



## **Home Care Administrative Staff Award**

Full Title:

**Crown Employees (Home Care Service of New South Wales - Administrative Staff) Award 2001**

**CROWN EMPLOYEES (HOME CARE SERVICE OF NEW SOUTH WALES -  
ADMINISTRATIVE STAFF) AWARD 2001**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Notice of award review pursuant to section 19 of the *Industrial Relations Act* 1996.

(No. IRC 3465 of 1999)

Before the Honourable Mr Deputy President Harrison

5 and 24 July 2001

**REVIEWED AWARD**

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## **PART A - Machinery**

### **2 Title**

This Award shall be known as the *Crown Employees (Home Care Service of New South Wales - Administrative Staff) Award 2001*.

### **3 Area, Incidence and Duration**

- (i) This Award shall apply to persons employed in the classifications contained in Part G, Monetary Rates of this award.
- (ii) This award is made following a review under section 19 of the *Industrial Relations Act, 1996* and rescinds and replaces the Crown Employees (Home Care Service of New South Wales Administrative Staff) Award published 21 January 1994 (278 I.G. 235).
- (iii) The Award published 21 January 1994 took effect from the first full pay period which commenced on or after 7 September 1992.
- (iv) The changes made to the award are in accordance with the Award Review process pursuant to Section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 18 December 1998 (308 IG 307) and are set out in the attached Schedule B and take effect on 5 July 2001.
- (v) This award remains in force until varied or rescinded, the period for which it was made having already expired.

### **4 Definitions**

- (i) "*Administrative Officer*" means and includes all employees of the Home Care Service of New South Wales other than those employed under the Community Services (Home Care of New South Wales) Field Staff Award 1992 and all variations thereof.
- (ii) "*Employee*" means a person employed pursuant to this Award.
- (iii) "*Employer*" means the Home Care Service of New South Wales as constituted by the *Home Care Service Act 1988*.
- (iv) A "*Full-time*" employee is one who is appointed to work 35 hours per week.
- (v) A "*Part-time*" employee is one who regularly works less than 70 hours per fortnight.
- (vi) A "*Casual*" employee means an employee engaged by the hour and paid as such and shall only be used for temporary and relief purposes.
- (vii) "*Care Service*" means the body referred to in the *Home Care Service Act, 1988*.
- (viii) "*Service*" means Home Care Service of New South Wales.
- (ix) "*Trainee*" means an employee who is bound by the Crown Employees (Home Care Service of New South Wales - Administrative Staff - Training Wage) Award 2001.

- (x) "*Union*" means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

## **5 Consultation**

Home Care and the Union agree to continued consultation through the Joint Consultative Committee regarding matters affecting, but not limited to those that are likely to have a significant effect on employees, such as major changes to organisational structure, programs or technology.

## **6 Grievance/Dispute Settling Procedures**

When a dispute arises every effort must be made to resolve the matter with haste and settle it by following the procedure as set out below:

Step 1 In the first instance the issue should be discussed between the employee(s) concerned and the Supervisor/Branch Manager. If at this stage the parties are unable to discuss the issue, an employee may seek the intervention of a Home Care union delegate.

Step 2 If the issue has not been resolved within a reasonable time period the employee(s) or a Home Care union delegate may approach the Area/Section Manager to seek resolution of the dispute.

Step 3 Should the parties be unable to resolve the dispute as defined in Steps 1 and 2 the parties may refer the issue to their respective representatives i.e. the Manager, Employee Relations or delegate for Home Care and the General Secretary of the Union or delegate for the employees of the Home Care Service.

Step 4 If the issue is not resolved by discussion between management and the union either party can refer the matter to the General Manager of the Home Care Service for resolution.

Notwithstanding the above, either party still has the option to refer the issue to the relevant industrial tribunal for resolution.

When the dispute relates to more than one branch the procedure will start at Step 3.

It is agreed that work shall continue during the period of discussion except where there is a bona fide safety matter, in which case employees may be relocated to safe positions.

## **Part B - Employment**

### **7 Contract of Employment**

- (i) The employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the classification structure of this award, provided that such duties are not designed to promote deskilling.
- (ii) The employer may direct an employee to carry out such duties and use such tools and equipment as may be required, provided that the employee has been properly trained in the use of such tools and equipment.

