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Introduction

The Public Service Industrial Relations Guide (the Guide) provides information on employment conditions applying to NSW Public Service employees.

Information in the Guide draws on legislation, awards, agreements, determinations and policy guidelines to assist human resources and industrial relations practitioners in Public Service agencies. The Guide does not seek to replace these source documents, but to bring together key provisions into a single reference point.

The Guide is published by NSW Treasury in consultation with the NSW Public Service Commission and public sector unions.

This first edition updates content previously included in the Personnel Handbook. The commencement of the Government Sector Employment Act 2013 (‘GSE Act’) resulted in much of the content of the Personnel Handbook being superseded and guidance material was subsequently available through the Public Service Commission’s Employment Portal. Notes on the status of the Personnel Handbook were maintained to indicate which areas remained current and which had been superseded by provision of the GSE Act.

This version reflects the legislation and human resources policy in place at the time of publication. While every effort has been made to ensure the accuracy of the information provided, if you are aware of any recent developments in a subject area or would like to suggest an amendment or correction to a particular topic for the next update of the Guide, please email psir@industrialrelations.nsw.gov.au

Public Service Senior Executives

The Guide does not apply to public service senior executives. Guidance relating to public service senior executives is available from the Public Service Commission website.

Disclaimer

The Guide is intended to be a helpful guide to industrial relations and human resources practitioners, and to managers and employees. It is not written for jurists or lawyers and it has no legal status. In all matters subject to dispute, reference must be made to source documents such as legislation and industrial instruments. These references are generally included at the head of each section.

The Guide provides advice on the provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 (the Conditions Award) and is applicable to all employees employed in Departments, Public Service executive agencies related to Departments, and separate Public Service agencies listed in Schedule 1 to the Government Sector Employment Act 2013, unless other arrangements apply under another industrial instrument or local arrangements.

While the Guide may be referred to by some non-public service agencies whose industrial instruments mirror or refer to the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, care should be taken to ensure compliance with those instruments.

Definitions and terminology

In this Guide:

‘Conditions Award’ means the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009

‘Employee’ is the term generally used rather than public servant unless it is necessary to distinguish between public servants employed under the GSE Act and employees of public sector agencies.
‘GSE Act’ means the Government Sector Employment Act 2013
‘IR Act’ means the Industrial Relations Act 1996
IR Secretary means the Industrial Relations Secretary as defined in the GSE Act.
IRC means the Industrial Relations Commission of NSW
‘PSIR’ mean Public Sector Industrial Relations
‘Public Service Agency’ has the same meaning as defined in Section 3 of the GSE Act.
‘Regulation’ means the Government Sector Employment Regulation 2014
‘This Act’ or ‘this Regulation’ or ‘this Award’ means the Act, Regulation or Award (other than those mentioned above) which is specified as having relevance to the particular section.
‘Wages Policy’ means the NSW Public Sector Wages Policy 2011

Circulars and Memoranda

References to Circulars issued by Public Service Commission use the format: PSCC2018-99 Title.
References to Circulars issued by Public Sector Industrial Relations use the format: TC2018-99 Title.
References to Circulars issued by Department of Premier and Cabinet use the format: C2018-99 Title.
References to Premier’s Memoranda to Ministers use the format: M2018-99 Title.
References to Circulars issued by Public Employment Office use the format: P2018-99 Title

Further information and contacts

For further information or clarification on issues raised in the discussion paper, please contact:
Public Sector Industrial Relations, NSW Treasury
Telephone: 02 9228 5987
Email: psir@industrialrelations.nsw.gov.au
1 About Public Sector Industrial Relations

1.1 The Public Sector Industrial Relations (PSIR) Team

Public Sector Industrial Relations (PSIR) is a team of specialist industrial relations advisers working within NSW Treasury.

NSW Treasury advises the NSW Government on state financial management policy and reporting, on economic conditions and issues, and on industrial relations matters.

PSIR has responsibility for industrial relations matters impacting employees in the NSW public sector. The group’s primary responsibilities are to monitor wages, employment rights, obligations and employment conditions in NSW.

PSIR leads the development, review and evaluation of industrial relations policies, strategies and practices across the NSW public sector to align with public sector workforce requirements, strategic workforce capabilities and best practice.

1.2 What does PSIR do?

PSIR provides strategic and expert advice to Government and public sector agencies on industrial relations issues, including wages policy, conditions of employment and the broader implications of industrial relations policy and practice on public sector service delivery.

PSIR focuses on industrial relations issues specific to the NSW public sector. PSIR leads the development, review and evaluation of industrial relations policies, strategies and practices across the NSW public sector to:

- Manage the implementation of tactical and operational aspects of public sector industrial relations policy and practice, ensuring consistency of application with Government policy objectives
- Support government agencies with strategic and operational advice on more complex industrial matters and those which may impact other areas of Government
- Provide central, strategic support to the Minister for Industrial Relations, Cabinet and the Secretary of Treasury/Industrial Relations Secretary.
2 The Public Sector Framework

2.1 The legislation


The GSE Act establishes two main employment groups: the government sector and, within that, the Public Service.

2.1.1 Government Sector

The government sector comprises most government employees. The government sector is defined by section 3(1) of the GSE Act as the:

- Public Service;
- Teaching Service;
- NSW Police Force;
- NSW Health Service;
- Transport Service of NSW;
- any other service of the Crown; and
- the service of any other person or body constituted by or under an Act or exercising public functions (such as a State-owned corporation), being a person or body that is prescribed by the regulations for the purposes of this definition.

Employees of the Teaching Service, the NSW Police Force, the NSW Health Service, the Transport Service of NSW, Other Crown Services and other prescribed bodies are government sector employees.

Only certain parts of the GSE Act apply to government sector employees. This is because they have their own employment arrangements set out in other legislation, such as the Teaching Service Act 1980, the Police Act 1990, the Health Services Act 1997 and the Transport Administration Act 1988.
2.1.2 Public Service

The Public Service is made up of three types of Public Service agencies:

- Departments
- Public Service executive agencies
- Separate Public Service agencies (see Factsheet on Separate Agencies)

Departments, executive agencies and separate agencies are listed in Schedule 1 of the GSE Act.

People who are employed under the GSE Act in a Department, an executive agency, or a separate agency are Public Service employees. The GSE Act applies to all Public Service employees.

2.2 Clusters

‘Clusters’ are the groups into which NSW Government agencies are organised to enhance coordination and provision of related services and policy development. Clusters are not set up by legislation and the GSE Act does not refer to the term ‘cluster’ or to cluster arrangements. However, the GSE Act strengthens the relationship between Departments and Public Service executive agencies related to Departments, and the term ‘cluster’ continues to be used for other administrative purposes.

2.3 Industrial Instruments

Public Service employees are typically covered by several industrial instruments. For example, an employee may have their rate of pay provided in the Crown Employees (Public Sector – Salaries) Award 2018 and other conditions of employment set out in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 and/or an occupation specific instrument.

This Guide primarily draws on the provisions of the Conditions Award. It should be noted that the coverage clause of the Conditions Award sets out detailed ‘interaction rules’ where multiple instruments apply to an employee. These were established to preserve conditions of employment for employees who were impacted by changes to the organisation of government agencies which occurred from the introduction of the GSE Act when agencies were moved into the public service.

2.4 Role of the Industrial Relations Secretary

The GSE Act provides that the Industrial Relations Secretary (IR Secretary) is the employer of Public Service employees for industrial purposes. The IR Secretary advises the Government on industrial relations strategies and has oversight over the implementation of various policies impacting on Public Service employees. Section 50 of the GSE Act provides further detail of the function of the IR Secretary.

Under s 51 of the GSE Act, the IR Secretary may enter into an agreement with an association or organisation representing a group of Public Service employees regarding industrial matters. Any such agreement binds all Public Service employees in the group affected by the agreement, whether they are members of the association or organisation with which the agreement was entered into or not.

Under s 53 of the GSE Act, the IR Secretary may delegate any of his or her functions (other than this power of delegation) to the head of a Public Service agency or any Public Service employee or to a statutory officer.

Despite the role of the IR Secretary as the employer of Public Service employees for industrial purposes, applicants in industrial proceedings involving Public Service employees and agencies commonly notify matters against the Department or agency head. In these circumstances, representatives should have regard to the Government Model Litigant Policy and the need to provide reasonable assistance to the application to determine the correct respondent in matters.
2.4.1 Determinations

The IR Secretary may make determinations under s. 52 of the GSE Act, to fix conditions of employment of Public Service employees (or any group of them) where there is no other instrument which applies to those employees.

This section does not prevent the head of a Public Service agency from determining conditions of employment of employees of the agency for the purposes of the day to day management of the agency in matters not regulated by State industrial instruments and determinations under this section.

A list of determinations made by the Industrial Relations Secretary under s 52 of the GSE Act is published on the NSW Industrial Relations website.
3 Bargaining in the public service

3.1 Sources of Authority

- NSW Public Sector Wages Policy 2011
- IR Acts 146C – Commission to give effect to certain aspects of government policy on public sector employment
- Regulation 6 – Other policies
- Regulation 8 – Meaning of employee-related costs
- Regulation 9 – Meaning of employee-related cost savings

3.2 NSW Public Sector Wages Policy 2011

The Wages Policy describes the process that agencies are to follow when dealing with proposed changes to the wages or conditions of employment of public sector employees. Agencies should refer to the detail of the Wages Policy whenever considering such changes.

3.3 Regulation

The Wages Policy is supported by legislation.

The Regulation requires the IRC to give effect to the Wages Policy.

3.4 Application of Wages Policy

The Wages Policy applies to the NSW Public Sector, which includes:

- Public Service agencies, Departments and Executive agencies
- The Teaching Service, the NSW Police Force, the NSW Health Service and the Transport Service of NSW
- State Owned Corporations including their subsidiaries and independent statutory bodies.

It covers:

- all matters before the IRC
- any negotiations, variations, claims or offers by agencies that impact on remuneration or other conditions of employment, whether or not they are formalised in an industrial instrument.

See clause 2 of the Wages Policy for further information.

3.5 Wages Policy Taskforce

The Wages Policy Taskforce is convened fortnightly and includes representatives from:

- NSW Treasury – People Strategy Group (Chair);
- NSW Treasury – Policy and Budget Strategic Operations;
- NSW Public Service Commission.

3.6 Approval of Increases

Proposals to increase remuneration or other conditions of employment that do not increase employee related costs by more than 2.5 per cent per annum may be approved by the Wages Policy Taskforce.

Increases in remuneration or other conditions of employment that increase employee related costs by more than 2.5 per cent per annum can only be considered where sufficient employee related cost savings have been achieved to fully offset the increased employee related costs.
Proposals for increases of more than 2.5 per cent must be considered by Wages Policy Taskforce and then submitted to the Cabinet Standing Committee on Expenditure Review (ERC) for consideration.

3.7 Employee related costs and cost savings

See Regulations 8 and 9 of the Regulation and clause 5 of the Wages Policy for the definition of employee related costs and cost savings.

See clause 7 of the Wages Policy for examples of employee related cost savings.

3.8 Submission timelines

Agencies should consult with Treasury and PSIR six months prior to the expiry of instruments.

Submissions for consideration by Wages Policy Taskforce should be provided three months prior to expiry of the instrument. If a proposal requires ERC approval an agency should allow additional approval time.

Submissions should be sent to PSIR nine working days prior to the scheduled Wages Policy Taskforce meeting.

3.9 Bargaining

Following approval of bargaining parameters an agency may commence negotiations in accordance with the approved parameters.

An agency may settle an industrial instrument where it is consistent with the bargaining parameters approved by Wages Policy Taskforce or ERC, and is to consult with PSIR prior to finalising the instrument.

Any requests to amend bargaining parameters following negotiations may require a further submission to Wages Policy Taskforce (and ERC if required).

PSIR coordinates submissions and leads negotiations for instruments which apply to multiple agencies.

3.10 Decisions of courts and tribunals

3.10.1 The Public Service Association and Professional Officers’ Association Amalgamated of NSW v Director of Public Employment [2012] HCA 58

In this matter, the High Court dismissed an appeal by the State public sector unions and upheld the validity of s 146C(1) of the IR Act.

Section 146C(1) provides that IRC must "give effect to any policy on conditions of employment of public sector employees ... that is declared by the regulations to be an aspect of government policy that is required to be given effect to by the Commission" when making or varying any award or order.

Although s 146C(1) of the IR Act and the Regulation used the words "policy" and "government policy", the High Court clarified that the policies contemplated by s 146C(1) (and those contained in the Regulation) were no different from any other laws (including any applicable statutes and regulations) which the IRC must apply in exercising its functions. This includes the Wages Policy, as stated in the Regulation, which limits the increases in remuneration that may be awarded by the IRC.

3.10.2 Secretary of The Treasury v Public Service Association & Professional Officers’ Association Amalgamated Union of NSW [2014] NSWCA 138

In this matter, the Supreme Court held that it is necessary for the IRC to take into account increases in superannuation contributions when calculating the increases to employee expenses and subsequent wage increases to be made available in awards within the 2.5 per cent limitation provided by the Regulation.

The Chief Justice confirmed that:

"In these circumstances it seems to me that compliance with the policy contained in the Clause involves an inquiry as to whether
any increase awarded by the Commission, taken together with any other increases in employee-related costs, has the effect of increasing employee-related costs by more than 2.5% per annum for the award period. In the present case, as it can be established that the superannuation payment to be made for the benefit of employees will increase compared to the period immediately prior to the award, it will be necessary for it to be taken into account in calculating the 2.5% per annum limit."

3.10.3 Operational Ambulance Officers (State) Award (No 4) [2016] NSWIRComm 2

The decision of the IRC in Operational Ambulance Officers (State) Award [2015] NSWIRComm 17 determined there should be a new employment classification of ‘Critical Care Paramedic (Aeromedical)’ (with a higher pay scale) to reflect ‘the changed work, and the skills and responsibility’ of ‘paramedics performing work in the Aeromedical Retrieval Services of the Ambulance Service of NSW’.

Through a process of conciliation and agreement, the parties identified employee related cost savings in accordance with clause 6(1)(b) of the Regulation. The value of overtime savings generated by the new rostering arrangements for training was sufficient to offset the increase above 2.5% per annum in employee related costs resulting from the new classification and rates of pay for the Critical Care Paramedics (Aeromedical). The IRC was satisfied that the requirements of the Regulation were met.

3.10.4 Crown Employees (Correctional Officers, Department of Corrective Services) Award 2007 for Kempsey, Dillwynia and Wellington Correctional Centres [2014] NSWIRComm 44

In this matter, a Full Bench of the IRC addressed the question of whether savings effected at the three Correctional Centres governed by the Award in question fell outside the meaning of ‘employee-related cost savings’ in Regulation 9(1) including whether ‘whole of government savings’, that is, measures that bring a government department or agency within budget, could be relied upon as representing employee related cost savings with respect to this Award.

The IRC agreed with the respondent’s claim that allowing savings from such initiatives to be treated as employee-related savings for the purposes of the Regulation would, in case of consequential salary adjustments, render the savings nugatory and work contrary to the purpose of s. 146C to effect fiscal restraint.
4 Leaving Public Service employment

4.1 Sources of Authority
Statutory provisions applicable to leaving public service employment.

4.1.1 Government Sector Employment Act 2013
GSE Act s. 47 – Termination of Employment
GSE Act s. 55 – Resignation
GSE Act s. 56 – Retirement on Medical Grounds
GSE Act s. 57 – Crown’s dispensation with services
GSE Act s. 68 – Unsatisfactory performance of government sector employees
GSE Act s. 69 – Misconduct - Public Service and other prescribed government sector employees
GSE Act Sch. 4 – Savings, transitional and other provisions

4.1.2 Government Sector Employment Regulation 2014
GSE Reg Sch. 1 cl 3 - Entitlement to extended leave if employment terminated in special circumstances
GSE Reg Sch. 1 cl 4 - Payment of accrued leave on termination of employment
GSE Reg Sch. 1 cl 5 - Leave to be paid out to dependants in cases of death

4.1.3 Government Sector Employment Rules 2014
GSE Rule 5 – Probation periods

4.1.4 Industrial Relations Act 1996 No 17
Industrial Relations Act 1996 No 17 pt. 7 div. 3

4.1.5 Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009
Subclauses 77.5 and 77.6

4.1.6 Additional Guidance
For guidance on the management of excess employees and workforce transition, refer to the Workforce Transition page of the Public Service Commission’s Employment Portal.

4.2 General

4.2.1 Administrative Procedures

4.2.1.1 Certificate of Service
A letter stating the dates of employment and other details is to be issued to all employees who leave the service.

4.2.1.2 Notifying superannuation funds
The agency must notify the relevant superannuation fund or scheme without delay when a member dies or leaves the agency.
4.3 Payment for leave entitlements

4.3.1 Recreation leave entitlements

All leave credits are calculated as at the last day of service in accordance with the provisions outlined in this subsection.

4.3.1.1 Entitlements to be calculated to the next highest quarter day

Recreation leave for which an employee is eligible on cessation of employment is calculated to the nearest quarter day, with periods less than a quarter day rounded up.

4.3.1.2 Payment for accrued leave – options

On ceasing employment, an employee is entitled to be paid the monetary value of accrued recreation leave which remains untaken. The employee may elect to take accrued recreation leave as leave, as a lump sum payment; or as a combination of leave and a lump sum payment.

If an employee elects to take some or all accrued recreation leave as leave, further recreation leave will continue to accrue during the nominated period of leave. Recreation leave accrued in respect of the nominated period of leave must be paid for in a lump sum on the last day of service or shortly thereafter.

4.3.1.3 Effect of salary adjustment – last day of service

If the last day of service falls on or after the date of effect of a salary adjustment under an industrial instrument, the monetary value of leave is based on the new salary rate.

4.3.1.4 Retirement on medical grounds

For the purposes of initially determining the last day of service of an employee declared to be medically unfit to continue in the Public Service, as defined in Schedule 1 – Public Service agencies of the GSE Act, it is assumed that the value of accrued recreation leave will be taken as a lump sum.

Agencies must therefore inform the employee of the last day of service, as initially determined. The employee may then elect to exercise one of the options in 4.3.1.2, payment for accrued leave – options. When practicable, this election should be in writing.

4.3.1.5 Death of an employee

See 4.6.2 Payment for leave on the death of an employee.

4.3.2 Extended leave entitlements

On termination of services, an employee who has acquired a right to extended leave is to be paid in lieu of such leave the monetary value of accrued and untaken extended leave. Payment is to be made at the rate of salary of the employee's ongoing role and fractions of less than a quarter day are to be taken to the next higher quarter day. If the employee has received HDA for the 12 months prior payment is as per 6.5.4.3 Above Level Allowance of this Guide.

4.3.2.1 Payment of extended leave on resignation to join a union

An employee who resigns from the Public Service and obtains employment with a union is paid the monetary value of accrued extended leave. It is not paid to the union.

4.3.2.2 Payment of proportionate extended leave

The question of payment of proportionate extended leave arises when an employee has completed service of at least 5 years but less than 10 years (or less than 7 years from 1 January 2005 for some employees) and the employment is being terminated:

- either by the employer for any reason other than the employee’s serious and intentional misconduct; or
- by the employee on account of illness, incapacity or other domestic or pressing necessity.
Instances in which payment of proportionate extended leave must be made on completion of at least 5 years’ service are:

- medical retirement;
- voluntary redundancy;
- retrenchment;
- voluntary retirement at 55 years of age or older;
- termination by the employer for any reason other than serious and intentional misconduct of the employee;
- termination by the employee, if evidence proves that the termination was brought about by illness or incapacity of the employee or of a member of the employee’s family, or by other reasons that constitute domestic or pressing necessity;

and

- on resignation following election of the employee as a member of State or Federal Parliament; and
- on the death of the employee.

4.4 Resignation

4.4.1 Giving notice

The timeframe required for notifying resignation is set out in the relevant industrial instrument. Otherwise reasonable notice should be given as decided by each Agency Head.

4.4.2 Bonded or indentured persons

Resignations received from bonded or indentured people must not be accepted until the liabilities relating to the bond are determined.

4.5 Retirement

4.5.1 Abolition of compulsory retirement

Compulsory retirement based on age is unlawful in New South Wales.

Under Part 4E of the Anti-Discrimination Act 1977, it is unlawful to:

- retire an employee from employment; or
- require an employee to retire from employment; or
- threaten to retire an employee from employment; or
- engage in conduct with a view to causing an employee to retire from employment on the grounds of age. Firefighters, coalminers, police and judicial officers are excluded from the general prohibition on compulsory retirement.

4.5.1.1 Voluntary retirement

It is up to individual employees to decide when they retire.

Those who decide to retire should give notice of their intention in the same manner as they would notify their intention to resign.

Employees considering options for retirement should consult their own superannuation fund or scheme for advice on the superannuation aspects of retirement in their particular situation. Agencies must always notify the relevant superannuation fund when a member retires.

4.6 Death

4.6.1 General

4.6.1.1 Last day of service

In such instances the last day of service is the date of death. All final entitlements should therefore be calculated as at that date.

4.6.2 Payment for leave on the death of an employee

4.6.2.1 Payment of entitlement

If an employee dies, the recreation and extended leave entitlements are to be calculated up to and including the date of death.

The monetary value of all recreation leave and extended leave accrued, but not taken at the date of death (including the balance of leave which
has been partly taken), is to be paid to the employee’s nominated beneficiary. If no beneficiary has been nominated, the monetary value of the leave is to be paid to the following in order:

- the spouse of the employee; or if none
- children of the employee (including adult sons and daughters, not necessarily dependent) or, if there is a guardian of the children then to the guardian for the children’s maintenance, education and welfare; or if there is none
- other dependent relative(s); or if none
- to the employee’s estate.

4.6.2.2 Evidence of relationship to employee

Agencies need to be satisfied as to the relationship of the claimant to the employee and should request such evidentiary information to support the relationship.

4.6.2.3 Deceased estates

Payment of any unpaid salaries, wages, allowances, overtime or expenses due to the deceased are to be paid to the estate.

Such payments are not to be made until probate of the will or letters of administration have been produced.

If there are no assets or insufficient assets to warrant the expense of applying for the formal grant of administration or probate, the cost of the funeral expenses may be paid from any unpaid monies due to the deceased, to the person who paid the funeral expenses. This is subject to Ministerial approval and the production of a receipt for the funeral expenses and a statutory declaration to this effect.

If the unpaid monies exceed the funeral expenses, any existing will should be sighted. The statutory declaration should clearly establish that excess monies are being paid to all the beneficiaries. If in doubt, seek advice from the Public Trustee.
5 Managing the Workplace

5.1 Industrial Matters

5.1.1 Sources of authority

- Industrial Relations Act 1996 (‘IR Act’)
- Government Sector Employment Act 2013 (‘GSE Act’)
- Government Sector Employment Regulation 2014 (‘GSE Reg’)
- Work Health and Safety Act 2011 (‘WH&S Act’)
- Work Health and Safety Regulation 2017 (‘WHS Reg’)
- Fair Work Act 2009 (Cth)
- NSW TC14-23 - Consultative Arrangements Policy and Guidelines 2012
- Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 (the ‘Conditions Award’)

5.1.1.1 Government Sector Employment Act 2013

- GSE Act pt 4 div 6 - Industrial Relations Employer Functions
- GSE Act s 50 – Role of the Industrial Relations Secretary

The IR Secretary has the authority to:

- enter into agreements with associations or organisations representing members a group of Public Service employees with respect to industrial matters - GSE Act s 51 – Industrial Relations Secretary may enter into agreements;
- make determinations fixing conditions of employment of Public Service employees (or any group of them) - GSE Act s 52 – IR Secretary may determine employment conditions not otherwise lawfully determined;
- The IR Secretary also has the following functions under - GSE Act s 53 – Industrial Relations Provisions:
  - advising the Government on appropriate strategies and policies regarding employment conditions and industrial relations in the government sector; and
  - monitoring the implementation of Government strategies and policies on employment conditions and industrial relations in the government sector and assisting with their implementation.

All administration of industrial matters is undertaken by Public Sector Industrial Relations (PSIR), exercising the authority of the Industrial Relations Secretary.

Client contact officers located in PSIR will advise and assist individual employing agencies with industrial and employee relations issues.

Agencies can identify their own client contact officer by calling 9228 5987 or emailing psir@industrialrelations.nsw.gov.au
5.1.1.2 Industrial Relations Act 1996

The IR Act provides the framework for industrial relations in NSW, establishes the Industrial Relations Commission and contains provisions including:

- resolution of industrial disputes by conciliation or arbitration;
- facilitating cooperative workplace relations;
- making awards and enterprise agreements;
- minimum conditions of employment;
- unfair dismissal claims; and
- registration of industrial organisations (unions and associations).

5.1.2 Industrial instruments

'Industrial instrument' is a generic term for various types of documents that set out and regulate rates of pay and conditions of employment. The main types of instruments are awards and enterprise agreements made under the IR Act, Industrial Relations Secretary determinations made under s. 52 of the GSE Act and former Public Service agreements.

Further information about these industrial instruments is provided at “5-2.1.1 Determination of salaries and wages”.

5.1.2.1 Industrial disputes

Disputes should be resolved at the level closest to the dispute as possible within an agency and in the least possible time - see IR Act s 14, and IR Act s 39 and the Fair Work Act 2009 (Cth).

If a resolution cannot be reached through discussions with the relevant union(s), then the matter should be referred to the appropriate industrial tribunal.

Agencies may appear in proceedings before tribunals having jurisdiction to deal with such industrial matters as negotiations, conferences and inspections, subject to the following:

- the industrial matter does not involve significant costs as a component of the agency’s funds;
- no new industrial standards will result from the industrial process, including no impact on existing awards, agreements or determinations;
- there will be no potential for flow on to other areas of the agency or the Public Service; and
- the matter is already identifiable as a local industrial matter. If there are sector wide implications the dispute must be brought to the attention of PSIR.

The assistance of an industrial tribunal may involve the seeking of a recommendation or direction on any industrial action in conciliation proceedings under s.134 of the IR Act.

