

**DEPARTMENT OF COMMUNITIES (FAMILY SUPPORT OFFICERS)
CSA AGREEMENT 2022**

WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

PARTIES	DEPARTMENT OF COMMUNITIES	APPLICANT
	-v-	
	CIVIL SERVICE ASSOCIATION OF WESTERN AUSTRALIA INCORPORATED	RESPONDENT
CORAM	PUBLIC SERVICE ARBITRATOR COMMISSIONER T B WALKINGTON	
DATE	WEDNESDAY, 9 AUGUST 2023	
FILE NO	PSAAG 11 OF 2023	
CITATION NO.	2023 WAIRC 00662	

Result Agreement registered

Representation

Ms Ms N Arys on behalf of Department of Communities

Mr R Sumner on behalf of Civil Service Association of Western Australia
Incorporated

Order

HAVING heard from Ms N Arys on behalf of Department of Communities and Mr R Sumner on behalf of Civil Service Association of Western Australia Incorporated, the Public Service Arbitrator, pursuant to the powers conferred under the *Industrial Relations Act 1979* (WA), hereby orders –

THAT the agreement made between the parties filed in the Commission on 14 July 2023 entitled *Department of Communities (Family Support Officers) CSA Agreement 2022*, attached hereto be registered as an industrial agreement in replacement of the *Department of Communities (Family Support Officers) CSA Agreement 2021* which by operation of s 41(8) is hereby cancelled.

(L.S.) (Sgd.) T.B. WALKINGTON

COMMISSIONER T B WALKINGTON
PUBLIC SERVICE ARBITRATOR

**DEPARTMENT OF COMMUNITIES (FAMILY SUPPORT
OFFICERS) CSA AGREEMENT 2022**

PART 1: APPLICATION OF THE AGREEMENT

1. TITLE

Department of Communities (Family Support Officers) CSA Agreement 2022.

2. ARRANGEMENT

PART 1: APPLICATION OF THE AGREEMENT

1. Title
2. Arrangement
3. Definitions
4. Purpose of Agreement
5. Application and Parties Bound
6. Term of Agreement
7. No Further Claims
8. Core Conditions
9. Agency Specific Agreements (ASA)

PART 2: SALARY RELATED MATTERS

10. Salaries
11. Salary Packaging
12. Recovery of Underpayments
13. Recovery of Overpayments

PART 3: CONTRACT OF EMPLOYMENT

14. Direct And Permanent Employment
15. Part Time Employment
16. Fixed Term Contract Employment
17. Casual Employment
18. Notice of Termination by Employer for Employees Over 45 Years of Age
19. Working With Children Checks

PART 4: HOURS OF WORK

20. Hours
21. Shift Work Allowance
22. Overtime Allowance

PART 5: LEAVE

23. Annual Leave
24. Employee Initiated Cash Out of Accrued Annual Leave
25. Annual Leave Loading
26. Annual Leave Loading for Shift Work Employees and Employees on Commuted Arrangements that Incorporate Annual Leave Loading
27. Personal Leave
28. Family and Domestic Violence Leave
29. Purchased Leave – 42/52 Arrangement
30. Foster Carer's Leave

31. Public Health Emergency Leave
32. Compassionate Leave for Early Pregnancy Loss
33. Parental and Related Leave
34. Superannuation on Unpaid Parental Leave
35. Early Access to Pro Rata Long Service Leave
36. Pro Rata Additional Annual Leave for North West Employees
37. Public Service Holidays
38. Defence Force Reserves Leave
39. Bereavement Leave
40. Cultural Leave for Aboriginal and Torres Strait Islanders

PART 6: ALLOWANCES

41. First Aid Allowance
42. Higher Duties Allowance
43. Commuted Allowances
44. District Allowance
45. Property Allowance
46. Protective Clothing Allowance
47. Removal Allowance
48. Transfer Allowance
49. Disturbance Allowance
50. Weekend Absence from Residence
51. Miscellaneous Allowances and Conditions

PART 7: REGIONAL PROVISIONS

52. Remote and Isolated Locations
53. Regional Training and Development

PART 8: WORKFORCE MANAGEMENT

54. Redeployment and Redundancy
55. Working from Home
56. Workload Management
57. Health and Safety Representatives' Records
58. Union Facilities
59. Transitional Arrangements

PART 9: CONSULTATIVE MECHANISMS AND REVIEWS

60. Consultation and Joint Consultative Committee
61. Review of Common Use Agreements And Contracts
62. Review into a Discounted Public Transport Scheme
63. Public Sector Delivery of Public Services
64. Amalgamation of Public Sector CSA Agreements
65. Reserved Matters/Liberty to Apply
66. Dispute Settlement Procedure

PART 10: SCHEDULES TO THE AGREEMENT

Schedule 1 – Signatures of Parties

Schedule 2 – Salaries

Schedule 3 – Overtime Allowance

3. DEFINITIONS

For the purposes of this Agreement the following definitions apply.

- 3.1 "Agency" means the Department of Communities.
- 3.2 "Agency Specific Agreement" (ASA) means an industrial agreement developed in accordance with clause 9 – Agency Specific Agreements of this Agreement, read in conjunction with this Agreement and the Award.
- 3.3 "Agreement" means the Department of Communities (Family Support Officers) CSA Agreement 2022.
- 3.4 "Award" means the *Department of Communities (CSA Family Resource Workers, Welfare Assistants and Parent Helpers) Award 1990*.
- 3.5 "Casual Employee" means a Casual Employee as defined in clause 6 – Definitions of the Award.
- 3.6 "Child" and "grandchild" includes children of a multiple birth or adoption.
- 3.7 "Employee" means Family Support Officer.
- 3.8 "Employer" means the Director General, Department of Communities.
- 3.9 "GSLR" means Government Sector Labour Relations. GSLR is responsible for the coordination and governance of all public sector labour relations matters, in accordance with Premier's Circular 2021 /03 – Government Labour Relations Management Framework or its replacement.
- 3.10 "Ordinary rate of salary" means rate of salary in Schedule 2 – Salaries of this Agreement.
- 3.11 "Part time employment" means regular and continuing employment for a maximum average of less than 76 hours per fortnight.
- 3.12 "Partner" means spouse or a de facto partner.
- 3.13 "PSC" means the Public Sector Commission.
- 3.14 "Public Sector" means:
 - (a) all agencies, ministerial offices and non-SES organisations as defined in section 3 of the *Public Sector Management Act 1994* (WA); and
 - (b) employing authorities as defined in section 5 of the *Public Sector Management Act 1994* (WA).
- 3.15 "Redeployment period" means the redeployment period as defined by regulation 28 of the *Public Sector Management (Redeployment and Redundancy) Regulations 2014* (WA).
- 3.16 "Regional Employee" means any Employee other than one whose assigned headquarters are within the metropolitan area as defined by the Award.

- 3.17 “Registered Employee” means a registered Employee as defined by section 94(1A) of the *Public Sector Management Act 1994* (WA).
- 3.18 “Registrable Employee” means a registrable Employee as defined by section 94(1A) of the *Public Sector Management Act 1994* (WA).
- 3.19 “Replacement Agreement” means the industrial agreement which cancels and replaces this Agreement, as referred to at clause 6.2 of this Agreement.
- 3.20 “Replacement Employee” means an Employee specifically engaged to replace an Employee proceeding on parental or grandparental leave.
- 3.21 “Suitability” means suitable office, post or position or suitable employment as defined by section 94(6) of the *Public Sector Management Act 1994* (WA) as read with regulation 7 of the *Public Sector Management (Redeployment and Redundancy) Regulations 2014* (WA).
- 3.22 “Suitable office, post or position”, and “Suitable employment” have the meaning given in section 94(6) of the *Public Sector Management Act 1994* as read with regulation 7 of the *Public Sector Management (Redeployment and Redundancy) Regulations 2014* (WA).
- 3.23 “Surplus Employee” means either a Registrable Employee or a Registered Employee.
- 3.24 “Suspend” means to suspend the continuance of an Employee’s Redeployment period in accordance with regulation 29 of the *Public Sector Management (Redeployment and Redundancy) Regulations 2014* (WA).
- 3.25 “Union” means the Civil Service Association of Western Australia Incorporated.
- 3.26 “WAIRC” means the Western Australian Industrial Relations Commission.

4. PURPOSE OF AGREEMENT

- 4.1 The parties agree that the purpose of this Agreement is to:
- (a) provide salary increases in accordance with this Agreement, for Employees bound by this Agreement;
 - (b) in conjunction with the Award provide a core set of employment conditions for Employees bound by this Agreement; and
 - (c) to allow the parties to negotiate ASAs in accordance with clause 9 – Agency Specific Agreements of this Agreement.