- (iii) Any direction issued by the employer pursuant to subclauses (i) and (ii) of this clause shall be consistent with the employer's responsibility to provide a safe and healthy working environment.
- (iv) An employee may be engaged as full-time, part-time or casual.
- (v) The engagement of employees other than casuals shall be terminated by two weeks' notice on either side to be given at any time during the week or by the payment or forfeiture, as the case may be, of two weeks' wages in lieu thereof.
- (vi) Notwithstanding the provisions of this clause, the employer or its representative shall have the right to terminate the services of an employee at any time for refusal of duty, malingering, inefficiency, neglect of duty or misconduct and shall be liable only for payment up to the time of dismissal.
- (vii) The employment of a casual employee may be terminated by one hour's notice.
- (viii) Upon the termination of employment the employer shall, at the request of the employee, give to such employee a statement signed by the employer stating the period of employment, the class of work for which the employee was engaged and when the employment terminated.

## **8 Part-Time Employees**

- (i) Part-time employees (see Part A, clause 4, Definitions) employed under this clause shall be paid an hourly rate calculated on the basis of one thirty-fifth of the appropriate weekly rate prescribed by Table 1 - Salaries, of Part G, Monetary Rates, with a minimum payment of one hour for each start.
- (ii) Employees engaged as Part-time shall be granted leave and other entitlements of this award on a pro-rata basis.

## **9 Casual Employees**

- (i) Casual employees (see Part A, clause 4, Definitions) shall receive an hourly rate of one thirty-fifth of the appropriate weekly rate of salary prescribed in Table 1 - Salaries, of Part G, Monetary Rates, plus a casual loading of 15 per cent, for all duties performed in ordinary time on any day, Monday to Friday, inclusive. This amount shall be the ordinary hourly rate of pay for casual employees.
- (ii) The hourly rate of pay prescribed in sub-clause (i) of this clause shall be calculated to the nearest whole cent, any amount less than a half cent in the result to be disregarded.
- (iii) Casual employees shall receive a minimum payment of one hour for each start.

## **10 Hours of Work**

- (i) The ordinary hours of work, exclusive of meal times, shall not exceed seven hours per day or thirty five hours per week, to be worked between the hours of 8.00 am and 8.00 p.m., Monday to Friday.

- (ii) The starting and finishing times of an employee once fixed may be altered by the employer only following one month's notice to accommodate a change in office hours but may be altered at any time by agreement between the employer and the employee.
- (iii) Sub clauses (i) and (ii) of this clause apply except as provided for in clause 11, Flexi-time of this award.

## **11. Flexi-Time**

### 1. *Application*

- (i) The provisions contained in this clause apply to all permanent employees including those employed on a part-time basis.

### 2. *Band Width*

- (i) The Band Width is 8.00am to 8.00pm, Monday to Friday, during which time normal work can be undertaken, based on the conditions contained in this clause.
- (ii) Time worked outside the Band Width will attract overtime in accordance with clause 18, Overtime of this award.
- (iii) Alteration to the Band Width shall be by agreement.

### 3. *Credit/Debit Hours*

- (i) Credit / Debit Hours are identified as being the difference between the hours an employee has accumulated in a four weekly period and the ordinary hours of 140.
- (ii) Hours in excess of 140 are credit hours, those less than 140 hours are debit hours.

### 4. *Coretime and Standard Time*

- (i) Coretime is the period during the day within Standard Hours when all staff are required to be on duty, unless on authorised Leave.
- (ii) Coretime shall be set by each Work Location.
- (iii) Coretime shall be of 6 hours duration, exclusive of a Meal break.
- (iv) Standard Time shall be the hours a Work Location is normally open and operating and shall be set by Central Office.

### 5. *Lunch and Meal Breaks*

- (i) Approval may be sought for a Work Location to have a flexible lunch period. The minimum lunch period shall be a half hour. Under normal circumstances the maximum lunch period shall be one hour.
- (ii) Lunch periods in excess of one hour shall be determined in consultation with the Authorising Officer, ensuring that such an extension does not prevent the proper functioning of the Section to which the employee is attached.

- (iii) An employee shall not be required to be on duty for more than 5 ordinary hours from the time of commencement without a break.

6. *Accumulation and Carry Over*

- (i) An employee may accumulate credit or debit hours throughout a period, provided that at the end of the period the number of credit or debit hours carried forward does not exceed 10 hours.
- (ii) Where an employee's accumulation of credit hours at the end of a period exceeds 10 hours the excess hours shall be forfeited.
- (iii) Authorising Officers shall make every effort to ensure that an employee does not consistently forfeit excess credit hours at the conclusion of periods as a result of requests for flexileave being refused.
- (iv) Where an employee's accumulation of debit hours at the end of a period exceeds 10 hours, the excess hours accumulated shall be taken as leave without pay.

