/s directly affected and, where relevant, their union/s.
- (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 10.2(a) and shall cover the reasons for the proposed terminations and measures to avoid or minimise the terminations and/or their adverse effects on the employee/s concerned.
- (c) For the purpose of the consultation the employer shall, as soon as practicable, provide in writing to the employee/s concerned and, where relevant, their union/s, 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.
- (d) Notwithstanding the provision of clause 10.2(c), the employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

### **10.3 Transfer to lower paid duties**

- (a) Where an employee is transferred to lower paid duties by reason of redundancy 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 the redundancy pay provisions of the QES.
- (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.

### **10.4 Employee leaving during notice period**

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

### **10.5 Job search entitlement**

- (a) An employee given notice of termination in circumstances of redundancy must 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 must, at the request of the employer, produce proof of attendance at an interview or the employee will not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.
- (c) Clause 10.5 applies instead of clause 9.4 in cases of redundancy.

### **10.6 Transmission of business**

- (a) Where a business is, whether before or after the date of commencement of this Award, transmitted from the 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 clauses 10.6 and 10.7, '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.

### **10.7 Exemption where transmission of business**

The provisions of clause 10.7 are not applicable where a business is, before or after the date of commencement of this Award, transmitted from the employer (transmittor) to another employer (transmittee) in any of the following circumstances:

- (a) 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
- (b) where the employee rejects an offer of employment with the transmittee:
  - (i) 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 transmittor; and
  - (ii) 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.

### **10.8 Alternative employment**

The 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.

### **10.9 Employees exempted**

Clauses 10.1 to 10.8 shall not apply:

- (a) where employment is terminated as a consequence of misconduct on the part of the employee; or
- (b) to an employee engaged for a specific period or task/s; or
- (c) to a casual employee; or
- (d) to an employee with less than one year's continuous service, in which case the general obligation on the employer should be no more than to give the relevant employee 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 employee of suitable alternative employment.

## **11. Consultation - Introduction of changes**

### **11.1 Employer's duty to notify**

- (a) Where the 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/s.
- (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.

- (c) Where the Award makes provision for alteration of any of the matters referred to in clauses 11.1(a) and (b) an alteration shall be deemed not to have significant effect.

**11.2 Employer's duty to consult over change**

- (a) The employer shall consult the employees affected and, where relevant, their union/s 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 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 11.1.
- (c) For the purpose of such consultation the employer shall provide in writing to the employees concerned and, where relevant, their union/s, 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.
- (d) Notwithstanding the provision of clause 11.2(c) the employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

**PART 4 - Minimum Salary Levels, Allowances and Related Matters**

*(Note: The wage rates and salary levels prescribed in this Award do not apply to employees to whom the provisions of Schedule 1 (Supported Wage System) apply.)*

**12. Classifications and minimum salary levels**

**12.1 Classification structure**

Employees covered by this Award are to be allocated to a classification level in accordance with the classification structure contained in the table in clause 12.1(a) and the role descriptors set out in clause 12.1(b).

- (a) **Operational stream**

<b>Classification Level</b>	<b>Occupation</b>
<b>OO3/OO4</b>	Youth Worker
<b>OO5</b>	Section Supervisor
<b>OO5</b>	Structured Day Co-ordinator
<b>OO5</b>	Court Supervisor
<b>OO5</b>	Gym Instructor
<b>OO5</b>	Visits Co-ordinator
<b>OO6</b>	Shift Supervisor

- (b) **Role descriptors:**

**court supervisor** means an employee who leads and co-ordinates the delivery of services to the Children's Court and who has been appointed as such

**gym instructor** means an employee who develops, manages and delivers recreational activities to young people in detention and who has been appointed as such

**section supervisor** means an employee who supervises the activities of Youth Workers in the delivery of services to young people in detention and who has been appointed as such

**shift supervisor** means an employee who is responsible on a shift by shift basis for the co-ordination of centre-wide and residential services and activities for young people in detention and who has been appointed as such

**structured day co-ordinator** means an employee who develops, co-ordinates, monitors and supervises the activities of section supervisors and youth workers in the delivery of services to young people in youth detention during the structured day and who has been appointed as such

**visits co-ordinator** means an employee who is responsible for leading, co-ordinating, arranging and supervising visits to young people in detention and who has been appointed as such

**youth worker** means an employee who is responsible for the provision of management, care and supervision of young people in detention and who has been appointed as such.