5. APPLICATION AND PARTIES BOUND

- 5.1 This Agreement cancels and replaces the Department of Communities (Family Support Officers) CSA Agreement 2021.
- 5.2 The parties bound by this Agreement are the Director General, Department of Communities and the Union.

- 5.3 This Agreement applies throughout the State of Western Australia to all Employees employed by the Director General, Department of Communities pursuant to the Award. At the time of registration this Agreement applies to approximately 250 Employees.
- 5.4 It is the intent of the parties to preserve the Award as it applies to Employees covered by this Agreement at the time of registration, only for the life of this Agreement.
- 5.5 This Agreement must be read in conjunction with the Award.
- 5.6 Provisions in the Award that deal with subject matters not otherwise dealt with by this Agreement are preserved at the date of registration. For the purposes of this clause, these provisions are referred to as the “preserved provisions”.
- 5.7 Subsequent to the registration of this Agreement, any variations to provisions of the Award issued through orders of the WAIRC prevail over the preserved provisions to the extent of any inconsistency.
- 5.8 Subject to clause 5.7, where the provisions of the Award and this Agreement are inconsistent, the Agreement prevails.

6. TERM OF AGREEMENT

- 6.1 This Agreement operates from the date of registration and, in accordance with Section 41 of the *Industrial Relations Act 1979* (WA), expires on 12 June 2024.
- 6.2 The parties to this Agreement agree to re-open negotiations for a replacement Agreement at least six months prior to the expiry of this Agreement with a view to implement a replacement Agreement on 13 June 2024.

7. NO FURTHER CLAIMS

- 7.1 The parties to this Agreement undertake that, for its term, salary increases cannot be sought or granted other than those provided under the terms of this Agreement. This includes salary adjustments arising out of State Wage Cases. Such increases are absorbed in the salaries set out in this Agreement.
- 7.2 The parties to this Agreement undertake that, for its term, further claims cannot be made on matters contained in this Agreement except where specifically provided for.

8. CORE CONDITIONS

- 8.1 The core conditions of employment for Employees covered by this Agreement are the terms and conditions provided for in this Agreement, with the exception of clause 20 – Hours of this Agreement provided an average of no more than 38 hours per week is worked as ordinary hours, and the following provisions contained in the Award:
- (a) clause 8 – Contract of Service;
 - (b) clause 13 – Purchased Leave – Deferred Salary Arrangement;
 - (c) clause 14 – Salary Packaging Arrangement;

- (d) clause 15 – Annual Increments;
- (e) clause 17 – Higher Duties Allowance;
- (f) clause 18 – Annual Leave;
- (g) clause 19 – Public Holidays;
- (h) clause 20 – Long Service Leave;
- (i) clause 27 – Bereavement Leave;
- (j) clause 28 – Cultural/Ceremonial Leave;
- (k) clause 29 – Blood/Plasma Donors Leave;
- (l) clause 30 – Emergency Service Leave;
- (m) clause 31 – Leave to Attend Union Business;
- (n) clause 32 – Trade Union Training Leave;
- (o) clause 33 – Facilities for Union Representatives;
- (p) clause 33A – Representation Rights;
- (q) clause 34 – Defence Force Reserves Leave;
- (r) clause 35 – Witness and Jury Service;
- (s) clause 42 – Keeping of and Access to Employment Records;
- (t) clause 44 – Deduction of Union Subscriptions ;
- (u) clause 45 – Right of Entry and Inspection by Authorised Representatives; and
- (v) clause 46 – Copies of Award.

9. AGENCY SPECIFIC AGREEMENTS (ASA)

- 9.1 The primary industrial instruments for regulating pay and conditions for Employees are the Award and this Agreement. An ASA must be read in conjunction with the Award and this Agreement, and except where this Agreement identifies conditions as core, the ASA prevails over this Agreement and the Award to the extent of any inconsistencies.
- 9.2 Core conditions of employment referred to in clause 8 – Core Conditions of this Agreement cannot be the subject of an ASA.
- 9.3 The parties accept that ASAs can only be made in the following circumstances:

- (a) where an existing ASA is due to expire and the parties seek to register a replacement ASA; or
 - (b) where arrangements are agreed by the parties to be necessary due to the nature of work undertaken or the environment in the Agency.
- 9.4 If the parties are unable to reach agreement the matter can be referred by either party to the WAIRC.

PART 2: SALARY RELATED MATTERS

10. SALARIES

- 10.1 The annual salaries provided for by this Agreement are those contained in Schedule 2 – Salaries of this Agreement.
- 10.2 An Employee who is employed by the Employer on 23 December 2022, receives a payment equivalent to the additional annual salary increase that would have been paid had the salaries in Schedule 2 – Salaries of this Agreement been paid on and from 13 June 2022.
- 10.3 The second salary increase provided for in Schedules 2 Base Rates for 76-Hour Fortnight with 12 Accrued Days Off; 3 – Base Rates for 78-Hour Fortnight with 6 Accrued Days Off; and 4 – Base Rates for 80-Hour Fortnight with No Accrued Days Off of this Agreement will be paid on and from 13 June 2023.
- 10.4 An Employee who resigns or retires or whose employment is otherwise terminated prior to 23 December 2022 is not entitled to the payment provided in clause 10.2.
- 10.5 The annual salaries provided in Schedule 2 – Salaries of this Agreement include full and final settlement of productivity improvements up to the date of commencement of the *Family Resource Employees and Parent Helpers General Agreement 2011*.
- 10.6 An Employee covered by clause 16 – Supported Wage of the *Public Service Award 1992* is paid the applicable percentage of the minimum rate of pay prescribed by this Agreement for the class of work the person is performing.
- 10.7 An Employee's fortnightly salary is:
- (a) determined according to the annual salaries contained in Schedule 2 – Salaries of this Agreement;
 - (b) calculated to four decimal points; and
 - (c) rounded to the nearest one cent.
- 10.8 Subject to clause 10.4, the Employer must pay the payment provided in clause 10.2 to an Employee who, prior to 23 December 2022:
- (a) was employed in the Public Sector under a different industrial agreement to which the Union is respondent; and

- (b) commenced employment with their current Employer within one calendar week of ceasing employment with their previous Public Sector Employer.
- 10.9 Notwithstanding clause 10.2, the removal of Junior Rates from Schedule 2 – General Division Salaries, applies from 23 December 2022.
- 10.10 Special Allowances

The Employer is not prohibited from granting special allowances based on additional duties and responsibilities undertaken by an Employee due to expertise and knowledge of the Employee.
- 10.11 Amalgamation of Salary Classes

In allocating salaries or salary ranges the Employer can amalgamate any two or more levels or allocate specific salary points from a level or levels prescribed by this Agreement.
- 10.12 Effect of Reclassification

An Employee employed by the Employer on or after 23 December 2022 will be employed at or above level 2.1 of Schedule 2 – Salaries of this Agreement.

11. SALARY PACKAGING

- 11.1 Salaries as prescribed by Schedule 2 – Salaries of this Agreement are applied for the purposes of clause 14 (3) – Salary Packaging Arrangement of the Award, regarding Total Employment Cost and clause 14 (6), regarding Compulsory Employer Superannuation Guarantee Contributions, of the Award.

12. RECOVERY OF UNDERPAYMENTS

- 12.1 Where an Employee is underpaid in any manner:
 - (a) the Employer must, once the Employer is aware of the underpayment, rectify the error as soon as practicable;
 - (b) where possible the underpayment must be rectified no later than in the pay period immediately following the date on which the Employer is aware that an underpayment has occurred; and
 - (c) where an Employee can demonstrate that an underpayment has created serious financial hardship, the Employee must be paid by way of a special payment as soon as practicable.
- 12.2 An Employer must compensate an Employee for costs resulting directly from an underpayment, where it is proven that the costs resulted directly from the underpayment. This includes compensation for overdraft fees, dishonoured cheque costs, and dishonour fees related to routine deductions from a bank account into which an Employee's salary is paid.
- 12.3 Nothing in this clause precludes the Employee's legal right to pursue recovery of underpayments.