7. *Flexileave*

- (i) An employee may take off in core time a maximum of one (1) full day or two (2) half-days at any time during a period. A half day is three and a half hours for full-time staff and half the normal hours worked for part-time staff.
- (ii) It is not necessary for an employee to have a credit balance when taking flexileave.
- (iii) Flexileave may be taken immediately before or after Annual leave.
- (iv) Flexileave cannot be taken during any period of leave.
- (v) Flexileave may not be taken at the end of a period of leave without pay.
- (vi) An employee must obtain the approval of the supervisor prior to proceeding on flexileave.

8. *Disruption of transport*

- (i) Notwithstanding any other provision contained in this clause, where an employee encounters a disruption to the mode of transport normally used in travelling from the employee's place of residence to place of employment and such disruption is caused by a transport strike or other extraordinary condition the following conditions shall apply:
  - a) The employee may commence duty at any time and where the disruption continues throughout the day, may cease duty at any time.

- b) An employee affected by such a disruption will not be debited Annual leave if the employee commences duty after the beginning of coretime. Time worked on such days will accumulate in the normal way.
  - c) The employee may elect to take off the full day as flexileave where the disruption is reasonably likely to continue throughout the day.
  - d) Flexileave taken during such disruptions shall be recorded as over and above the normal flexileave to which the employee is entitled under this clause.
- (ii) Flexileave taken under these conditions shall be at the discretion of the Authorising Officer, provided that all relevant circumstances are considered, including:
- a) The delayed employee's usual time of arrival at the employee's place of employment.
  - b) Where the disruption was foreseeable, the employee made reasonable attempts to arrive at the place of employment prior to the commencement of coretime.

9. *Travelling on official business*

- (i) Any travel on official business during the Band Width on a working day shall be treated as time worked for the purposes of this clause and in accordance with all other provisions of this award.
- (ii) Employees shall be compensated for travelling time outside the standard hours in accordance with clause 22, Excess Travel of this award.

10. *Transfer to other Work Locations*

- (i) An employee transferred from one location to another shall carry credit or debit hours to the new location.
- (ii) Work Locations shall ensure that details of a transferred employee's debit or credit hours are conveyed to the new Work Location at the time of transfer.
- (iii) An employee relieving in another Work Location shall comply with the approved Band Width and Coretime applying in that office, branch or section.

11. *Termination of Service*

- (i) Where an employee gives notice of resignation or retirement the employee shall, during the period of notice, take all reasonable steps to eliminate any accumulated credit or debit hours.
- (ii) Work Locations shall, as far as practicable, facilitate the elimination of accumulated credit or debit hours by such employees.
- (iii) Where an employee has an accumulation of debit hours at the completion of the last day of service, the accumulated Annual leave or moneys owing to that employee shall be adjusted accordingly.

- (iv) An employee may receive compensation for accumulated credit hours to 10 hours outstanding on the last day of service:
  - a) Where an employee's services terminate without notice for reasons other than misconduct.
  - b) Where an application for a period of flexileave which would have eliminated the accumulated credit hours was made pursuant to this clause during the period of notice or resignation and was refused.
  - c) In such other circumstances as the Authorising Officer may approve.

## 12. *Variations*

- (i) The provisions of this clause shall not be altered without the consent of both parties. Provided that:
  - a) Failure to reach mutual consent shall not prevent either party from seeking the assistance of the Industrial Relations Commission of NSW.

## **12 Redundancy**

Employees whose positions are made redundant and are declared by the employer to be excess to the needs of the organisation shall be managed in accordance with the Government's policy on Managing Displaced Employees, as varied from time to time.

## **Part C - Remuneration**

### **13 Salaries**

- (i) Employees will be appointed to one of the grades as outlined in Table 1 - Salaries, of Part G, Monetary Rates.
- (ii) Should there be a variation to the Crown Employees (Public Sector - Salaries January 2000) Award, or an award replacing it by way of salary increase, this award shall be varied to give effect to any such salary increase, from the same operative date of the variation of that award, or replacement award, excluding Trainees as provided by subclause (iv) of this clause.
- (iii) Trainees appointed under the provisions of clause 35 Traineeships of Part E Training, will be appointed to an applicable rate of pay as outlined in the Crown Employees (Home Care Service of New South Wales - Administrative Staff - Training Wage) Award 2001 or an award replacing it.
- (iv) Should there be a variation to the Crown Employees (Public Service Training Wage) Award 2000, or an award replacing it by way of salary increase, or other benefit, the Crown Employees (Home Care Service of New South Wales - Administrative Staff - Training Wage) Award 2001 shall be varied to give effect to any such salary increase or benefit, from the same operative date of the variation of that award, or replacement award, in respect of Trainees.