## 12.2 Minimum salary levels

- (a) The minimum salaries payable to employees covered by this Award are prescribed in the table below:

Classification Level	Paypoint	Award Rate <sup>1</sup> Per Fortnight \$ <sup>2</sup>	Annual Salary <sup>3</sup> \$ <sup>2</sup>
OO3	1	1,878	48,995
	2	1,915	49,960
	3	1,954	50,978
	4	1,995	52,048
OO4	1	2,075	54,135
	2	2,140	55,830
	3	2,206	57,552
	4	2,270	59,222
OO5	1	2,328	60,735
	2	2,402	62,666
	3	2,478	64,649
	4	2,553	66,605
OO6	1	2,660	69,397
	2	2,730	71,223
	3	2,799	73,023

Notes:

<sup>1</sup> Includes the arbitrated wage adjustment payable under the 1 September 2016 Declaration of General Ruling.

<sup>2</sup> Rounded to the nearest dollar.

<sup>3</sup> Annual salaries (fortnightly rate x 26.089) are for reference purposes only.

- (b) Salaries shall be paid fortnightly and may at the discretion of the employer be paid by electronic funds transfer.

### **12.3 Incidental and peripheral tasks**

The employer may direct an employee to carry out duties that are within the particular employee's skill, competence and training provided:

- (a) the direction does not affect the employee's entitlement to higher or other duties allowances provided in this Award; and
- (b) all such directions are consistent with the employer's responsibilities to provide a safe and healthy working environment.

### **12.4 Movement between classification levels**

- (a) Except as provided below and in clause 12.5, movement between classification levels will be based on appointment on merit to advertised vacancies.
- (b) An employee promoted to a position at a higher classification level shall be appointed to paypoint 1 of that higher classification level.
- (c) A public service officer appointed pursuant to section 119 of the *Public Service Act 2008* shall have their previous service as an officer counted for the purpose of determining their commencing paypoint and calculation of their salary increment, provided that the officer is reappointed within 12 months of cessation of employment and the officer's previous employment was terminated other than by way of disciplinary action.

### **12.5 Prescribed criteria for movement between OO3 and OO4**

- (a) Movement of employees from the OO3 level to the OO4 level under this Award will 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 an assessment panel that the applicant is worthy of promotion.
- (b) The merit of the applicant is to be evaluated in relation to the criteria recorded in "Guide to Youth Worker Progression" agreed between the parties or any agreed variation to that criteria through:
  - (i) an assessment of a written application from the applicant; and
  - (ii) a clarification meeting (if necessary); and
  - (iii) third party (referee) reports.

### **12.6 Movement within classification levels (increments)**

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.
  - (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.
- (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 for a period of at least 12 months; and
  - (B) the employee has worked 1,200 ordinary hours in such classification.

For the purpose of clause 12.6(a)(iii), **continuous service** for a casual employee is considered to be broken if more than three months, excluding any public holidays, has elapsed between the end of one employment contract and the start of the next employment contract.

- (b) Notwithstanding the provisions of clause 12.6(a), an employee is not entitled to move to the next salary increment level unless:
  - (i) in the case of an employee appointed at the OO3 level, or a youth worker who has progressed to OO4 level, the conduct, diligence and general efficiency of the employee has been certified by the employer to have been and to be satisfactory; or
  - (ii) in the case of an employee employed at the OO5 level or higher, performance objectives have been achieved as certified by the chief executive.
- (c) The employer will move an employee to the next salary increment level automatically on the date the salary increase is due (as calculated in accordance with clause 12.6(a)) unless a formal performance improvement plan has commenced in relation to unsatisfactory performance or conduct by the employee.

### 12.7 Performance of higher duties

- (a) An employee, other than a youth worker or a section supervisor, directed to temporarily fill a position for more than three consecutive working days at a higher classification level shall be paid extra remuneration at the first paypoint of the classification level of the position being temporarily filled.
- (b) In the case of:
  - (i) a youth worker who is directed to temporarily fill the role and duties of a section supervisor; or
  - (ii) a section supervisor who is directed to temporarily fill the role and duties of a shift supervisor,

the higher duties payment will apply after completion of one full shift.

*Note: Where a directive about higher duties covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.*

## 13. Allowances

### 13.1 Escort duty



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

### **13.2 In charge of shift allowance**

Shift supervisors rostered to operations, where the majority of the rostered shift is outside normal business hours (0830 to 1700), shall be paid an additional \$11.47 per shift.

### **13.3 Locality allowance**

*Note: Where a directive about locality allowance covers an employee, the provisions of the directive apply to the employee.*

### **13.4 Motor vehicle allowance**

(a) Where the employer requires an employee to use their own vehicle in or in connection with the performance of their duties, the employee shall be paid an allowance for each kilometre of authorised travel as follows:

- (i) motor vehicle - \$0.77 per kilometre;
- (ii) motorcycle - \$0.26 per kilometre.

(b) The employer may require an employee to record full details of all such official travel requirements in a log book.