13. RECOVERY OF OVERPAYMENTS

- 13.1 The Employer has an obligation under the *Financial Management Act 2006* (WA) to account for public monies. This requires the Employer to recover overpayments made to an Employee.
- 13.2 Any overpayment is repaid to the Employer within a reasonable period of time.
- 13.3 Where an overpayment is identified and proven, the Employer must provide the Employee with the written details of the overpayment and notify the Employee of their intent to recover the overpayment.
- 13.4 Where the Employee accepts that there has been an overpayment, arrangements for the recovery of the overpayment are negotiated between the Employer and Employee.
- 13.5 If agreement on a repayment schedule cannot be reached within a reasonable period of time, the Employer can deduct the amount of the overpayment over the same period of time that the overpayment occurred provided:
- (a) the Employer cannot deduct or require an Employee to repay an amount exceeding five per cent of the Employee's net pay in any one pay-period without the Employee's agreement; and
 - (b) where necessary, an Employer can deduct money over a period of time greater than the period of time over which the overpayment occurred.
- 13.6 If the Employee disputes the existence of an overpayment and the matter is not resolved within a reasonable period of time, the matter must be dealt with in accordance with clause 66 - Dispute Settlement Procedure of this Agreement. Whilst the matter is being dealt with in accordance with the Dispute Settlement Procedure, no deductions from an Employee's pay relating to the overpayment can be made.
- 13.7 Nothing in this clause precludes the Employer's legal right to pursue recovery of overpayments.
- 13.8 Where an Employer alters the pay cycle or pay day, any consequential variations to an Employee's fortnightly salary and/or payments to compensate are not considered an overpayment for the purposes of this clause.

PART 3: CONTRACT OF EMPLOYMENT

14. DIRECT AND PERMANENT EMPLOYMENT

- 14.1 The Western Australian Government recognises that:
- (a) direct employment is the preferred form of engagement, noting this cannot be practicable or financially achievable in all circumstances; and
 - (b) permanent Employment is the preferred mode of employment for Employees covered by this Agreement.
- 14.2 The Employer recognises that casual employment, labour hire, and other contract for service arrangements are not the preferred methods for delivery of services, and the Employer must

minimise the use of casual employment, labour hire and other contract for service arrangements.

Reporting FTE Data

- 14.3 Within 28 days of a written request, the Employer must provide the Union with the current number of Employees covered by this Agreement and the relevant FTE.
- 14.4 Every six months, the Employer must provide the Union with the following information:
- (a) number of Employees covered by this Agreement who have separated from the Employer within the previous six months and reasons for separation consistent with the data category definitions used by the Employer's HR information system for mandatory reporting (e.g MOIR); and
 - (b) number of Employees covered by this Agreement commencing employment over the previous six months.

Government Temporary Labour Hire Review

- 14.5 The use of temporary labour hire arrangements is limited to the circumstances set out in Approved Procedure 5 – Approved Contracts for Services Procedures (AP 5), or its replacement.
- 14.6 The PSC conducts regular compliance reviews to ensure Employers are complying with AP 5, or its replacement. The findings of these reviews are provided to the Peak Consultative Forum (PCF) for consideration. Employers found to be non-compliant with AP 5 must be directed to comply with AP 5.
- 14.7 The Union can refer concerns about the potential misuse of labour hire contracts to the PCF.
- 14.8 The parties acknowledge the work undertaken to date to review existing contract for service labour hire arrangements and associated procedures across the Public Sector. This review is to be completed during the life of the Agreement.
- 14.9 The review referred to in clause 14.8 must consider:
- (a) reasons for the use of labour hire rather than direct employment; and
 - (b) opportunities for work currently being done by labour hire arrangements to be delivered by the Public Sector where it is financially viable to do so.
- 14.10 Employers are to provide any information requested by the PCF to support the review in a timely manner.
- 14.11 Findings and recommendations from the review must be presented to Government for consideration.
- 14.12 The parties agree to consult through the PCF on any changes proposed to AP 5.

Joint Consultative Committee access to information

- 14.13 Within 60 days of a request being made in writing, the Employer must provide to the Joint Consultative Committee (JCC) the names of the labour hire businesses used; the functions undertaken; the headcount number of labour hire Employees performing the work; and the amount of money paid to each labour hire business.

Surplus Employees

- 14.14 Prior to engaging, or extending the engagement of, a labour hire Employee, or entering into a new hire arrangement, the Employer must first consider whether any permanent Surplus Employees can undertake the role or duties required. All duties undertaken by labour hire Employees must be assessed every three months for the possibility of a Surplus Employee undertaking the role or duties. If a permanent Surplus Employee can undertake the role or duties, they must be offered the employment.
- 14.15 Where more than one appropriate permanent Surplus Employee exists, the following hierarchy applies for access to the role or duties:
- (a) internal Surplus Employees are considered first;
 - (b) if no internal Surplus Employees are suitable, Registered Employees from other employing authorities are considered; and
 - (c) if no Registered Employees are suitable, Registrable Employees from other employing authorities are considered.

15. PART TIME EMPLOYMENT

- 15.1 The provisions of this clause:
- (a) are read in conjunction with clause 9 – Part time Employment of the Award; and
 - (b) an Employee can return to work on a modified basis in accordance with the provisions contained in clause 33 – Parental & Related Leave of this Agreement.
- 15.2 An Employee can request the Employer to permit the Employee to work on a modified basis in their current position; or in a position equivalent in pay, conditions and status to their current position and commensurate with the Employee's skills and abilities.
- 15.3 An Employee can seek to work on a modified basis that involves the Employee working on different days or at different times or both; or on fewer days or for fewer hours or both, than the Employee currently works.
- 15.4 An Employer:
- (a) must give reasonable consideration to an Employee's request to work on a modified basis, particularly where the request relates to an Employee's caring responsibilities or phasing into retirement;
 - (b) can only refuse an Employee's request to work on a modified basis if there are grounds to refuse, relating to the adverse effect that agreeing to the request would have on the

conduct of operations or business of the Employer and those grounds would satisfy a reasonable person.

15.5 An Employer is to give the Employee written notice of the Employer's decision on a request to work on a modified basis. If the request is refused, the notice must set out the reasons for the refusal.

15.6 The provisions of clause 22 – Overtime Allowance of this Agreement applies to all time worked outside the ordinary working hours prescribed by clause 9 (1) (a) (ii) – Part Time Employment of the Award, unless an arrangement pursuant to clause 9 (1) (c) – Part Time Employment of the Award is in place.

15.7 Right of reversion of Employees

(a) Where a full time Employee is permitted to work part time for a period of no greater than twelve months, the Employee has a right, upon four week's written notice, to revert to full time hours in the position previously occupied before becoming part time or a position of equal classification as soon as deemed practicable by the Employer, but no later than the expiry of the agreed period.

(b) Where a full time Employee is permitted to work part time for period greater than twelve months, the Employee can apply to revert to full time hours in the position previously occupied before becoming part time or a position of equal classification, but only as soon as is deemed practicable by the Employer. The Employee can be transferred to another full time position at a salary commensurable to their previous full time position.

15.8 Variation to a part time Employee's working hours

Where agreement is reached to vary a part time Employee's ordinary working hours pursuant to clause 9 (1) (c) – Part Time Employment of the Award; and the Employee works additional hours, up to 7.6 hours on any day, or additional days, up to a total of five days per week, without receiving overtime payments; the additional hours and/or days worked are considered part of the Employee's ordinary working hours. These hours are included in calculations for leave entitlements.

16. FIXED TERM CONTRACT EMPLOYMENT

16.1 Subject to this clause and in accordance with clause 8 – Contract of Service of the Award, Employees can be employed on contracts having fixed terms.

16.2 Before employing a person as a fixed term contract Employee or providing a new or extended fixed term contract to an Employee, the Employer must first consider whether any permanent Surplus Employees can undertake the role or duties required. If a permanent Surplus Employee can undertake the role or duties, they are offered the employment.

16.3 Notwithstanding clause 16.2, the Employer has discretion to renew an existing fixed term contract if the Employee has been in the same or similar role for more than two years and the arrangements are being reviewed for possible conversion under a process in clause 16.8.

- 16.4 Where more than one appropriate permanent Surplus Employee exists, the following hierarchy applies for access to the role or duties:
- (a) internal Surplus Employees are considered first;
 - (b) if no internal Surplus Employees are suitable, Registered Employees from other employing authorities are considered; and
 - (c) if no Registered Employees are suitable, Registrable Employees from other employing authorities are considered.
- 16.5 In exercising their employing authority, the Employer can only employ a person as a fixed term contract Employee in the following circumstances:
- (a) covering one-off periods of relief;
 - (b) work on a project with a finite life:
 - (i) where a project is substantially externally funded including multiple external funding sources, the Employer must present a business case supporting the use of fixed term contract Employees in such positions to the JCC;
 - (ii) where external funding has been consistent on an historical basis and it can be reasonably expected to continue, the Employer must assess the percentage of positions for which permanent appointment can be made;
 - (c) work that is seasonal in nature;
 - (d) where an Employee with specific skills is not readily available in the Public Sector is required for a finite period; or
 - (e) in any other situation as is agreed between the parties to this Agreement.
- 16.6 Employees appointed for a fixed term must be advised in writing of the terms of the appointment, including the circumstances of the appointment as provided under clause 16.5 and the dates of commencement and termination of employment.
- 16.7 The Employer must provide the Union the names and work locations and business email addresses of all fixed term contract Employees within two months of registration of this Agreement and subsequently, within 28 days of a request being made in writing.