### **14 Appointment**

- (i) Except as provided in subclause (ii), employees will be appointed to the first salary point in the grade range of the position to which they are appointed.
- (ii) The employer may appoint a person to a higher salary level within the grade range. In determining commencing salary, regard must be given to:
  - (a) the person's skills, experience and qualifications;
  - (b) the rate required to attract the person; and
  - (c) the remuneration of existing staff performing similar work.

## **15 Salary Progression**

Progression within each grade range will be by annual increment, provided that the Manager is satisfied with the conduct and manner of performance of duties of the staff member concerned.

## **16 Classification Committee**

At the initiative of the employer, or at the request of the union, a Classification Committee comprised of representatives of the employer, employees and the union shall be convened to evaluate positions and make recommendations to the General Manager about the classification and grading of positions under this award.

## **17 Payment of Wages**

- (i) All wages shall be paid fortnightly in the employer's time not later than Thursday in each pay week.
- (ii) Wages shall be paid by deposit, unless otherwise agreed between the employer and the employee. Such deposit shall be into financial institutions nominated by the Employer, one of which shall be the State Government Employees Credit Union Ltd.
- (iii) The Employer shall provide to each employee a method for recording the hours worked each day which shall be verified by the employee.
- (iv) Before or at the time of payment of wages each employee shall be issued with a docket or pay envelope showing the date of payment, period covered by such payment, the amount of wages paid for work at ordinary rate, the amount of wages for overtime, the amount of allowances, the amount and nature of any deduction and any annual leave or other leave payments.

## **18 Overtime**

- (i) For all work directed to be performed outside the ordinary hours of work, the rates of pay shall be time and a half for the first two hours and double time thereafter, such double time to continue until the completion of the overtime work.

An employee who is directed to work overtime may elect to take leave in lieu of payment for all or part of his/her entitlement in respect of the time so worked, provided that:

- (a) Leave in lieu of payment shall be taken at the convenience of the Home Care Service.

- (b) The maximum period of leave in lieu that may be taken in respect of any one period of overtime worked shall be one day.
  - (c) Any period of leave in excess of one day shall be paid by the employer at the appropriate rate.
- (ii) For the purpose of this clause each day shall stand alone.
  - (iii) Provided that employees whose positions are graded at Grade 14 Step 1 and above shall be paid, under the provisions of this clause, overtime based on the ordinary rate of pay for Grade 13 Step 2 as contained in Table 1 - Salaries, of Part G, Monetary Rates of this award.

## **19 Meal Allowance**

An employee required to work overtime for more than two hours, without being notified on the previous day or earlier that he/she will be so required to work, shall be paid for the purchase of a meal.

Provided that the amount paid shall be equal to an amount determined by the Public Sector Management Office and published in the NSW Public Service Notices from time to time.

## **20 Higher Duties Or Relief Work**

- (i) An employee, when called upon by the employer to perform work of a classification paid at a higher grade, shall be paid at the higher-grade rate of pay for the time so spent.
- (ii) No employee shall suffer a reduction in salary by reason of relieving in a classification paid at a lower grade.

## **21 Travel Allowance**

- (i) Where an employee is required to use his/her motor vehicle on official business he/she shall be paid at a rate per kilometre as set out Item 1 of Table 2 - Other Rates and Allowances, of Part G, Monetary Rates.
- (ii) The Allowance is to be increased at the relative percentage rate to increases as determined by the Crown Employees (Public Service Conditions of Employment 1997) Award and as advised by the Public Sector Management Office.
- (iii) Travel from the employee's home to the work location and return shall be excluded.
- (iv) Where an employee is required to use public transport for travel on official business such employee is to be reimbursed the actual expenses incurred for such travel.

No payment shall be made under sub-clause (i) and (ii) of this clause unless the employer is satisfied that the employee has incurred the expenditure for such travel.

## **22 Excess Travel**

- (i) Excess travel is defined as any travel or waiting time outside the ordinary hours of work, as defined in clause 10, Hours of Work, and subject to the provisions of this clause.