*Note: Where a directive about motor vehicle allowances covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.*

### **13.5 Overtime meal allowances and meal breaks**

(a) An employee working day work required to work overtime for:

- (i) more than 2 hours after ordinary ceasing time or for more than one hour continuing beyond 1800 on any normal working day; or
- (ii) more than 4 hours on a scheduled day off or a rostered day off,

shall be provided with an adequate meal at the employer's expense or paid a meal allowance of \$12.85 in lieu of the provision of such meal.

(b) A shift worker required to work overtime for:

- (i) more than 2 hours after ordinary ceasing time on any normal working day; or
- (ii) more than 4 hours on a scheduled day off, public holiday or a rostered day off,

shall be provided with an adequate meal at the employer's expense or paid a meal allowance of \$12.85 in lieu of the provision of such meal.

(c) An employee working overtime in the circumstance mentioned in clause 13.5(a)(i) shall be entitled to take a 30 minute unpaid meal break at a time agreed between the employer and employee.

(d) An employee working overtime in the circumstance mentioned in clause 13.5(b)(i) shall be entitled to take a 30 minute paid crib break after the first 2 hours worked.

- (e) Where the employer requires the employee to continue working for a further 4 hours of continuous overtime work in either of the situations mentioned in clauses 13.5(a) or (b), the employee will be entitled to a 30 minute unpaid meal break and either provided with an adequate meal at the employer's expense or paid an additional meal allowance of \$12.85.
- (f) Where an employee has been given notice to work overtime on the previous working day or prior thereto, and has brought to work a prepared meal and such overtime is cancelled, the employee shall be paid a meal allowance of \$12.85 for such prepared meal.

*Note: Where a directive about overtime meal allowance covers an employee, the provisions of the directive apply to the extent it provides a more generous entitlement.*

### **13.6 Uniforms and laundry allowance**

- (a) Where the employer requires an employee to wear a uniform, the employee shall be supplied suitable uniforms of good quality as approved by the employer. Uniforms shall be replaced by the employer on a fair wear and tear basis.
- (b) Where an employee is required to wear uniforms the employer must launder the uniform without charge to the employee or pay the employee an additional \$5.93 per fortnight.

### **13.7 Adjustment of monetary allowances**

- (a) The allowance specified in clause 13.2 (in charge of shift allowance) shall be automatically adjusted from the same date and in the same manner as monetary allowances are adjusted in any State Wage Case decision or other decision of the Commission adjusting minimum wage rates in this Award.
- (b) At the time of any adjustment to the wage rates in this Award the expense related allowances at clauses 13.4 (motor vehicle allowance), 13.5 (overtime meal allowances and meal breaks) and 13.6 (uniforms and laundry allowance), respectively, shall be automatically adjusted by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (c) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index, as follows:

<u>Allowance</u>	<u>Eight Capitals Consumer Price Index</u> <u>(ABS Cat No. 6401.0 - Table 7)</u>
Motor vehicle allowance <i>(last adjusted 1 September 2014)</i>	Private motoring sub-group
Overtime meal allowance <i>(last adjusted 1 September 2016)</i>	Take-away and fast foods sub-group
Uniforms and laundry allowance <i>(last adjusted 1 September 2014)</i>	Clothing and footwear group

## **14. Superannuation**

- (a) Subject to Commonwealth legislation and clause 14(b), the employer must comply with superannuation arrangements prescribed in the *Superannuation (State Public Sector) Act 1990* (and associated Deed, Notice and Regulation).

- (b) Where Commonwealth 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 the appropriate fund prescribed in the abovementioned Queensland legislation.

## **PART 5 - Hours of Work and Related Matters**

### **15. Hours of duty**

#### **15.1 Ordinary hours of duty**

- (a) Subject to clause 15.1(c), the ordinary hours of duty for all employees covered by this Award, exclusive of meal breaks, shall be an average of 38 hours per week and 7.6 hours per day, with a maximum of 8 hours per day.
- (b) Unless otherwise provided elsewhere in this Award, the ordinary hours of duty of employees are to be worked on one of the following bases as agreed between the employer and the employees concerned:
  - (i) 38 hours within a work cycle not exceeding 7 consecutive days; or
  - (ii) 76 hours within a work cycle not exceeding 14 consecutive days; or
  - (iii) 114 hours within a work cycle not exceeding 21 consecutive days; or
  - (iv) 152 hours within a work cycle not exceeding 28 consecutive days.
- (c) Notwithstanding the working hours arrangements in clause 15.1(a), the employer and an employee or group of employees may agree that the ordinary hours of work can exceed 8 hours on any day, to a maximum of 12 hours.
- (d) Different methods of working a 38 hour week may apply to individual employees, groups or sections of employees in each location concerned.
- (e) Rostered day off
  - (i) The employer is to allow employees access to at least one rostered day off in any work cycle unless the employer and employee otherwise agree.
  - (ii) Where the arrangement of ordinary hours of work provides for a rostered day off, the employer and an individual employee and/or the majority of employees concerned may agree to accrue up to a maximum of 10 rostered days off.
  - (iii) Where such agreement has been reached, the accrued rostered days off shall be taken within 12 calendar months of the date on which each rostered day off was accrued. Consent to accrue rostered days off shall not be unreasonably withheld by either party.