Conversion to Permanency for Fixed Term Employees

- 16.8 For the purposes of this clause:
- (a) an 'eligible fixed term Employee' is a fixed term Employee who:
 - (i) has completed two or more years of service:
 - (aa) in the same or a similar role;
 - (bb) under one or more fixed term contracts;

- (cc) with the same Employer or a different Employer due to a machinery of government change; and
 - (dd) without a break in service;
 - (ii) does not have a documented record of unsatisfactory performance in their role; and
 - (iii) is engaged at a remuneration level below General Division Level 9.1 as per Schedule 2 – General Division Salaries of the *Public Sector CSA Agreement 2022*.
- (b) a ‘break in service’ is a break between contracts of more than 30 days, attributable to fluctuating demand or business need, or taken at the request of the Employee.

Any period between contracts for which payment in lieu of leave has been made by the Employer does not count towards calculating the 30-day period.

If a question arises in a dispute under this Agreement as to whether a break between contracts constitutes a break in service, it is the responsibility of the Employer to demonstrate the break was attributable to fluctuating demand or business need, or in response to the Employee’s request, and was not imposed to avoid an obligation to review or permanently appoint an Employee.

16.9 An Employer must, no later than three months after:

- (a) the date on which an Employee became an eligible fixed term Employee;
- (b) for an Employee who is an eligible fixed term Employee on the date of registration of this Agreement – that date; and
- (c) for an Employee who continues to be employed on a fixed term contract, which can include consecutive fixed term contracts with the same Employer or a different Employer due to a machinery of government change, in the same or a similar role – each further two years without a break in service from the date referred to in paragraph (a) or (b);

review the contract and the circumstances of the work being performed by the Employee at the time of the review to determine whether the fixed term employment meets a circumstance listed in clause 16.5.

16.10 Where there is a potential change to the legitimacy of an Employee’s fixed term contract arrangement due to a change in circumstance listed in clause 16.5 or 16.12, the Employee can request that the Employer undertake a review in accordance with this clause. The Employer must undertake the review no later than three months after the date of the Employee’s request.

16.11 If, after carrying out a review referred to in clause 16.9 or 16.10, the Employer determines the fixed term employment does not currently meet a circumstance listed in clause 16.5, the Employer must appoint the Employee permanently to the same position at their current FTE.

16.12 The requirement at clause 16.11 does not apply if the Employer certifies in writing that the role performed by the fixed term Employee can no longer be funded from within the agency or

organisation's approved salary expense limits. Relevant notification and consultation obligations must be complied with prior to this certification, unless new information is identified as part of this review process.

16.13 If, after carrying out a review referred to in clause 16.9 and 16.10, the Employer determines the fixed term employment meets a circumstance listed in clause 16.5, the Employer must give the Employee in writing no later than two weeks after the date of completing the review:

- (a) a statement of the review outcome and the detailed reasons for it; and
- (b) a plain-language summary of an Employer's obligations under this clause to appoint fixed term Employees to permanent employment in accordance with this clause, and the actions the Employee can take if they disagree with the review outcome.

16.14 For the purposes of clauses 16.9 and 16.10, if an eligible fixed term Employee is employed under multiple, concurrent fixed term contracts with the same Employer, each contract and the circumstances of the work being performed under it is reviewed individually.

16.15 In consultation with the Union, the Employer will review the mechanisms and processes detailed in clauses 16.8 to 16.14 over the life of this Agreement.

17. CASUAL EMPLOYMENT

17.1 An Employer can only engage a person as a casual Employee if both the following circumstances are met:

- (a) if the hours and patterns of work fluctuate substantially and are not regular or systematic; and
- (b) the Employee is engaged hourly, for a period of up to four consecutive weeks in each engagement.

17.2 The provisions of this clause replace clause 10 – Casual Employment of the Award.

17.3 The Employer must provide the Union with the names, work locations and business email addresses of all casual Employees within two months of registration of this Agreement and subsequently, within 28 days of a request being made in writing.

Salary

17.4 A casual Employee is paid for each hour worked at the appropriate classification contained in Schedule 2 – Salaries of this Agreement in accordance with the following formula:

$$\frac{\text{Fortnightly salary}}{76}$$

with the addition of casual loading in lieu of annual leave, personal leave and payment for public holidays. Casual loading will be in accordance with clause 17.5.

Casual Loading

17.5 The casual loading payable is 25 per cent.

Conditions of Employment

- 17.6 (a) Conditions of employment, leave and allowances provided under this Agreement or the Award do not apply to a casual Employee with the exception of bereavement leave, long service leave, family and domestic violence leave, carers leave, public health emergency leave, compassionate leave for early pregnancy loss and foster carers leave. However, where expenses are directly and necessarily incurred by a casual Employee in the ordinary performance of their duties, the Employee is entitled to reimbursement in accordance with the Award.
- (b) The minimum period of engagement of a casual Employee is three hours on each engagement.
- (c) The Employer determines appropriate increments for casual Employees by taking into consideration prior experience within the Public Sector.
- (d) Nothing in this clause confers "permanent" or "fixed term contract" officer status within the meaning of section 64 of the *Public Sector Management Act 1994* (WA). Notwithstanding, permanent positions can be created for appointment in accordance with clauses 17.8 to 17.14.
- (e) The employment of a casual Employee can be terminated at any time by the casual Employee or the Employer giving to the other one hour's prior notice. In the event of an Employer or casual Employee failing to give the required notice, one hour's salary must be paid or forfeited.
- (f) Clause 22 - Overtime Allowance of this Agreement does not apply to Casual Employees. Additional hours are paid at the normal casual rate.

Caring Responsibilities

- 17.7 (a) Subject to the evidentiary and notice requirements in Clause 27 – Personal Leave of this Agreement, a casual Employee is entitled to not be available to attend work or to leave work if they need to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (b) The Employer and the casual Employee must agree on the period for which the casual Employee is entitled to not be available to attend work. In the absence of agreement, the Employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual Employee is not entitled to any payment for the period of non-attendance.
- (c) An Employer must not fail to re-engage a casual Employee because the casual Employee accessed the entitlements provided for in this subclause. The rights of an Employer to engage or not engage a casual Employee are otherwise not affected.

Conversion and Appointment to Permanency for Casual Employees

- 17.8 For the purposes of this clause:

- (a) an 'eligible casual Employee' is an Employee described as a casual Employee who:
 - (i) has completed two or more years of service with the same Employer or a different Employer due to a machinery of government change, in the same or a similar role without a break in service;
 - (ii) does not have a record of unsatisfactory performance in their role; and
 - (iii) is engaged at a remuneration level below General Division Level 9.1, as per Schedule 2 – General Division Salaries of the *Public Sector CSA Agreement 2022*.
 - (b) a 'break in service' is a period of more than 30 days during which a person is not engaged by the Employer to perform work, attributable to fluctuating demand or business need or taken at the request of the Employee.
 - (c) If a question arises in a dispute under this Agreement as to whether a break between contracts constitutes a break in service, it is the responsibility of the Employer to demonstrate the break was attributable to fluctuating demand or business need, or in response to an Employee request, and was not imposed to avoid an obligation to review or permanently appoint an Employee.
- 17.9 The Employer must review the circumstances of an eligible casual Employee's employment to determine whether or not they meet a circumstance described in clause 17.1 no later than three months after:
- (a) the date on which the Employee becomes an eligible casual Employee;
 - (b) for an Employee who is an eligible casual Employee on the date of registration of this Agreement – that date; and
 - (c) for an Employee who has continued to be engaged as a casual Employee with the same Employer or a different Employer due to a machinery of government change without a break in service – each second anniversary of the date referred to in paragraph (a) or (b).
- 17.10 Following an initial review, where a casual Employee has worked for at least one further year without a break in service and can demonstrate a regular and systematic pattern of hours over a period of 12 months, the Employee can request that the Employer undertake a review in accordance with this clause. The Employer must undertake the review no later than three months after the date of the Employee's request.
- 17.11 If, after carrying out a review referred to in clause 17.9 or 17.10 the Employer determines an Employee's employment is not for an allowable circumstance listed in clause 17.1, the Employer must:
- (a) establish a new permanent position reflecting the duties of the casual role at the FTE equivalent to the average hours worked by the Employee for the preceding six months, or the proportion of FTE worked regularly and systematically without substantial fluctuation, unless the Employer certifies in writing that the role performed by the Employee:
 - (i) has been wholly or substantially externally funded and the funding source will no longer be available; or

- (ii) can no longer be funded from within the agency or organisation's approved salary expense limits.