- (ii) Excess travel shall be paid at the single, ordinary rate of pay or an employee may elect to take leave in lieu of such payment.
- (iii) The hours of excess travel shall not be regarded as work time for the purposes of leave and other entitlements found in this award or other understandings or agreements reached by the parties to this award.
- (iv) No payment shall be made under this clause unless the employer is satisfied the excess travel or waiting time was directed or approved.

### **23 Sustenance Allowance**

- (i) Employees who are required to perform duties at a temporary work location necessitating the employee being away from home overnight shall be paid an allowance for the expenses incurred at the rate as set out in Table 2 - Other Rates and Allowances, of Part G, Monetary Rates. Sustenance rates contained in Table 2 include; Item 2 (Capital city - Sydney), Item 3 (Tier 1 Country Centre), Item 4 (Tier 2 Country Centre) and Item 5 (Other Country Centres) or an amount equivalent to the actual necessary expense for accommodation and meals (excluding morning and afternoon tea).
- (ii) The Sustenance Allowance is to be increased in accordance with the Crown Employees (Public Service Conditions of Employment 1997) Award and as advised by the Public Sector Management Office.

## **Part D - Leave Provisions**

### **24 Public Holidays**

- (i) The days on which the following holidays are observed shall be holidays under this Award: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day and the picnic day of the Home Care Service to be held on the first Monday of August each year or on a day determined by the employer.
- (ii) Where in the State an additional holiday is proclaimed or gazetted by the Commonwealth or New South Wales State Government and is to be observed generally by persons throughout the State, then such day shall be deemed to be a holiday for the purposes of this award.
- (iii) Employees directed to work on any of the days prescribed in sub-clause (i) of this clause shall be paid 150% in addition to ordinary rates for the time so worked.

### **25 Annual Leave**

See *Annual Holidays Act 1944*.

### **26 Annual Leave Loading**

- (i) Employees, other than casual employees, shall be entitled to an Annual Leave loading based on the equivalent of 17½ per cent of 4 weeks' ordinary pay.
- (ii) Annual Leave Loading shall be paid when leave due is taken.
- (iii) Annual Leave Loading shall not apply to proportionate leave on termination.

## 27 Long Service Leave

See *Long Service Leave Act 1955*.

## 28 Sick Leave

An employee, other than a casual employee, who is unable to attend for duty during his or her ordinary working hours by reason of personal illness or incapacity not due to his or her own serious or wilful misconduct, shall be entitled to be paid at the ordinary-time rates of pay for the time of such non-attendance subject to the following conditions and limitations:

- (i) He or she shall not be entitled to paid leave of absence for any period in respect of which he or she is entitled to payment under the New South Wales workers' compensation acts.
- (ii) He or she shall, as soon as reasonably practicable and during the ordinary hours of the first day of such absence, inform the employer of his or her inability to attend for duty and, as far as possible, state the nature of the injury or illness and the estimated duration of the absence. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day of such absence, the employee shall inform the employer within 24 hours of such absence.
- (iii) All periods of sickness shall be certified by a registered medical practitioner, provided that the employer may dispense with the requirements of a medical certificate where the absence does not exceed three consecutive days or where, in the employer's opinion the circumstances are such as not to warrant such requirements.
- (iv) *Full-time employees* - Sick Leave is granted on the basis of 10 days per anniversary year, provided that:
  - (a) during the first three months employment, one day only of sick leave be available each month, to be granted to an employee subject to the conditions of this clause; and
  - (b) on the first day of the fourth month of employment, 10 days sick leave less such sick leave granted under paragraph (a) of this subclause shall be credited to the employee.
- (v) *Part-time employees* - Sick Leave is granted on a pro-rata hourly basis calculated on the number of hours employed per anniversary year, provided that:
  - (a) during the first three months of employment the equivalent of one-tenth of the pro rata hourly entitlement be available each month to be granted to an employee; and
  - (b) on the first day of the fourth month of employment; the pro rata annual entitlement less such sick leave granted under paragraph (a) of this subclause shall be credited to the employee;
  - (c) retrospective adjustment to sick leave entitlements will be made where part-time employees work hours in excess of their contract.

Such leave shall accumulate from year to year and may be taken by an employee in addition to the sick leave entitlement available in any one year.