#### **15.2 Shift work arrangements**

- (a) Shift work shall be worked in accordance with a roster mutually agreed between the employer and the employees directly affected.
- (b) The ordinary hours of shift workers are inclusive of meal times.

- (c) All employees appointed as youth workers, section supervisors or shift supervisors may be required to perform continuous rotation shift duties to suit the convenience of the management of each resident facility.
- (d) 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 one week before the commencement of each fortnightly pay period.
- (e) Changes within a roster shall be by agreement between the employer and the employee concerned but failing agreement 24 hours' notice of any change in the roster must be given by the employer or double time is to be paid for the employee's next shift.
- (f) Subject to meeting operational requirements, rostered shifts may be mutually exchanged between employees provided such exchange occurs within the same pay period.

### **15.3 Spread of ordinary hours of duty - day workers**

- (a) The spread of ordinary hours of duty for day workers shall be 0600 to 1800 Monday to Sunday.
- (b) 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.
- (c) Starting and finishing times may be altered to suit geographic, safety, climatic or traffic conditions by the employer with the agreement of the majority of employees concerned. Any such altered starting and finishing time will not invoke any penalty payment that would be payable if the award spread of hours were observed.
- (d) 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 will be in the employee's time.

### **15.4 Payment for working ordinary hours - day workers**

- (a) Subject to clauses 15.1(c) and 15.4(b), all ordinary hours of duty performed within the ordinary spread of hours prescribed in clause 15.3 shall be paid for as follows:
  - (i) Monday to Friday - ordinary time;
  - (ii) between 0000 and 2400 on a Saturday - time and one-half;
  - (iii) between 0000 and 2400 on a Sunday - double time;
  - (iv) between 0000 and 2400 on a public holiday - at the rate prescribed in clause 23.1.
- (b) With the exception of officers working agreed 12 hour shifts and who are in receipt of a consolidated shift allowance which consolidates weekend penalty payments, officers who work more than 8 hours in any one shift between 0000 on a Saturday and 2400 on a Sunday, shall be paid double time for all time worked in excess of 8 hours.

### **15.5 Payment for working ordinary hours - shift workers**

- (a) All employees who work an afternoon shift or night shift Monday to Friday, inclusive, are to be paid an additional allowance of 15% for all ordinary time worked on such shifts.

- (b) Subject to clauses 15.1(c) and 15.5(c), all ordinary hours of duty worked by a shift worker on a weekend or a public holiday will be paid for as follows:
  - (i) between 0000 and 2400 on a Saturday - time and one-half;
  - (ii) between 0000 and 2400 on a Sunday - double time; and
  - (iii) between 0000 and 2400 on a public holiday - at the rate prescribed in clause 23.1.
- (c) With the exception of officers working agreed 12 hour shifts and who are in receipt of a consolidated shift allowance which consolidates weekend penalty payments, officers who work more than 8 hours in any one shift between 0000 on a Saturday and 2400 on a Sunday, shall be paid double time for all time worked in excess of 8 hours.

## **16. Meal breaks**

### **16.1 Meal breaks - day workers**

- (a) All day workers who work in excess of 5 hours on any day shall be allowed not less than 30 minutes for an unpaid meal break between the fourth and sixth hours of duty.
- (b) Employees who are required to partake of meals with residents shall be provided with meals free of charge.

### **16.2 Meal breaks - shift workers**

- (a) All shift workers shall be allowed a paid crib break of 30 minutes with such break being taken at a time which will not interfere with continuity of work.
- (b) Employees who are required to partake of meals with residents shall be provided with meals free of charge.

## **17. Rest pauses - both day workers and shift workers**

- (a) All employees are entitled to a paid rest pause of 10 minutes duration in the first and second half of the working day, subject to the following qualifications:
  - (i) An employee who works for 3 hours or less shall not be entitled to a rest pause.
  - (ii) An employee who works for more than 3 hours but less than 6 ordinary hours in any day shall be entitled to one 10 minute rest pause.
  - (iii) An employee who works for at least 6 ordinary hours in any day shall be entitled to two 10 minute rest pauses.
- (b) Where an employee is eligible for two paid rest pauses the employer may determine that the rest pauses be combined into one 20 minute paid rest pause, to be taken in the first half of the ordinary working day.
- (c) All rest pauses shall be taken at such times as will not interfere with the continuity of work where such continuity is necessary.