Relevant notification and consultation obligations must be complied with prior to this certification, unless new information is identified as a part of this review process; and

- (b) no later than two weeks after the date of the review:
 - (i) advise the Employee in writing of the review outcome and the detailed reasons for it; and
 - (ii) if the Employer has established a new position, unless a circumstance in clause 17.12 applies, offer the Employee permanent appointment to the newly established position. The offer must provide sufficient detail for the Employee to consider the implication of the decision to accept or reject permanent employment.

17.12 The Employee whose employment is the subject of a review resulting in the establishment of a new position in accordance with clause 17.11 is entitled to be appointed permanently to that position unless the Employee is in Australia on a visa with a fixed duration or a suitable surplus Employee is able to undertake the role.

17.13 If, after carrying out a review referred to in clause 17.9 and 17.10, the Employer determines the casual engagement meets a circumstance described in clause 17.1, the Employer must give the Employee in writing no later than two weeks after the date of completing the review:

- (a) a statement of the review outcome and the detailed reasons for it; and
- (b) a plain-language summary of an Employer's obligations under this clause to establish permanent positions where Employees have been working regular and systematic hours over a qualifying two-year period, and the actions the Employee can take if they disagree with the review outcome.

17.14 If an Employee does not accept an offer of permanent employment, the Employer can (at the Employer's discretion) continue to engage the Employee as a casual Employee in a different position, subject to the requirements of clause 17.1.

17.15 In consultation with the Union, the Employer will review the mechanisms and processes detailed in clauses 17.8 to 17.14 during the life of this Agreement.

18. NOTICE OF TERMINATION BY EMPLOYER FOR EMPLOYEES OVER 45 YEARS OF AGE

18.1 The provisions of this clause are read in conjunction with clause 8 – Contact of Service of the Award.

18.2 The period of notice for an Employee who, at the end of the day the notice is given, is over 45 years of age and has completed at least two years' continuous service with the Employer, is increased by one week.

18.3 The additional period of notice forms part of the notice provided under the Award or payment in lieu of notice worked out on the basis of the Employee's ordinary hours of work.

19. WORKING WITH CHILDREN CHECKS

19.1 Where an Employee is obliged to obtain a working with children check in accordance with the *Working With Children (Criminal Record Checking) Act 2004* (WA), payment for the check is as follows.

- (a) An Employer must pay the cost for an Employee obliged to obtain a working with children check after their employment has already commenced.
- (b) A new Employee must pay for their initial working with children check. An Employer has the discretion to reimburse a new Employee who commenced employment after 1 January 2006 and has paid for their initial working with children check.
- (c) An Employer must pay the cost for an Employee's working with children check renewals.

19.2 The provisions of this clause apply to all Employees, including fixed term contract and casual Employees.

PART 4: HOURS OF WORK

20. HOURS

20.1 The provisions of this clause replace the provisions of clause 16 – Hours of the Award.

Prescribed Hours

20.2 The prescribed hours of duty are 152 hours per four-week settlement period, to be worked between 7.00am and 6.00pm, Monday to Friday, as determined by the Employer, with a lunch break of not less than 30 minutes.

20.3 Subject to the lunch break, prescribed hours are worked as one continuous period. However, Employees are not required to work more than five hours continuously without a break.

20.4 (a) The Employer can vary the prescribed hours of duty in the Agency or any branch or section, consistent with a 152 hour four-week settlement period, to make provisions for:

- (i) the attendance of Employees for duty on a Saturday, Sunday or public holiday;
- (ii) the performance of shift work including work on a Saturday, Sunday or public holiday; and
- (iii) the nature of the duties of an Employee or class of Employees in fulfilling the responsibilities of their office;

provided that where the hours of duty are so varied an Employee is not required to work more than five hours continuously without a break.

(b) Subject to clause 59.1 – Transitional Arrangements of this Agreement, Employers wishing to vary the prescribed hours of duty to be observed are required to give one

month's notice in writing to the department, branch, section or Employees to be affected by the change.

Ordinary Hours

- (c) Employees working during their prescribed hours of duty on a Saturday, Sunday or public holiday attract the following payment for all ordinary hours worked:
 - (i) Saturdays – time and a half;
 - (ii) Sundays – time and three quarters; and
 - (iii) Public holidays – double time and a half.
- (d) Subject to agreement between the Employer and the Employee, work performed during ordinary rostered hours on a public holiday can be paid at the rate of time and a half and the Employee granted an additional day's leave with pay, equivalent to actual hours worked on the public holiday, added to annual leave or taken at another time within a period of one year.

Overtime

- (e) An Employee required to work overtime on any day is paid the appropriate rates as set out in clause 22 – Overtime Allowance of this Agreement for all time worked.

21. SHIFT WORK ALLOWANCE

Definitions

21.1 The following terms have the following meanings:

- (a) "Day shift" means a shift commencing at or after 6.00am and before 12.00 noon.
- (b) "Afternoon shift" means a shift commencing at or after 12.00 noon and before 6.00pm.
- (c) "Night shift" means a shift commencing at or after 6.00pm and at or before 5:59am.
- (d) "Public holiday" means a holiday provided in Clause 19 – Public Holidays of the Award.

- 21.2 (a) (i) An Employee required to work a weekday Afternoon shift is, in addition to the ordinary rate of salary, paid an allowance in accordance with the following formula for each shift so worked.

$$\text{Annual salary} \times \frac{12}{313} \times \frac{1}{10} \times \frac{15}{100}$$

- (ii) Notwithstanding the above, the minimum amount payable per shift to an Employee required to work an Afternoon shift is the allowance payable to an Employee with an annual salary of level 1.4 using the formula above.

- (iii) For the purposes of this subclause “annual salary” is the ordinary rate of salary payable, as prescribed in Schedule 2 – Salaries of this Agreement.
- (b) (i) An Employee required to work a weekday Night shift is, in addition to the ordinary rate of salary, paid an allowance in accordance with the following formula for each shift so worked.

$$\text{Annual salary} \quad \times \quad \frac{12}{313} \quad \times \quad \frac{1}{10} \quad \times \quad \frac{20}{100}$$

- (ii) Notwithstanding the above, the minimum amount payable per shift to an Employee required to work a Night shift is the allowance payable to an Employee with an annual salary of level 1.4 using the formula above.
- (iii) For the purposes of this subclause “annual salary” is the ordinary rate of salary payable, as prescribed in Schedule 2 – Salaries of this Agreement.

21.3 Work performed during ordinary rostered hours on the following days is paid for at the following rates, in lieu of the allowance prescribed in clause 22 – Overtime Allowance of this Agreement:

- (a) Saturdays – time and a half;
- (b) Sundays – time and three quarters; and
- (c) Public holidays – double time and one half.

Provided that in lieu of the provisions of clause 21.3 (c) and subject to agreement between the Employer and the Employee, work performed during ordinary rostered hours on a public holiday is paid at the rate of time and a half and the Employee granted, an additional day's leave with pay, added to annual leave or taken at another time within a period of one year.

21.4 **Weekend Penalty Rates for Casual Employees**

- (a) Notwithstanding clause 17 – Casual Employment of this Agreement and the provisions of clause 17.4, casual Employees are entitled to weekend shift penalties. Work performed during ordinary rostered hours on the following days is paid for at the following rates:
 - (i) Saturdays and public holidays – time and a half (casuals are already paid a loading in lieu of public holidays); and
 - (ii) Sundays – time and three quarters.
- (b) These rates are paid in addition to but not compounded on the casual loading provided for in clause 17.5 – Casual Employment of this Agreement.

21.5 An Employee rostered off duty on a public holiday can be paid at ordinary rates for such day or the Employee granted, subject to agreement between the Employer and the Employee, an additional day's leave with pay, added to annual leave or taken at a mutually convenient time within a period of one year.

- 21.6 (a) An Employee engaged on shift work who is rostered to work regularly on Sundays and/or public holidays is entitled to five days leave in addition to the Employee's normal entitlement to annual leave.
- (b) For the purposes of this clause, 'rostered to work regularly' means the Employee works at least 11 Sundays and/or public holidays in a period of up to 12 months' continuous service.
- (c) This entitlement accrues according to the following table, provided that the maximum accrual will not exceed five days (38 hours) for each completed 12 month period of continuous service.