Agencies should not seek a dispute order from an industrial tribunal unless they have consulted and reached agreement with PSIR on this course of action, see IR Act ch 3 pt 2 - Dispute Orders or under the Fair Work Act 2009 (Cth).

Consideration of the need for a dispute order will have regard to:

- evidence that all other opportunities to settle the matter have been exhausted;
- how a dispute order will assist with the resolution of the dispute; and
- the consequences of the union’s non-compliance with the dispute order.
5.1.2.2 Dispute procedures

In all cases, agencies are required to adopt the following procedures in the event or likelihood of an industrial dispute:

- immediately advise PSIR by telephoning their agency’s client contact officer;
- provide written advice to PSIR outlining:
  - the full text of any demands;
  - details of the circumstances;
  - information on estimated cost; and
  - name of the claimant agency.

5.1.2.3 Right of entry by union officials

Appropriate union officials have rights of entry prescribed under the Work Health and Safety Act 2011, and the IR Act 1996 (for employee covered by the federal IR systems provisions of the Fair Work Act 2009 will apply). Union officials’ rights to enter the workplace are also confirmed at Clause 62 (the Conditions Award) – Right of Entry Provisions.

5.1.2.4 Consultation and technological change

There must be effective means of consultation, as set out in NSW TC14-23 - Consultative Arrangements Policy and Guidelines 2012 on matters of mutual interest and concern, both formal and informal, between management and trade unions represented in the agency.

Conditions Award - Agencies covered by the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 are required to apply the 1997 Consultative Arrangements Policy found as an attachment to NSW TC14-23 - Consultative Arrangements Policy and Guidelines 2012.

Agency management must consult the relevant trade union prior to the introduction of any technological change. This is also confirmed at Clause 65 (the Conditions Award) – Consultation and Technological Change.

5.1.3 Agencies acting on behalf of the Industrial Relations Secretary

5.1.3.1 Delegations under the Government Sector Employment Act 2013

The power to appear on behalf of the Industrial Relations Secretary in certain industrial proceedings has been delegated to Public Service Agency Heads.

5.1.3.2 Conditions for granting authorisation

Authorisation to act on behalf of the IR Secretary may be sub-delegated by Public Service agency heads provided that a record is maintained of employees (“authorised employees”) to whom the exercise of such functions has been sub-delegated.

PSIR must be advised of industrial matters handled by nominated employees including progress reports on significant developments and outcomes.

5.1.3.3 Authorised employees to advise tribunal

When authorised employees of Public Services Agencies as described under the GSE Act 2013, Schedule 1, appear before Industrial Tribunals they should inform the Tribunal of their name and agency and that they are appearing on behalf of the Industrial Relations Secretary.

That is, the authorised employee should state the following:

“I, (Authorised employee’s name), appear for the Industrial Relations Secretary.”

Similarly, where filing a Notice of Appearance in local industrial proceedings, the Notice should state the appearance is for the Industrial Relations Secretary, even where the contact is from another public service agency.

If no Notice of Appearance is filed, the authorised employee should also advise the Industrial Registrar that they appear for the IR Secretary and
request that any further court listings in the matter be notified to the authorised employee.

5.1.3.4 Obtaining transcripts
Authorised employees can order transcripts of proceedings in the name of the Industrial Relations Secretary and arrange for these to be provided to, and paid for by their own agency.

5.2 Salary administration

5.2.1 Sources of authority

*Industrial Relations Act 1996* (‘IR Act’)

*Government Sector Employment Act 2013* (‘GSE Act’)

*Government Sector Employment Regulation 2014* (‘GSE Reg’)

*Public Finance and Audit Act 1983*

*Limitation Act 1969 No 31*

*Treasurer’s Directions*

*Civil Procedure Act 2005*

*Family Law Act 1975 (Cth)*

NSWTC14/18 NSW Public Sector Wages Policy 2011

5.2.1.1 Determination of salaries and wages

The Public Service salaries, wages or other remuneration may be determined by:

- an award or enterprise agreement made by the Industrial Relations Commission of NSW (IRC),
- an agreement made between the Industrial Relations Secretary (IR Secretary) and employee associations in accordance with the GSE Act s 51 – Industrial Relations Secretary may enter into agreements,
- a determination, made by the IR Secretary,
- the [Statutory and Other Offices Remuneration Tribunal](https://www.industrialrelations.nsw.gov.au), or
- a federal award or agreement

5.2.2 Awards, enterprise agreements and determinations

An industrial instrument binds everyone in the class or group it covers, irrespective of whether they are members of the union or an association that is a party to the industrial instrument.

Questions relating to industrial instruments should be escalated for resolution within the Human Resources area of the relevant agency in the first instance.

Where a question is unable to be resolved within the agency, Human Resources may refer to their designated contact officer at PSIR or email psir@industrialrelations.nsw.gov.au

5.2.2.1 Retrospective pay adjustments

The Wages Policy provides (see clause 3.1.6.) that changes to remuneration may only operate from the date the relevant parties finally agreed to the change or the date determined by the Industrial Relations Commission.

Unless otherwise stated in the industrial instrument, all employees are eligible for adjustments of salaries and wages to the effective date of the industrial instrument, provided that they were employed during the period to which the adjustment applies. This entitlement applies also to people regularly employed for short periods of relief or in a casual capacity regardless of whether they were employed at the date of making the industrial instrument.
Retrospective payment may also be made to the following categories of employees:

- employees who have retired under the provisions of the GSE Act s 56 - retirement on medical grounds
- temporary employees whose services were satisfactory and
- deceased people whose services were satisfactory.

5.2.2.2 Industrial Relations Secretary approval of retrospective adjustments

Retrospective adjustments require the prior approval of the IR Secretary in the following circumstances:

- when an employee resigns and their last day of service is before the date of signing of the agreement or the date of publication of the determination;
- when an employee’s services have been terminated for disciplinary reasons; or
- when a temporary employee has been dismissed owing to unsatisfactory service.

5.2.2.3 Arrears of salary or wages

When salary is in arrears as a result of underpayment of an award, enterprise agreement or determination, an adjustment is limited to money that became due within the period of 6 years immediately before the matter was first raised as contained under the Limitation Act 1969 s 24 and IR Act s 369(3).

5.2.3 Paying salaries and wages

Salary or wages are to be paid to the employee or to their representative on production of a written authority. No payments are to be made to anyone by virtue of any order or other document whereby an employee may attempt to assign salary to creditors or money lenders.

For more information see – 5-2.6 Judgement Debtors and 5-2.7 Bankruptcy.

5.2.3.1 Calculating salaries, wages and allowances

Treasurer’s Directions - 500.01, deals specifically with calculating salaries and wages. In conjunction with that Direction, the following procedures are to be adopted when rounding the rates:

- For employees paid an annual salary, any additional payments (such as allowances) or deductions are to be rounded to the nearest dollar, that is, amounts less than 50 cents rounded down, amounts of 50 cents or more are rounded up.
- For employees paid by way of a weekly salary or wage, any additional payments or deductions are to be rounded to the nearest ten cents. Amounts less than 5 cents are rounded down, 5 cents or more are rounded up.

5.2.3.2 Conversions - Weekly to annual and annual to weekly

Weekly allowances can be converted to an annual rate by multiplying by 52.17857 (365¼ days divided by 7) and rounding to the nearest dollar.

Annual allowances can be converted to a weekly rate by dividing by 52.17857 and rounding to the nearest cent.

5.2.3.3 Overpayments

The IR Act ch 2 pt 10 – Payment of Remuneration, requires an employer to pay in full to an employee wages owing for time worked. If an overpayment occurs the money cannot be automatically recouped from wages by the employer. In cases of overpayment an agency should take the following factors into consideration when determining the period over which the repayment is to be made:

- the employee’s financial circumstances and commitments;
- the circumstances involved in the overpayment; and
- the amount of the overpayment.

Obvious overpayments (such as a double payment on the same day or continuation of higher duties allowance after the period of relief has expired) should be recouped as soon as practicable as it could be
reasonably expected that the employee so overpaid would have been aware of the overpayment.

5.2.3.4 Officers suspended after being charged under Section 70

GSE Act s 70 - Suspension of employees from duty pending decision in relation to misconduct, criminal charge or corrupt conduct - an Agency Head may direct that any remuneration payable to an employee while the employee is suspended from duty under that Section is to be withheld.

See also - Premier’s Memorandum, M1994-35 - Suspension of employees from public duty

For further information regarding misconduct refer to the Public Service Commission’s employment portal

5.2.4 Deductions

5.2.4.1 Union deductions

In accordance with Clause 66 (the Conditions Award) - Deduction of Trade Union Membership Fees, the Agency Head is to provide, at the employee’s election, for the employee’s union membership fees to be deducted from the employee’s pay and to ensure that such fees are transmitted to the employee’s trade union at regular intervals.

Alternative arrangements for the deduction of trade union membership fees may be negotiated between the Agency Head and the relevant trade union in accordance with Clause 10 (the Conditions Award) – Local Arrangements

5.2.5 Salary and allowance checks

Agency Heads should adopt appropriate procedures to ensure the accuracy of the rates of salary and allowances being paid to employees.

These checks should be made regularly (for example, each month or quarter), and if the records disagree the Agency Head should determine or have determined the correct rates.

This action should then be recorded in a registered agency file.

5.2.6 Judgment debtors

Enforcement of judgments may be made against income – that is salary or wages of an employee or a temporary employee. Part 8 of the Civil Procedure Act 2005 deals with the enforcement of judgments and garnishee orders.

5.2.7 Bankruptcy

GSE Reg cl 10 - Employee to report bankruptcy etc, requires a Public Service employee (other than a casual employee) who becomes bankrupt or makes a composition, arrangement or assignment for the benefit of the officer’s creditors, to:

- immediately notify the Agency Head of the bankruptcy, composition arrangement or assignment; and - within such period as the Agency Head specifies, provide the Agency Head with such further information as the Agency Head requires.

If the employee concerned is the Agency Head, the above applies as if references to the Agency Head were references to the Minister.

Subclause 10(3) specifies conditions regarding engagement of a person in a role relating to financial management in the agency.
5.2.8  Fines under the Government Sector Employment Act 2013

See GSE Act s 69 – Misconduct - Public Service and other prescribed government sector employees.

5.2.9  Enforcement of maintenance payments

The Family Law Act 1975 (Cth) provides for the enforcement of maintenance payments by a process of continuing garnishee called a Garnishment Order Attaching Monies Due Periodically.

An authorised court fixes a minimum amount below which the employee’s earnings cannot be reduced by compliance with the Order (called the protected earnings rate) and at the same time fixes an amount to be deducted from the employee’s earnings in satisfaction of the Order (called the normal deduction rate).

The Order also specifies an amount the Garnishee may deduct from the normal deduction rate for administrative expenses.

5.2.9.1  Application of earnings, order of priority

On receipt of a garnishment order, the Agency Head is required to apply the employee’s earnings each pay day, in the following order of priority

▪ to income tax and superannuation contributions;
▪ to the employee for the amount of the protected earnings;
▪ to the Garnishee for payment of the normal deduction rate;
▪ the amount the Garnishee may deduct for administrative expenses; and
▪ any balance to the employee.

The Garnishment Order should specify a date from which payments commence.

When the employee ceases to be employed, the Agency Head must give notice to the authorising court within 10 days and tell the court, if known – the name and address of the new employer and the earnings from the new employer.

5.2.10  Leave administration

See also “6-3 Leave administration”.

5.2.11  Payment of fees for solicitors’ practising certificates

Fees for Solicitors’ Practising Certificates should be paid by the agency when:

▪ the employee is a qualified solicitor and is required in the normal course of their duties to perform legal work of a nature ordinarily carried out by a solicitor or member of the legal profession
▪ the appropriate branch or Section head certifies that the work performed satisfies the above conditions.

In all other instances, employees will be required to pay their own fees. In cases of doubt whether the officer meets the above conditions, advice should be sought from the Crown Solicitor.

It should be noted that payment for Practising Certificates is separate to payment for membership of the NSW Law Society. As a general rule, agencies are not required to meet the costs of membership of the Law Society.

There may be instances, however, where membership of the Law Society will also benefit the agency concerned, or membership is necessary for an individual officer to perform his or her duties. Agency heads should consider such requests on their merits and in accordance with C2004-10 – Voluntary Membership of the Law Society.
5.3 Travel Injury Insurance

5.3.1 Agencies participating in the NSW Treasury Managed Fund

The NSW Treasury Managed Fund covers employees of participating agencies and their personal property when travelling on official business. Cover is for:

- loss of life or disablement during travel except when the employee is covered under the Workplace Injury Management and Workers Compensation Act 1998;
- recoupment of overseas hospital, medical and ambulance expenses arising from any one accident; and
- loss of or damage to baggage and personal effects.

5.3.1.1 Further information

Further information on Travel Injury Insurance may be obtained from the New South Wales Self Insurance Corporations website – see publications page - NSW SICorp.

5.3.1.2 Agencies not participating in the NSW Treasury Managed Fund

Agencies not participating in the NSW Treasury Managed Fund are free to make their own arrangements but generally, should comply with the Treasurer’s Direction in this regard.

5.4 Employees contesting Federal and State elections

5.4.1 Federal elections

5.4.1.1 Employee required to resign prior to a federal election

Section 44 of the Australian Constitution provides that:

(iv) Any person who holds any office of profit under the Crown shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

This provision has been interpreted to mean that Government employees must resign from their positions before they can nominate for election to the Commonwealth Parliament.

5.4.1.2 Last day of service

The last day of service of an employee who is contesting a Federal election must be no later than the day prior to the closing date for nominations.

5.4.1.3 Entitlement to reappointment

See GSE Act s 72 - Re-employment of employees resigning to contest Commonwealth elections.

5.4.1.4 Leave arrangements

An employee who is reappointed as in 5-10.1.3 Entitlement to reappointment, is regarded as being on leave without pay between the dates of resignation and reappointment. The monetary value of recreation or extended leave credits paid on resignation may be retained, applied in whole or part to the period of leave without pay, or refunded to re-establish leave credits according to the preference of the employee concerned.

Refer to Department of Premier and Cabinet (DPC) Circular, C2010-22 – Contesting Elections.

5.4.2 State elections

5.4.2.1 Sources of Authority

- Australian Constitution s 13B
- GSE Act s 71 – Employees contesting State elections
- DPC Circular C2010-22 – Contesting Election.

An employee who is standing for election to State Parliament is not required to resign until declared elected.
The last day of service is the date upon which the employee is declared elected.

5.4.2.2 Leave arrangements

Employees who are intending to nominate as candidates should be advised to consider appropriate leave arrangements to cover the election period.

In order to avoid potential conflict between political interests and public employment it would be preferable for employees to take leave for election campaigning purposes from and including the day of nomination for the election.

When contesting an election, leave may be taken with or without pay according to the employee's preference and entitlements available.

5.5 Taxis for employees working late

5.5.1 Provision of transport

Refer to Clause 99 the Conditions Award - Provision of transport in conjunction with working overtime.

Departure or arrival of an employee after 8:00 pm whether on overtime or a regular or rotating shift roster does not in itself warrant the provision of transport. It needs to be demonstrated that the normal means of transport, public or otherwise, is not reasonably available or that travel by such transport poses a risk to the safety of the employee.

The responsibility for deciding whether the provision of assistance with transport is warranted rests with administrative units of agencies where knowledge of each particular situation enables appropriate judgments to be made.

5.5.1.1 Overtime arrangements

When overtime is required it should be arranged as far as is possible so that employees can use public transport or other normal means of transport to and from work.

5.5.1.2 Taxis

If an employee ceases overtime duty after 8:00 pm, or ceases or commences duty performed as part of a regular or rotating roster of shift duty after 8:00 pm, and public transport or other normal means of transport is not reasonably available, the agency may provide transport or arrange transport by taxi to or from home.
6 Attendance, leave and absences

6.1 Sources of authority

*Government Sector Employment Act 2013* ('GSE Act')
*Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* (the ‘Conditions Award’)
*Government Sector Employment Regulation 2014* (‘GSE Reg’)

6.2 Hours of duty

6.2.1 Attendance

6.2.1.1 Determination of hours of attendance
See clause 3 Definitions and subclause 11.1 Working Hours of the Conditions Award

6.2.1.2 Observance and recording of hours
See subclause 11.2 of the Conditions Award – Working Hours

6.2.1.3 Requirement to work overtime
See subclause 11.3 Working Hours and subclause 88 Overtime General of the Conditions Award.

6.2.2 Absence from work

6.2.2.1 Absence from work
See Clause 68 of the Conditions Award – Absence from Work.

6.2.2.2 Notification requirements
See clause 18 of the Conditions Award – Notification of Absence from Duty.

6.2.3 Working Hours

6.2.3.1 General
See clause 11 of the Conditions Award – Working Hours.

The ordinary daily full-time hours are 7 or 8 depending on the classification of the employee.

The ordinary daily hours may be standard or flexible and may be worked full time or part time.

The Agency Head must ensure that all employees are informed of the hours of duty required to be worked and of their rights and responsibilities in respect of such hours of duty.

6.2.3.2 Morning and afternoon tea breaks
See clause 14 of the Conditions Award – Morning and Afternoon Tea Breaks.

6.2.3.3 Meal breaks
See clause 15 of the Conditions Award – Meal Breaks

6.2.3.4 Lactation Breaks
See clause 15A of the Conditions Award – Lactation Breaks

6.2.3.5 Variation of hours generally
See clause 16 of the Conditions Award – Variation of Hours.

6.2.3.6 Natural emergencies and major transport disruptions
See clause 17 of the Conditions Award - Natural Emergencies and Major Transport Disruptions
6.2.3.7 Assistance with transport
See clause 99 of the Conditions Award – Provision of Transport in Conjunction with Working Overtime

6.2.4 Public Holidays
See clause 19 of the Conditions Award – Public Holidays

6.2.5 Standard Hours
See clause 3 of the Conditions Award – Definitions and clause 20 of the Conditions Award – Standard Working Hours

6.2.6 Flexible Working Hours
6.2.6.1 General
See clause 21 of the Conditions Award – Flexible Working Hours and clause 24 of the Conditions Award – Flexible Work Practices.

6.2.6.2 Exclusion
If it is inconvenient for an agency’s services for employees to work flexible hours, the agency head may require the working of standard hours.

6.2.6.3 Flexible work practices
The provisions of clause 21, Flexible Working Hours of the Conditions Award do not affect the hours of duty of an employee who is covered by a written flexible working hours agreement negotiated under Flexible Work Practices, Policy and Guidelines - M1995-40. See clause 24 of the Conditions Award – Flexible Work Practices.

6.2.6.4 Local arrangements
Local Agreements negotiated between the agency head and the union, and approved by the Wages Policy Taskforce, may be made in accordance with clause 10 of the Conditions Award.

6.2.7 38 Hours week workers – rostered days off
See clause 22 of the Conditions Award – Rostered Days Off for 38 Hour Week Workers

6.2.8 Determination made prior to 28 October 1997
Any determinations on local arrangements in respect of the hours of duty which operated in an agency or part of an agency at 28 October 1997 continue to apply until renegotiated.

6.3 Leave Administration
6.3.1 General
Section 6 – Leave (clauses 67 to 84A) of the Conditions Award refers.

6.3.1.1 Part time employees
Part time employment is the working of fewer than the full time weekly hours for the role.

Unless otherwise specified part time employees receive conditions of employment on a pro rata basis, calculated according to the number of hours worked per week. See also subclause 67.2 of the Conditions Award Leave – General Provisions.

Unless another industrial instrument applies, part time employment is to be undertaken in accordance with clause 13 of the Conditions Award.

6.3.1.2 Apprentices
Apprentices are entitled to the same leave provisions as the trade staff in the organisation and the occupation group in which the apprentice is employed.

6.3.1.3 Temporary employees
See subclause 67.3 of the Conditions Award– Leave – General Provisions
6.3.1.4 Ministerial employees

Ministerial employees are not employed under the GSE Act but by Ministerial authority. Their leave conditions are determined by the Premier and prescribed in the Uniform Leave Conditions for Ministerial Employees in Government Departments and Equivalent Employees in Corporate Bodies – also known as the Uniform (Ministerial) Leave Conditions – issued by the Department of Premier and Cabinet on 23 December 1993.

The most recent update to these conditions of employment was the inclusion of Carer’s Leave from 1 January 1998 as advised in C1998-11 Carer’s Leave for Employees Covered by the Uniform (Ministerial) Leave Conditions.

6.3.1.5 Leave on reduced pay

When leave is granted with reduced pay (for example, half pay), the period of reduced pay starts from the next working day after the higher paid leave period ends. If pay at the higher rate ceases on a half day or a quarter day, pay at the reduced rate takes effect immediately for the balance of the day.

6.3.1.6 Combining paid and unpaid leave

Where paid and unpaid leave is available, paid leave is to be taken before unpaid leave (see subclause 67.4 of the Conditions Award – Leave – General Provisions).

6.3.1.7 Minimum period of Leave

See subclause 68.4 of the Conditions Award – Absence from Work.

6.3.2 Application for leave

6.3.2.1 General

See clause 69 of the Conditions Award – Applying for Leave.

6.3.2.2 Retention of applications

All leave applications may be destroyed after 6 years, except for the following applications which are to be placed on the employee’s personnel file:

- extended leave;
- study leave; and
- leave without pay in excess of 6 months.

6.3.3 Pay in advance

6.3.3.1 Payment for leave accrued

Employees may elect to be paid in advance for recreation leave or extended leave.

Payment in advance is only for leave accrued up to the day immediately before starting leave.

An employee may elect to include in the leave period any leave that will accrue while they are on leave. Payment for the leave that accrues while the employee is on leave cannot be made until the first pay day after the employee returns to work.

6.4 Concessional leave

6.4.1 Sources of authority

Premier's Memorandum Christmas Closedown M2016-01 and also subclause 21.19 of the Conditions Award – Flexible Working Hours.
6.4.2 Christmas concession

6.4.2.1 General
It is a practice of the Premier to grant a half-day's concessional leave for Christmas on the condition that adequate service to the public is maintained and on any other conditions specified by the Memorandum on each occasion.

6.4.2.2 Eligibility
To be eligible to receive the concession, an employee must be on duty in the morning of Christmas Eve and must work half the standard full time daily hours for the appropriate category of employment.

6.4.2.3 Concession to apply to Christmas or New Year's Eve
Employees who are directed to remain on duty for the full day on Christmas Eve are entitled to a half-day's leave on New Year's Eve, provided they satisfy the eligibility criteria in “6.4.2.2 Eligibility” above.

6.4.2.4 Periods of leave
An employee who is on leave on the concessional leave day is not entitled to claim a half-day's credit as concessional leave or to take an alternative half-day as concessional leave, except as provided in "6.4.2.8 Deferment of concession" below.

6.4.2.5 Effect of standard hours
An employee who works standard hours may not at their own initiative work more than half a day and still claim the full concessional leave. However, if an agency requests employees to work more than half a day, but less than a standard day, any concessional leave not taken on that day may be taken as time in lieu within a month.

6.4.2.6 Effect of study leave
An employee whose approved study leave falls on the afternoon of Christmas Eve or New Year's Eve is entitled to either the concessional leave or the study leave, whichever is the more favourable.

6.4.2.7 Forfeiture of concession
Employees are expected to take concessional leave as directed. Employees who choose to remain on duty on their designated concessional leave day are not entitled to alternative concessional leave.

6.4.2.8 Deferment of concession
If an employee is directed by the agency to work full days on both Christmas Eve and New Year's Eve, concessional leave may be granted by the agency within one month of the Christmas-to-New Year period.

Similarly, if an employee is absent on approved leave on one of the above-mentioned days and is directed by the agency to work a full day on the other, then concessional leave may be granted also within one month of the Christmas-to-New Year period.

The granting of concessional leave in these circumstances is subject to the eligibility criteria set out in “6.4.2.2 Eligibility” above.

Example: Deferred Concessional Leave
An employee was on Recreation Leave on Christmas Eve and was then directed to attend for work for a full day on New Year Eve. The employee may then be granted a half-day of Concessional Leave in January.

6.4.3 Flex leave on the Thursday before Easter
See subclause 21.19 of the Conditions Award – Flexible Working Hours

All other provisions of clause 21 – Flexible Working Hours of the Conditions Award are to apply, including the requirement that no more than 10 hours credit or debit is carried forward to the next settlement period.
For agencies that have negotiated a Local Agreement in accordance with clause 10 of the Conditions Award, access to the additional half day’s flex leave is to be determined by the agency head. In making this determination the agency head should consider the flexibility of the local agreement to accommodate the extra flex leave.

6.5 Extended leave

6.5.1 Sources of authority

*Government Sector Employment Act 2013* sch 4 cl 9(1)

*Government Sector Employment Regulation 2014* schs 1, 2

C 2005-50 – Commencement of the amendments to the Extended leave provisions in the *Public Sector Employment and Management Act 2002* and repeal of the *Transferred Officers Extended Leave Act 1961*.

M2011-11 Changes to the Management of Excess Employees.

6.5.2 Introduction

This Section outlines the provisions of:

- Schedule 1 of the GSE Reg – Public Service extended leave entitlements; and

NOTE: from 1 January 2006 the *Transferred Officers Extended Leave Act 1961*, and its Regulation were repealed. Provisions relating to recognition of service for extended leave purposes were consolidated into *Schedule 3A to the Public Sector Employment and Management Act 2002*. The provisions remained largely unchanged, continuing to allow previous eligible service with a recognised governmental employer to be taken into account when assessing and determining an employee’s extended leave entitlement.

The changes to the recognition of service provisions that were formerly under *Schedule 3A to the Public Sector Employment and Management Act 2002* and that now exist under the GSE Reg only apply to employees who commenced with a NSW public sector agency on or after 1 January 2006.

The recognition of service provisions of the *Transferred Officers Extended Leave Act 1961* will continue to apply to employees who commenced in a NSW public sector agency prior to this date.

Information relating to the transfer of extended leave entitlements when moving between NSW agencies and other public sector agencies is contained in “6-5.6.2 Criteria for recognition of service” of this Section.

Note: Casual employees are entitled to long service leave in accordance with the provisions of the *Long Service Leave Act 1955* (see clause 12.5.3 of the Conditions Award).