## **18. Overtime**

### **18.1 Overtime - general**

- (a) Employees shall work reasonable overtime whenever necessary in the opinion of the employer, but 24 hours' notice shall be given, where practicable, to an employee required to work overtime.
- (b) Overtime is to be calculated to the nearest quarter of an hour.
- (c) Notwithstanding any other provision in clauses 18.2 to 18.4, inclusive, an employee who performs work outside the prescribed hours of duty may, by mutual agreement with their supervisor, be compensated by way of accrued time off on a time for time basis.
- (d) When applying clause 18.1(c), genuine consultation is to occur between the relevant supervisor and employee free from duress.
- (e) The provisions of clause 18.1(c) do not apply to any overtime performed on a Saturday, a Sunday or a public holiday.

### **18.2 Payment for overtime - day workers**

Except as provided elsewhere in clauses 15 and 18:

- (a) All authorised overtime worked by an employee in excess of their ordinary daily hours of duty or outside their spread of ordinary working hours on any day shall be paid at the rate of time and one-half for the first 3 hours and double time thereafter.
- (b) All authorised overtime worked by an employee on their rostered day off or first or third scheduled day off shall be paid at the rate of time and one-half for the first 3 hours and double time thereafter with a minimum payment as for 3 hours' work.
- (c) All authorised overtime worked by an employee on their second or fourth scheduled day off shall be paid at the rate of double time with a minimum payment as for 3 hours' work.
- (d) All authorised overtime worked by an employee on a public holiday shall be paid at the rate prescribed in clause 23.1.
- (e) The minimum payments provided in clauses 18.2(b) and (c) shall not apply where such overtime is performed immediately preceding or following ordinary hours.

### **18.3 Payment for overtime - shift workers**

- (a) Subject to clause 18.3(b), all shift workers are to be paid for all overtime at the rate of double time.
- (b) All authorised overtime worked by a shift worker on a public holiday shall be paid for at the rate prescribed in clause 23.1.

### **18.4 Recall to duty**

- (a) Where an employee is recalled to perform duty after completing their normal shift or on any rostered day off or scheduled day off the employee shall be paid overtime rates for such duty with a minimum payment of 2 hours at overtime rates.
- (b) If the duty performed on recall is less than 4 hours, overtime is to be calculated as from the employee's home and back to home.

### **18.5 Fatigue leave/rest period after overtime**

- (a) An employee who works so much overtime between the termination of ordinary work on one day and the commencement of ordinary work on the next day so that 10 consecutive hours off duty has not occurred shall be released after completion of such overtime until 10 consecutive hours off duty does occur without loss of pay for ordinary working time occurring during such absence.
- (b) If, on the instructions of the employer, an employee resumes or continues ordinary work without having had 10 consecutive hours off duty the employee shall be paid double rates until released from duty and shall then be entitled to be absent until 10 consecutive hours off duty has occurred without loss of pay for ordinary working time occurring during such absence.
- (c) The provisions of clause 18.5 shall apply to shift workers who rotate from one shift to another as if 8 hours were substituted for 10 hours when overtime is worked:
  - (i) for the purpose of changing shift rosters; or
  - (ii) where a shift worker does not report for duty; or
  - (iii) where a shift is worked by arrangement between the employees themselves.
- (d) The provisions of clause 18.5 shall apply when an employee has actually worked in excess of 2 hours inclusive of travelling time on one or more recalls.

### **18.6 Meal breaks on overtime**

All employees covered by this Award who work overtime are entitled to meal breaks and, where relevant, meal allowances as prescribed in clauses 13.5 and 16, respectively.

## **PART 6 - Leave of Absence and Public Holidays**

### **19. Annual leave**

Annual leave is provided for in Division 3 of the QES. Clauses 19.1 to 19.4 supplement the QES.

#### **19.1 Payment for annual leave**

- (a) An employee (other than a shift worker) proceeding on annual leave is entitled to receive the following payments:
  - (i) an amount equal to the salary level being paid to the employee immediately before the employee takes the leave for the period of such leave; and
  - (ii) a further amount equal to 17.5% of the salary payable for ordinary time in relation to the employee's substantive position for the period of such leave.
- (b) A shift worker proceeding on annual leave is entitled to receive the following payment:
  - (i) an amount equal to the salary level being paid to the employee immediately before the employee takes the leave for the period of such leave calculated according to the employee's roster or projected roster including shift, weekend or public holiday penalties; or
  - (ii) an amount equal to the salary level being paid to the employee immediately before the employee takes the leave for the period of such leave plus a further amount equal to 17.5%

of the salary payable for ordinary time in relation to the employee's substantive position for the period of such leave, excluding any shift, weekend or public holiday penalties,

whichever is the higher.