## 29 Short Leave

- (i) An employee, other than a casual employee, will accrue Short Leave on the following basis:
  - (a) Two and one-half days for every completed year of service, accumulating yearly to a maximum of ten days, provided that during the first year of service an employee will be entitled to bereavement leave.
  - (b) Part-time employees will accrue short leave on a pro-rata basis.
- (ii) The authorised officer shall grant Short Leave where it is considered that such assistance is warranted.
- (iii) Short Leave is limited to the time necessary to cover the immediate emergency or circumstance, except where granted on compassionate grounds (see (iv) 1 below).
- (iv) Circumstances where Short Leave may be granted include:
  - (1) Compassionate grounds - such as the death or illness of an immediate member of the employee's family.
    - (a) Provided that on the death of a person defined in Personal Carers Leave, cl 30(1)(iii)(b), the authorised officer must consider applications for additional Short Leave. In these circumstances, an authorised officer must grant up to two days on a discrete per occasion basis to a staff member.
    - (b) An employee may elect to use available leave in accordance with Personal Carers Leave, cl 30.
  - (2) Emergency or weather conditions - such as where flood, fire or snow, etc. threaten property and/or prevent an employee from reporting for duty.
  - (3) Other circumstances - such as citizenship ceremonies or a motor vehicle accident on the way to work where workers compensation is not applicable.
- (v) Short Leave shall not be granted in respect of:
  - (1) attendance at court to answer a criminal charge;
  - (2) to a part-time employee where the day(s) would not normally fall within his/her contract of employment;
  - (3) to cover absences due to family or social responsibilities or requirements;
  - (4) moving residence.
- (vi) Determination of a Day

A day shall be the hours that would have been worked by the employee and shall be counted as a day of Short Leave.

### 30 Personal Carers Leave

#### 1. *Use of Sick Leave*

- (i) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in (1) (iii) (b) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for in clause 28 of the award, for absences to provide care and support, for such persons when they are ill. Such leave may be taken for part of a single day.
- (ii) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.
- (iii) The entitlement to use sick leave in accordance with this subclause is subject to:
  - (a) the employee being responsible for the care of the person concerned; and
  - (b) the person concerned being:
    - (i) a spouse of the employee; or
    - (ii) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
    - (iii) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
    - (iv) a same sex partner who lives with the employee as the defacto partner of that employee on a bona fide domestic basis; or
    - (v) a relative of the employee who is a member of the same household, where for the purposes of this paragraph:
      - (a) "relative" means a person related by blood, marriage or affinity;
      - (b) "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
      - (c) 'household' means a family group living in the same domestic dwelling.
    - (vi) An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring

care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

2. *Unpaid Leave for Family Purpose*

- (i) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in (1) (iii) (b) above who is ill.

3. *Annual Leave*

- (i) An employee may elect with the consent of the employer, subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.
- (ii) Access to annual leave, as prescribed in paragraph (3) (i) above, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (iii) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

4. *Time Off in Lieu of Payment for Overtime*

- (i) For the purpose only of providing care and support for a person in accordance with clause (1) above, and despite the provisions of clause 17 (overtime) the following provisions shall apply.
- (ii) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.
- (iii) If, having elected to take time as leave in accordance with paragraph (4) (i) above, and the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve (12) month period or on termination.
- (iv) Where no election is made in accordance with paragraph (1) (i), the employee shall be paid overtime rates in accordance with the award.

5. *Make-up Time*

- (i) An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.

6. *Bereavement Leave*

- (i) An employee (other than a casual employee) shall be entitled to access up to two (2) days Short Leave without deduction of pay on each occasion of the death of a person prescribed in 6 (iii) below.

- (ii) The employee must notify the employer as soon as practicable of the intention to take Short Leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.
- (iii) Short Leave shall be available to the employee in respect to the death of a person prescribed for the purposes of Personal/Carer's Leave in (1) (iii) (b), provided that for the purpose of Short Leave, the employee need not have been responsible for the care of the person concerned.
- (iv) An employee shall not be entitled to Short Leave under this clause during any period in respect of which the employee has been granted other leave.
- (v) Short Leave may be taken in conjunction with other leave available under (2), (3), (4) and (5) [as appearing] in this clause. In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

### **31 Parental Leave**

1. *Maternity Leave* - A female employee, other than a casual employee, who has completed at least 40 weeks' continuous service with the employer prior to the commencement of maternity leave shall be granted maternity leave, subject to the following conditions:

A casual employee, who has completed at least two (2) years continuous service with the employer prior to the commencement of maternity leave, shall be granted unpaid maternity leave subject to the following conditions:

- (i) An employee who wishes to take maternity leave shall, in not less than 10 weeks prior to the expected date of confinement, give her employer notice in writing -
  - (a) stating her intention to take maternity leave; and
  - (b) specifying the period of maternity leave she intends to take and the date of commencement and completion of that period.
- (ii) Provided that an employee must give notice in writing not less than four (4) weeks prior to the last day of the period of Maternity Leave confirming her intention to return to work. An employee who fails to comply with this requirement shall be deemed to have terminated her employment on the day after the last day on which the notice is required.
- (iii) Such absence shall be supported by a medical certificate from a registered medical practitioner indicating the anticipated date of confinement.
- (iv) The total absence on maternity leave shall not exceed twelve months from the date of commencement of such leave.
- (v) An employee (other than a casual employee) shall be entitled to the first 9 weeks of maternity leave at the ordinary rate of pay. The balance of the remaining maternity leave shall be unpaid.

(vi) Where an employee elects to return to work within six weeks after the birth of the child, the employer may require the employee to provide a medical certificate stating that she is fit to return to her normal duties.

2. *Adoption Leave* - Any employee, other than a casual employee, who has completed 12 months continuous service with the employer prior to the commencement of adoption leave shall be entitled to unpaid adoption leave under the following conditions:

- (i) up to three weeks' leave at the time of adoption; and
- (ii) where the employee is the primary care giver, and with the consent of the employer, a further 49 weeks may be taken.

This entitlement shall be reduced by any period of adoption leave taken by the employee's spouse for the same child.

The total period of leave shall not exceed one year from the time of the child adoption.

An employee shall be required to:

- (i) give notice of the date of the intent to take adoption leave and the proposed length of leave; this must be done
  - (a) within 2 months of receiving approval for adoption; or
  - (b) if a relative adoption, as soon as the child has been taken into custody pending an adoption order application;
- (ii) confirm the date and period of leave by giving at least 14 days written notice before the adoption date;
- (iii)
  - (a) provide certification from an adoption agency or appropriate body of the presumed date of adoption;
  - (b) provide a statement from a government authority stating that the employee has custody of a child pending an adoption order.
- (iv) make a statutory declaration stating:
  - (a) that the employee is seeking Adoption Leave to become the primary care giver of a child;
  - (b) details of any adoption leave sought or taken by the employee's spouse for the same child;
  - (c) the employee will not take another job or contravene his/her employment contract while on adoption leave.
- (v) employee returning to work from adoption leave:

- (a) shall confirm in writing their intention of returning to work not less than 4 weeks before the adoption leave expires;
  - (b) is entitled to return to the position held immediately before taking adoption leave. Where the position no longer exists, but there are other positions for which the employee is qualified and capable of performing, the employee is entitled to a position comparable in status and pay to that of the former position.
3. *Paternity Leave* - A male employee, other than a casual employee, who has completed 12 months continuous service with the employer prior to the commencement of paternity leave, shall be entitled to unpaid paternity leave under the following conditions:
  - (i) Up to one week's leave at the time of birth may be taken.
  - (ii) Where the employee is the primary care giver and with the consent of the employer, a further 51 weeks may be taken. The entitlement is reduced by any period of maternity leave taken by his spouse. The leave must be taken before the child's first birthday.

Provided that an employee shall:

- (i) give 10 weeks' notice of his intention to take paternity leave;
- (ii) produce a certificate from a registered medical practitioner that:
  - names his spouse;
  - confirms she is pregnant or has a newly born child;
  - confirms the anticipated date of birth or birth date;
- (iii) make a statutory declaration
  - that he is applying for leave to become the primary care giver;
  - detailing maternity leave sought or taken by his spouse;
  - that he will not take another job or in any other way contravene his contract of employment while on paternity leave.
- (iv) An employee returning to work from paternity leave:
  - (a) shall confirm in writing their intention of returning to work not less than 4 weeks before the paternity leave expires;
  - (b) is entitled to return to the position he held immediately before taking paternity leave. Where the position no longer exists, but there are other positions for which the employee is qualified and capable of performing, he is entitled to a position comparable in status and pay to that of the former position.

## 32 Jury Service

An employee, other than a casual employee, required to attend for jury service during his/her ordinary working hours shall be reimbursed an amount equal to the difference between the amount paid in respect of attendance for such jury service and the amount of wages the employee would have received in respect of the ordinary time which would have been worked had the employee not been on jury service.