6.5.3 Entitlement

6.5.3.1 Government Sector Employment Act 2013 and Government Sector Employment Regulation 2014

All public service employees are entitled to leave in accordance with the provisions of schedule 1 of the GSE Reg.

Except as provided in the above Schedule, all broken periods of full time service under the GSE Act, *Public Sector Employment and Management Act 2002*, *Public Sector Management Act 1988*, or the Public Service Acts of 1902 and 1979, are to be taken into account for extended leave purposes regardless of the duration of the break or breaks in the employee’s service.

From 1 January 2005 employees with 7 years or more service became entitled to take (or be paid out on resignation) extended leave in the usual manner. The amount of leave available is that which would have applied if pro rata leave was granted.
Example 1: Extended Leave

An employee with 7 years' service has an extended leave entitlement of 30.8 working days. Calculations for other periods of service are set out at Table 1 Extended Leave Accrual table (below).

There is no requirement for an employee with 7 or more years of service to have been terminated or to have left employment because of illness, incapacity or domestic or other pressing necessity to claim an entitlement. No repayment will be required if an employee does not reach 10 years' service.

Employees should check the level of payment and service requirement with their Human Resources Section.

Payment of proportionate extended leave may arise when an employee has completed service of at least 5 years but less than 10 years (or less than 7 years from 1 January 2005 for some employees) and the employment is terminated (see 4.3.2.2 of this Guide - Payment of proportionate extended leave).

6.5.3.2 Calculation

Prior to April 1991, extended leave entitlements were calculated and taken on a calendar day basis. From 1 April 1991, all extended leave entitlements, regardless of whether they accrued prior to or after 1 April 1991, are calculated and taken on a working day basis in accordance with Table 1 Extended Leave Accrual table.

Information regarding calculations on a calendar day basis applicable prior to 1 April 1991 is provided at Appendix 6A-7 of this Chapter.

6.5.3.3 Minimum period of leave to be granted

Extended leave, whether on full or half pay, is not to be granted for less than a quarter of a day.

6.5.3.4 Calculation for extended leave taken before 1 April 1991

1. Calculate the full entitlement in accordance with Table 1 - Extended leave accrual table.

2. Convert extended leave taken in calendar days to a 5-day basis using the formula:

   \[
   \text{Leave taken in working days} = 5 \times \frac{\text{Leave taken in calendar days}}{7}
   \]

3. Balance due (working days) = Entitlement (working days) / Leave Taken (working days)

6.5.3.5 Calculation when no extended leave was taken before 1 April 1991

1. Calculate full entitlement in accordance with the Table 1 Extended leave accrual table.

2. Use the Accrual per day figure (0.0169 or 0.0422), not the Accrual per week figure.

3. The Accrual per day figure in the Table refers to working days. Therefore, calendar days must be converted to working days by using the following formula:

   - Working days = Calendar days $\times 5/7 \times 0.0422$
     (or 0.0169 if less than 10 years service)

Example 2: Extended Leave

An employee has served 14 years 5 months. Their extended leave entitlement will be 92.6 working days.
Example 3: Extended Leave

An employee has served 14 years 5 months 23 days. Their extended leave will be calculated as follows:

14 years 5 months = 92.6 days
23 days × \( \frac{5}{7} \times 0.0422 \) = 0.6933 days

Total extended leave entitlement = 93.2933 days (in working days).
### Table 1 Extended Leave Accrual Table

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#### After 10 years' service: Accrual per week – 0.2108 days. Accrual per day – 0.0422 days

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After 10 years' service: Accrual per week – 0.2108 days. Accrual per day: 0.0422 days
6.5.3.6 Taking and recording of extended leave

Extended leave commences on the first working day after ceasing duty or at the expiration of some other form of leave.

A period of extended leave cannot be broken by other forms of leave, except as provided in "6-16.5 Sick leave entitlements". If accrued extended leave is exhausted, then recreation leave, flex leave or leave without pay may be granted at the end of extended leave to cover the full period of absence.

See also "6-5.4.7 Combining recreation and extended leave".

6.5.4 General conditions

6.5.4.1 Public holidays during extended leave

From 1 January 2005, public holidays that fall while an employee is on a period of extended leave will be paid and not debited from an employee’s leave entitlement. This applies to employees covered by the Crown Employees (Public Sector – Salaries 2018) Award, or any replacement.

Other employees should check the level of payment with their Human Resources Section.

In respect of public holidays that fall during a period of double pay extended leave an employee will be not be debited in respect of the leave on a public holiday. The employee’s leave balance will however be reduced by an additional day to fund the non-superable taxable allowance.

See Clause 8 (2) of schedule 1 of the GSE Reg - Leave entitlement reduced by leave already taken or paid out.

6.5.4.2 Extended leave to count as service

Extended leave taken on full pay (single time rate) counts as service for all purposes.

Extended leave taken on double pay counts as service at the single time rate for all purposes.

Extended leave taken on half pay counts as service at the single time rate for all purposes, except for recreation leave which accrues at half the full pay rate (subclause 77.4.6 of the Conditions Award – Recreation Leave refers)

6.5.4.3 Above Level Allowance

Employees who have acted for one year in the same higher graded role and receive the full rate of allowance and who continue to act in that role up to the first day of extended leave or date of retirement or resignation are to be paid the above level allowance for extended leave taken during the period of relief or paid out or granted as leave prior to retirement or resignation.


6.5.4.4 Shift workers

When a shift worker takes a period of extended leave the number of working days to be debited is to equal the number of days that the employee would otherwise be rostered to work during the period of leave, even though those days may sometimes be Saturdays or Sundays.

6.5.4.5 Illness while on extended leave

See subclause 80.8 of the Conditions Award- Sick Leave – Requirement for Evidence of Illness.

6.5.4.6 Increments due during extended leave

Any increments falling due during a period of extended leave must be paid to the employee if their services were satisfactory prior to the start of extended leave.
6.5.4.7 Combining recreation and extended leave

If the agency head approves of an employee combining recreation and extended leave, the extended leave follows after the recreation leave and continues unbroken for the nominated period.

Recreation leave may be granted immediately after extended leave only if extended leave credit has been exhausted and the employee has elected to take such recreation leave.

6.5.5 Part time service for extended leave purposes

6.5.5.1 General

Part time employees are entitled to extended leave on the same basis as that applying to full time employees but pay for the leave is pro rata.

The eligibility period for extended leave accrues in the same way. As a general rule, when calculating the amount of leave to be debited, it will be necessary to calculate the amount of leave that a full-time employee would be debited during the period in question, and then to convert the leave to hours in order to calculate the entitlement.

6.5.5.2 Leave to be debited on a five day basis

From 1 April 1991, extended leave should be calculated and leave taken should be debited on a working day basis.

6.5.5.3 Examples of calculations

The following examples should be used as a guide to calculating extended leave entitlements for part time employees.

Example 1: Extended Leave and part time service:

An employee has five years full time service (35 hours/week) and five years part time service at 17½ hours/week.

That is, total service over ten years. The employee wishes to take all extended leave to credit.

(i). 5 Years full time service

The employee’s accrual for 5 years full time service is 1 month (22 days). This is converted to hours as follows:

Accrual = 1 month (22 days)
= 22 × 7
= 154 hrs.

(ii). 5 years part time service

The employee’s accrual for 5 years part time service is calculated as follows:

Accrual = (part time hrs/week divide by full time hrs/week) × 22 working days × 7 hrs
= 17.5 / 35 × 22
= 77 hours
Total extended leave to credit = (i) + (ii)
= 154 + 77
= 231 hours.

Example 2: Extended Leave and part time service:

An employee with three years full time service also has completed two years part time service at 21 hours/week, that is; a total of five years’ service.

The employee resigns for domestic reasons and is therefore entitled to the cash equivalent of extended leave for five years’ service.

(i). 3 years full time service

The accrual for three years full time service is converted to hours as follows:
Accrual = \((\text{yrs of full time service} / \text{yrs of total service}) \times 5 \text{ yrs accrual} \times \text{hrs/day}\) \\
\hspace{1cm} = (3 / 5) \times 22 \text{ days} \times 7 \text{ hours} \\
\hspace{1cm} = 92.4 \text{ hours}.

(ii). 2 years part time service

The accrual for two years part time service is calculated as follows:

Accrual = \((\text{yrs of p/t service} / \text{yrs of total service}) \times (\text{p/t hrs/week} / \text{f/t hrs/wk}) \times 5 \text{ yrs accrual} \times \text{hrs/day}\) \\
\hspace{1cm} = (2 / 5) \times (21 / 35) \times 22 \text{ days} \times 7 \text{ hours} \\
\hspace{1cm} = 36.96 \text{ hours}

Total extended leave to credit

\hspace{1cm} = (i) + (ii) \\
\hspace{1cm} = 92.4 + 36.96 \\
\hspace{1cm} = 129.36 \text{ hours}

Convert to full time days = 129.36 / 18.48 days = 7

To nearest half day = 18\(\frac{1}{2}\) days.

Example 3: Extended Leave and part time service

An employee with seven years full time service has also completed five years part time service at 21 hours/week, that is; a total of 12 years’ service.

The employee wishes to take six weeks extended leave.

Convert the accrual to hours as follows:

(i). 7 years full time service

Accrual = \((\text{yrs of service} / 10 \text{ years}) \times 10 \text{ yrs accrual} \times \text{hrs in normal day}\) \\
\hspace{1cm} = (7 / 10) \times 44 \text{ days} \times 7 \text{ hours} \\
\hspace{1cm} = 215.6 \text{ hours}.

(ii). 3 years part time service (between 7th and 10th year of service)

Accrual = \((\text{yrs of service} / 10) \times (\text{p/t hrs/wk} / \text{f/t hrs/wk}) \times 10 \text{ yrs accrual} \times \text{hrs in normal day}\) \\
\hspace{1cm} = (3 / 10) \times (21 / 35) \times 44 \text{ days} \times 7 \text{ hours} \\
\hspace{1cm} = 55.44 \text{ hours}.

(iii). 2 years part time service (between 10th and 12th year of service)

Accrual = \((\text{part time hrs/wk} / \text{full time hrs/wk}) \times 2 \text{ yrs accrual} \times \text{hrs in normal day}\) \\
\hspace{1cm} = (21 / 35) \times 22 \text{ days} \times 7 \text{ hours} \\
\hspace{1cm} = 92.4 \text{ hours}

Total extended leave accrual = (i) + (ii) + (iii) \\
\hspace{1cm} = 215.6 + 55.44 + 92.4 \\
\hspace{1cm} = 363.44 \text{ hours}

Leave to be debited = No. of wks leave \times \text{part time hrs/wk} \\
\hspace{1cm} = 6 \text{ weeks} \times 21 \text{ hours} \\
\hspace{1cm} = 126 \text{ hours}.

6.5.6 Recognition of prior service provisions

6.5.6.1 General

Schedule 2 of the GSE Reg identifies the requirements for recognition of prior government service for extended leave entitlements.
For an employee’s previous service to be recognised by a NSW Government agency for extended leave purposes, it must:

- Be with a body that is recognised under Schedule 2 of the GSE Reg; and
- Satisfy the definitions of ‘continuous’ and ‘immediately follows’ as set out under clauses 3 and 4 of schedule 2 of the GSE Reg.

Information relating to the recognition of prior NSW public sector service is at “6.5.2 Introduction” of this Section.

6.5.6.2 Recognised bodies

The Public Service Commissioner may declare a body to be a Commonwealth or interstate agency for recognition of service purposes.

The list of declared bodies is publicly available on the Public Service Commission’s website (see www.psc.nsw.gov.au).

6.5.7 Payment of accrued extended leave

6.5.7.1 Payment of extended leave

6-5.7.1a Payment in Advance

Payment of accrued extended leave is to be made in advance for leave to be taken if requested by the employee but payment is subject to the pay in advance provisions as determined by the Treasurer from time to time.

6-5.7.1b Double pay extended leave

An employee with an entitlement to extended leave may elect to take leave at double pay. The additional payment will be made as a non-superable taxable allowance payable for the period of the absence from work. The employee’s leave balance will be debited for the actual period of the absence from work and an equivalent number of days as are necessary to pay the allowance.

Example: Extended Leave at double pay

An employee with an extended leave balance of 50 working days wishing to take extended leave at double pay may take 25 working days leave from work, reducing their extended leave balance to 25 days. A further 25 working days will be debited from the employee balance to cover payment of the non-superable taxable allowance.

Other leave entitlements, e.g. recreation leave, sick leave and extended leave, will accrue at the single time rate where an employee takes extended leave at double time.

Superannuation contributions will only be made on the basis of the actual absence from work, i.e. at the single time rate.

Where an employee elects to take extended leave at double pay, in most cases a minimum period of absence of 1 week should be taken, i.e. 1 week leave utilising 2 weeks of accrued leave.

6.5.7.2 Payment of allowances

Payment for extended leave is to be at base salary, unless the Conditions Award specifically provides that an allowance is paid as part of base salary for all purposes. In that case it will be deemed to be part of ordinary pay and recognised as such for all purposes.

Example: An annual allowance is paid proportionally each pay period

Subclause 39.2 of the Conditions Award - Allowance for Living in a Remote Area, is paid proportionally to an employee each fortnight. For the purposes of extended leave, this would be considered part of ordinary pay.
6.5.7.3 Rate of payment for extended leave

Full time employees who take a short period of part time leave without pay may elect to have this period converted to the full time equivalent and treated as full time service for the purposes of extended leave.

6.5.7.4 Previous full-time service of part time employee
Previous full-time service of an employee who now works part time is taken into account for accrual of extended leave but payment in these circumstances is made at the part time rate of pay for any extended leave accrued during part time employment.

6.5.7.5 Payment of accrued extended leave entitlement on ceasing employment
See “4-3.2 Extended leave entitlements”.

6.6 Family and community service leave

6.6.1 General
See clause 71 of the Conditions Award - Family and Community Service Leave.

Part time employees are entitled to family and community service leave on the same basis as full time employees on a pro rata basis.

Family and community service leave is not available to casual employees.

6.6.2 Entitlement

6.6.2.1 Paid leave

6.6.2.1a Employees working a 5-day week
See subclause 71.5 of the Conditions Award - Family and Community Service Leave

Employees working a 6-day week

The maximum amount of family and community service leave on full pay which may be granted is:

- 3 working days during the first year of service and 6 working days in any period of 2 years after the first year of service; or
- 1 working day for each year of service after 2 years of continuous service, less any period of short leave or family and community service leave already taken.

Employees working a 7-day week

The maximum amount of family and community service leave on full pay which may be granted is:

- 3½ working days during the first 12 months of service and 7 working days in any period of 2 years after the first year of service; or
- one working day for each year of service after 2 years of continuous service, less any period of short leave or family and community service leave already taken.

6.7 Leave without pay

6.7.1 General Arrangements
See clause 72 of the Conditions Award – Leave Without Pay.

Casual employees are not entitled to leave without pay.

6.7.1.1 Principal conditions
There is no limit to the amount of leave without pay that may be granted, if it is convenient to the agency for the employee to be absent for the time proposed.

Unauthorised absences from work during industrial action are not leave without pay and do not count as service for any purpose. (See also “6-21.7 Industrial action”.)
6.7.1.2 Proclaimed public holidays during periods of leave without pay

See subclause 72.3 of the Conditions Award.

6.7.1.3 Excess employees

Employees who have been or are to be declared excess may be granted full or part time leave without pay to allow both the employee and the agency time to consider other options available under Memorandum 2011-11 – Managing Excess Employees.

6.7.2 Changes to leave arrangements

6.7.2.1 New application

A new application for leave without pay must be submitted if an employee wishes to vary an existing part time or full time leave without pay arrangement. Any extension to the agreed period will be granted only if the absence continues to be convenient to the agency.

6.7.2.2 Premature return

An agency head may approve of employees returning from leave without pay before the agreed period of leave ends. Sufficient notice of intended early return to duty should be provided to the agency so that it can make suitable arrangements for the employee’s return such as giving adequate notice to temporary replacement employees.

6.7.2.3 Temporary replacement employees

A temporary employee employed to replace an employee on leave without pay is to be advised in writing on commencement of employment that, on return from leave of the employee that they are replacing, their employment will be terminated.

They are also to be informed that their period of employment will be terminated if an approval is given under “6.7.2.2 Premature return”.

Any further employment in the agency offered to a temporary replacement employee is to be a separate arrangement.

Replacement employees are to be given reasonable notice of early termination of their employment.

6.7.3 Other employment

See subclause 72.5 of the Conditions Award.

In order to obtain Agency approval in accordance with subclause 72.5 of the Conditions Award, an employee should submit an application to undertake other employment prior to commencing any kind of employment.

Employees are not required to divulge any personal circumstances associated with the application to engage in employment while on leave without pay.

6.7.3.1 Working with the NSW and other governments or international organisations

Agency heads may grant leave without pay and approval to take temporary employment with a NSW agency or public authority, an agency of another government or an agency of an international body such as the United Nations.

Such approval would be on the same basis and subject to the same conditions as apply to leave without pay for other purposes. Leave without pay granted for this purpose may be regarded as service for the purposes of extended leave if considered appropriate by the agency head, irrespective of the duration of the leave or the length of service completed prior to proceeding on such leave. The Treasurer’s Directions are to be followed in these circumstances.
6.7.4 Full time leave without pay

6.7.4.1 Recognition of service
As leave without pay is a form of leave there is no break in the continuity of employment with the agency. However, periods of full time leave without pay do not count as service with an agency for leave and salary benefits, except in the circumstances outlined below. Part time leave without pay also affects these entitlements and the impact on service and accrual of leave is outlined in “6.7.5 Part time leave without pay”.

6.7.4.1a Short-term absences
See subclause 72.4 of the Conditions Award.

Leave without pay taken because of major interruptions to public transport accrues entitlements to recreation, extended and sick leave and also incremental progression, when all accrued recreation, flex and extended leave have been exhausted.

6.7.4.1b Employees with less than 10 years’ service
No period of leave without pay counts as service for an employee with less than 10 years’ service except as outlined in Short-term Absences, above.

6.7.4.1c Employees with more than 10 years’ service
Once an employee has completed 10 years of actual service, any period of leave without pay that is less than 6 months counts as service.

6.7.4.1d Major sporting events
All periods of leave without pay that have allowed employees to participate as amateur competitors for Australia or New South Wales in major sports are to count as service for incremental progression only.

6.7.4.1e Other government and international organisations
See “67.3.1 Working with the NSW and other governments or international organisations”.

6.7.4.2 Other forms of leave without pay
There are other forms of leave that can be granted without pay. They include:

- Parental leave; see “6.8.6 Pay while on parental leave”
- Military leave; see “6.9.2 General”
- Sick leave; see “6.16 Sick Leave”
- Study leave. see “6.19.3 Study time leave”.

6.7.4.3 Effects on superannuation
The effect of full time leave without pay on contributions payable to the various superannuation schemes accessible to employees, and on the final benefit payable under the schemes, will depend on the circumstances of the individual and the arrangements that apply to the particular fund. These details should be checked with the superannuation fund(s) to which the employee contributes.

6.7.4.4 Payment of employer’s superannuation contributions
Employees who are still contributing to closed Defined Benefits superannuation schemes (State Superannuation Scheme or State Authorities Superannuation Scheme) need to be advised by their agency that they are required to meet their own and the employer’s superannuation contributions when they proceed on a continuous period of leave without pay in excess of 6 months.

Arrangements should be made for employees who have applied for leave without pay in excess of 6 months to discuss the payment of the superannuation contributions with the appropriate Section of their agency. Agencies must ensure that the appropriate and agreed arrangements for payment by the employee of the employer’s superannuation contributions during the leave without pay are properly documented and, where appropriate, are implemented before the employee proceeds on leave without pay.
6.7.5 Part time leave without pay

6.7.5.1 Application

Part time leave without pay was introduced on and from 24 September 1984 as a means by which employees, with the approval of their agency head, can reduce their normal working hours for a short period of time. Part time leave without pay is not a substitute for permanent part time work.

6.7.5.1a Employees with less than 10 years’ service

Employees with less than 10 years of service who are granted part time leave without pay have only the hours they work each week counted as service for the accrual of extended leave.

6.7.5.1b Employees with 10 years’ service or more

Employees with 10 years of service or more who are granted part time leave without pay for more than six months have only the hours they work each week counted as service for the accrual of extended leave.

Employees with 10 years of service or more who are granted part time leave without pay for up to six months have their leave counted in full as service for the accrual of extended leave, even though they are only working part of the time.

When the part time leave without pay is for more than six months only the hours they work each week are counted as service for the accrual of extended leave.

6.7.5.2 Other forms of part time leave without pay

See “6.8.5.2 Other forms of leave without pay”

6.7.5.3 Effects on superannuation

Similar caution and a similar need to seek expert advice apply to part time leave without pay as apply to full time leave without pay. See “6.7.4.3 Effects on superannuation”.

6.8 Parental Leave

6.8.1 Sources of authority

Industrial Relations Act 1996

Work Health and Safety Act 2011

Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 clause 75 - Parental Leave

Fair Work Act 2009 (Cth)

Determination 2018-01 - Leave for Employees engaged in Altruistic Surrogacy and Permanent Out of Home Care Arrangements

6.8.2 Pregnancy

6.8.2.1 General

Any change in an employee’s duties or working arrangements made because of her pregnancy and which are not requested or agreed to could be:

▪ a breach of the Work Health and Safety Act 2011; or
▪ unlawful discrimination resulting in disciplinary or legal proceedings.

6.8.2.2 Occupational health and safety considerations

If, for any reason, a pregnant staff member is having difficulty in performing her normal duties or there is a risk to her health or to that of her unborn child the agency head, should, in consultation with the staff member, take all reasonable measures to arrange for safer alternative duties. This may include, but is not limited to, greater flexibility in when and where duties are carried out, a temporary change in duties, retraining, multi-skilling, teleworking and job redesign.

If such adjustments cannot reasonably be made, the agency head must grant the staff member maternity leave, or any available sick leave, for as
long as it is necessary to avoid exposure to that risk as certified by a medical practitioner, or until the child is born whichever is the earlier.

6.8.3 Entitlement

6.8.3.1 Definition of parental leave
Parental leave includes maternity leave, adoption leave and ‘other parent’ leave.

This entitlement is outlined at subclauses 75.1 - 75.5 of the Conditions Award – Parental Leave.

Casual employees are entitled to unpaid parental leave in accordance with clause 12.5.4 of the Conditions Award - Leave

6.8.3.2 Right to request extension of parental leave or return to work on a part time basis
An employee who has been granted parental leave may make a request to the agency to extend the period of unpaid parental leave for a further period of 12 months and to return from a period of full time parental leave on a part time basis until the child reaches school age.

See subclause 75.9.1 of the Conditions Award – Parental Leave.

6.8.4 Parental leave for employees engaged in altruistic surrogacy or permanent out-of-home care arrangements

Determination 2018-01 Leave for Employees engaged in Altruistic Surrogacy

6.8.4.1 Leave for the purposes of altruistic surrogacy

- For the primary care giver: 12 months’ leave of which 14 weeks is paid and the remainder unpaid, as per the provisions applicable for adoption leave under the Conditions Award.
- For the secondary care giver: short and extended other parent leave in accordance with c. 75.4 of the Conditions Award.

Leave will commence from the date the employee assumes the role of primary or secondary care giver of the child.

The eligibility requirements for surrogacy leave are outlined in Determination 2018-01.

6.8.4.2 Leave for employees providing permanent out-of-home care

- An entitlement to take 12 months’ unpaid leave for permanent caring arrangements.

Eligibility for a period of leave to carers is to be limited to the provision of a guardianship or a permanent placement order for a child or young person.

Leave is available once a child is in the permanent care of the employee.

6.8.4.3 Other rights
Employees granted leave for the purposes of altruistic surrogacy or out-of-home care also have a right to request extended parental leave and return to work on a part-time basis in accordance with subclause 75.9 of the Conditions Award.

6.8.5 Part time parental leave or return to work on a part time basis

6.8.5.1 General
An employee may take any available parental leave entitlement on a part time basis.

In accordance with subclause 75.9.1(b) of the Conditions Award, an employee has a right to request to return from a period of full time parental leave on a part time basis until the child reaches school age. Returning to work from parental leave on a part time basis includes the option of returning to work on part time leave without pay.
6.8.5.2 Calculating part time entitlement

The period of part time parental leave is calculated by dividing the untaken full time parental leave, expressed in hours, by the number of hours per week not being worked by the employee.

Therefore, using the following values -

- PPL = Part time parental leave;
- FLT = weeks of full time parental leave already taken following birth;
- NWH = normal working hours per week; and
- HW = hours to be worked each week while on part time leave,

The number of weeks of part time leave available is calculated thus:

\[ PPL = \frac{(52 - FLT) \times NWH}{NWH - HW} \]

6.8.5.3 Examples of part time leave calculation

**Example 1: Parental leave and part time service**

An employee working a 38 hour week takes 6 weeks full time parental leave and then returns to work for two eight-hour days a week. The entitlement to part time leave is:

\[ PPL = \frac{(52 - 6) \times 38}{38 - 16} \]

\[ PPL = 79.5 \text{ weeks.} \]

**Example 2: Parental leave and part time service**

An employee working 35 hours a week takes 26 weeks full time parental leave and then returns to work for three seven-hour days a week. The entitlement to part time leave is:

\[ PPL = \frac{(52 - 26) \times 35}{35 - 21} \]

\[ PPL = 65 \text{ weeks.} \]

6.8.5.4 Flexible working arrangements

Subject to agency convenience, employees on part time parental leave or returning to work on a part time basis, may work flexible working hours, fixed hours or under a staggered time system.

For further details see clause 13 of the Conditions Award – Part Time Employment

6.8.6 Pay while on parental leave

6.8.6.1 Payment while on maternity, adoption or other parent leave

An employee who has applied for parental leave is entitled to payment at the ordinary rate of pay, in accordance with subclause 75.5 of the Conditions Award provided that the employee otherwise meets the requirements for taking parental leave as set out in subclause 75.5.