### **19.2 Christmas/New Year closure**

- (a) Where their work unit is compulsorily closed over the Christmas/New Year period, all affected employees shall have their annual leave entitlement debited (other than a **concessional day**) by the number of ordinary working days, or hours in the case of part-time employees, they would ordinarily have worked between Christmas Day and New Year's Day, inclusive.
- (b) For the purposes of clause 19.2(a), **concessional day** means any day upon which an employee is permitted to be absent on full pay without debit to any leave account as a result of a compulsory closure of Government establishments over the Christmas/New Year period or such closure or restricted staffing as the employer determines.
- (c) Notwithstanding the provisions of clause 19.2(a), the employer and an employee may agree that an employee may access any accrued rostered day/s off or accrued time off in lieu during a compulsory Christmas closure period instead of having their annual leave entitlement debited.

### **19.3 Change of annual leave and days off**

Mutual interchange of annual leave between employees may be permitted upon request by the employees concerned, if, in the opinion of the manager, such interchange is not detrimental to the effective carrying on of the work of the institution.

### **19.4 Broken leave**

By agreement between the employer and an employee annual leave may be taken in broken periods.

*Note: Where a directive about annual leave covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.*

## **20. Personal leave**

- (a) Personal leave is provided for in Division 4 of the QES and covers:
  - (i) sick leave;
  - (ii) carer's leave;
  - (iii) bereavement leave; and
  - (iv) cultural leave.
- (b) In addition to the provisions of Subdivision 2 of Division 4 of the QES an employee is entitled to use any sick leave to which they have an entitlement for carer's leave purposes.
- (c) An employee may also elect, with the consent of the employer, to take annual leave for carer's leave purposes.
- (d) 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.

*Note: Where a directive about sick or bereavement leave covers an employee, the provisions of the relevant directive apply to the employee to the extent it provides a more generous entitlement.*



## 21. Parental leave

- (a) Parental leave is provided for in Division 5 of the QES and covers:
  - (i) birth-related leave for an employee who is pregnant or whose spouse gives birth;
  - (ii) adoption leave; and
  - (iii) surrogacy leave.
- (b) Notwithstanding the provisions of Subdivision 2 of Division 5 of the QES, all full-time and part-time employees are entitled to parental leave upon commencement of employment.
- (c)
  - (i) An employee who is pregnant, whether or not she has given her employer written notice of the date/s on which she proposes to start and/or end maternity leave, must:
    - (A) commence maternity leave at least 6 weeks prior to the expected date of birth of her child; and
    - (B) remain on maternity leave until at least 6 weeks after the birth of the child.
  - (ii) An employer may at the request of the employee and on receipt of a certificate from a medical practitioner certifying that in the opinion of the medical practitioner:
    - (A) the employee is fit for duty until a specified date - reduce the period mentioned in clause 21(c)(i)(A); or
    - (B) the employee is fit to resume duty - reduce the period mentioned in clause 21(c)(i)(B).
  - (iii) If the employer makes a decision under clause 21(c)(ii)(A) to reduce the period, the approval is of effect until:
    - (A) the day specified in the medical certificate; or
    - (B) the day 14 days after the day the employer revokes the decision by giving written notice to the employee; or
    - (C) the employee commences maternity leave; or
    - (D) the day of the employee's confinement,whichever happens first.
- (d) An employee who is pregnant, during the term of her pregnancy until 6 weeks before the expected date of birth of her child or lesser period as approved by the employer, may request to work part-time or other flexible work arrangements.
- (e) An employee who has taken leave to attend compulsory interviews or examinations as part of an adoption process or who has taken leave to attend compulsory interviews or court hearings associated with a surrogacy arrangement may request that such leave be taken as paid annual leave.

- (f) In addition to the provisions of Subdivision 6 of Division 5 of the QES an employee who has returned to work on a part-time basis may seek to return to the position they held prior to commencing parental leave.
- (g) If the position mentioned in clause 21(f) no longer exists but there are other positions available that the employee is qualified for and is capable of performing, the employee is entitled to be employed in a position that is, as nearly as possible, comparable in status and remuneration to that of the employee's former position.
- (h) The employer must make a position to which the employee is entitled available to the employee.
- (i)
  - (i) An employee who is the parent of a child may apply, at any time, to their employer to work on a part-time basis in order to be the child's primary caregiver when not at work.
  - (ii) The requirements concerning the manner in which the employee may make an application to work part-time under clause 21(i)(i) are the same as those contained in the QES with respect to applications to return to work on a part-time basis for an employee on parental leave (i.e. s 71 GT).
  - (iii) The period in relation to which an application under clause 21(i) may be made cannot extend beyond the day the child is required to be enrolled for compulsory schooling under the *Education (General Provisions) Act 2006*.
  - (iv) The requirements concerning the manner by which the employer is to assess any application by an employee to work part-time are the same as those contained in the QES with respect to assessing applications to return to work on a part-time basis for an employee on parental leave (i.e. s 71GU).