Number of Sundays and/or public holidays rostered and worked within a 12 month period	Additional leave entitlement (accrual portion)
3	1 day
5	2 days
7	3 days
9	4 days
11	5 days

- (d) Where an Employee is no longer rostered to work regularly on Sundays and/or public holidays they cease to accrue the additional leave provided by this clause.
- (e) The additional leave provided by this clause accrues after each 12-month period of continuous service.
- (f) The 12 month period of continuous service does not include any period of leave without pay exceeding 14 continuous calendar days.
- (g) A part time Employee is entitled to pro rata additional leave, to be calculated according to the hours the Employee worked on the Sundays and/or public holidays required for each accrual portion. Where these hours varied, the entitlement is determined according to an average of the hours worked on the Sundays and/or public holidays required for each accrual portion.
- (h) Where an entitlement that is superior to the provisions of this clause exists in an Award or an industrial agreement, the superior entitlement is provided to the Employee.
- 21.7 Additional leave provided by clauses 21.3 and 21.5 are not subject to the annual leave loading prescribed by clauses 25 – Annual Leave Loading and 26 – Annual Leave Loading for Shift Workers and Employees on Commuted Arrangements that Incorporate Annual Leave Loading of this Agreement.
- 21.8 Work performed by an Employee in excess of the ordinary hours of the Employee's shift or on a rostered day off is paid for in accordance with the overtime provisions of clause 22 – Overtime Allowance of this Agreement.
- 21.9 (a) When an Employee begins or ceases a shift between the hours of 11.00 pm and 7.00 am and no public transport is available, reimbursement at the appropriate rate of hire

prescribed by clause 37 (4) – Motor Vehicle Allowance of the Award must be made if the Employee's private motor vehicle or cycle is used for the journey between the Employee's residence and headquarters and the return journey.

Provided however, that any Employee who, on or after October 30, 1987, elects to be permanently retained on a fixed or non-rotating shift that begins or ceases between or on the hours of 11.00 pm and 7.00 am is not eligible to claim this reimbursement.

- (b) The provisions of this subclause only applies to Employees living and working within a radius of 50 km of the Perth City Railway Station.

21.10 Hours of Duty and Rosters

- (a) An Employee engaged on shifts must work a 76-hour fortnight, exclusive of meal breaks, on the basis of not more than 10 shifts per fortnight of not more than 7.6 hours duration. Provided that where agreement is reached between the Employer and the Union the length and/or number of shifts worked per fortnight can be altered.

Provided that when the agreed length of a shift is extended past 7.6 hours, overtime is payable only for time worked in excess of the rostered shift.

Provided also that whenever an agreed alteration to the number of hours per shift has occurred then the allowance per shift must be varied on a pro rata basis to reflect any variation to other than 7.6 hours.

- (b) Meal breaks are for a period not less than 30 minutes, but not greater than one hour for each meal.
- (c) Employees can be rostered to work on any of the seven days of the week provided that no Employee is rostered for more than six consecutive days.

Provided that where agreement is reached between the Employer and the Union, shift workers can be exempted from this provision.

- (d) The roster period commences at the beginning of a pay period and continue for 14 consecutive days. Rosters are available to Employees at least five clear working days prior to the commencement of the roster.
- (e) A roster can only be altered on account of a contingency, which the Employer could not have been reasonably expected to foresee. When a roster is altered, the Employee concerned must be notified of the changed shift 24 hours before the changed shift commences. Provided that where such notice is not given, the Employee is paid overtime in accordance with Clause 22 – Overtime Allowance of this Agreement for the duration of the changed shift. This provision does not apply to an Employee who was absent from duty on the Employee's last rostered shift.
- (f) An Employee must not be rostered for duty until at least 10 hours have elapsed from the time the Employee's previous rostered shift ended. Provided that where agreement is reached between the Union and the Employer the 10 hour break can be reduced to accommodate special shift arrangements, except that under no circumstances will such an agreement provide for a break of less than eight hours.

- (g) An Employee must not be retained permanently on one shift unless the Employee so elects in writing.
- (h) Employees are allowed to exchange shifts or days off with other Employees provided the approval of the Employer has been obtained and provided further that any excess hours worked do not involve the payment of overtime.

22. OVERTIME ALLOWANCE

22.1 For the purposes of this clause, the following terms have the following meanings:

- (a) "Overtime" means all work performed only at the direction of the Employer or a duly authorised Employee outside the prescribed hours of duty.
- (b) "Emergency Duty" means duty by an Employee required to return to duty, without prior notice, to meet an emergency at a time that the Employee would not ordinarily have been on duty.
- (c) "Prescribed hours of duty" means an Employee's normal working hours as prescribed by the Employer in accordance with clause 20 – Hours of this Agreement.
- (d) "Duly authorised Employee" means an Employee or Employees appointed in writing by the Employer for the purpose of authorising overtime.
- (e) "A day" means from midnight to midnight.
- (f) "Public holiday" means the days prescribed as public holidays in clause 19 – Public Holidays of the Award.
- (g) "Ordinary travelling time" means time that an Employee would have ordinarily spent in travelling once daily from the Employee's home to the Employee's usual headquarters and home again.
- (h) "Excess travelling time" means all time travelled on official business outside prescribed hours of duty and away from the Employee's usual headquarters in accordance with clause 22.8 – Excess Travelling Time.
- (i) "Fortnightly salary" means an Employee's substantive salary exclusive of any allowances such as the district allowance, personal allowance, qualifications allowance, service allowance, special allowance, or higher duties allowance unless otherwise approved by the Employer. Provided that a special allowance or higher duties allowance is included in "Fortnightly Salary" when overtime is worked on duties for which these allowances are specifically paid.
- (j) "Commuted overtime" means an agreed allowance negotiated between the Union and the Employer, paid in lieu of actual overtime worked for a group of Employees occupying positions which require work to be performed consistently and regularly outside and in excess of the prescribed hours of duty.
- (k) "out of hours contact" includes the following:

- (i) 'standby' means a written instruction or other authorised direction by the Employer or a duly authorised Employee to an Employee to remain at the Employee's place of employment during any period outside the Employee's normal hours of duty, and to perform certain designated tasks periodically or on an impromptu basis. The Employee must be provided with appropriate facilities for sleeping if attendance is overnight, and other personal needs, where practicable.
- (ii) Other than in extraordinary circumstances, Employees must not perform more than two periods of standby in any rostered week.
- (iii) This provision does not replace normal overtime or shift work requirements.
- (iv) 'On call' means a written instruction or other authorised direction by the Employer or a duly authorised Employee to an Employee rostered to remain at the Employee's residence or to otherwise be immediately contactable by telephone or other means outside the Employee's normal hours of duty in case of a call out requiring an immediate return to duty. The nature of the duties to be performed requires an Employee to be in a state of readiness for immediate return to duty.
- (v) 'availability' means a written instruction or other authorised direction by the Employer or a duly authorised Employee to an Employee to remain contactable, but not necessarily immediately contactable by telephone or other means, outside the Employee's normal hours of duty and be available and in a fit state at all such times for recall to duty.

'availability' does not include situations where Employees carry telephones or other means or make their telephone numbers or other contact details available only in the event that they are needed for casual contact or recall to work. Subject to clause 22.4 – Cases Where Overtime Provisions Do Not Apply of this Agreement, recall to work under such circumstances constitutes emergency duty in accordance with clause 22.7 – Emergency Duty of this Agreement.

- (I) 'Return to Duty' also includes, but is not limited to, situations where an Employee, if recalled to duty, can perform such duty outside the usual headquarters where the Employee performs ordinary rostered hours.

22.2 Reasonable Hours of Overtime

- (a) An Employer can require an Employee to work reasonable overtime at overtime rates as specified in this clause.
- (b) An Employee can refuse to work overtime in circumstances where the working of such overtime would result in the Employee working hours which are unreasonable having regard to:
 - (i) any risk to the Employee's health and safety;

- (ii) the Employee's personal circumstances including any family responsibilities;
- (iii) the needs of the workplace or enterprise;
- (iv) the notice (if any) given by the Employer of the overtime and by the Employee of his or her intention to refuse it; and
- (v) any other relevant matter.

22.3 Overtime

- (a) An Employee who works overtime for a greater period than 30 minutes, is entitled to payment in accordance with clause 22.3 (d), or time off in lieu of payment in accordance with clause 22.3 (b), or any combination of payment and time off in lieu.