Payment shall be made in accordance with the entitlement found in subclause 75.5 of the Conditions Award, or for the actual period of leave taken, whichever is the lesser period.

Otherwise, parental leave is granted without pay.

6.8.6.2 Definition of continuous service

Continuous service means service with the following employers:

- the Government Sector;
- service of either House of Parliament, or the President or Speaker, or the President or Speaker jointly;
- any other service of the Crown; or
- the service of any other person or body constituted by or under an Act, or exercising public functions (such as a SOC), being a person or body that is prescribed, or is of a class prescribed, for the purpose of this definition.

6.8.6.3 Method and rate
The method of payment for parental leave is set out in subclause 75.6 of the Conditions Award.

6.8.6.4 Calculation of averaged payment for leave following varying hours
Weekly pay for parental leave following 40 weeks of varying part time work can be calculated by adding the total number of hours worked by the employee during each of the 40 weeks before she/he starts parental leave, dividing this sum by the normal full time hours and multiplying this by the full time weekly pay.

Using the following values -
Total hours = hours worked in week 1 + hours in week 2 + hours in week 3 and so forth up to week 40
NWH = normal working hours per week and
FTP = normal weekly full time pay

then the weekly rate of pay for paid parental leave

\[ \text{Weekly rate} = \frac{\text{FTP} \times \text{total hours}}{\text{NWH} \times 40} \]

**Example: Parental leave and averaging payment**
An employee in a full time, 35 hours a week position which pays $1,000 a week has one day a week of approved leave without pay. The employee has had this arrangement for 20 weeks when their leave arrangements are changed to two days leave without pay for 10 weeks. The employee’s arrangements are changed again to three days leave for a further 10 weeks before starting paid parental leave.

In the 40 weeks before starting parental leave, the employee will have worked:
in the first 20 weeks: 20 × 4 day, equal to 20 × 4 × 7 = 560 hours;
in the next 10 weeks: 10 × 3 days, equal to 10 × 3 × 7 = 210 hours; and
in the last 10 weeks: 10 × 2 days, equal to 10 × 2 × 7 = 140 hours.

The employee’s total hours worked over the 40 weeks: 560 + 210 + 140 = 910 hours:

\[ \text{Weekly rate} = \frac{\text{FTP} \times \text{total hours}}{\text{NWH} \times 40} = \frac{1000 \times 910}{35 \times 40} = \$650 \text{ a week.} \]

6.8.6.5 Above level allowance while on parental leave
Pay for parental leave includes an above level allowance if the employee:
- has acted in the higher position for more than a year; and
- the period of relief continues up to the day before the start of maternity leave; and
- the above level allowance is at the full difference in salary.

6.8.6.6 Pay during return to work on a part time basis
An employee returning to work on a part time basis is to be paid according to the following formula:

\[ \text{Weekly pay} = \frac{\text{Ordinary weekly salary} \times \text{hours worked per week}}{\text{Ordinary weekly full time hrs for the classification}} \]

Pay is calculated without the addition of part time loadings unless such payment is required by a State industrial instrument.
6.8.6.7 Overtime during return to work on a part time basis
An employee who has returned to work on a part time basis and who is directed to work overtime is to be paid:

- at the ordinary hourly rate for hours in excess of the employee’s regular part time hours, and up to the ordinary full-time hours for the classification; and at the rate specified by
- clause 89, Overtime worked by Shift workers,
- clause 90, Overtime worked by Day workers and
- clause 95, Rate of Payment for Overtime of the Conditions Award, for hours in excess of the ordinary full time hours for the classification.

6.8.6.8 Public holidays during return to work on a part time basis
An employee who has returned to work on a part time basis is to be paid for public holidays that fall on days on which they would have been on duty under their part time work arrangement. They are to be paid only for the hours they would have worked had the day not been a public holiday.

6.8.6.9 Allowances during return to work on a part time basis
Allowances paid to individual employees continue pro rata during a period of return to work on a part time basis. Reimbursement for expenses incurred in the course of official business is to be paid in full.

6.8.7 Superannuation
For employees who are contributors to the State Superannuation Scheme (SSS), personal contributions continue to be payable during paid and unpaid parental leave, although the SAS Trustee Corporation (the trustee of SSS) may approve a deferral of payments. However, interest at the fund earning rate will be payable on any deferred contributions.

For employees who are contributors to the State Authorities Superannuation Scheme (SASS), personal contributions continue to be payable during paid and unpaid parental leave, though the SAS Trustee Corporation (the trustee of SASS) may authorise a reduction in contributions where a member would have difficulty in maintaining contributions at their nominated rate.

If an employee’s Superannuation Guarantee Contributions are made to First State Super (FSS) or another complying accumulation superannuation scheme then employer-financed benefits accrue for periods of paid parental leave but not unpaid parental leave.

6.8.8 Notification requirements and changes to parental leave
6.8.8.1 Information to employees
When an agency becomes aware that an employee or their partner is pregnant, or is adopting a child, the agency must inform the employee of their entitlements and obligations under the Conditions Award, including notification requirements. Notification requirements are set out in subclause 75.10 (the Conditions Award).

6.8.8.2 Evidence
An agency head may require an employee who has made an application for parental leave to provide reasonable evidence to substantiate their application for leave. This may include:

- if the employee is intending to take maternity leave or other parent leave in connection with the birth of a child – a medical certificate identifying the date of birth, or expected date of birth; or
- if the employee is intending to take adoption leave or other parent leave in connection with the adoption of the child – an adoption order effected by the Supreme Court in accordance with the Adoption Act 2000.

See “6-8.4.1 Leave for the purposes of altruistic surrogacy” and Determination 2018-01 for the eligibility requirements for surrogacy leave including evidence.

See “6-8.4.2 Leave for employees providing permanent out-of-home care” and Determination 2018-01 for the evidence requirements for leave for employees providing out-of-home care.
6.8.8.3 Changes to parental leave

Before actually starting parental leave an employee may change the period of leave or any part time arrangement any number of times.

Once an employee has commenced parental leave the period of leave or any part time arrangement may only be changed in accordance with subclause 75.10.8 of the Conditions Award.

6.8.8.4 Communication during parental leave

Where an employee is on parental leave, there is an obligation on the agency head to communicate significant changes in the workplace to the employee.

In addition, there is an obligation on the employee to communicate possible changes to the duration of their parental leave and/or changes to contact details.

See subclause 75.20 of the Conditions Award.

6.8.8.5 Return from part time parental leave to full time work

An employee granted part time parental leave may resume full time work on giving the agency head four weeks’ notice.

6.8.9 Other leave before or during parental leave

6.8.9.1 Leave before parental leave

An employee who is sick during her pregnancy may take available sick leave or apply for leave in accordance with subclause 75.15 of the Conditions Award.

An employee who wishes to cease duty before the date of the birth of the child or, in relation to adoption leave, before taking custody of the child, may apply for accrued recreation leave extended leave or leave without pay prior to taking parental leave.

Any leave taken before parental leave ceases at the end of the working day before the start of parental leave.

Parental leave starts on the date of birth of the child, or the date that the employee takes custody of the child. This applies irrespective of whether the date is before or after the expected date of birth, or the date on which the court makes an order for the adoption of the child by the employee.

An employee on maternity leave must notify the agency of the date of the birth as soon as is convenient in accordance with paragraph 75.10.6 of the Conditions Award.

6.8.9.2 Leave during parental leave

An employee may, with agency approval, may combine available leave with full time or part time parental leave in accordance with subclauses 75.16 and 75.17 of the Conditions Award.

Where an employee is to combine forms of leave, parental leave is to be taken in the first instance, followed by recreation leave and then by extended leave. See “6-6.4.7 Combining recreation and extended leave”.

Any leave taken in accordance with subclauses 75.16 and 75.17 of the Conditions Award shall not be taken during a period of paid full time parental leave.

When calculating other leave accruing during a period of recreation leave at half pay, pursuant to subclause 75.17.3 of the Conditions Award, recreation leave at half pay shall be converted to the full time equivalent and treated as full pay leave for the accrual of further recreation, extended and other leave at the full time rate.

Example: Recreation leave and parental leave

If an employee has 3 weeks available recreation leave and elects to take this at half pay for a period of 6 weeks, then the six weeks at half pay shall be converted to the full time equivalent (3 weeks) for the purposes of leave accrual. Accordingly, the employee shall accrue further recreation, extended and other leave based on 3 weeks recreation leave.
6.8.9.3 Leave for miscarriage, still birth or death of child.

In the event of a miscarriage any absence from work is to be covered by the current sick leave provisions as contained in clauses 79 to 83 of the Conditions Award. An employee must notify the Agency in accordance with subclause 75.10.7 of the Conditions Award.

If a child is stillborn or dies shortly after birth, the employee may elect to take available sick leave or parental leave. An employee electing to take parental leave is also entitled to change the period of leave to be taken in accordance with paragraph 75.10.8 of the Conditions Award.

The Australian definition of stillbirth is that there is no sign of life after birth in babies of at least 20 weeks gestation or at least 400 grams birth weight.

6.8.10 Leave during work on a part time basis

6.8.10.1 Payment for leave

Except as provided below, or in any State industrial instrument, payment for leave granted during work on a part time basis is to be only for the hours worked and at the rate of pay under the part time leave arrangement.

6.8.10.2 Concessional leave

An employee who has returned to work on a part time basis is entitled to any concessional leave granted to full time employees when, under their part time leave arrangement, the employee would have been working on the day for which the concessional leave is granted. If the employee would not have been working on that day, or would have worked less than full time hours on that day, the employee is not entitled to concessional leave.

6.8.10.3 Leave without pay

Agency Heads may, without affecting the continuity of an employee’s part time parental leave, grant short periods of leave without pay for necessary periods of absence which are not covered by other leave entitlements.

When an employee takes, subject to the usual conditions, an extended period of leave without pay, then the part time work ceases at the end of the day before the start of leave without pay.

See “6.7 Leave without pay”

6.8.11 Calculation of increments and leave credits

6.8.11.1 Increments

Paid parental leave at full pay or half pay in accordance with subclause 75.5 of the Conditions Award counts as full service for the purposes of determining incremental progression. Unpaid parental leave does not count as service for determining incremental progression, except for increments based on age.

6.8.11.2 Increments during part time maternity leave

If an employee’s performance is satisfactory, increments are granted on completion of 12 months part time service, or a combination of full time and part time service.

Employees on an incremental scale based on age advance to the next increment on the designated birthday.

6.8.11.3 Leave credits

- Parental leave at full pay counts as full service for determining all forms of leave.
- Parental leave at half pay counts pro rata as service for determining all forms of leave.

Note: Parental leave at half pay is paid leave taken at a reduced rate and is not a combination of full pay leave and leave without pay.

- Unpaid parental leave does not count as service for determining any leave entitlement, except for extended leave when at least 10 years of service has been completed and unpaid parental leave does not exceed 6 months. See also “6.7 Leave without pay”.
The hours an employee works while on part time parental leave count pro rata as service for all forms of leave. The accruals may be calculated using the formula:

\[
\text{Leave accrued} = \frac{\text{Full time accrual} \times \text{Hours worked}}{\text{Ordinary full time hours for her classification}}
\]

**6.8.12 Further pregnancy or adoption**

**6.8.12.1 General**

When an employee or their partner becomes pregnant, or adopts another child, while on parental leave, the employee is entitled to a further period of parental leave. The normal conditions contained in this chapter apply to the second period of parental leave. However, any remaining parental leave from the former birth or adoption lapses as soon as the new period of parental leave begins.

**6.8.12.2 Rate**

Subclause 75.6 of the Conditions Award is to be applied, except where a staff member commences a subsequent period of maternity or adoption leave for another child within 24 months of commencing an initial period of maternity or adoption leave.

Subclause 75.7 (the Conditions Award) prescribes the rate at which a staff member is to be paid for a subsequent period of maternity or adoption leave, where that second period commences not more than 2 years after the commencement of the initial period of maternity or adoption leave. See above "6.9.11.1 General".

Examples of the application of the 24-month rule

**Example 1: Further pregnancy or adoption**

A full time staff member has taken 11 months full time parental leave, at which time they proceed on a subsequent period of parental leave. In accordance with subclause 75.7.1, the second period of parental leave would be paid at the full-time rate.

**Example 2: Further pregnancy or adoption after returning on part time basis**

A full time staff member has taken 12 months full time parental leave and returns to work on a part time basis for 20 weeks before proceeding on another period of parental leave. In accordance with subclause 75.7.2, the second period of parental leave would be paid at the full-time rate.

**Example 3: Further pregnancy or adoption after returning on part time basis**

A full time staff member has taken 12 months full time parental leave and returns to work on a part time basis for 45 weeks before proceeding on parental leave again. In accordance with subclause 75.7.2, the second period of parental leave would be paid at the full-time rate because the second period of leave is being taken within the 24-month period provided for under subclause 75.7.

**Example 4: Further pregnancy or adoption within 24 month period**

A staff member has successfully requested 24 months parental leave in accordance with paragraph 75.9.1(a). At month 22 the staff member proceeds on another period of parental leave. In accordance with subclause 75.7.1, the second period of parental leave would be granted at the rate the staff member was paid prior to commencing the initial period of maternity leave.
Example 5: Further pregnancy or adoption after 24 month period
A staff member has successfully requested to return to work part
time until the child reaches school age in accordance with
paragraph 75.9.1(b). The staff member undertakes this
arrangement for a period of 3 years and then proceeds on another
period of parental leave. In accordance with subclause 75.6, the
second period of parental leave would be paid at the part time
rate. The 24-month rule does not apply in this case.

6.8.13 Return to work
6.8.13.1 Right to former position after parental leave or after working
on a part time basis
An employee has the right to their former role if resuming duty immediately
after a period of parental leave or work on a part time basis in accordance
with subclause 75.11 (the Conditions Award).
6.8.13.2 No right to former position during return to work on a part
time basis
An employee does not have a right to their former role for the duration of
any return to work on a part time basis, as set out in subclause 75.13
of the Conditions Award.
6.8.13.3 Former position abolished
If the position occupied by the employee immediately prior to parental
leave has ceased to exist, the employee may be appointed to a role in
accordance with subclause 75.12 of the Conditions Award, subject to the
6.8.13.4 Former position relocated
An employee still retains a right of return to their former role if the role has
been relocated. If an employee wishes to continue working in the former
location, or another more convenient location, the agency should try to
transfer the employee, if practicable, to a suitable position at the same
classification and grade.
6.8.13.5 Reversion to maternity leave
An employee who has returned to full time duty without exhausting their
parental leave entitlements may revert back to parental leave in
accordance with subclause 75.14 of the Conditions Award.

6.9 Military Leave
6.9.1 Sources of authority
Crown Employees (Public Service Conditions of Employment) Reviewed
Award 2009
TC14-10 Military Leave - Defence Reserve Service (Protection) Act 2001
and Extension of Military Leave through ‘Top Up’ Pay
Defence Reserve Service (Protection) Act 2001 (Cth)
6.9.2 General
6.9.2.1 Leave Entitlement
In accordance with Section 17(1) of the Defence Reserve Service
(Protection) Act 2001 (Cth), it is unlawful to prevent an employee from
rendering, or volunteering to render, Defence Reserve service.
Accordingly, agencies are legally obliged to release employees to
undertake duties as members of the Australian Defence Force (ADF).
Such leave is to be granted as leave without pay.
See also subclause 73.2 of the Conditions Award and TC14-10 Military
Leave - Defence Reserve Service (Protection) Act 2001 and Extension of
Military Leave through ‘Top Up’ Pay
The entitlement to military leave on full pay is subject to subclause 73.1
(the Conditions Award) – Military Leave.
6.9.2.2 Travelling time
The minimum time necessarily spent in travelling to and from an annual training activity may be included in leave granted, provided that:

- the time spent travelling is during normal working hours; and
- no pay is received from the ADF for the time spent travelling.

6.9.3 Entitlement
6.9.3.1 Maximum amount of leave
See subclause 73.3 and 73.4 of the Conditions Award.

6.9.3.2 Top up pay
See subclauses 73.5, 73.6 and 73.7 of the Conditions Award.

For further details refer to TC14-10 Military Leave - Defence Reserve Service (Protection) Act 2001 (Cth) and Extension of Military Leave through 'Top Up' Pay.

The cost of 'Top Up' Pay can be partly offset by the Commonwealth Defence Employer Support Payment Scheme (ESP Scheme), which compensates agencies for the absence of employees on military leave. For further details refer to C2007–53 - Australian Defence Force Reserve Employer Support Payment Scheme.

6.9.4 Documentation required
See subclause 73.8 of the Conditions Award.

6.9.5 Full time military service
If it is essential for a member of the part time ADF to serve full time then the particulars of the case are to be referred to the Secretary of Industrial Relations, for determination of conditions in accordance with s. 52 of the Government Sector Employment Act 2013.

6.9.6 Military leave and remote areas allowance
6.9.6.1 Retention, reduction or forfeiture of allowance
A member of the ADF receiving the remote area allowance at the non-dependant rate is not paid the allowance while on military leave. (see “7-14-4 Remote areas – allowances and travelling on recreation leave”) and subclauses 39.6 and 39.7 of the Conditions Award.

A member of the ADF receiving the remote area allowance at the dependant rate may continue to receive the allowance at the normal rate for the duration of the military leave provided that:

- the employee continues in employment;
- the dependants continue to reside in the area specified; and
- the military pay does not exceed departmental salary plus the remote areas allowance.

If the military salary exceeds departmental salary plus the allowance at the dependant rate, the allowance is to be reduced to the non-dependant rate.

6.10 Natural emergencies and major transport disruptions
6.10.1 Sources of authority
Crown Employees (Public Service Conditions of Employment) Revised Award 2009 clause 17, Natural Emergencies and Major Transport Disruptions.

6.10.2 Work location
Employees should make every effort to attend their normal work location during natural emergencies and major transport disruptions. If an employee is prevented from so doing by a natural emergency (such as a bush fire, flood, and the like) or because of a major transport disruption, any one or more of the following procedures outlined in subclause 17.1 of the Conditions Award should be adopted.
6.10.2.1 Working remotely

In situations such as those outlined in “6-10.2 Work location”, working remotely should be considered for the duration of the disruption, subject to agency convenience, the nature of the employee’s duties, and agreement by the agency and the employee on the procedures to be followed.

6.10.2.2 Reporting to another office or agency

Subject to agency convenience, the employee may arrange to report to another office of the agency where suitable work is available. If unable to be accommodated in the same agency, the employee should arrange to report to the office of another agency, subject to the concurrence of both agency heads and work being available.

6.10.3 Extension of settlement period

When a prolonged transport disruption occurs, agency heads may extend the flexible working hours settlement period during which the transport disruption occurred by a further four weeks, in order to allow employees to make up additional time taken during the disruption.

Normal provisions regarding maximum debits and credits at the end of the extended settlement period are to apply. That is, not more than 10 hours debit or credit is to be brought forward to the next four weekly settlement periods.

6.11 Observance of essential religious duties and cultural obligations

6.11.1 Source of authority

TC14-14 Accessing leave entitlements and flexible work hours arrangements to observe days of religious significance

Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009

6.11.2 Essential religious duties during normal working hours

Clause 74 of the Conditions Award - Observance of Essential Religious Or Cultural Obligations, provides for staff members to access leave to observe essential religious or cultural observations.

This supports the Government’s commitment to accommodating culturally diverse employees in the workplace.

Managers and supervisors need to be sensitive in accommodating the needs of employees requiring access to their leave entitlements and flexible work hours for the purposes of observing essential religious or cultural observations.

Multicultural NSW publishes a guide to some of the days of religious significance for this purpose on its website at http://multicultural.nsw.gov.au/communities/communities/days-of-religious-significance/

6.12 Sick Leave to Care for a Family Member (Carer’s leave)

6.12.1 Sources of authority

Clause 81, Sick Leave to Care for a Family Member - Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

6.12.2 Management of carer’s leave

6.12.2.1 General

Carer’s leave is only to be taken when Family and Community Service Leave is exhausted or unavailable (subclause 81.1 of the Conditions Award).
See also "6.6 Family and community service leave".

Under the carer's leave provisions, an employee's paid sick leave may be used to provide care and support for a family member who is ill.

(as defined in subclause 81.4 of the Conditions Award who is ill.

Initially the leave is taken from the employee’s sick leave accumulated over the previous 3 years but additional leave may be granted in special circumstances as per subclause 81.2 of the Conditions Award.

Where paid sick leave is not available to the employee, make-up time, time off in lieu of overtime, flex leave, recreation leave or carer’s leave without pay may be used to enable employees to combine paid employment with other responsibilities.

As with sick leave, carer’s leave should be managed in a fair and equitable way and mechanisms put in place to monitor sick leave taken as carer’s leave.

It is important that agencies ensure that separate records are maintained for sick leave taken by the employee for their own illness and for a sick family member.

Carer’s leave is not available to casual employees.

6.12.2 Casual employees

For carer’s leave entitlements for casual employees, see subclause 12.6 of the Conditions Award.

6.12.3 Entitlement

6.12.3.1 Sick leave

See subclause 81.2 of the Conditions Award.

In special circumstances an agency head may grant sick leave that accrued during service in the period prior to the 3 years referred to in subclause 81.2 of the Conditions Award. Agency heads are reminded that special circumstances do not include an employee’s intention to take all or most of their accrued sick leave in order to provide full time care to a sick family member for a prolonged period or for an indefinite period of time.

6.12.3.2 Evidence of Illness

An agency head may request evidence consistent with the requirements of subclause 80.6 to establish the illness of the person for whom the care is being provided (subclause 81.3 of the Conditions Award).

6.13 Public Holidays

6.13.1 General

See clause 19 of the Conditions Award – Public Holidays and also the Premier’s Memorandum on Christmas Closedown.

Public holiday dates for NSW can be found at http://www.industrialrelations.nsw.gov.au/orwww/NSW_public_holidays/N SW_Public_Holidays

6.14 Recreation leave and annual leave loading

6.14.1 Sources of authority

Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 clauses 77, Recreation Leave, and 78, Annual Leave Loading

6.14.2 Recreation leave

6.14.2.1 Basis of grant

See subclause 77.1 and 77.4 of the Conditions Award

6.14.2.2 Additional leave – central or western division

See subclause 77.1.2 of the Conditions Award

6.14.2.3 Additional leave – work on Sundays and public holidays

See subclause 77.7 and subclauses 87.7.2 to 87.7.4 of the Conditions Award.
6.14.3 Accrual

6.14.3.1 Taking of leave
See subclause 77.2 of the Conditions Award
See also Treasury Circular TC16-03 Managing Accrued Recreation Leave Balances

After taking into account the wishes of the employee, an agency head may direct an employee to take accrued recreation leave at a time convenient to the agency.

For areas not involved in the delivery of front line services, agency heads should maximize the taking of leave over the Christmas period by encouraging employees to take 2 weeks leave between the last week in December and the first week in January.

See the Christmas Closedown Premier’s Memorandum.

6.14.3.2 Only accrued leave to be granted
If recreation leave is insufficient to cover the whole of the absence applied for, leave accruing between the first day and the last day of the period of leave applied for may be granted.

Leave accrued during recreation leave is not paid for until the first pay after resuming duty.

6.14.3.3 Transfer from full time to part time employment
An employee who transfers from full time to part time employment may take all recreation leave accrued during full time service before entering part time service.

Recreation leave accrued during full time service is not forfeited if it is not used before starting part time service. It may be taken later and is paid at the rate that applied immediately before the change to part time employment.

6.14.3.4 Transfer from part time to full time employment
An employee who transfers from part time to full time employment may take all recreation leave accrued during part time service before starting full time service.

If the recreation leave accrued during part time service is not used before starting full time service, the leave is converted to its full time equivalent and incorporated with future recreation leave accruals.

Payment for leave is then at the rate of pay received at the time of taking the leave.

The formula for converting the leave to its full-time equivalent is:

\[ \text{Amount of recreation leave accrued during P/T service} \times \text{hrs worked p/t} \]

Full time hours worked per week for the classification

**Example: Employee takes leave when working part time**

A 35 hour per week employee works for 12 months for 17½ hours per week. The full-time recreation leave equivalent will be calculated as follows:

\[ \frac{20 \text{ days per annum} \times 17\frac{1}{2} \text{ hours per week}}{35 \text{ hours}} = 10 \text{ days} \]

6.14.3.5 Limits on Accumulation and Direction to Take Leave
See subclause 77.2.3, subclause 77.2.4 and subclause 77.2.5 of the Conditions Award.

6.14.3.6 Conservation of leave
See subclause 77.3 of the Conditions Award.

6.14.3.7 Temporary employees employed for three months or less
Temporary employees who are employed for a period of three months or less are not eligible to accrue recreation leave but are entitled, on cessation of employment, to be paid in lieu of recreation leave 1/12th (or
4/48th) of the salary or wages excluding overtime earned during the period of employment.

6.14.3.8 Apprentices
See “6.3.1.2 Apprentices”.

6.14.4 Accrual while on other forms of leave

6.14.4.1 General
See subclauses 77.4.3 and 77.4.4 of the Conditions Award.
See also “6.7 Leave without pay”

6.14.4.2 Extended leave
Recreation leave does not accrue when extended leave is paid in lieu of leave on resignation, retirement or termination of services. If however all accrued extended leave is taken as leave before the last day of service then recreation leave accrues as above.
See subclause 77.4.6 of the Conditions Award.

6.14.4.3 Leave without pay
Recreation leave does not accrue during leave without pay other than in the circumstances covered at subclause 77.8 of the Conditions Award.

6.14.4.4 Deductions for leave without pay
Deductions for any leave without pay taken during the year should be made from the accrued recreation leave once each year. Leave without pay taken in the 12-month period is calculated to an exact quarter of a day (fractions less than a quarter of a day being rounded down).

6.14.5 Payment for leave
Payment for recreation leave accrued is at the rate of pay applicable on the day immediately prior to the first day of the leave.
When an increase in the rate of pay occurs during the period of leave, adjustment to the payment must be made as soon as practicable.

6.14.6 Transfer of accumulated recreation leave
See clause 29 of the GSE Reg regarding the payment or retention of annual leave entitlements for government sector employees.