*Note: Where a directive about paid parental leave covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.*

## **22. Long service leave**

- (a) Long service leave, including for casual employees, is provided for in Division 6 of the QES. Clause 22(b) supplements the QES.
- (b) In lieu of the provisions of section 71HB(2)(a) and (b) of the Act, all 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.

*Note: Where a directive about long service leave covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.*

## **23. Public holidays**

Public holidays are provided for in Division 7 of the QES. Clauses 23.1 to 23.4 supplement the QES provisions.

### **23.1 Payment for public holidays and for work on a public holiday**

- (a) An employee (other than a casual employee) who would normally work on a day on which a public holiday falls and who:
  - (i) is not required to work on that day, shall be paid for the ordinary hours the employee would normally have worked if that day had not been a public holiday;

- (ii) is required to work on the public holiday shall, in addition to the payment prescribed in clause 23.1(a)(i), be paid at the rate of time and one-half for any hours worked, with a minimum payment as for 4 hours' work for the day.
- (b) An employee (including a casual employee) who would normally work on a day on which a public holiday falls and who performs authorised overtime outside the employee's ordinary working hours for that day shall be paid for such time at double the overtime rate prescribed in clauses 18.2 or 18.3, as the case may be.
- (c) An employee (including a casual employee) who would not normally be required to work on a public holiday but who is required to work on that day shall be paid at the rate of double time and one-half for any hours worked, with a minimum payment as for 4 hours' work for the day.
- (d) The minimum payment provided in clauses 23.1(a) or (c) shall not apply where the work performed on the public holiday is immediately preceding or following ordinary hours.

### **23.2 Substitution**

- (a) Subject to statutory limitations (such as the time work may not be performed on Anzac Day) where there is agreement between the employer and an employee or employees, another ordinary working day may be substituted for a public holiday.
- (b) Where an employee is subsequently required to work on the substituted day they shall be paid at the rate prescribed in clause 23.1.

### **23.3 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 23.3(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.

### **23.4 Rostered day off on a public holiday**

- (a) An employee (other than a casual employee) whose rostered day off falls on a public holiday shall be paid an additional day's wage for each such day on which they are rostered off.
- (b) For the purpose of clause 23.4(a) **additional day's wage** means:
  - (i) for a full-time employee, 7.6 hours at ordinary rates; and
  - (ii) for a part-time employee, the number of ordinary hours normally worked on the same day of the week on which the holiday falls.
- (c) Nothing in clause 23.4 confers a right to any employee to payment for a public holiday as well as a substituted day in lieu.

## **24. Jury service**

Jury service is provided for in Division 8 of the QES.

## **PART 7 - Transfers, Travelling, and Working Away from Usual Place of Work**

### **25. Transfer and appointment expenses**

Eligible employees when appointed or when transferred (other than at their own request) from one centre to another may be paid for expenses incurred, including:

- (a) the conveyancing of self, family and effects to the centre to which the employee is appointed;
- (b) board and lodging;
- (c) other items of expenditure related to taking up duty.

*Note: Where a directive about transfer and appointment expenses covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.*

### **26. Travelling and relieving expenses**

An employee who is required to:

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

is to be provided, where necessary as determined by the employer, with reasonable transport and accommodation and reimbursed actual and reasonable expenses for transport, accommodation, meals and incidental expenses necessarily incurred by the employee.

*Note: Where a directive about travelling and relieving expenses covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.*

## **PART 8 - Training and Related Matters**

### **27. Training, learning and development**

- (a) The parties to this Award recognise that in order to increase efficiency and productivity a greater commitment to learning and development is required.
- (b) 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.
- (c) A consultative mechanism and procedure involving representatives of management, employees and the relevant unions shall be established as determined by the chief executive, having regard to the size, structure and needs of the employer.
- (d) Following consultation, the chief executive shall develop a learning and development strategy consistent with:
  - (i) the current and future needs of the employer;

- (ii) the size, structure and nature of the operations of the employer; and
  - (iii) the need to develop vocational skills relevant to the employer through courses conducted wherever possible by accredited educational institutions and providers.
- (e) Learning and development may be both on-the-job or off-the-job and either internal or external to the organisation.
  - (f) Learning and development provided should assist employees in obtaining accredited competencies, knowledge and skills.
  - (g) 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 9 - Union Related Matters**

### **28. Union encouragement**

- (a) 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.
- (b) An application for union membership and information on the relevant union/s will be provided to all employees at the point of engagement.
- (c) Information on the relevant union/s will be included in induction materials.
- (d) Union representative/s will be provided with the opportunity to discuss union membership with new employees.