- (b) Time off in lieu

- (i) Where the Employee or the Employer or a duly authorised Employee, so elects in writing prior to overtime being worked, time off in lieu of payment for overtime worked can be taken in accordance with the time ratios in clause 22.3 (d).
- (ii) The Employee is required to clear accumulated time off in lieu within two months of the overtime being performed, provided that by written agreement between the Employee and the Employer, or duly authorised Employee, time off in lieu of payment for overtime can be accumulated beyond two months from the time the overtime is performed so as to be taken in conjunction with periods of approved leave.
- (iii) If the Agency is unable to release the Employee to clear such leave within two months of the overtime being performed, and no further agreement prescribed in clause 22.3 (b) (ii) is reached, then the Employee must be paid for the overtime worked.

- (c) Commuted Allowance

Any commuted allowance and/or time off in lieu of overtime, other than that provided in 22.3 (b), must be negotiated between the Union and the Employer.

- (d) Payment for Overtime

- (i) Weekdays

For the first three hours worked outside the prescribed hours of duty on any one weekday at the rate of time and a half:

$$\text{i.e. } \frac{\text{Fortnightly Salary}}{76} \times \frac{3}{2}$$

After the first three hours on any one weekday at the rate of double time:

$$\text{i.e. } \frac{\text{Fortnightly Salary}}{76} \times \frac{2}{1}$$

(ii) Saturdays

For the first three hours on any Saturday, before 12.00 noon, at the rate of time and a half:

$$\text{i.e. } \frac{\text{Fortnightly Salary}}{76} \times \frac{3}{2}$$

After the first three hours or after 12.00 noon, whichever is the earlier, on any Saturday at the rate of double time:

$$\text{i.e. } \frac{\text{Fortnightly Salary}}{76} \times \frac{2}{1}$$

(iii) Sundays

For all hours on any Sunday, at the rate of double time:

$$\text{i.e. } \frac{\text{Fortnightly Salary}}{76} \times \frac{2}{1}$$

(iv) Public holidays

For hours worked during prescribed hours of duty on any public holiday at the rate of time and a half (in addition to the normal pay for that day):

$$\text{i.e. } \frac{\text{Fortnightly Salary}}{76} \times \frac{3}{2}$$

For hours worked outside of the prescribed hours of duty on any public holiday at the rate of double time and a half:

$$\text{i.e. } \frac{\text{Fortnightly Salary}}{76} \times \frac{5}{2}$$

(e) Annual Leave/Long Service Leave

An Employee directed to return to duty during periods of annual or long service leave is deemed to be no longer on leave for the duration of that period of duty.

- (i) If the Employee is directed to return to duty during a period of leave during prescribed hours of duty, then that Employee will be recredited with that leave for the same number of hours of duty performed.
- (ii) If the Employee is directed to return to duty during a period of leave outside of prescribed hours of duty, then that Employee is entitled to payment of overtime in accordance with clause 22.3 (d).

(f) Time Worked Past Midnight

Where an Employee is required to work a continuous period of overtime which extends past midnight into the succeeding day the time worked after midnight is included with that worked before midnight for the purpose of calculation of payment provided for in clause 22.3 (d).

(g) Minimum Periods for Return to Duty

- (i) An Employee, having received prior notice, who is required to return to duty:
 - (aa) on a Saturday, Sunday or public holiday, otherwise than during prescribed hours of duty, is entitled to payment at the rate in accordance with clause 22.3 (d) for a minimum of three hours; and
 - (bb) before or after the prescribed hours of duty on a weekday is entitled to payment at the rate in accordance with clause 22.3 (d) for a minimum period of one and one half hours.
- (ii) For the purpose of this subclause, where an Employee is required to return to duty more than once, each duty period stands alone in respect to the application of minimum period payment except where the second or subsequent return to duty is within any such minimum period.
- (iii) The provisions of this subparagraph do not apply in cases where it is customary for an Employee to return to the place of employment to perform a specific job outside the prescribed hours of duty, or where the overtime is continuous (subject to a meal break) with the completion or commencement of the prescribed hours of duty.

(h) Overtime at a Place Other than Usual Headquarters

- (i) When an Employee is directed to work overtime at a place other than usual headquarters, and provided that the place where the overtime is to be worked is situated in the area within a radius of 50 kilometres from usual headquarters, and the time spent in travelling to and from that place is in excess of the time which an Employee would ordinarily spend in travelling to and from usual headquarters, and provided such travel is undertaken on the same day as the overtime is worked, then such excess time is deemed to form part of the overtime worked.
- (ii) Except as provided in clauses 22.6 (g) and 22.7 (b), when an Employee is directed to work overtime at a place other than usual headquarters, and provided that the place where the overtime is to be worked is situated outside the area within a radius of 50 kilometres from usual headquarters and the time spent in travelling to and from that place is in excess of the time which the Employee would ordinarily spend in travelling to and from usual headquarters, then the Employee is granted time off in lieu of such excess time spent in actual travel in accordance with clause 22.8 – Excess Travelling Time of this Agreement.

(i) Ten Hour Break

- (i) When overtime is worked, a break of not less than 10 hours will be taken between the completion of work on one day and the commencement of work on the next, without loss of salary for ordinary working time occurring during such absence.
- (ii) Provided that where an Employee is directed to return to or continue work without the break provided in clause 22.3 (i) then the Employee must be paid at double the ordinary rate until released from duty, or until the Employee has had 10 consecutive hours off duty without loss of salary for ordinary working time occurring during such absence.
- (iii) The provisions of clause 22.3 (i) (i) and (ii), do not apply to Employees included in clause 22.6 – Out of Hours Contact.

22.4 Cases where Overtime provisions do not apply

- (a) Payment for Overtime, the granting of time off in lieu of Overtime or travelling time shall not be granted to Employees whose work is not subject to close supervision.
- (b) Notwithstanding clause 22.4 (a) when an Employee who is not subject to close supervision is directed by the Employer to carry out specific duties involving the working of Overtime and provided such Overtime can be reasonably determined by the Employee's supervisor, then such Employee shall be entitled to the payment of Overtime or time off in lieu of Overtime in accordance with this clause.

22.5 Meal Allowances

- (a) A break of 30 minutes must be made for meals between 5.30 am and 7.30 am, between 12.00 noon and 2.00pm, and between 4.30 pm and 6.30 pm when overtime duty is being performed.
- (b) Except in the case of emergency, an Employee must not be compelled to work more than five hours overtime duty without a meal break. At the conclusion of a meal break, the calculation of the five-hour limit recommences.
- (c) An Employee required to work overtime of not less than two hours, and who actually purchases a meal is reimbursed in accordance with Part 2 of Schedule 3 – Overtime Allowance of this Agreement, in addition to any payment for overtime to which that Employee is entitled.
- (d) An Employee working a continuous period of overtime who has already purchased one meal during a meal break, is not entitled to reimbursement for the purchase of any subsequent meal in accordance with Part 2 of Schedule 3 – Overtime Allowance of this Agreement until that Employee has worked a further five hours overtime from the time of the last meal break.
- (e) If an Employee, having received prior notification of a requirement to work overtime, is no longer required to work overtime, then the Employee is entitled, in addition to any other penalty, to reimbursement for a meal previously purchased.

22.6 Out of Hours Contact

- (a) Where out of hours contact is a usual feature of the duties for which Employees are regularly rostered, the issue of a roster is deemed to be a written instruction.
- (b) Except as otherwise agreed between the Employer and the Union, an Employee who is required by the Employer or a duly authorised Employee to be on out of hours contact during periods off duty must be paid an allowance in accordance with the following formulae for each hour or part thereof the Employee is on out of hours contact.

Standby	current Level 3.1 weekly rate	x	$\frac{1}{37.5}$	x	$\frac{37.5}{100}$		
On Call	current Level 3.1 weekly rate	x	$\frac{1}{37.5}$	x	$\frac{18.75}{100}$		
Availability	current Level 3.1 weekly rate	x	$\frac{1}{37.5}$	x	$\frac{18.75}{100}$	x	$\frac{50}{100}$

Such allowances are contained in Part I of Schedule 3 – Overtime Allowance of this Agreement.

Provided that:

- (i) “current level 3.1 weekly rate” refers to the weekly salary of a level 3.1 Employee as per Schedule 2 – Salaries of this Agreement; and
- (ii) payment in accordance with this clause must not be made when payment is made in accordance with the provisions of clause 22.3 (d) – Payment for Overtime of this Agreement when the Employee is recalled to work.
- (c) When an Employee is required to be on call or available the Employer must provide the Employee with the means of contact free of charge for the purposes of work-related activity.
- (d) Where the means of contact is to be by land line or satellite telephone fixed at the Employee’s residence the Employer must:
 - (i) where the telephone is not already installed, pay the cost of such installation.
 - (ii) where an Employee pays or contributes towards the payment of the rental of such telephone, pay the Employee 1/52nd of the annual rental paid by the Employee for each seven days, or part thereof, on which an Employee is rostered to be on call or available.
 - (iii) where the usual duties of an Employee requires a regular roster to be on call or available, pay the full amount of the telephone rental.
- (e) An Employee must be reimbursed the cost of all telephone calls made on behalf of the Employer whilst on out of hours contact.