6.14.7 Payment of leave entitlements on ceasing employment
See - 4-3.1 Recreation leave entitlements

6.14.8 Payment of recreation leave after death
See - 4-3.3 Payment for leave on the death of an employee

6.14.9 Teachers appointed to the service
When a teacher who is employed under the Teaching Services Act 1980 is appointed to a position under the GSE Act, credit of recreation leave may be granted in accordance with the following table:

<table>
<thead>
<tr>
<th>Appointment from a position under the Teaching Services Act 1980 to a position under the GSE Act</th>
<th>Recreation leave to be credited</th>
</tr>
</thead>
<tbody>
<tr>
<td>January – before 18th</td>
<td>10 days</td>
</tr>
<tr>
<td>January-on or after 18th</td>
<td>5 days</td>
</tr>
<tr>
<td>February</td>
<td>5 days</td>
</tr>
<tr>
<td>March – before 30th</td>
<td>5 days</td>
</tr>
<tr>
<td>March – on or after 30th</td>
<td>10 days</td>
</tr>
<tr>
<td>April – before vacation</td>
<td>10 days</td>
</tr>
</tbody>
</table>

Table 2 Teachers - credit of recreation leave
Appointment from a position under the Teaching Services Act 1980 to a position under the GSE Act | Recreation leave to be credited

<table>
<thead>
<tr>
<th>Appointment</th>
<th>Recreation leave to be credited</th>
</tr>
</thead>
<tbody>
<tr>
<td>April – during vacation</td>
<td>–</td>
</tr>
<tr>
<td>April – after vacation</td>
<td>5 days</td>
</tr>
<tr>
<td>May</td>
<td>5 days</td>
</tr>
<tr>
<td>June – before 15th</td>
<td>5 days</td>
</tr>
<tr>
<td>June – on or after 15th</td>
<td>10 days</td>
</tr>
<tr>
<td>July – before vacation</td>
<td>10 days</td>
</tr>
<tr>
<td>July – during vacation</td>
<td>–</td>
</tr>
<tr>
<td>July – after vacation</td>
<td>5 days</td>
</tr>
<tr>
<td>August</td>
<td>5 days</td>
</tr>
<tr>
<td>September – before 7th</td>
<td>5 days</td>
</tr>
<tr>
<td>September – on or after 7th</td>
<td>10 days</td>
</tr>
<tr>
<td>October</td>
<td>5 days</td>
</tr>
<tr>
<td>November – before 10th</td>
<td>5 days</td>
</tr>
<tr>
<td>November – on or after 10th</td>
<td>10 days</td>
</tr>
<tr>
<td>December</td>
<td>10 days</td>
</tr>
</tbody>
</table>

Thereafter recreation leave accrues at the normal rate.

*Notes: When a teacher is appointed from the start of the:

- first week of the April vacation and the vacation is for 2 weeks, the recreation leave credit is 10 days;
- second week of the April vacation, or when the vacation is only for 1 week, the recreation leave credit is 5 days;
- first week of the July vacation the recreation credit is 10 days; and
- second week of the July vacation the recreation leave is 5 days.

6.14.10 Employees seconded to the teaching services

6.14.10.1 Accrued leave to be taken

When possible, Agencies must approve a release date sufficiently early to allow all accrued recreation leave to be exhausted prior to the secondment.

6.14.10.2 If accrued leave cannot be taken

When, due to agency or personal exigencies, it is not possible to comply with 6.14.9.1 Accrued leave to be taken, the employee may elect to:

- be paid either at the start or at any time during the period of secondment the monetary value of recreation leave accrued at the rate applicable immediately prior to the start of the secondment. Payment is made by the agency from which the employee was seconded; or
- retain the accrued leave entitlement for the duration of the secondment

6.14.10.3 Subsequent appointment to teaching services

If the employee elects to retain accrued leave during the secondment but is subsequently appointed to one of the Teaching Services then the agency from which the employee was seconded must pay to the employee the monetary value of accrued leave at the rate applicable immediately before the start of the period of secondment.

6.14.10.4 Conditions of secondment

During a period of secondment, the following conditions apply:
future movements in remuneration are to be in accordance with the appropriate teaching rate;

- salary progression in the substantive position does not apply;
- recreation leave entitlements do not accrue in the substantive position.

6.14.10.5 Written concurrence to secondment required
The concurrence of the employee must be obtained in writing before the start of these arrangements.

6.14.10.6 Reciprocal arrangements for recognition of leave
Reciprocal arrangements for recognising sick leave and extended leave entitlements exist when secondments occur between the Teaching Services and the Public Service.

6.14.11 Remote areas – travelling on recreation leave
See 7-14 Remote areas – allowances and travelling on recreation leave.

6.14.12 Annual leave loading entitlement

6.14.12.1 Loading payable
If a shift worker is to be paid shift premiums, penalty rates and the like, such payments are not made for public holidays, or any period of compensatory leave which has been added to a period of annual leave for public holidays worked during the preceding leave year.

See subclauses 78.1 to 78.4 of the Conditions Award.

6.14.12.2 Seven-day continuous shift workers
In the case of 7-day continuous shift workers, the 17½ per cent loading is calculated on the basis of 17½ per cent of 5 weeks ordinary salary or wages; or

In the case of 7 day continuous shift workers entitled to additional leave under clause 87.7.6 of the Conditions Award, the 17½ per cent loading is calculated on such additional leave and added to the leave loading calculated on 4 weeks leave in accordance with “6.14.12.1 Loading payable” Previous service in non-public service divisions and special employment divisions.

6.14.12.3 Maximum loading payable
See subclause 78.4 of the Conditions Award.

6.14.13 Leave year

6.14.13.1 General
For calculation of annual leave loading, the leave year commences on 1 December each year and ends on 30 November of the following year. See subclause 78.5 of the Conditions Award.

6.14.13.2 First year of service
See subclauses 78.6.1 and 78.6.3 of the Conditions Award.

The annual leave loading is paid on the recreation leave accrued during the previous leave year. The annual leave loading is not paid on any recreation leave taken in the first leave year of employment, that is, from the date of employment to the following 30 November.

The loading on leave accrued in the employee’s first leave year of employment is paid during the second leave year of employment.

For example:

<table>
<thead>
<tr>
<th>1 March</th>
<th>Employment begins</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 March to 30 November – First leave year</td>
<td>No entitlement to annual leave loading although entitled to 3 weeks recreation leave</td>
</tr>
<tr>
<td>1 December to 30 November – Second leave year.</td>
<td>Entitled to payment of annual leave loading of 17½ per cent on 3 weeks salary or wages on the first occasion that recreation leave is taken after 30 November in the first leave year.</td>
</tr>
</tbody>
</table>
6.14.14 When loading is paid

Payment of the annual leave loading shall be made on the recreation leave accrued during the previous leave year.

See subclause 78.6 of the Conditions Award.


See subclause 78.6.1 of the Conditions Award.

6.14.14.2 Payment as at 30 November

See subclause 78.6.2 of the Conditions Award.

Example: Leave loading

An employee who has accrued 20 days leave at 30 November of one year and does not take more than 2 consecutive weeks leave before 30 November of the following year, is paid the annual leave loading based on the 20 days leave as soon as practicable on or after 30 November of the following year.

6.14.14.3 Resignation, retirement or termination

See subclauses 78.6.4 and 78.6.5 of the Conditions Award.

6.14.15 When loading is not paid

See subclause 78.6.5 of the Conditions Award.

6.14.16 Calculation of loading

6.14.16.1 Basis of calculation

Calculation of the annual leave loading is based on the ordinary salary or wage applicable at the time the leave is taken.

Ordinary salary or wage does not include any regular payment made on an annual or weekly basis as compensation for shift work but does include all allowances payable during recreation leave.

Variation of rates under an industrial instrument

Any new rate granted by award, agreement, determination, increment, or other such instrument during the period of leave, is to be taken into account in the calculation of the annual leave loading, unless otherwise prescribed by the instrument. If necessary, the adjustment is to be made retrospective.

6.14.16.2 Payment as at 30 November

When payment is made at 30 November under the provisions of "6.14.14.2 Payment as at 30 November", the payment is 17½ per cent of the recreation leave accrued at the previous 30 November but calculated on the current rate of pay and subject to the provisions of "6.14.12 Annual leave loading entitlement".

6.14.16.3 Calculation

The loading may be calculated in the following manner:

Annual Salaries:

Loading on 4 weeks leave: Divide the annual salary by 74.54
Loading on 5 weeks leave: Divide the annual salary by 59.63

Weekly Rates:

Loading on 4 weeks leave: Divide the weekly rate by 1.4286
Loading on 5 weeks leave: Divide the weekly rate by 1.1429

6.14.17 Endorsement of leave and salary records

When the annual leave loading is paid, leave and salary records are endorsed to the effect that payment for the year ending 30 November of the appropriate calendar year has been made.
6.14.18 History of recreation leave accrual

6.14.18.1 Officers
From the commencement of the Public Service Act 1902 in 1902 until 31st December 1963, recreation leave accrued at the rate of 3 weeks per annum.

As from 1 January 1964, the recreation leave entitlement was increased to 4 weeks per annum.

6.14.18.2 Temporary Employees
1. Before 1945, temporary employees generally accrued recreation leave as follows:
   - 1 week to every employee who had served continuously for one year.
   - 2 weeks to every employee who had served continuously for two years.
   - 3 weeks to every employee who had served continuously for three years.
2. Following the introduction of the Annual Holidays Act operative from 1 January 1945, temporary employees were granted 2 weeks leave per annum for the first 2 years of service and 3 weeks leave per annum thereafter.
3. In December 1957, it was decided that all temporary employees in the service on 3 December 1957, were to accrue recreation leave at the rate of 3 weeks per annum in respect of service on and from 3 December 1956, or if appointed after 3 December 1956, from date of appointment.
4. From 1 January 1964, the recreation leave entitlement was increased to 4 weeks per annum.

6.15 Purchased Leave

Clause 76 of the Conditions Award – Purchased Leave.

TC14-12 Purchased Leave Policy.

Purchased Leave is a voluntary arrangement where employees may purchase additional leave. The approval of Purchased Leave Agreements is subject to the business needs of the agency.

6.16 Sick Leave

6.16.1 Sources of authority
Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009

TC14-13 Managing Sick Leave Policy

6.16.2 Policy Statement
Managing absenteeism is part of the Government’s commitment to achieving and sustaining productive, healthy, efficient and high performing workplaces.

Agencies must ensure the health, safety and wellbeing of their employees as well as training managers and briefing employees about their responsibilities.

The Managing Sick Leave Policy (the Policy) has been developed to assist agencies to better manage absenteeism in the workplace pursuant to the Memorandum of Understanding in settlement of the Crown Employees (Public Sector Salaries –2008) Award. The key issues are outlined below:

Healthy workplaces: the Policy has been developed to better manage absenteeism and is part of the Government’s commitment to achieving and sustaining productive, healthy, efficient and high performing workplaces.
Responsibilities of agencies, managers and employees are outlined in the policy.

Key changes include that evidence of illness is to be provided for absences of more than two consecutive days; and

Absence reviews will be undertaken where there are five or more unsupported absences in a calendar year or where an absence trend is identified.

Analysis and review of sick leave strategies and data is to be undertaken regularly to ensure effective sick leave management.

6.16.3 Related policies and procedures

Refer to the following policies and procedures to assist in identifying and developing programs and strategies that will help to achieve healthy workplaces.

TC14-22 Working Arrangements in an Influenza Pandemic

TC14-20 Privacy Guidelines on Disclosures of Information during Industrial Consultations

6.16.4 Sick leave general

See clause 79 (the Conditions Award) – Sick Leave for:

- meaning of illness – subclause 79.1
- notification of absence by employees – subclause 79.2
- granting sick leave – subclause 79.3

6.16.5 Sick leave entitlements

See subclauses 79.6, 79.7 and 79.8 (the Conditions Award).

Temporary employees – accrue sick leave as per subclause 79.6 (the Conditions Award).

Casual employees – are not entitled to sick leave.

Part time employees – there are three types of part time work where sick leave will accrue at a pro rata rate with any unused sick leave being fully cumulative:

- temporary part time work
- permanent part time work; and
- part time work combined with part time parental leave.

The annual entitlement of an employee who changes from full time to part time is calculated as follows:

Step 1 calculate sick leave entitlement in hours for those months worked full time

full time months full time × 15/12 × full time hours per day

Step 2 calculate sick leave entitlement in hours for those months worked part time

(months full time × hrs worked/wk × 15/12 × full time hrs/day) / (full time hr/wk)

Step 3 add step 1 to step 2 for entitlement in hours

Election to use other paid leave or proceed on sick leave without pay – when all paid sick leave entitlements have been exhausted, an employee may elect to use part or all of any recreation or extended leave credits or both, or to take sick leave without pay.

Former employees engaged under Ministerial authority

- an employee with former service under Ministerial authority (not under the PSEM Act 2002) who has exhausted all other sick leave entitlements may be granted the remaining sick leave entitlements according to Chapter 3 Mobility.

Sick leave without pay to count as service see subclause 79.6.6 (the Award) and Clause 72 (the Award) - Leave without pay

Commonwealth Sickness Allowance – an employee who is on sick leave without pay is entitled to apply for a Commonwealth Sickness Allowance.

Commonwealth Sickness Allowance – an employee who is on sick leave without pay is entitled to apply for a Commonwealth Sickness Allowance.
It is the employee’s responsibility to make enquiries about any such entitlement. However, to avoid any unnecessary delay in the commencement of payments, agencies should take the following precautions:

- where possible give the employee two weeks’ notice that paid sick leave is about to expire if the employee is not expected to return to work within that time
- give the employee a statement showing the date on which all paid sick leave expires, and whether or not a workers’ compensation claim has been lodged
- advise the employee that unless they elect to use another form of leave as referred to in Election to use other paid leave or proceed on sick leave without pay (above) a Commonwealth Sickness Allowance may be applied for to cover the sick leave without pay.

If the employee applies for the Commonwealth Sickness Allowance, Centrelink will forward a form to the agency seeking information relevant to the application. To avoid hardship, agencies must complete and return these forms as soon as practicable.

### 6.16.6 Managing absences due to illness

Trigger points for review of absences are outlined in TC14-13 Managing Sick Leave Policy and includes five cumulative days of unsupported sick leave taken in a calendar year.

**Medical assessments** – if there is the likelihood of an employee being absent for longer than two months, an agency may consider referring them for a medical assessment. This may be useful in just confirming an illness or could assist in returning an employee safely to work. It is advised that this action be taken before available sick leave is exhausted.

**Return to work program** see subclause 79.5 (the Conditions Award) and related policies.

### Allocation of leave

- provided the employee has submitted appropriate medical certificates supporting the absence on sick leave, sick leave is granted to the limit of entitlement, followed by recreation leave or extended leave to credit or sick leave without pay, subject to “6-16.5 Sick leave entitlements”.

### 6.16.7 Evidence of illness for sick leave

See clause 80 (the Conditions Award) – Requirements for Evidence of Illness

### 6.16.8 Confidentiality

It is the agency’s responsibility to ensure that all records pertaining to an individual’s sick leave are secure.

See TC14-13 Managing Sick Leave Policy.

### 6.16.9 Sick leave to care for a family member

See clause 81 (the Conditions Award) – Sick Leave to Care for a Family Member

### 6.16.10 Health risks to employees and the public

#### 6.16.10.1 Direction to cease duty

See subclause 79.4 of the Conditions Award

#### 6.16.10.2 Grant of special leave

An employee directed to cease duty or not to resume duty is to be granted special leave until the nominated health provider has formed a recommendation on the appropriateness or otherwise of granting sick leave.

Such time may involve medical assessment by the nominated health provider, other specialists and consultation with the employee’s treating medical practitioner.

#### 6.16.10.3 Allocation of sick leave
When the nominated health provider advises that sick leave is appropriate, the sick leave applies from the date of the agency head’s direction to cease duty or not to resume duty. The grant of sick leave continues until the agency head, on the advice of the nominated provider gives the clearance to resume duty.

Additional sick leave may be necessary to cover the assessments and consultation referred to in Grant of special leave.

6.16.10.4 Unnecessary direction to cease duty

If the nominated provider advises that the employee had been fit for duty and the direction to cease duty or not to resume duty had not been necessary on medical grounds, the employee is to be allowed to resume duty immediately and be granted special leave for the duration of the absence.

6.16.10.5 Evidence of illness

The agency head cannot accept any evidence of illness either in support of the employee’s continued absence or resumption of duty unless the evidence has the endorsement of the nominated provider.

6.16.11 Other sick leave

6.16.11.1 Special sick leave

See clause 84.10 of the Conditions Award Special Leave – Other Purposes

Definition – special sick leave is a grant of paid sick leave additional to the annual or cumulative entitlement, and its application is reserved for long term employees (over 10 years) for occasions of long term illness only.

Recording – special sick leave is to be shown on the leave record as Special sick leave. It is not to be taken into account when calculating normal annual or cumulative entitlements. It is to be taken into account when assessing the availability of further entitlement to special sick leave.

Conditions of grant – special sick leave shall be granted by the agency head if an employee satisfies the following criteria:

- has 10 or more years’ service –
- has been or will be absent for a period of at least 3 months; and
- has exhausted or will exhaust, all normal sick leave entitlements.

Calculations – the grant of special sick leave will be on the following basis:

**Table 3 Calculation - special sick leave**

<table>
<thead>
<tr>
<th>Completed years in the service</th>
<th>Number of working days</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>22</td>
</tr>
<tr>
<td>20</td>
<td>44</td>
</tr>
<tr>
<td>30</td>
<td>66</td>
</tr>
<tr>
<td>40</td>
<td>88</td>
</tr>
<tr>
<td>50</td>
<td>110</td>
</tr>
</tbody>
</table>

Full time and permanent part time service – if an employee has had a period of full time service followed by a period of part time service or vice versa, the entitlement to special sick leave is still 22, 26 or 30 days for each completed 10 years of service.

The rate at which the special sick leave is granted however will depend on how the employee was employed at the time just prior to proceeding on sick leave.

If the employee worked full time, they will be granted available special sick leave at the full-time rate. If the employee was a permanent part time employee, the payment for the period covered by special sick leave will be made only for the hours when the employee would have been on duty.
A full-time employee who was absent on part time adoption, maternity, or parental leave or short term part time leave without pay prior to proceeding on sick leave is granted special sick leave, when applicable, as a full time employee.

6.16.11.2 Sick leave for war caused disabilities

Definition – a war caused disability is an injury or illness resulting from armed service in a recognised war zone. Injury or illness resulting directly or indirectly from service in the armed forces but not in a war zone is not regarded as war caused.

Additional entitlement – employees who are former armed services personnel and who have an accepted war caused disability receive an additional annual entitlement of 15 days per calendar year non-cumulative. This is an additional grant of leave to be applied only to absences directly related to the war caused disability and is separate from the annual sick leave, cumulative or special sick leave entitlement.

Evidence of disability – to be eligible for the additional leave the employee must provide a statement from the Department of Veterans’ Affairs to the effect that the illness or injury is a result of service in a recognised war zone.

6.16.12 Illness/injury not covered by workers’ compensation

See clause 83 of the Conditions Award

When an employee who is sick or injured claims compensation or damages other than under the Workplace Injury Management and Workers’ Compensation Act 1998 an undertaking and authority should be signed and returned to the agency as soon as possible.

Conditions applying to grant of sick leave – available sick leave may be granted provided the employee is aware that:

- the monetary value of the sick leave must be claimed as part of any claim for compensation or damages and is to be included in any assessment of damages or compensation;
- the monetary value of the sick leave must be repaid to the agency once the claim for compensation or damages has been paid; and
- the undertaking must be signed and returned to the agency as soon as practicable.

Leave options – when absences occur as a result of injury or illness and a claim for compensation or damages has been made, an employee may elect to take:

- available sick leave; or
- recreation or extended leave to credit; or
- leave without pay; or
- a combination of any of the above.

Provision of information – if information is requested from an agency by the employee or their legal representative the agency is obliged to provide an accurate statement of the total salary or wage that would have been received had the employee been on duty, including leave payments made for the period of incapacity.

Refund of leave – see subclause 83.3 of the Conditions Award.

If the monetary value of sick leave is refunded in accordance with subclause 83.3 (the Conditions Award), the period of absence resulting from the injury or illness is then to be regarded as special leave without pay but is to count as service for the accrual of all types of leave and incremental progression.

Other leave – if an employee has taken recreation or extended leave they may, upon receipt of compensation elect to repay the monetary value of the recreation or extended leave taken and have the leave re-credited; or not to repay it, in which case the leave remains as a debit.

Refusal of claim – when a claim for compensation is refused, normal sick leave provisions apply.
6.17 Special Leave

6.17.1 Sources of authority

Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 clause, 84, Special Leave.

6.17.2 General

Special leave is paid leave which applies to activities not regarded as being on duty and which are not covered by other forms of leave.

Agency heads may grant special leave to employees for the purposes as set out in Clause 84 (the Conditions Award). Special leave may be granted for other such purposes as determined from time to time by agency heads subject to the conditions set out in “6-17 Special Leave”.

Casual employees are not entitled to special leave.

6.17.2.1 Union activities

See subclause 84.6 of the Conditions Award – Special Leave – Union Activities and

Clause 54 of the Conditions Award – Trade Union Activities Regarded as Special Leave.

See also “6-21 Trade union and employee representative activities, and industrial action”.

6.17.3 Course attendance

A maximum of 10 days per year may be granted to attend courses conducted by officially recognised organisations. See subclause 85.6 of the Conditions Award.

6.17.4 Jury service – Special Leave

See (the Conditions Award) – Special Leave Jury Service subclauses 84.1.1 and 84.1.2 for employee notification and 84.1.3 Entitlement Witness at court–official capacity

See subclause 84.2 of the Conditions Award – Witness at Court – Official capacity

6.17.5 Witness at court – other than in official capacity

See subclause 84.3 of the Conditions Award – Witness at Court – Other than in an Official capacity

6.17.5.1 Crown witness

See subclause 84.3.1 and 84.3.2 of the Conditions Award.

6.17.5.2 Union witness

See subclause 84.3.3 of the Conditions Award.

6.17.5.3 Private capacity

See subclause 84.4 of the Conditions Award.

In addition to the leave available under subclause 84.4 of the Conditions Award, an employee may also elect to be granted available flex leave or extended leave.

6.17.5.4 Court attendance as an interpreter

An employee who is required to attend at court to work as an official interpreter for the Community Relations Commission is granted special leave, provided that the costs are allocated to, and recouped from, the Language Services Division of the Community Relations Commission.

6.17.5.5 Traffic offences occurring in course of duty

An employee charged with a traffic offence while driving in the course of duty is granted leave for the period necessary to attend court to answer the charge. If the employee is acquitted, special leave is granted. If the charge is found proven, the employee may choose to take available recreation leave, extended leave, flex leave, or leave without pay.

An employee who is a witness at the trial of a traffic offence alleged against another employee in the course of duty is to be granted special leave for the necessary period.
6.17.6 Special leave – examinations
See subclause 84.5 of the Conditions Award – Special Leave Examinations. See also “6-20.5 Approved examinations”.

6.17.7 Emergencies
6.17.7.1 Emergency volunteers and volunteer members of safety organisations
Employees who are volunteer members of the:
- Bushwalkers’ Federation;
- Cave Rescue Association;
- NSW Volunteer Fire Brigade;
- Public Service Support Group;
- Rural Fire Services;
- State Emergency Services;
- Volunteer Coastal Patrol;
- Volunteer Rescue Association of NSW (or affiliated groups); or
- Wireless Institute Civil Emergency Network;
may be granted special leave of up to 5 days in any period of 12 months for the purpose of assisting as volunteers in one of these organisations.

6.17.7.2 Declared emergencies
If a situation arises requiring a major operational response, or an emergency is declared under Section 44 of the Rural Fires Act 1997, under other relevant legislation or by the Premier, employees who volunteer to assist are granted special leave with no upper limit. Leave granted under this clause does not count towards the 5-day upper limit specified in “6-18.8.1 Emergency volunteers and volunteer members of safety organisations”.

6.17.7.3 Proof of attendance at emergencies
An application for leave must be accompanied by a statement from the local or Divisional Controller, the Fire Controller, Deputy Fire Controller or NSW Police Force certifying the times of attendance.

The leave application should indicate the period and area of attendance together with the name of the organisation to which the volunteer member belongs.

6.17.7.4 Rest periods
If a volunteer employee remains on emergency duty for several days, the agency head may grant special leave to allow reasonable time for recovery before returning to duty.

If a volunteer employee assists in a rescue at a time such that it would be unreasonable to expect them to report for duty at the normal time, the agency head may grant up to 1 day special leave for rest.

If the emergency referred to in the preceding two paragraphs is not a declared emergency, in accordance with “6-18.8.2 Declared emergencies”, the leave granted is included in the general 5 day annual limit prescribed in “6-18.8.1 Emergency volunteers and volunteer members of safety organisations”.

6.17.7.5 Emergency services courses
If the State Emergency Services Commissioner (or his/her delegate) considers it essential that a volunteer employee attend a course of training or lectures, the agency head should make every effort to release the employee from duty. If the employee is so released, the necessary absence from work is regarded as being on duty.

If the State Emergency Services Commissioner (or his/her delegate) may nominate volunteer employees for attendance at courses of training or lectures when their attendance is not regarded as essential. In these circumstances, special leave may be granted for the time employees are absent from duty.
A certificate of attendance is not necessary. State Emergency Services will advise the agency whether attendance is required and any non-attendance will be reported to the agency.

6.17.7.6 Bush firefighting training courses

Emergency volunteers nominated to attend courses approved by the Rural Fire Service or by organisations recognised by the Service are to be granted the necessary special leave to attend, up to a maximum of 10 working days in any period of 12 months.

Applications are to be supported by written approval of the Rural Fire Service. Approval of leave is subject to agency convenience and written confirmation of attendance.

6.17.7.7 Payment of above level allowance during voluntary emergency service

Employees who commence relief or who are due to commence relief in a higher graded position and then volunteer to assist the State Emergency Service during bushfires, floods, and so on, may be eligible to receive the above level allowance for the period of time with the State Emergency Services.