### **29. Union delegates**

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

### **30. Industrial relations education leave**

- (a) 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.

- (b) Employees may be granted up to 5 working days (or the equivalent hours) paid time off (non-cumulative) per calendar year, approved by the employer to attend industrial relations education sessions.
- (c) 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 employer, the relevant union and the employee.
- (d) Upon request and subject to approval by the employer, employees may be granted paid time off in special circumstances to attend management committee meetings, union conferences, and Australian Council of Trade Unions (ACTU) Congress.
- (e) 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 work unit concerned. At the same time, such leave shall not be unreasonably refused.
- (f) At the discretion of the employer, employees may be granted special leave without pay to undertake work with their union.

### **31. Right of entry**

- (a) Authorised industrial officer
  - (i) An 'authorised industrial officer' is any union official holding a current authority issued by the Industrial Registrar.
  - (ii) Right of entry is limited to workplaces where the work performed falls within the registered coverage of the union.
- (b) Entry procedure
  - (i) An authorised industrial officer may enter a workplace at which the employer carries on a calling of the officer's organisation, during the employer's business hours, to exercise a power under section 373 of the Act as long as the authorised industrial officer:
    - (A) has notified the employer or the employer's representative of the officer's presence; and
    - (B) produces their authorisation, if required by the employer or the employer's representative.
  - (ii) Clause 31(b)(i) does not apply if, on entering the workplace, the officer discovers that neither the employer nor the employer's representative having charge of the workplace is present.
  - (iii) A person must not obstruct or hinder any authorised industrial officer exercising their right of entry.
  - (iv) If the authorised industrial officer does not comply with a condition of clause 31(b)(i) the authorised industrial officer may be treated as a trespasser.
- (c) Inspection of records

- (i) An authorised industrial officer is entitled to inspect the time and wages record required to be kept under section 366 of the Act.
  - (ii) An authorised industrial officer is entitled to inspect such time and wages records of any current employee except if the employee:
    - (A) is ineligible to become a member of the authorised industrial officer's union; or
    - (B) has made a written request to the employer that they do not want their record inspected.
  - (iii) The authorised industrial officer may make a copy of the record, but cannot require any help from the employer.
  - (iv) A person must not, by threats or intimidation, persuade or attempt to persuade an employee or prospective employee to make, or refuse to make, a written request to the employer or prospective employer that the record not be available for inspection by an authorised industrial officer.
- (d) 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:
- (i) matters under the Act during working or non-working time; and
  - (ii) any other matter with a member or employee eligible to become a member of the union, during non-working time.
- (e) Conduct
- (i) The employer must not obstruct the authorised industrial officer exercising their right of entry powers.
  - (ii) An authorised industrial officer must not wilfully obstruct the employer, or an employee during the employee's working time.

*Note: Clause 31 - Right of entry, deals with comparable 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.*

## Schedule 1 - Supported Wage System

This Schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the supported wage system.

**Definitions** - In this Schedule:

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

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

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

**relevant minimum wage** means the minimum wage prescribed in this Award for the class of work for which an employee is engaged

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

**sws wage assessment agreement** means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate

### Eligibility criteria

- (a) Employees covered by this Schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this Award, because of the effects of a disability on their productive capacity, and who meet the impairment criteria for receipt of a disability support pension.
- (b) This Schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of the *Workers' Compensation and Rehabilitation Act 2003*.

### Supported wage rates

- (a) Employees to whom this Schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following Table and Note:

Assessed capacity (see below)	Relevant minimum wage*
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

\*Note: The minimum amount payable to an employee receiving a supported wage must not be less than \$82 per week.



- (b) Where an employee's assessed capacity is 10%, the employee must receive a high degree of assistance and support.

### **Assessment of capacity**

- (a) For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the sws by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.
- (b) All assessments made under this Schedule must be documented in a sws wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

### **Review of assessment**

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

### **Other terms and conditions of employment**

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

### **Workplace adjustment**

If the employer wishes to employ a person under the provisions of this Schedule it must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation.

### **Trial period**

- (a) In order for an adequate assessment of the employee's capacity to be made, the employer may employ a person under the provisions of this Schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- (b) During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- (c) The minimum amount payable to the employee during the trial period must be no less than the amount recorded in the Note under the Table (above).
- (d) Work trials should include induction or training as appropriate to the job being trialled.
- (e) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment (see **Assessment of capacity** - above).

By the Commission,  
[L.S.] J. STEEL,  
Industrial Registrar.