### **33 Study Leave**

- (i) Study leave shall be paid leave subject to the terms and conditions set out below:
  - (a) Study Leave applies to all permanent employees including those employed on a part-time basis.
  - (b) The course of study must be work related.
  - (c) Decisions regarding the approval or otherwise for study leave shall not be the subject of an appeal to any service tribunal or any other industrial and/or lawful tribunal, commission or court.
  - (d) Study Leave shall be granted and taken at the convenience of the Home Care Service. Such convenience shall take into consideration such factors as the necessity of an employee to be at work on specific days or times, availability of relief staff and service requirements concerning training or other requirements.
- (ii) Study Leave shall be granted subject to the following criteria and conditions:
  - (a) Study Leave is granted on the basis of half an hour of leave for each hour of face-to-face lectures, or equivalent, up to a maximum of four hours.
  - (b) Such Leave shall be cumulative and may be taken as examination leave or for field work purposes following approval.
  - (c) Study Leave shall not accumulate from year to year. Each academic year shall stand alone.
  - (d) No travel time or travel allowance is payable.
  - (e) All payment for Study Leave shall be at the ordinary rate of pay.

### **Part E - Training**

#### **34 Trade Union Training**

Employees nominated by the union to attend during ordinary working hours a course recognised by the Trade Union Training Authority in the State shall do so without loss of ordinary pay, subject to the following:

- (i) that the employer receive not less than 4 weeks' written notice of nomination from the union, setting out the time, dates, content and venues of the course;
- (ii) that not more than one person at any one time from a branch is nominated, with no individual receiving more than 5 days' training per year;
- (iii) that a maximum of 100 days per financial year, non-cumulative, be available for trade union training each year;

- (iv) that the employer is satisfied that the course will assist in reducing work place disputes and in advancing industrial harmony within the organisation.

### **35 Traineeships**

- (i) The rates of pay and conditions of employment of trainees will be in accordance with the Crown Employees (Home Care Service of New South Wales - Administrative Staff - Training Wage) Award 2001 as varied from time to time. Variations to the Crown Employees (Home Care Service of New South Wales - Administrative Staff - Training Wage) Award 2001 will be in accordance with the Crown Employees (Public Service Training Wage) Award 2000 as varied from time to time.

## **Part F - Anti-Discrimination**

### **36 Anti-Discrimination**

- (i) It is the intention of the parties bound by this Award to seek to achieve the objective in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) It follows that in fulfilling their obligations under the Grievance Procedure prescribed by this Award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provisions of the Award, which, by its terms or operation, has a direct or indirect discriminatory effect.
- (iii) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (iv) Nothing in this clause is to be taken to affect:
  - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (b) offering or providing junior rates of pay to persons under 21 years of age;
  - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - (d) a party to this Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

**Part G - Monetary Rates**

Adult Basic Wage: \$121.40 per week

**Table 1 - Salaries**

<b>ADMINISTRATIVE OFFICER</b>	<b>STEP</b>	<b>RATE P.A. \$</b>
Grade 1	1	30,253
	2	31,303
Grade 2	1	31,853
	2	32,754
Grade 3	1	33,365
	2	34,343
Grade 4	1	34,934
	2	36,238
Grade 5	1	37,248
	2	38,629
Grade 6	1	39,355
	2	40,923
Grade 7	1	41,808
	2	43,409
Grade 8	1	44,337
	2	45,993
Grade 9	1	46,967
	2	48,306
Grade 10	1	49,268
	2	50,728
Grade 11	1	51,717
	2	53,326
Grade 12	1	53,854
	2	56,049
Grade 13	1	57,234
	2	59,604
Grade 14	1	60,758
	2	62,504
Grade 15	1	63,768
	2	65,677
Grade 16	1	66,964
	2	68,931
Grade 17	1	70,299
	2	72,558
Grade 18	1	73,182
	2	75,444
Grade 19	1	77,103
	2	80,499

**Table 2 - Other Rates and Allowances**

<b>Item No.</b>	<b>Clause No.</b>	<b>Brief Description</b>	<b>Amount \$</b>
1	21	Travel Allowance - use of own vehicle	0.53.6 per km
2	23	Sustenance Allowance - Capital City (Sydney)	218.00 per day
3	23	Sustenance Allowance - Tier 1 Country Centre Broken Hill Newcastle Wagga Wagga Wollongong	158.00 158.00 153.00 178.00
4	23	Sustenance Allowance - Tier 2 Country Centre Bathurst Gosford Griffith Leeton Orange	141.20 141.20 141.20 141.20 141.20
5	23	Sustenance Allowance - Tier 3 Other Country Centres	131.20

R. W. HARRISON *D.P.*