For further information see the Public Service Commission’s Employment Portal – Above Level allowances.

6.17.8 Aboriginal rural education program

Employees who identify themselves as Indigenous Australians and who are undertaking one of the courses included in the Aboriginal Rural Education Program at the University of Western Sydney are entitled to special leave to cover any compulsory attendance and essential travel required during usual working hours.

The grant of special leave became effective from the start of the 1986 academic year.

6.17.9 Special leave for country and relieving employees

6.17.9.1 Travelling to another centre for medical examination

Country employees required to travel to another centre for medical examination at the direction an agency head are to be granted special leave for the time they are necessarily absent from duty.

When employees are required to travel to another centre for a medical examination for appointment to the service, the relevant travelling and meal allowance provisions apply.

See 7-18 Travelling and meal allowances for employees required to attend examinations.

6.17.9.2 Monthly return home

An employee who is temporarily living away from home as a result of work requirements is entitled to sufficient special leave as will allow them to spend two days and two nights once each month at the family home. An employee who wishes to return home more often may be granted the choice of recreation leave, extended leave, flex leave or leave without pay if operational requirements allow.

6.17.9.3 Travelling on monthly return home

Travelling allowances payable in these circumstances are set out in “Chapter 7 – Allowances”:

7-2.6 Returning home on weekends
7-2.6.2 Allowances for home visits
7-11 Motor Vehicle Allowances
7-14.5 Remote areas – travelling on recreation leave
7-17.1 Travelling compensation – Source of authority.
6.17.10 Transferred Employees

6.17.10.1 Entitlement
This section applies as appropriate, to all employees who satisfy the definition of transferred employee in accordance with clause 4, Definitions - Crown Employees (Transferred Employees Compensation) Award.

See subclauses 6.1 and 6.2 - Crown Employees (Transferred Employees Compensation) Award.

6.17.10.2 Return home
See subclauses 6.3 and 6.4 of the Crown Employees (Transferred Employees Compensation) Award.

6.17.11 Former ADF personnel
Up to 6½ working days special leave is available to ADF services personnel in any period of 12 months, for the following purposes:

- attending a hospital or visiting a medical officer for review;
- attending a hospital to report for periodical examination or attention in connection with a war caused disability;
- obtaining, replacing, or having repaired an artificial limb or member, prosthesis or surgical appliance; or
- attending the Department of Veterans’ Affairs in connection with claims made for military pensions.

6.17.12 Olympic and Commonwealth Games

6.17.12.1 Public Service employees
Employees selected as competitors or officials at the Commonwealth or Olympic Games are entitled to up to 4 weeks special leave to participate in the Games. The same concessions may be granted to competitors or officials taking part in the equivalent Games for athletes with disabilities.

6.17.12.2 Officials on international federations
In view of arrangements already in place for coaches, managers and officials who represent Australia at Olympic Games, employees who hold positions on International Federations recognised by the International Olympic Committee have access to 20 days special leave over the period leading up to the Olympic Games. This leave may be used in conjunction with other forms of leave (paid or unpaid) to cover periods of absence specifically related to official duties as a member of one of the International Federations recognised by the International Olympic Committee.

Employees eligible for this leave are able to transfer the balance of their entitlement when changing between Government employers.

6.17.12.3 Games Schedule
The next Olympic Games will be held in:

- Tokyo, Japan from 24 Jul - 9 Aug 2020 (Summer)
- Beijing, China from 4 – 20 Feb 2020 (Winter)

Details of the events included are published on the Olympic games website (see https://www.olympic.org).

The next Paralympic Games are being held:

- Tokyo, Japan from 25 Aug - 6 September 2020 (Summer)
- Beijing, China, from 4 to 13 March 2022 (Winter).

Further details of events are available on the Paralympic games website (see www.paralympic.org).

The next Commonwealth Games is being held in:

- Birmingham, England from 27 Jul - 7 Aug 2022

Further details including the sport included in the games will be published on the Commonwealth games website (see https://thecgf.com/). It should be noted that the para-sport programme at the Commonwealth Games is fully integrated.
6.17.13 Miscellaneous activities attracting special leave

6.17.13.1 First aid courses
Leave is available for attendance at courses conducted to train or retrain first aid officers to meet agency needs. If the employee is nominated by the agency to attend the course the cost of the course is paid by the agency.

6.17.13.2 Blood donors
Employees are eligible to be granted special leave to give blood, with such leave being restricted to the time reasonably necessary.

6.17.13.3 Retirement preparation seminars
Employees invited to attend retirement preparation seminars conducted by the SAS Trustee Corporation, are eligible for 2 days special leave, with no other concessions.

6.17.13.4 Professional or learned society conferences
Employees who are financial members of professional or learned societies may apply for leave to attend conferences of those societies held in Australia.

Up to 5 days special leave for attendance at, and travelling to and from, the conference may be granted provided:

- it is in the agency’s interest for the employee to attend;
- the matters to be dealt with are directly associated with the work of the agency;
- it is not inconvenient to the agency for that employee to be absent from duty;
- attendance at the conference by employees from the one agency is minimised;
- the full details of the proposed itinerary are submitted; and
- the employee has not been granted leave for similar purposes during the previous 12 months.

6.17.13.5 National Aborigines and Torres Strait Islander Day
A staff member who identifies as an Indigenous Australian shall be granted up to one day special leave per year to enable the staff member to participate in the National Aboriginal and Islander Day of Commemoration Celebrations.

See subclause 84.9 of the Conditions Award.

6.17.13.6 Visits to other countries
Once approval for an overseas visit has been received from the Minister, the agency head will then determine whether the employee will be regarded as being on duty or on special leave during the visit.

The following financial arrangements usually apply:

- When an official visit is regarded as on duty the salary and all official travelling and associated expenses are met by the agency.
- When an official visit is regarded as on special leave the salary only is met by the agency.
- When an employee spends a short period on duty during a private overseas visit the salary and all expenses associated with that period of duty are met by the agency, but original fares are not.
- When an employee spends a short period on special leave during a private overseas visit the agency pays salary only for the duration of the special leave.

For more information see - DFSI-2015-05-Australian and Overseas Travelling Allowances for Official Travel by Senior Officials

and OFS-2014-07-Official Travel in Australia and Overseas
6.17.13.7 Bone marrow donors
Employees, who are listed in the Australian Bone Marrow Donor Register and who are called on to donate are eligible for up to 5 days special leave for this purpose.
This grant is subject to the production of a medical certificate from a registered medical practitioner covering any absence.

6.17.13.8 Union activities
See “6.21 Trade union and employee representative activities, and industrial action”.

6.17.14 Situations requiring careful consideration by Agency Heads
An agency head has the discretion to grant special leave in the following circumstances:

- attendance of former ADF personnel at the RSL Congress and Conference;
- attendance at the Coral Sea Week March;
- travelling time associated with taking delivery of a vehicle to be used primarily for official business purposes;
- attendance at a graduation ceremony or to accept an award for outstanding academic work; and
- attending to Council duties by employees elected as Mayor, President or Chairman of a Local Council or County Council.

6.17.15 Absences regarded as being on duty
Special leave is not appropriate in cases of absences that are directly related to an employee’s duties. In these cases, the employee is regarded as being on duty. The following are cited as the kinds of activities in this category:

- Official country visits and official visits overseas – refer to the policy - [OFS-2014-07-Official Travel in Australia and Overseas](#).
- Presenting a worthwhile paper at an annual conference of a professional society.
- Official agency representative at meetings of a professional or learned society.
- Agency representative at non-agency special courses and schools of instruction.
- Subpoenaed or called as a witness in an official capacity.
- Essential attendance at State Emergency Services courses.
- Attendance at a training course conducted by the agency.
- Attendance at the Annual Spokeswomen’s Seminar.
- Attendance before the Department of Premier and Cabinet, the agency head or the Minister for any specified purpose other than as a representative of an employee association.
- Attendance before an in-service selection committee.
- Attendance at a feedback interview.
- Attendance as a party to a Disciplinary Appeal or as a witness, whether as an employer or employee representative, or to present the employer’s case in an appeal.

Note: this list is not intended to be exclusive.
6.18 Leave for matters arising from Domestic and Family Violence

6.18.1 Sources of Authority

Determination 2018-03 - Support for Employees Experiencing Domestic and Family Violence

M2018-03 Support for Employees Experiencing Domestic and Family Violence

CI 84A of the Conditions Award

6.18.1.1 General

The NSW Government introduced 10 days of paid domestic and family violence leave per calendar year for NSW government sector employees (excluding casuals) effective from 1 January 2019.

Details of the leave arrangements are set out in Determination 2018-03 - Support for Employees Experiencing Domestic and Family Violence which applies to the Public Service.

Premier’s Memorandum M2018-03 Support for Employees Experiencing Domestic and Family Violence provides the same leave arrangements for other Government Sector employees.

6.18.1.2 Availability of Leave

Access to up to 10 days paid leave for employees experiencing domestic and family violence which may be taken in part, single or consecutive days. The leave is available to part time employees on a pro-rata basis.

Access to the leave is not conditional on other forms of leave being exhausted.

Where there is an existing arrangement for paid domestic and family violence leave in an industrial instrument, it is intended that employees will have access to the more beneficial arrangement.

6.19 Study, employee development and training activities

6.19.1 Sources of authority

Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 – Clause 85 - Staff Development and Training Activities and Clause 86 - Study Assistance

6.19.2 Financial assistance – general

When a particular course or type of training is an essential condition of the contract of employment, agencies must meet all fees and charges levied on the employee.

This applies to cadets, trainees and employees involved in formal off-the-job training programs. Apprentices fall within this category, and employing agencies are already responsible for paying the Technical and Further Education (TAFE) administration charge on their behalf.

For agencies recruiting graduates who have an outstanding liability under the Higher Education Contribution Scheme (HECS), and for agencies with employees undertaking part time tertiary study which is not specifically required by their contract of employment, the decision concerning payment of HECS is entirely one for the agency.

The following should be taken into account when considering whether to pay, either in whole or in part, HECS liability and other course charges:

- the skill requirements of the agency;
- the agency head being satisfied that the expenditure is justified in terms of the agency’s objectives and targets; and
- the availability of funds.
6.19.3 Study time leave

6.19.3.1 General
Study time leave is paid leave granted to employees for part time studies in approved courses. Study time leave should be equally accessible to all eligible employees and should be used to promote a highly trained and skilled workforce responsive to the requirements of the Government.

See subclause 86.1 of the Conditions Award.

6.19.3.2 Objectives
The objectives of study time leave are:

- to assist employees to undertake study which is relevant to the agency or the Public Service, and which improves their ability to perform their duties;
- to develop the skills, versatility and adaptability of people working in the Public Service;
- to provide an opportunity for employees who have suffered educational disadvantage to bridge gaps in their educational qualifications;
- to encourage employees to pursue the highest standards in courses of study which promote excellence in performance of agency functions;
- to enhance the employability of employees, to help them to become more competitive in the labour market and more attractive to public and private employees; and
- to provide a tangible expression of the commitment to employee development in a cost-effective way.

6.19.4 Study time leave for approved courses

6.19.4.1 Availability
Study time of up to four hours a week during semester or term may be granted at full pay to employees to assist their studies in an approved course, subject to the approval of the agency head and agency convenience.

See subclause 86.1, 86.2 and 86.3 of the Conditions Award.

Four hours a week is considered to be an appropriate grant for a standard part time course offered by a post-secondary institution.

Pro rata leave may be granted for less demanding programs.

6.19.4.2 Criteria for approved courses of study
In determining the suitability of a program of study for approval, the agency head should consider:

- the relevance and value of the program to the agency or the Public Service;
- the contribution the program is likely to make to enhancing the employability of the employee; and
- the benefits of the program to the service, the agency and the employee in relation to the costs in time and impact on agency services. Appropriate courses for approval should meet the following criteria:
  - Leading to a recognised qualification.
  - A TAFE special course; or
  - A bridging or qualifying course; or
  - An incidental subject forming part of a course for which study leave would be approved, and the incidental subject is of relevance to the agency or the service.
  - Administered by a public institution.
  - Leading to membership of a registered professional association.
  - Able to be taken part time by full time employees.

6.19.4.3 Value to the agency and the employee
In determining whether it is appropriate to grant study time leave, agencies should consider:

- the number and length of proposed absences, whether for attendance at classes or private study;
- any proposal to combine study time leave with other leave to increase the length of absence; and
- any proposal for how and when any additional study time leave will be made up.

Agencies must ensure that an adequate level of service to the public is maintained, that additional time can be made up efficiently and that study time leave arrangements are adequately supervised.

6.19.4.4 Part time work

Study Leave may be granted to both full and part time staff members - See subclause 86.3 of the Conditions Award.

6.19.4.5 Distance education, open learning and correspondence courses

Employees undertaking courses by distance education, open learning or correspondence may be granted study time leave provided that their study program and the institution offering it satisfy the criteria set out in “6-20.4.2 Criteria for approved courses of study”.

Study time leave of up to four hours a week may be granted for distance programs equivalent to a standard part time course on campus (or half of a standard full-time program) and a pro rata grant for less demanding programs.

See subclause 86.12 and 86.13 of the Conditions Award.

6.19.4.6 Full time courses

Study time leave for full time employees will normally be granted to assist part time study. It should not to be granted to full time employees to attend a course organised essentially for full time students or which, in later stages, requires full time attendance, unless the employee has approval to transfer to part time employment.

See also “6-20.7 Full time study leave”.

6.19.4.7 More than one course studied at the one time

Study time leave may be granted for more than one course at the same time provided that the two courses together do not impose an unreasonable load and the resulting attendance pattern is convenient to the agency. Regardless of the number of courses studied at one time, the maximum grant remains four hours per week.

6.19.4.8 Calculation of Study Time Leave Grant

See clause 86.2.3 of the Conditions Award.

Where there are block attendance requirements or field days, the grant is calculated by:

- totalling the attendance requirement, in hours, for the semester;
- dividing the amount by two; and
- dividing this by the number of weeks in the semester that lectures are held.

The resultant amount, or four hours, whichever is the lesser, is the weekly amount granted.

6.19.4.9 Repeated subjects

Study time shall not be granted for repeated subjects

See subclause 86.14 of the Conditions Award.

6.19.4.10 Combining recreation or flex leave with study time

A half day of flex leave or a half day recreation leave may be combined with half day study time leave to cover a full day’s absence from duty, subject to agency convenience.
If an employee has less than a half day study time leave and wishes to be absent for a full day, they may take sufficient flex or recreation leave to enable them to be absent for the whole day.

6.19.4.11 Additional study leave

If an employee granted study time leave for an approved course of study is unable to accommodate necessary absences within the four hours allowed, and recreation leave, flex leave or leave without pay to cover the gap is not available or not chosen, the agency head may approve additional study time leave.

Any approved study leave in excess of four hours a week must be made up either in advance or in retrospect. If flexible working hours apply, the time must be made up in accordance with clause 21 of the Conditions Award.

6.19.4.12 Making time

In all cases, the arrangement for making up additional study time leave must be negotiated with the agency. If such an arrangement is being negotiated, the following factors should be considered:

- the nature of the employee’s duties;
- the needs of the workplace;
- whether additional leave granted can be made up before the next grant; and
- the use of other forms of leave to offset the additional study leave when making it up is impractical.

6.19.4.13 Study time leave during bandwidth

Employees on flexible working hours may take study time leave at any time during the bandwidth, subject to negotiation with their agency. Employees working standard hours may take study time leave during their normal working hours.

6.19.4.14 Study time leave not taken at the approved time

In the event of a genuine personal emergency, study time for that week may be granted on another day during the same week.

See subclause 86.15 of the Conditions Award.

6.19.4.15 Use of study time leave

See subclauses 86.5, 86.11 and 86.15 of the Conditions Award.

6.19.4.16 Accumulated study time leave

See subclauses 86.6 and 86.10 of the Conditions Award.

6.19.4.17 Accrual during other leave

Study time leave does not accrue during any other form of leave.

6.19.4.18 Courses requiring block attendance

Some courses require substantial block attendance to allow students to undertake compulsory practical work experience. If such attendance is compulsory, and the agency head is satisfied that the study program is of significant value to the agency, the Public Service and the employee, the agency head may grant a block of leave which is either additional to or instead of accumulated weekly leave, as set out below.

- Up to 10 days study time leave may be granted in addition to accumulated weekly leave, or
- Up to 20 days study time leave may be granted instead of accumulated weekly leave.

6.19.4.19 Study time leave granted for the whole course

In some circumstances, it may be more appropriate to grant an amount of study time leave for the whole course, which can then be taken according to the needs of the employee and agency convenience. In such cases, the average yearly study time leave taken should not be more than 10 or 20 days, as appropriate.
6.19.4.20 Courses involving research and thesis

Block periods of study time leave may be granted to employees for the research and thesis or major project preparation required for:

- higher degrees;
- qualifying studies for admission to higher degrees; or
- honours studies.

These block periods may be granted on the following basis:

- When a course at any level involves a thesis or major project as well as coursework, the usual study time leave would be granted for the coursework, and 10 days study time leave for the thesis or major project preparation.
- For qualifying studies entirely by thesis, the grant is 10 days leave.
- For master’s degree studies by research and thesis only, the total grant is 25 days leave for courses of 2 years minimum duration, or 35 days leave for courses of 3 years or more minimum duration.
- For doctoral studies, the total grant for the course is 45 days leave.

6.19.4.21 Monitoring study time leave

Agencies should ensure:

- that employees granted study time leave have completed their enrolment;
- that employees are continuing with the course for which the leave is granted;
- that the employee’s attendance pattern is the most convenient for the agency (as well as for the employee) if there is a choice of attendance times; and additional study time leave, in excess of four hours per week, is made up.

6.19.4.22 Application

Employees who wish to apply for study time leave should formally notify the agency as early as possible. If study time leave is granted, employees should give the agency reasonable notice of the program for each year or semester and their proposed pattern of leave. This will allow any negotiations to be completed before the academic year or semester begins.

6.19.4.23 When an application is refused

If an agency decides to refuse an application for study time leave, it should ensure that:

- timely advice is given to the applicant to allow them to consider options;
- feedback is available to assist applicants in considering options;
- the reasons for refusal are clearly and promptly stated, in writing, to the applicant;
- the applicant is informed of their right to have the decision reviewed;
- if an internal review is requested, it is conducted independently and promptly, preferably through existing grievance mechanisms; and
- if the decision to refuse study time leave is later reversed, the agency head may decide to grant the study time leave applied for retrospectively: that is, to allow accumulation of study time leave for such a period, or re-credit other leave taken instead of study time leave.

6.19.5 Approved examinations

Examination leave may be combined with other forms of leave, including flex leave, for the remainder of the day.

See subclauses 86.16, 86.17 and 86.18 of the Conditions Award.

See also “6-18.7 Special leave – examinations.”
6.19.6 Leave for study of strategic importance

6.19.6.1 Applicability

The Minister (in the case of an agency head) and the agency head (in the case of other employees) may grant study leave for a program of study that in the Minister's or the agency head's opinion, is of strategic importance to the agency or to the Public Service.

The duration of the leave granted is at the discretion of the Minister or the agency head, having regard to the principles outlined in "6.20.7.5 Determining appreciable benefit of full time studies".

Leave may be granted on full pay, less than full pay, without pay, or a combination of these, at the Minister's or the agency head's discretion.

Leave under this provision is intended for situations when it is not appropriate to consider the employee as being on duty. It may be granted to employees undertaking intensive and competitive higher or superior degrees in administrative or executive programs offered by Australian or overseas institutions of international renown.

In the case of overseas study, the usual conditions governing overseas travel apply.

See “7-13 Overseas travelling allowances”.

6.19.7 Full time study leave

6.19.7.1 Grant

See subclause 86.19 of the Conditions Award

6.19.7.2 Eligibility

See subclause 86.20 of the Conditions Award

6.19.7.3 Financial assistance

See subclause 86.21 of the Conditions Award

When determining whether financial assistance shall be provided to the employee, the agency head shall also consider the appreciable benefit of the studies to the agency.

6.19.7.4 Determining direct relevance of full time studies

Full time studies are considered directly relevant to the efficiency or effectiveness of the agency or the service when:

- the studies relate directly to the employee’s functions and are necessary to enable these to be carried out effectively; or
- the studies involve research, the results of which are likely to have a significant impact on the agency's operations; or
- the employee would gain skills and knowledge which are in scarce supply and which are required by the agency; or
- the studies would enable the agency to carry out government programs of high priority; or
- the studies would assist the agency to meet EEO objectives or other special purposes of the agency or Public Service, and the skills and knowledge gained would directly contribute to improvements in effectiveness and efficiency.

6.19.7.5 Determining appreciable benefit of full time studies

Full time studies are considered to be of appreciable benefit to the efficiency or effectiveness of the agency or the service when:

- the studies relate to the employee’s likely future duties and are necessary to enable these to be carried out effectively; or
- the studies involve research, the results of which are likely to have an impact on the agency’s operations; or
- the employee would gain skills and knowledge which are required by the agency; or
- the studies would assist the agency to meet EEO objectives or other special purposes, and the skills and knowledge gained...
would contribute to improvements in effectiveness and efficiency.

6.19.7.6 No financial assistance available

Financial assistance should not be granted if the agency considers that:

- the studies proposed are neither directly relevant, nor of appreciable benefit to the effectiveness or efficiency of the agency or the service;
- budgetary constraints preclude the grant of financial assistance;
- while the studies proposed are relevant, a scholarship or award won by the applicant provides sufficient financial support.

6.19.7.7 Bonds

Not all periods of study leave with financial assistance will require a bond. Bonds are generally restricted to substantial periods of study only. If required, a cost-to-the-State bond must be signed by the employee. Service under a bond is to be worked as follows:

- twice the period of study leave granted when financial assistance is at the level of full-pay;
- the same period of study leave granted when financial assistance is at the level of half-pay;
- a proportionate period of study leave granted when financial assistance is at less than half pay.

6.19.7.8 When service under bond is not completed

If the bonded service is not completed, the bond requires the employee to reimburse any financial assistance paid for the period of full time study leave as well as the value of any incremental progression or leave accrued during the leave period.

6.19.7.9 Leave accrual and increments

See subclause 86.22 of the Conditions Award

6.19.7.10 Superannuation

Employees embarking on full time study leave should obtain advice from their superannuation fund(s) about contributions they are required to meet during their leave. They must notify both their superannuation fund and NSW Treasury of their proposed leave and the arrangements that will be made for payment of contributions.

Monitoring study leave

Agencies should establish an appropriate reporting mechanism for each grant of study leave in order to ensure that the study remains relevant and that the skills and knowledge acquired will be applicable to the work of the agency.

6.19.7.12 Attendance at work

In some cases, it may be appropriate to require an employee to return to work during university vacations. Agencies should ensure that these arrangements allow the employee to take recreation leave.

6.19.8 Scholarships for part time study

See subclause 86.23 of the Conditions Award

6.19.9 Employee development and training programs and activities

6.19.9.1 Introduction

The following guidelines are provided to assist agencies in determining the conditions to apply when an employee undertakes an employee development or training program or activity. At all times agencies should be aware of the need for consistency in determining which of these conditions are applied.

6.19.9.2 Agency discretion

Attendance at an activity is at the discretion of the agency head and must be of benefit to the agency or the employee’s career development within the Public Service. It should preferably benefit both.
6.19.9.3 Definition
See subclause 85.1 of the Conditions Award

6.19.9.4 Exclusions from definition
See subclause 85.2 of the Conditions Award

6.19.9.5 Types of activities
See subclause 85.3 of the Conditions Award

For the purposes of subclause 85.3.1 (the Conditions Award) activities considered to be essential for the efficient operation of the agency include, but are not confined to, attendance of selected employees at training sessions on the operation of new office equipment, or attendance at a course that is directly related to their work and essential for the performance of their duties.

For the purposes of paragraph 85.3.2 (the Conditions Award) activities considered to be developmental and of benefit to the Public Service include activities which are developmental and serve to enhance the knowledge and skill of employees, being of benefit both in their work and in their career development.

They also have a consequential benefit for the agency or the Public Service. Most employee development and training courses run by agencies would be in this category.

6.19.9.6 Other training activities
An employee who wishes to attend an activity which the agency head decides does not satisfy “6-20.9.3 Definition”, may be granted flex leave, recreation leave, extended leave or leave without pay. The course fee or any other expenses must be paid by the employee.

6.19.9.7 Attendance on duty
See subclause 85.3 of the Conditions Award.

6.19.9.8 Provisions for activities considered essential to the agency
See subclause 85.4 of the Conditions Award.
Refer also “Chapter 7 Allowances”.

6.19.9.9 Provisions for activities considered of benefit to the Government
See also subclause 85.5 of the Conditions Award

6.19.9.10 Activities to be conducted during normal working hours
Under “6-20.9.8 Provisions for activities considered essential to the agency” and “6-20.9.9 Provisions for activities considered of benefit to the Government” (above), such activities would usually be held during normal working hours.

6.19.9.11 Employees attending compulsory training prior to appointment
The above conditions do not apply to employees who are required to complete compulsory training as a condition of substantive appointment to a position in the Public Service.

6.19.9.12 Special leave
See subclause 85.6 of the Conditions Award

6.19.9.13 Higher duties allowance
See subclause 85.7 of the Conditions Award

6.20 Union, representative activities, and industrial action

6.20.1 Source of authority
See clauses 53 to 66 of the Conditions Award
6.20.2 General

Except as specified in this Section, employees who are accredited trade union delegates, or who act as employee representatives, are to do so in their own time outside their normal working hours and at their own expense.

6.20.3 Definitions

On duty means the time off with pay given by the agency to the accredited union delegate to enable the union delegate to carry out legitimate trade union activities during ordinary work hours without being required to lodge an application for leave. See also clause 53 of the Conditions Award.

On loan means an arrangement between the agency and the trade union whereby an employee is given leave of absence from the workplace to take up employment with the employee’s trade union for a specified period of time during which the trade union is required to reimburse the agency for the employee’s salary and associated on-costs.

See also clause 56 of the Conditions Award.

On special leave means the employee is required to apply for special leave in order to engage in an activity which attracts the grant of special leave as described in “6-18.2.1 Union activities” and “6-21.4.2 Special leave activities”.

See also clause 54 of the Conditions Award.

6.20.4 Trade union activities

6.20.4.1 On duty activities

See clause 53 of the Conditions Award - Trade Union Activities Regarded as on Duty

6.20.4.2 Special leave activities

See clause 54 of the Conditions Award - Trade Union Activities regarded as Special Leave and clause 55 of the Conditions Award - Trade Union Training Courses

6.20.4.3 Training courses

See clause 55 (the Conditions Award) - Trade Union Training Courses

6.20.4.4 On loan arrangements

See clause 56 (the Conditions Award).

For financial arrangements when an employee is placed “on loan” to the Association, see subclause 56.1.6 (the Conditions Award).

6.20.4.5 Period of notice

See clause 57 (the Conditions Award)

6.20.4.6 Access to facilities

See clause 58 (the Conditions Award)

6.20.4.7 Responsibilities of the union delegate

See clause 59 (the Conditions Award).

6.20.4.8 Responsibilities of the trade union

See clause 60 (the Conditions Award)

6.20.4.9 Responsibilities of workplace management

See clause 61 (the Conditions Award)

6.20.4.10 Travelling and other costs

See clause 63 (the Conditions Award)

Refer also paragraph 61.1.3
6.20.5 Employee representative activities – Special leave

6.20.5.1 General

The grant of special leave to engage in employee representative activities:

▪ is at agency convenience;
▪ must be confined to a minimum number of employees;
▪ is for the minimum necessary period;
▪ is dependent on an application being made to the agency in advance;
▪ is payable at the base rate of pay (including, if appropriate, relevant allowances that would normally be paid on that day);
▪ is not to incur liability by the employing agency in fares, overtime, travelling compensation, travelling and sustenance allowances, meal money, and so on; and
▪ is not extended beyond the standard hours for the employee for that day.

See clause 54 (the Conditions Award) – Trade Union Activities Regarded as Special Leave and “6-18.2.1 Union activities”.

See also subclause 84.6 (the Conditions Award).

6.20.5.2 Availability

Special leave is available for the following purposes.

▪ Representatives of employee associations or of individual employees attending the Department of Premier and Cabinet.
▪ Local meetings between employee representatives and management.
▪ Attendance as a witness on behalf of employee associations or of employees before an industrial tribunal. Employees who attend as witnesses before industrial tribunals are granted special leave for such a period as is necessary for them to give evidence. They should return to duty as soon as their evidence has been given unless required by the Tribunal to remain in attendance.
▪ Conciliation committee members. Employees appointed as members of a Conciliation Committee or as alternate members under the provisions of the Industrial Relations Act 1996, may be granted special leave of absence during standard hours for the period they are engaged.

See clause 54 (the Conditions Award) – Trade Union Activities Regarded as Special Leave.

6.20.6 Other absences

See “6-21.2 General”.

6.20.7 Industrial action

6.20.7.1 General

See clause 64 (the Conditions Award) – Industrial Action

The following provisions apply to employees absent from duty:

▪ attending stop work meetings;
▪ complying with a direction to strike; or
▪ supporting industrial action of other employee organisations.

The decision to participate in industrial action or a failure to report for work during such action rests with the individual.

6.20.7.2 Work to be made available for employees during industrial action

Work is to be available for all employees during any industrial action. If premises are to be closed for health, safety, security or other reasons, employees are to be informed of this action, and if practicable, are to be advised of work arrangements at an alternative location.
6.20.7.3 If alternative arrangements are not practicable

Employees who, in the opinion of the agency head, have made a reasonable attempt to report for duty but have been unable to enter the premises, are not to be regarded as being on an unauthorised absence.

6.20.7.4 Leave and increment provisions

Approved leave is any leave which was approved prior to the date of notification of the industrial action. This date is published by the Department of Premier and Cabinet for each service-wide dispute. Agencies may discuss with the Department the appropriate date when the dispute concerns a local industrial issue.

- Absences from work for which leave has not been approved, including all absences owing to industrial action are unauthorised.
- Unauthorised absences from work are not leave without pay and are not covered by any approved leave. Periods of unauthorised absence, including those which do not exceed 5 days in a period of 12 months, are not regarded as service for any purpose.
- Applications for sick leave and family and community service leave during the period of the industrial action are not to be approved: except that the agency head may exercise discretion to approve an application for sick leave or family and community service leave if satisfied that the absence is unrelated to the industrial action and is supported by acceptable evidence such as a medical certificate.

6.20.7.5 Calculations for periods of absence in respect of industrial action

6.21.7.5a Employees on flexible working hours – absences for part of a day

For employees engaged in industrial action for part of a day, any absence during core time is an unauthorised absence.

For employees on a mechanical recording system, keys are to be removed for the full duration of the absence.

For a lunchtime meeting, employees may avail themselves of the maximum 2½ hour luncheon period provided that they have ensured by consultation with the supervisor that the extension does not prevent the proper functioning of the Section to which they are attached.

See subclause 21.8 (the Conditions Award) - Flexible Working Hours

If an agency considers that by starting late before or ceasing work early after industrial action, employees are not genuine in their efforts to work productively for at least part of the day, the unauthorised absence is to be recorded as a full day, not just core time.

- The provisions regarding disruption of transport, as specified in clause 17 (the Conditions Award), will not apply.
- All other provisions of clause 21 of the Conditions Award continue to apply.

Example 1: Unauthorised absence after late start

Employees starting work at 9.15 but ceasing again at 9.30 to attend a stop work meeting at which a resolution is passed not to return to work, the absence is to be regarded as a full day’s unauthorised absence. The flex time record however, will show the 15 minutes as a credit.

All unauthorised absences are recorded on employees’ flexible working hours records with the words unauthorised absence together with the actual times of absence.

Example 2: Unauthorised absence all day

A credit for the unauthorised absence is to be entered corresponding to the amount of deduction from salary. All entries are to be initialled by the supervisor.
6.21.7.5b Employees on standard working hours

If employees engage in industrial action for a full day or part of a day, any absence is regarded as unauthorised for the duration of that absence.

When employees engage in industrial action on a designated rostered day off (of a 19-day month working pattern) any absence is to be regarded as unauthorised unless the rostered day off had been arranged and approved prior to the date of notification of the industrial action.

No alteration is to be made to a rostered day off that will coincide with industrial action.

6.20.7.6 Recording absences

Agency heads are to ensure that adequate provision is made for the recording of the period of absence.

6.20.7.7 Deductions

Payment is not to be made to employees for any unauthorised absence.

Deductions are to be made for any unauthorised absence as soon as possible, irrespective of whether the employee works flexible hours or standard hours.

In respect of a part of a day’s absence, a deduction is to be made of the number of hours and minutes involved, based on the hourly equivalent of either an annual salary or weekly wage.

In respect of a full day’s absence of an employee paid on a 5 day working week basis:

- for employees paid an annual salary (or weekly equivalent of an annual salary), a deduction of 1/5th of the weekly equivalent of annual salary is to be made; or
- for employees who receive a weekly wage, a deduction of 1/5th is to be made.

6.20.7.8 Exemption of employees from industrial action

Agency heads seeking to have their employees exempted by their respective Association(s) from participating in industrial action must approach the Association(s) directly.

Exemptions may need to be sought for each occasion of industrial action as it should not be presumed that exemptions obtained on one occasion will apply automatically on another. The Department of Premier and Cabinet is to be notified of all exemptions sought and obtained.

6.20.8 Miscellaneous applications

If no specific provisions exist for an employee to engage in Association or employee representative activities, application for recreation, extended, flex leave or leave without pay may be made.

Leave should not be unreasonably refused in such circumstances. If it is considered that an application for leave might be refused, the advice of the Department of Premier and Cabinet should be sought.

If shift systems operate, agencies should make every effort to roster employees, who are honorary officials representing employees or who are representing themselves or other employees, off duty at the time required to allow their attendance at meetings and similar activities.

6.21 Leave to attend Reserve Forces Day parades

Parades are held annually across NSW to acknowledge the service of Reservists.

Employees eligible to attend the parades who are rostered to work on the day the parade is to be held in their locality may apply for either a change in the roster for that day or for accrued leave.

Accrued leave includes flex leave, recreation leave or extended leave. Applications for either a change in roster or accrued leave are subject to their agency’s operational requirements. Agency heads are encouraged to release eligible employees to attend the parades where possible.
The parades occur on or close to the first weekend in July each year. Information on the parades including dates, starting times and meeting places can be found at the Reserve Forces Day Council website: http://www.rfd.org.au/

Appendix 6 A – Extended leave provisions applying before 1 April 1991

6A-1 Calculation

6A-1.1 For Service between 5 years and 10 years
– On the completion of 5 years’ service the entitlement is 1 calendar month on full pay. – For each completed year in excess of 5 years the entitlement is 6 calendar days. – For each completed month of service after 5 years the entitlement is a half calendar day.

6A-1.2 For Service of 10 Years or More
On the completion of 10 years’ service, employees are eligible for 2 calendar months leave on full pay and for 15 calendar days for each completed year of service after 10 years – refer Table 5. Entitlements for portions of a year are detailed in Table 6.

Table 5 (Before 1.4.1991)

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<tr>
<td>40 years</td>
<td>17 months</td>
</tr>
<tr>
<td>41 years</td>
<td>17 months 15 days</td>
</tr>
<tr>
<td>42 years</td>
<td>18 months</td>
</tr>
<tr>
<td>43 years</td>
<td>18 months 15 days</td>
</tr>
<tr>
<td>44 years</td>
<td>19 months</td>
</tr>
<tr>
<td>45 years</td>
<td>19 months 15 days</td>
</tr>
<tr>
<td>46 years</td>
<td>20 months</td>
</tr>
<tr>
<td>47 years</td>
<td>20 months 15 days</td>
</tr>
<tr>
<td>48 years</td>
<td>21 months</td>
</tr>
<tr>
<td>49 years</td>
<td>21 months 15 days</td>
</tr>
<tr>
<td>50 years</td>
<td>22 months</td>
</tr>
</tbody>
</table>

### Table 6 (Before 1.4.1991)

<table>
<thead>
<tr>
<th>Period of Service</th>
<th>Leave Accrued (days)</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 days to 23 days</td>
<td>½</td>
</tr>
<tr>
<td>24 days to 1 month 5 days</td>
<td>1</td>
</tr>
<tr>
<td>1 month 6 days to 1 month 17 days</td>
<td>1½</td>
</tr>
<tr>
<td>1 month 18 days &amp; less than 2 months</td>
<td>2</td>
</tr>
<tr>
<td>2 months to 2 months 11 days</td>
<td>2½</td>
</tr>
<tr>
<td>2 months 12 days to 2 months 23 days</td>
<td>3</td>
</tr>
<tr>
<td>2 months 24 days to 3 months 5 days</td>
<td>3½</td>
</tr>
<tr>
<td>3 months 6 days to 3 months 17 days</td>
<td>4</td>
</tr>
<tr>
<td>3 months 18 days &amp; less than 4 months</td>
<td>4½</td>
</tr>
<tr>
<td>4 months to 4 months 11 days</td>
<td>5</td>
</tr>
<tr>
<td>4 months 12 days to 4 months 23 days</td>
<td>5½</td>
</tr>
<tr>
<td>4 months 24 days to 5 months 5 days</td>
<td>6</td>
</tr>
<tr>
<td>5 months 6 days to 5 months 17 days</td>
<td>6½</td>
</tr>
<tr>
<td>6 months to 6 months 11 days</td>
<td>7</td>
</tr>
<tr>
<td>6 months 12 days to 6 months 23 days</td>
<td>8</td>
</tr>
<tr>
<td>6 months 24 days to 7 months 5 days</td>
<td>8½</td>
</tr>
<tr>
<td>7 months 6 days to 7 months 17 days</td>
<td>9</td>
</tr>
<tr>
<td>7 months 18 days &amp; less than 8 months</td>
<td>9½</td>
</tr>
<tr>
<td>8 months to 8 months 11 days</td>
<td>10</td>
</tr>
<tr>
<td>8 months 12 days to 8 months 23 days</td>
<td>10½</td>
</tr>
<tr>
<td>8 months 24 days to 9 months 5 days</td>
<td>11</td>
</tr>
</tbody>
</table>

6A-2 When service includes periods of less than a completed year

When service includes periods of less than a completed year, leave accrues as follows:
6A-3 Conversion of short periods of extended leave to whole months

When it is necessary to convert short periods of extended leave to whole months, the table below should be followed.

Table 7 Conversion to whole months

<table>
<thead>
<tr>
<th>Period of Service</th>
<th>Leave Accrued (days)</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 months 6 days to 9 months 17 days</td>
<td>11½</td>
</tr>
<tr>
<td>9 months 18 days &amp; less than 10 months</td>
<td>12</td>
</tr>
<tr>
<td>10 months to 10 months 11 days</td>
<td>12½</td>
</tr>
<tr>
<td>10 months 12 day to 10 months 23 days</td>
<td>13</td>
</tr>
<tr>
<td>10 months 24 days to 11 months 5 days</td>
<td>13½</td>
</tr>
<tr>
<td>11 months 6 days to 11 months 17 days</td>
<td>14</td>
</tr>
<tr>
<td>11 months 18 days and less than 12 months</td>
<td>14½</td>
</tr>
<tr>
<td>12 months</td>
<td>15</td>
</tr>
</tbody>
</table>

6A-4 Broken periods of service

For an employee who has had broken periods of service, including broken portions of a month. The total number of days is converted to a monthly equivalent using Table 11.

6A-5 Minimum period of leave to be granted

Extended leave is not granted for less than half a day, irrespective of whether it is on full or half pay.

6A-6 Extended leave grant based on calendar days; pay based on working days

Extended leave is granted on a calendar day basis. Unless leave is taken in complete weeks or months, all short periods of leave that do not include weekends and any public holiday falling during the period of leave are converted to the calendar day equivalent.

6A-7 Extended leave conversion – working days to calendar days

6A-7.1 Method of Conversion
To convert leave taken from working days to calendar days, add the number of working days taken during the period in question then debit each aggregation of 5 working days as 7 days extended leave.

When leave is taken before and after a weekend, the actual number of calendar days in the period are debited. The same procedure is applied to long weekends and public holidays falling during a period of extended leave.

6A-7.2 Start and end of extended leave

Extended leave taken during service begins on the first working day after ceasing duty or the expiration of other paid leave, and ends on the day immediately before resuming duty, regardless of whether that day is or is not a working day.

6A-8 Calculation of monetary value on cessation of employment

When calculating the monetary value of extended leave to be paid on ceasing employment, extended leave is regarded as starting from the day immediately following ceasing duty or the expiration of other paid leave regardless of whether that day is or is not a working day.

### 6.21.1 Appendix 6B: Cumulative sick leave entitlement up to 30 April 1998

#### Table 8 Cumulative sick leave entitlement up to 30 April 1988

<table>
<thead>
<tr>
<th>Completed years of service</th>
<th>5-day week</th>
<th>6-day week</th>
<th>7-day week</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st year</td>
<td>20</td>
<td>24</td>
<td>28</td>
</tr>
<tr>
<td>2nd year</td>
<td>40</td>
<td>48</td>
<td>56</td>
</tr>
<tr>
<td>5th year</td>
<td>60</td>
<td>72</td>
<td>84</td>
</tr>
<tr>
<td>6th year</td>
<td>70</td>
<td>84</td>
<td>98</td>
</tr>
<tr>
<td>7th year</td>
<td>80</td>
<td>96</td>
<td>112</td>
</tr>
<tr>
<td>8th year</td>
<td>90</td>
<td>108</td>
<td>126</td>
</tr>
<tr>
<td>9th year</td>
<td>100</td>
<td>120</td>
<td>140</td>
</tr>
<tr>
<td>10th year</td>
<td>110</td>
<td>132</td>
<td>154</td>
</tr>
<tr>
<td>11th year</td>
<td>120</td>
<td>144</td>
<td>168</td>
</tr>
<tr>
<td>12th year</td>
<td>130</td>
<td>156</td>
<td>182</td>
</tr>
<tr>
<td>13th year</td>
<td>140</td>
<td>168</td>
<td>196</td>
</tr>
<tr>
<td>14th year</td>
<td>150</td>
<td>180</td>
<td>210</td>
</tr>
<tr>
<td>15th year</td>
<td>160</td>
<td>192</td>
<td>224</td>
</tr>
<tr>
<td>16th year</td>
<td>170</td>
<td>204</td>
<td>238</td>
</tr>
<tr>
<td>17th year</td>
<td>180</td>
<td>216</td>
<td>252</td>
</tr>
<tr>
<td>18th year</td>
<td>190</td>
<td>228</td>
<td>266</td>
</tr>
<tr>
<td>19th year</td>
<td>200</td>
<td>240</td>
<td>280</td>
</tr>
<tr>
<td>20th year</td>
<td>210</td>
<td>252</td>
<td>294</td>
</tr>
<tr>
<td>21st year</td>
<td>220</td>
<td>264</td>
<td>308</td>
</tr>
<tr>
<td>22nd year</td>
<td>230</td>
<td>276</td>
<td>322</td>
</tr>
<tr>
<td>Completed years of service</td>
<td>No of working days</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------------------</td>
<td>--------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5-day week</td>
<td>6-day week</td>
<td>7-day week</td>
</tr>
<tr>
<td>23rd year</td>
<td>240</td>
<td>288</td>
<td>336</td>
</tr>
<tr>
<td>24th year</td>
<td>250</td>
<td>300</td>
<td>350</td>
</tr>
<tr>
<td>25th year</td>
<td>260</td>
<td>312</td>
<td>364</td>
</tr>
<tr>
<td>26th year</td>
<td>270</td>
<td>324</td>
<td>378</td>
</tr>
<tr>
<td>27th year</td>
<td>280</td>
<td>336</td>
<td>392</td>
</tr>
<tr>
<td>28th year</td>
<td>290</td>
<td>348</td>
<td>406</td>
</tr>
<tr>
<td>29th year</td>
<td>300</td>
<td>360</td>
<td>420</td>
</tr>
<tr>
<td>30th year</td>
<td>310</td>
<td>372</td>
<td>434</td>
</tr>
<tr>
<td>31st year</td>
<td>320</td>
<td>384</td>
<td>448</td>
</tr>
<tr>
<td>32nd year</td>
<td>330</td>
<td>396</td>
<td>462</td>
</tr>
<tr>
<td>33rd year</td>
<td>340</td>
<td>408</td>
<td>476</td>
</tr>
<tr>
<td>34th year</td>
<td>350</td>
<td>420</td>
<td>490</td>
</tr>
<tr>
<td>35th year</td>
<td>360</td>
<td>432</td>
<td>504</td>
</tr>
<tr>
<td>36th year</td>
<td>370</td>
<td>444</td>
<td>518</td>
</tr>
<tr>
<td>37th year</td>
<td>380</td>
<td>456</td>
<td>532</td>
</tr>
<tr>
<td>38th year</td>
<td>390</td>
<td>468</td>
<td>546</td>
</tr>
<tr>
<td>39th year</td>
<td>400</td>
<td>480</td>
<td>560</td>
</tr>
<tr>
<td>40th year</td>
<td>410</td>
<td>492</td>
<td>574</td>
</tr>
</tbody>
</table>
7 Allowances

7.1 Source of Authority

Government Sector Employment Act 2013 (GSE Act)
Government Sector Employment Regulation 2014 (GSE Reg)
Government Sector Employment (General) Rules 2014 (GSE Rule)
Work Health and Safety Regulation 2011 (WHS Reg)
Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 - (Conditions Award)

<table>
<thead>
<tr>
<th>Date of Effect</th>
<th>Circular No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 September 2000</td>
<td>2000-60</td>
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<tr>
<td>1 July 2001</td>
<td>2001-35</td>
</tr>
<tr>
<td>1 July 2002</td>
<td>2002-34</td>
</tr>
<tr>
<td>1 July 2003</td>
<td>2003-30</td>
</tr>
<tr>
<td>1 July 2004</td>
<td>2004-18</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date of Effect</th>
<th>Circular No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 July 2005</td>
<td>2005-31</td>
</tr>
<tr>
<td>1 July 2006</td>
<td>2006-37</td>
</tr>
</tbody>
</table>

7.2 Camping and camping allowances

Clause 34, the Conditions Award. Camping Allowance
Clause 38, the Conditions Award. Camping Equipment Allowance.
Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).
7.2.1 Established camps – responsibilities of the agency

7.2.1.1 General

When camping areas are necessary for employees, such areas are to be provided by the agency free of charge to the employees. If necessary, the areas must be enclosed with a stock-proof fence.

7.2.1.2 Accommodation and facilities

1. The agency must provide each employee required to camp with accommodation in single cubicles. Each cubicle is to be fitted with the following:
   - ceiling and lining;
   - a bedstead, mattress and pillow;
   - a timber floor and floor covering;
   - a door and movable window of reasonable dimensions, both fitted with a gauze screen;
   - a table or a suitable substitute;
   - a seat and a wardrobe;
   - artificial lighting; and
   - a suitable heater if required.

2. Each cubicle must be lockable.

3. The agency must provide a lined bathhouse fitted with one shower for every 10 employees and one wash basin for every five employees. Both hot and cold water must be available for showers and wash basins.

7.2.1.3 Washhouses

In all established camps the agency must provide an adequate wash house equipped with a gas copper and wash tubs or washing machine and clothes drier if electricity is available. Clothes drying lines and pegs are to be provided.

7.2.1.4 Sanitary requirements

The agency must install fly-proof sanitary conveniences in all camps and on the job and must keep these conveniences clean. There must be sufficient covering to ensure privacy. Sanitary conveniences should be within a reasonable distance of the living quarters and situated so as to preclude the possibility of contamination of the water supply or food of the employees. There must be provision for the effluent from the kitchen, laundry and showers to be carried away and dispersed in such a way to avoid any risk to health. The agency must also supply sufficient and proper material to keep the sanitary accommodation safe and inoffensive. The agency must arrange for the disposal of any nightsoil.

7.2.1.5 Drainage

The agency must ensure adequate drainage for all camps.

7.2.1.6 Garbage and foliage

The agency must arrange for the disposal of garbage and keep the camping area free from undergrowth, long grass and dangerous trees.

7.2.1.7 Kitchen

Every camp must have a separate Kitchen area which includes:
   - fly-proofed windows and doors;
   - lined ceiling and covered floors;
   - suitable cooking facilities including a stove and oven;
   - storage for food and utensils;
   - a sink and drainage tray connected to running hot and cold water;
   - a refrigerator for food;
   - bench space for food preparation;
   - artificial lighting;
   - a heater, cooling equipment, and adequate ventilation;
   - adequate cleaning equipment and materials; and
   - tables and seats.
7.2.1.8 Utensils

Employees who are required to camp in the course of their duties, whether they are accommodated in established camps or not, must be provided with the following items in a quantity reasonable for their needs:

- frying pans;
- saucepans;
- baking dishes;
- enamel plates and bowls;
- cutlery;
- drinking mugs and cups;
- chopping boards;
- cutting knives and food preparation utensils;
- dishwashing and drying materials;
- kettles; and
- fire extinguishers.

7.2.1.9 Caravans

The agency may, if it is appropriate, provide a caravan or caravans to accommodate employees as an alternative to camp sites. They must be of sufficient size and number to accommodate the number of people occupying them in reasonable comfort, and must, as far as practicable, contain amenities at least equal to those specified in this chapter for camping.

There must, as a minimum, be:

- separate beds;
- mattresses and pillows;
- stove and oven;
- refrigerator;
- wardrobe and cupboard space;
- food preparation bench;
- sink with hot and cold running water;
- table and seats;
- shower recess with hot and cold running water;
- adequate ventilation with heater and cooling equipment;
- artificial lighting; and
- floor covering and gauze on all windows and doors

7.2.2 Non-established camps – responsibilities of the agency

7.2.2.1 Items to be provided by the agency

Employees required to camp in other than an established camp or caravan must be provided by the agency, without charge, with a tent for sleeping and personal use.

It must be of reasonable dimensions to accommodate the number of people occupying the tent. It must have a floor, gauze covering on windows or openings, and, for each employee:

- a camping bed, mattress and pillow;
- a mosquito net; and
- a heavy-duty torch and gas lantern.

If one or more employees are required to camp, they must be provided with the following items in sufficient number for their reasonable needs:

- a tent of adequate dimensions as required by the employee for equipment storage, work, recreation and food preparation;
- folding chairs and table;
- utensils box;
- food box;
- portable refrigerator and gas cylinder;
- portable stove with wind guard and gas cylinder;
- camping oven;
▪ adequate water containers;
▪ washing up basin;
▪ clothes line and pegs;
▪ tarpaulins;
▪ spade;
▪ axe;
▪ portable heater with gas cylinder;
▪ portable shower; and
▪ first aid kit (medium industrial kit).

7.2.2.2 Hire of equipment
If the agency is unable to provide the equipment specified in “7.2.3.8 Utensils” and “7.2.4.1 Items to be provided by the agency” then (subject to the employee having obtained necessary agency approval) an employee required to camp is to be:
▪ reimbursed for the necessary and reasonable cost of hiring such equipment, subject to the production of receipts; or
▪ paid the daily allowance for providing their own camping equipment.

7.2.2.3 Bedding and sleeping bags
Employees who provide their own bedding or sleeping bag while camping on official business are to be paid the bedding and sleeping bag allowance.

Otherwise the agency must provide necessary sheets, blankets or sleeping bag.

7.2.3 Provision of transport and travelling allowance
▪ The agency must provide the employee with transport to and from the camp site and home or the usual place of work.
▪ An employee required to use a private motor vehicle to travel to and from the camp site and home or the usual place of work is to be paid the appropriate rates under - Clause 36 - Allowance payable for use of Private Motor Vehicle (the Conditions Award) or; under the provisions contained in any other industrial instrument applying to the employee.
▪ If necessary, the agency must provide a vehicle to transport employees from the camp site to the temporary work location, and transport for provisions, water, and other essentials.
▪ If a vehicle available to the employees is not equipped with a two-way radio, the agency must provide equipment that will allow communication between the vehicle and the camp site.

7.2.4 Returning home on weekends
7.2.4.1 Special leave entitlement
See - Clause 84.7, Special Leave - the Conditions Award

7.2.4.2 Allowances for home visits
An employee granted leave as provided in subclause 84.7 (the Conditions Award) is to be reimbursed for the actual and necessary travel expenses incurred.

The employee is entitled to:
▪ first class return rail fare for the journey; or
▪ reimbursement for the use of their private vehicle either by a motor vehicle allowance at the Casual Rate under Clause 36 – Allowance payable for Use of Private Motor Vehicle, (the Conditions Award), or an allowance under any industrial instrument covering the subject matter when approval is given to use a private vehicle; or
▪ an economy class air fare.

7.2.5 Travelling time
Nothing in this Section deprives an employee of compensation for time spent in travelling as provided in Clause 27. See - Clause 27, Excess Travelling Time - the Conditions Award
7.3 Community Language Allowance Scheme (CLAS)

7.3.1 Sources of authority
Clause 50, the Conditions Award - Community Language Allowance Scheme

Community Language Allowance Scheme
Community Language Allowance Scheme Handbook, published by Multicultural NSW.

7.3.2 About the CLAS allowance
The Community Language Allowance Scheme (CLAS) provides an allowance that is paid to employees selected by their agency to communicate with clients of the agency in a language other than English as an addition to their normal duties.

7.3.3 Payment of the allowance
Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).

The Community Language Allowance is to be paid as an allowance in the nature of salary for all purposes.

Part time employees receive a pro rata allowance.

The Community Language Allowance is not portable between agencies and is payable only to employees working in a location approved by their agency.

7.3.4 Eligibility
See – Qualifying to receive the allowance under the CLAS – Community Language Allowance Scheme Handbook

7.3.4.1 The CLAS examination
Employees selected by their agency to provide assistance under the CLAS must pass a language examination administered by Multicultural NSW which assesses the staff member’s ability to speak and read a community language at a satisfactory level.

Employees who have gained NAATI accreditation at the Interpreter level or a NAATI language Recognition award are not required to undertake a Multicultural NSW language examination.

Multicultural NSW administers the CLAS Examination and publishes the relevant policy and guidelines on its website.

7.3.4.2 Base level of assistance
The base level of the CLA is paid to those members of staff who are required to meet occasional demands for language assistance (there is no regular pattern of demand for their skill); and who have passed an examination administered by Multicultural NSW, or who are NAATI accredited.

7.3.4.3 Higher level of assistance
The higher level is one and a half times the base level. It is paid to employees who, in addition to the requirements for Base Level Assistance, also meet any of the following criteria:

- regularly meet high levels of customer demand involving a regular pattern of usage of the staff member’s language skills

OR

- have achieved qualifications of NAATI interpreter level or above. This recognises that employees with higher levels of language skill will communicate with an enhanced degree of efficiency and effectiveness.

Agencies determine which types of work attract the higher level of the allowance.
7.3.4.4 Interpreters not eligible

Members of staff who are employed as interpreters and translators or whose particular language skills are an essential requirement of their role are not eligible for the CLAS.

7.3.5 Interpreters, translators and CLAS recipients

The CLAS is designed to help agencies meet the need to provide on-the-spot assistance for simple, uncomplicated matters such as answering counter enquiries, giving directions to another office, or making an appointment for a further visit.

See – When to use CLAS and when to use interpreters – Community Language Allowance Scheme Handbook

7.3.6 Administering and monitoring CLAS allowances

See – Monitoring and reviewing CLAS – Community Language Allowance Scheme Handbook

The outcomes of monitoring should lead to a report reviewing the scheme that includes recommendations for the program in the following year.

7.4 Compensation for personal property

See - Clause 47, the Conditions Award - Compensation for Damage to or Loss of Staff Member’s Personal Property

7.5 Composite allowance

See - Clause 35, the Conditions Award - Composite Allowance

Rates are set out in the current circular for meal, travelling and other allowances (see 7.1).

7.6 Cost of travel to and from work

7.6.1 Employee’s liability

An employee must bear the cost of travel to and from work, unless the Agency Head otherwise determines or the provisions of “7.6.2 Exceptions” below, apply.

7.6.2 Exceptions

- If the employee is directed to report for duty at a locality other than the locality at which the employee reported for duty at the beginning of the day; or
- if the employee is directed to report for duty on any day or days at a locality other than the locality at which the employee is normally required to report for duty; and
- if the employee has already incurred expenditure in relation to travel on that day or those days to the locality at which the employee is normally required to report for duty, then
- the cost of travel on that day or those days – up to five days – to the locality at which the employee is directed to report for duty is to be borne by the department.

7.6.2.1 Five-day limit

If the Agency Head is satisfied that special circumstances exist, they may approve a period of assistance longer than the 5 days specified in “7-6.2 Exceptions”.

7.7 First aid allowance

7.7.1 Sources of authority

Work Health and Safety Regulation 2011 (see Clause 42, Duty to provide first aid)

Clause 51, the Conditions Award - First Aid Allowance

Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).
7.7.2 Qualifications

See - Subclause 51.2 and 51.3, the Conditions Award - First Aid Allowance

Details of accredited trainers for the Occupational First Aid Certificate may be obtained by contacting SafeWork NSW.

7.8 Flying allowance

Clause 45, the Conditions Award – Flying Allowance

Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).

7.9 Forage for Horses

7.9.1 Source of authority

Clause 49, the Conditions Award - Forage for Horses

7.10 Allowance for temporary assignments or secondments to higher non-executive roles

7.10.1 Source of Authority

Please refer to Part 2, Division 2, Clause 20 of the Government Sector Employment Regulation 2014

Please refer to Part 6, Clause 33 of the Government Sector Employment Rules 2014

7.10.2 General

A Public Service non-executive employee who is temporarily assigned or seconded to another non-executive role is entitled to be paid an allowance if the other role is at a higher classification of work than the employee’s current classification of work.

7.10.3 Rate of allowance

The temporary assignment allowance to be paid to the employee is the difference between the salary of the employee’s usual role and the minimum salary or remuneration for the temporarily assigned or seconded role. However, the rate of allowance may be paid at a higher salary or remuneration for the role if determined appropriate by the agency head, having regard to the employee’s capabilities, knowledge and experience, including previous periods of temporary assignment or secondment at the higher level.

7.10.4 Duration of temporary assignment or secondment

The temporary assignment allowance is not payable for above-level temporary assignments or secondments of less than 5 days duration unless determined otherwise by the agency head (clause 20(4) (a) and 21(6) (a) of the GSE Regulation). For above-level temporary assignments or secondments 5 days or greater in duration, an allowance can be paid at the full rate or a pre-determined proportional rate if the employee is performing part of the role’s usual duties (clause 20(3) and 21 (5) of the GSE Regulation).

7.10.5 Periods of leave

For above-level temporary assignments or secondments from 5 days to 3 months duration, the temporary assignment allowance is not payable for any unbroken period of leave exceeding 5 ordinary working days. That is, the allowance is payable for any periods of leave that is less than 5 ordinary working days. For above-level temporary assignments or secondments of more than 3 months duration, the temporary assignment allowance is payable for all periods of leave (clause 20(4) (b) and 21(6) (b) of the GSE Regulation).
7.10.6 6.4 Overtime

The temporary assignment allowance is to be included in salary for the purposes of calculating overtime only if the duties carried out during the overtime are those of the above-level role. Please also refer to "Clause 95 – Rate of payment of overtime" in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

7.10.7 6.5 Timing of allowance payments

The temporary assignment allowance should be calculated and paid as per the normal pay cycle during the period of the temporary assignment or secondment. If the temporary assignment or secondment is for a short duration, the allowance may be paid at the completion of the period.

7.10.8 6.6 Payment for accrued leave on retirement, resignation or redundancy after 12 months

If the temporary assignment allowance has been paid at the full rate for a continuous period of more than 12 months and the employee is still temporarily assigned or seconded to the higher level role, the higher rate of pay applies to any accrued recreation or extended leave and to final payments associated with retirement, resignation or redundancy.

7.10.9 6.7 Parental leave

If the employee has been temporarily assigned or seconded to the higher level role for more than 12 months at the full rate (i.e. not at a proportional rate) and the temporary assignment or secondment continues up to the day before the start of parental leave, the pay for parental leave should include the temporary assignment allowance.

7.11 Motor vehicle allowances

7.11.1 Sources of authority

Clause 36, the Conditions Award - Allowance payable for Use of Private Motor Vehicle;
Clause 37, the Conditions Award - Damage to Private Motor Vehicle used for Work and;
Clause 48, the Conditions Award - Garage and Car Port Allowance.

7.11.2 Eligibility

See Clause 36 - the Conditions Award.

7.11.3 Rates of allowance

Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).

7.11.4 Criteria for payment of allowances

7.11.4.1 Official business rate

See – subclause 36.3.2, the Conditions Award.

7.11.4.2 Casual rate

See – subclause 36.3.1, the Conditions Award

7.11.4.3 Motor cycles and motor scooters

The allowance for motor cycles and motor scooters is paid regardless of the total number of kilometres travelled per annum, the engine capacity and whether the journey is official business or casual.

7.11.5 Limitations on and deductions from payment

See – subclause 36.4, the Conditions Award for full details of deductions and limitations on the payment of motor vehicle allowances.
7.11.6 Insurance requirements
See – subclause 36.5, the Conditions Award

7.11.7 Private vehicles damaged on official business or other approved travel
See – subclause 37.1, the Conditions Award.

7.11.7.1 Reimbursement of insurance policy excess
See – subclause 37.1, the Conditions Award.

7.11.7.2 Broken windscreen
See – subclause 37.2, the Conditions Award.

7.11.7.3 Claims for reimbursement
Claims for reimbursement under Clause 37, the Conditions Award should be accompanied by sufficient detail for the agency to assess the claim.

Agency human resource/corporate services should have pro-forma claim forms for reimbursement purposes available.

7.11.8 Tolls, charges and miscellaneous costs
See – subclause 36.6, the Conditions Award.

7.11.9 Towing a trailer or horse float
See – subclause 36.7, the Conditions Award.

Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).

7.11.10 Garage and carport allowances
See – Clause 48, the Conditions Award-Garage and Carport Allowance

Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).

7.11.11 Use of private motor vehicle in conjunction with air travel
If an employee uses their private motor vehicle to travel to and from an airport for approved travel, the Agency Head may approve an allowance being paid for the journey to and from the airport at the casual rate.

7.11.12 Use of private motor vehicles – temporary work locations
If approval is given by the Agency Head for an employee to proceed to a temporary work location (TWL) for 2 or more days, approval may also be given for the employee to take their private car to the temporary work location.

If approval is given, motor vehicle allowances are to be paid in accordance with this table:

<table>
<thead>
<tr>
<th>Situation</th>
<th>Official business use</th>
<th>Rate Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>First journey to ad last journey from TWL</td>
<td>Required</td>
<td>Official Business</td>
</tr>
<tr>
<td>Other journeys between home and TWL</td>
<td>Required</td>
<td>Casual Rate</td>
</tr>
<tr>
<td>Official business use at TWL</td>
<td>Required</td>
<td>Official Business</td>
</tr>
<tr>
<td>All travel to and from TWL</td>
<td>Not required</td>
<td>Casual Rate</td>
</tr>
</tbody>
</table>
7.11.13  Refund of motor vehicle licence fees

Motor vehicle licence fees and expenses associated with obtaining the license (that is, charges paid to the Roads and Maritime Authority) should only be refunded when an employee is not employed as a driver and is directed by the employer to obtain or hold a licence for agency purposes.

If the employee has a licence for private purposes and this is made use of occasionally, no refund is to be made.

7.12 On-call allowance

See – Clause 92, the Conditions Award - On-Call (Standby) and On-Call Allowance

Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).

7.13 Overseas travelling allowances

7.13.1 Source of authority

Clause 41, the Conditions Award - Overseas Travel

OFS-2014-07-Official Travel in Australia and Overseas

DFSI-2015-05-Australian and Overseas Travelling Allowances for Official Travel by Senior Officials

C2003-05, Travelling Overseas on Official Business Australian Department of Foreign Affairs and Trade Travel Advice

7.13.2 Eligibility

Employees who in the course of their duty are required to travel overseas may be eligible for overseas travelling allowances.

See - OFS-2014-07-Official Travel in Australia and Overseas

7.13.2.1 Approval of Minister

The appropriate Minister must approve all official overseas travel by employees.

See 2.4.1, Approval for official travel overseas - OFS-2014-07-Official Travel in Australia and Overseas

7.13.2.2 What constitutes official overseas travel

Official overseas travel is travel out of Australia by a statutory appointee or by an employee of an agency, board, commission or other authority coming within a Minister’s administration when:

- the employee is on duty;
- the employee undertakes some official duty during the course of a private overseas visit;
- the employee is on special leave for any purpose;
- the employee undertakes official duty during absence overseas on leave granted for study purposes; or
- the employee proceeds overseas for a tour of duty (on exchange or otherwise) with another government or a body such as the United Nations or one of its agencies.

7.13.2.3 Strictest economy to be exercised in overseas visits

See 2.4.1, Approval for official travel overseas – OFS-2014-07-Official Travel in Australia and Overseas

7.13.2.4 Period of visit extended for private purposes

See 2.4.6, Private leave - OFS-2014-07-Official Travel in Australia and Overseas

7.13.2.5 Undertaking private visits and seeking to be on duty

See 6-18.14.6 Visits to other countries.
7.13.2.6 Requirements for applications to attend international conferences

The presentation of a paper should normally be regarded as the minimum requirement when considering applications for employees to attend international conferences.

7.13.2.7 Representation at overseas conferences

Official representation at overseas conferences should be kept to a minimum.

7.13.2.8 Study scholarships and study leave

Study overseas on scholarship is not considered official overseas travel even though the employee concerned may be on part or full salary for the period of the scholarship or study leave, or may receive financial support from the employing agency during that time.

See 6-20 Study, employee development and training activities.

The critical question in study leave cases is whether or not the employee is to be regarded as being on duty, conducting official business, or performing an official function during the absence overseas. If so, the procedures for official travel should be followed.

7.13.2.9 Protocol

Correct protocol should be observed in connection with official visits overseas and relations with foreign governments. See 2.4.8, Protocol - OFS-2014-07-Official Travel in Australia and Overseas

7.13.2.10 Department of Foreign Affairs and Trade warnings about visits to other countries

If DFAT has issued a warning not to travel to another country, this direction overrides any approval given by a Minister.

See - C2003-05 Travelling Overseas on Official Business Australian Department of Foreign Affairs and Trade Travel Advice

All travellers are advised to visit the DFAT Smart Traveller website for travel advice about the countries they are planning to visit: www.smartraveller.gov.au

7.13.2.11 Foreign governments not to be approached

Foreign governments should not be approached directly by a State Minister or employee seeking any form of assistance with overseas visits. This applies even if an established liaison already exists with a representative of a foreign government or one of its departments. Such requests should be directed through the diplomatic or consular missions.

7.13.2.12 Health

See 2.4.9, Health - OFS-2014-07-Official Travel in Australia and Overseas

Public officials should familiarise themselves with the content of the Travel Health Section of the DFAT website Smart Traveller: www.smartraveller.gov.au

7.13.2.13 Other Matters

See 2.4.10, Security - OFS-2014-07-Official Travel in Australia and Overseas - officers travelling overseas should keep themselves aware of updated travel advice on the DFAT website and register their travel itinerary online at DFAT Registration.

7.13.2.14 Records

Agencies are to keep centralised records of all official travel overseas.

See 2.4.7 Records - OFS-2014-07-Official Travel in Australia and Overseas

7.13.3 Rates of allowance

The Department of Finance, Services and Innovation is responsible for administering the Policy on Official Travel within Australia and Overseas.

See - DFSI-2015-05-Australian and Overseas Travelling Allowances for Official Travel by Senior Officials
7.13.4 Salary and payment of allowances

During an official visit, salary continues to be paid in Australian currency, and allowances and expenses as follows.

The daily travelling allowances specified for each location as described in - DFSI-2015-05-Australian and Overseas Travelling Allowances for Official Travel by Senior Officials are payable to employees while on duty in that country from the time of their arrival at the centre where the duties are to be performed until the time of departure from that centre on the return journey to Australia, or the journey to the next centre where duties are to be performed.

If the Agency Head is satisfied that an employee has incurred an expense during the time spent in flight, the employee may be reimbursed for the amount of the expense.

7.13.5 Expenses to be met from allowances

As a general rule, the travelling allowance covers the cost of meals and incidental expenses but not accommodation.

The cost of accommodation is paid on the basis of actual reasonable expenses incurred.

Incidental expenses would include, for example, laundry and dry cleaning, taxi fares (other than for official business), newspapers and magazines, private telephone calls and gratuities.

The following payments will be met separately by the agency:

- charges for necessary health examinations, inoculations and vaccinations;
- fees for necessary passports and visas;
- compulsory entry or exit fees, or imposts of overseas authorities or governments; and
- necessary payments incurred for the handling of official material and documents or a Minister’s luggage.

If an employee’s itinerary in Australia or overseas involves accommodation or activities such as conferences and seminars at which meals are included in the price, the agency should consider whether it is appropriate that the employee’s daily allowance be discounted for the included meals.

7.13.6 Variation of rates

If it is demonstrated to the satisfaction of the Agency Head that the travelling allowance payable to an employee is insufficient to cover actual expenses incurred, the Agency Head may approve payment necessary to meet those expenses. Justification for the expense must be in respect of the entire period of travel overseas and not only in respect of particular segments of the journey.

7.13.6.1 Employees accompanying Ministers and senior staff

If an employee is travelling with a Minister of the NSW Government or a very senior employee and has been directed by the Minister or senior person to travel by the same class of travel and to reside in the same accommodation, the Agency Head must approve a travelling allowance at a higher than normal rate that would adequately cover expenses properly and reasonably incurred.

7.13.6.2 Employees accompanying Agency Heads and delegations

If a delegation or party consists of employees in more than one of the categories of travelling allowances, the rate to be applied to each employee is to be the rate appropriate to the classification of the position occupied by the employee.
However, cases in which special circumstances apply should be referred to the Secretary of the Department of Premier and Cabinet.

7.13.7 Other Overseas Travelling Allowance Issues

7.13.7.1 Travel by other than the approved route
If an employee elects to travel by other than the approved method or route, travelling allowances are on the basis of travel by the direct approved method and route.

7.13.7.2 Calculation of daily portion of allowance
In the calculation of the daily portion of the allowance:
- the time of day used for that purpose will be the time and date at the places of departure and destination respectively; only whole hours are counted;
- the period is rounded down to the nearest hour; and when the allowance is payable for less than a day the allowance is paid at an hourly rate of 1/24th part of the daily rate.

7.13.7.3 Approval of special rates
An Agency Head may ask the Secretary of the Department of Premier and Cabinet to approve special rates to meet unusual circumstances.

7.13.7.4 Travel bookings
All domestic and international official travel bookings must be made through the NSW Government’s approved supplier under Contract 1008 Travel Management Services.

See 2.2, Air Travel Bookings - OFS-2014-08- Australian and Overseas Travelling Allowances for Official Travel for Senior Officials

7.14 Remote areas – allowances and travelling on recreation leave

7.14.1 Sources of authority
Clause 39 - Allowance for Living in a Remote Area the Conditions Award
Clause 40 - Assistance to staff members stationed in a remote area when travelling on recreation leave the Conditions Award

7.14.2 Remote areas – living allowance

7.14.2.1 Definition
See - subclause 39.2 - the Conditions Award

7.14.2.2 Dependant
See - subclauses 39.3 and 39.4 - the Conditions Award

7.14.2.3 Eligibility
See - subclause 39.1 - the Award agency temporary employees, such as relief staff, who are employed for short periods are not eligible to receive a remote areas allowance.

See - subclause 39.5 - the Conditions Award

An employee working continuously in a remote area but for reduced hours is eligible to receive the allowance pro rata. The allowance payable is calculated by multiplying the appropriate rate of allowance by the number of hours worked per week by the employee and dividing by the standard weekly hours for a full time employee in the same classification:

\[
\text{Part Time allowance} = \left( \frac{\text{Rate as in } 7 - 14.3 \text{ Rates of allowance} \times \text{Weekly hrs worked}}{\text{Weekly hours worked by full time employee}} \right)
\]

Employees who reside within the defined area and whose dependants reside east of the line will be paid the allowance at the non-dependant rate.
7.14.2.4 Criteria for dependant allowance rate
See - subclause 39.3 - the Conditions Award.

7.14.3 Rates of allowance
Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).

7.14.4 Military leave and remote areas allowance
See subclauses 39.6 and 39.7 - the Conditions Award

7.14.5 Remote areas – travelling on recreation leave
7.14.5.1 Definition
See - subclause 40.1 - the Award

7.14.5.2 Use of private vehicle – rates
Employees who travel on recreation leave by their own vehicles receive the casual rate for a maximum number of kilometres. See the current Treasury Circular for meal, travelling and other allowances (see 7.1)

7.14.5.3 Other transport – rates
7.14.5.3a General
Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).
These expenses may include the cost of overnight accommodation for the employee and their dependants but is not to include payments for taxi fares or meals.

7.14.5.3b Rail travel
Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).

7.14.5.4 Accommodation costs
If an employee is obliged to obtain overnight accommodation when travelling to and from the recreation destination, an additional allowance is payable at the rate of $2.50 for the employee, spouse and each dependent child with the following conditions;

- When the employee is travelling by their own vehicle, with agency approval, the allowance is payable for only two nights on each of the forward and return journeys.
- When the employee is travelling by other means than their own vehicle the allowance is payable on one night only on each of the forward and return journeys.
- No payment is to be made for accommodation costs unless the employee travels at least 480 kilometres by the nearest practicable route from the place where the employee is indefinitely stationed.

The allowance for accommodation costs is payable as appropriate whether or not the employee actually expends any money on overnight accommodation. It is also payable if the employee camps or uses a caravan.

7.14.5.5 Limitations
See - subclauses 40.1 and 40.3 - the Conditions Award

7.15 Room at home as an office
7.15.1 Source of authority
See - Clause 43, Room at Home Used as Office the Conditions Award.

7.15.2 Rate of allowance
Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).
7.15.3 Eligibility

7.15.3.1 If no agency office is provided in a particular location
See - subclause 43.1 - the Conditions Award

7.15.3.2 If an office exists in a particular location
See - subclause 43.2 - the Conditions Award

7.15.3.3 Requirements
See - subclause 43.3 - the Conditions Award

7.16 Semi-official telephone subsidy

7.16.1 Source of authority
Clause 44, the Conditions Award. - Semi-official Telephones.

7.17 Travel arrangements

7.17.1 Source of authority
Clauses 26 through 33 of the Conditions Award outline provisions for travel arrangements.

7.17.2 Travelling compensation
See clause 26, Travelling Compensation of the Conditions Award.

7.17.3 Excess travelling time

7.17.3.1 Excess travelling time
See clause 27, Excess travelling time of the Conditions Award.

7.17.3.2 Waiting time
See clause 28, Waiting Time of the Conditions Award.

7.17.4 Meal allowances for one-day journeys

See clause 29, Meal expenses on one-day journeys of the Conditions Award.

7.17.5 Rates of meal allowances
Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).

7.17.6 Accommodation and related allowances
An employee who performs official duty at or from a temporary work location and, as a result, is required to obtain temporary accommodation is to be compensated in accordance with clauses 26 and 32 of the Conditions Award for the expenses properly and reasonably incurred during the time spent away from their residence.

7.17.6.1 Rates of allowances
Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).

Where a staff member is required to work in the same temporary work location for more than 35 days but less than 6 months, the above allowances are reduced by 50% for all locations.

See subclause 26.8 of the Conditions Award.

Different rates and conditions apply when staying in Government Accommodation.

See clause 26, Travelling Compensation of the Conditions Award.

7.17.6.2 Claiming the allowance or actuals
See subclause 26.8.2 of the Conditions Award.

7.17.7 Adjustment of allowances
An agency head may adjust the amount of the allowance in the circumstances set out in clause 31, Increase or Reduction in Payment of Travelling Allowance of the Conditions Award.
If the Agency Head is satisfied that owing to exceptional circumstances an employee is required to continue in temporary accommodation for longer than 6 months, the Agency Head may extend the allowances payable beyond the 6-month period.

7.17.7.1 Production of receipts
See clause 32, Production of Receipts of the Conditions Award.

7.17.7.2 Travelling distance
The Agency Head determines the need for overnight accommodation, in accordance with clause 33, Travelling Distance of the Conditions Award.

7.17.7.3 Composite allowance
See also “7-5 Composite allowance”.

7.18 Travelling and meal allowance for employees required to attend examinations

7.18.1 Source of authority
Department of Premier and Cabinet Determination, Travel/Meal Allowance – Examinations.

7.18.2 Eligibility
When an employee is required to attend an examination (under the GSE Act 2013, GSE Reg 2014, GSE Rules 2014, or by an award, agreement or determination) and has to travel to another centre to do so, the agency assists with expenses in the following manner:

- payment of the first-class rail fare; or
- if the employee uses a private motor vehicle, a vehicle allowance is to be paid at the casual rate under clause 36 – Allowances Payable for use of a Private Motor Vehicle of the Conditions Award, up to the value of the rail fare.

The employee is also to be reimbursed for the actual costs incurred in obtaining any necessary and reasonable meals, and reasonable overnight accommodation if required, less $16.00 provided that the accommodation and meals were actually bought and paid for.

7.18.2.1 Nature of examinations
This provision includes both medical examinations and tests of knowledge, skills and ability.

Agency Heads granting such leave may, if appropriate, approve payment of assistance under “7-18.2 Eligibility”.

7.19 Uniforms, protective clothing and laundry allowance
Clause 46 - Uniforms, Protective Clothing and Laundry Allowance - the Conditions Award.

Rates are set out in the current Treasury Circular for meal, travelling and other allowances (see 7.1).

7.20 Skills shortage allowances
For guidance on application of Skills Shortage Allowance refer to - NSW TC 14/19 Manual of Delegations 2014.