- (f) Where an Employee rostered for on call or availability is recalled to duty during the period for which the Employee is on out of hours contact then the Employee must receive payment for hours worked in accordance with clause 22.3 (d).
- (g) Where an Employee rostered for on call or availability is recalled to duty, the time spent travelling to and from the place at which duty is to be performed, must be included with actual duty for the purposes of overtime payment.
- (h) Minimum payment provisions do not apply to an Employee rostered for out of hours contact duty.
- (i) An Employee in receipt of an out of hours contact allowance and who is recalled to duty is not regarded as having performed emergency duty in accordance with clause 22.7 – Emergency Duty.
- (j) Employees subject to this clause must, where practicable, be periodically relieved from any requirement to hold themselves on standby, on call or availability.
- (k) No Employee is to be on out of hours contact after the last working day preceding a period of annual leave or long service leave.

22.7 Emergency Duty

- (a) Where an Employee is required to return to duty to meet an emergency at a time when the Employee would not ordinarily have been on duty, and no notice of such call was given prior to completion of usual duty on the last day of work prior to the day on which called on duty, then if called to duty:
 - (i) on a Saturday, Sunday or public holiday, otherwise than during prescribed hours of duty the Employee is entitled to payment at the rate in accordance with clause 22.3 (d) for a minimum period of three hours; and
 - (ii) before or after the prescribed hours of duty on a weekday the Employee is entitled to payment at the rate in accordance with clause 22.3 (d) for a minimum period of two and a half hours.
- (b) Time spent in travelling to and from the place of duty where the Employee is actually recalled to perform emergency duty must be included with actual duty performed for the purpose of overtime payment.
- (c) An Employee recalled for emergency duty is not obliged to work for the minimum period if the work is completed in less time, provided that an Employee called out more than once within any such minimum period is not entitled to any further payment for the time worked within that minimum period.
- (d) Where an Employee is required to work beyond the minimum period on the first or subsequent recall for emergency duty, the additional time worked at the conclusion of that minimum period must be paid in accordance with the appropriate rate in clause 22.3 (d).

- (e) Where an Employee is recalled for a second or subsequent period of emergency duty outside of the initial minimum period, the Employee is entitled to payment for a new minimum period, and the provisions of this subclause must be re-applied.
- (f) For the purpose of this subclause, no claim for payment is allowed in respect of any emergency duty, including travelling time, which amounts to less than 30 minutes.

22.8 Excess Travelling Time

An Employee eligible for payment of overtime, who is required to travel on official business outside normal working hours and away from usual headquarters must be granted time off in lieu of such actual time spent in travelling at equivalent or ordinary rates on weekdays and at time and a half rates on Saturdays, Sundays and public holidays, otherwise than during prescribed hours of duty, provided that:

- (a) such travel is undertaken at the direction of the Employer;
- (b) such travel does not include:
 - (i) time spent in travelling by an Employee on duty at a temporary headquarters to the Employee's home for weekends for the Employee's own convenience;
 - (ii) time spent in travelling by plane between the hours of 11.00 pm and 6.00 am;
 - (iii) time spent in travelling by train between the hours of 11.00 pm and 6.00 am;
 - (iv) time spent in travelling by ship when meals and accommodation are provided;
 - (v) time spent in travel resulting from the permanent transfer or promotion of an Employee to a new location;
 - (vi) time of travelling in which an Employee is required by the Agency to drive, outside ordinary hours of duty, a departmental vehicle or to drive the Employee's own motor vehicle involving the payment of mileage allowance, but such time is deemed to be overtime and paid in accordance with clause 22.3 (d). Passengers, however, are entitled to the provisions of this clause; and
 - (vii) time spent in travelling to and from the place at which overtime or emergency duty is performed, when that travelling time is already included with actual duty time for the payment of overtime.
- (c) Time off in lieu will not be granted for periods of less than 30 minutes.
- (d) Where such travel is undertaken on a normal working day, time off in lieu is granted only for such time spent in travelling before and/or after the usual hours of duty, which is in excess of the Employee's ordinary travelling time.
- (e) Where the urgent need to travel compels an Employee to travel during the Employee's usual lunch interval such additional travelling time is not taken into account in computing the number of hours of travelling time due.

- (f) In the case of an Employee absent from usual headquarters, not involving an overnight stay, the time spent by the Employee, outside the prescribed hours of duty, in waiting between the time of arrival at place of duty and the time of commencing duty, and between the time of ceasing duty and the time of departure by the first available transport is deemed to be excess travelling time.
- (g) In the case of an Employee absent from usual headquarters that does involve an overnight stay, the time spent by the Employee, outside the prescribed hours of duty, in waiting between the time of ceasing duty on the last day and the time of departure by the first available transport is deemed to be excess travelling time.

22.9 Special Conditions

Any group of Employees whose duties necessarily entail special conditions of employment will not be subject to the prescribed hours of duty as defined in clause 20 – Hours of this Agreement if the Employer so determines. Provided, however, that such a determination does not abrogate the right of the Union to make a claim or claims on behalf of such a group.

PART 5: LEAVE

23. ANNUAL LEAVE

- 23.1 The provisions of this clause are read in conjunction with clause 18 – Annual Leave of the Award with the exception of clause 18 (12) of the Award.
- 23.2 Every Employee other than an Employee referred to in clause 36 – Pro Rata Additional Annual Leave for North West Employees of this Agreement, to whom the Employer has granted annual leave in excess of four weeks because of special circumstances is credited with such additional leave on a pro rata basis according to the following table:

Completed Month of Service	Pro rata Annual Leave (working days)	
	Five (5) Additional Days	Ten (10) Additional Days
1	Nil	Nil
2	Nil	1
3	1	2
4	1	3
5	2	4
6	2	5
7	2	5
8	3	6
9	3	7
10	4	8
11	4	9

24. EMPLOYEE INITIATED CASH OUT OF ACCRUED ANNUAL LEAVE

- 24.1 It is important Employees take annual leave for the purposes of rest and recreation.
- 24.2 This clause, however, recognises that notwithstanding the importance of leave referred to in clause 24.1 some Employees can accumulate excess and overdue annual leave. This clause at

the initiative of the Employee provides for Employees to receive payment in lieu of some of their unutilised accrued annual leave.

- 24.3 (a) Subject to clause 24.4, the Employer and Employee can agree that the Employee forego part of the Employee's entitlement to accrued annual leave in exchange for equivalent payment at the rate which would have applied had the leave been taken at the time the agreement is made.
- (b) The payment includes applicable annual leave loading in accordance with clauses 25 – Annual Leave Loading and 26 – Annual Leave Loading for Shift Workers and Employees on Commuted Arrangements that Incorporate Annual Leave Loading of this Agreement.
- 24.4 The following criteria applies to the cashing out of accrued annual leave:
- (a) the Employee initiates a written request, to their Employer, to cash out accrued annual leave;
- (b) the Employer agrees in writing to the request by the Employee;
- (c) there is an annual leave entitlement that accrued in previous years;
- (d) no more than 50 per cent of the Employee's total accrued annual leave entitlement can be cashed out;
- (e) the remaining entitlement is not less than two weeks accrued annual leave;
- (f) each instance of cashing out of annual leave must be a separate written agreement between the Employer and Employee; and
- (g) annual leave accruing in the year the request for cashing out is made cannot be cashed out in that year.
- 24.5 It is the Employee's responsibility to seek information on any taxation implications arising from the payout of annual leave.

25. ANNUAL LEAVE LOADING

- 25.1 This clause replaces clause 18 (12) – Annual Leave of the Award for Employees not engaged on shift or commuted arrangements that incorporate leave loading.
- 25.2 Subject to clauses 25.4 and 25.6, a loading of 17.5 per cent calculated on an Employee's normal rate of salary for a maximum of four weeks' annual leave is paid to Employees on the first pay period in December in the calendar year in which the leave accrues.
- 25.3 The leave loading paid to Employees who are in the service of the Employer prior to or engaged after 1 January in each year is the leave loading anticipated to be due on 31 December of that year.
- 25.4 The maximum payment for the loading provided for in clause 25.2 cannot exceed a rate equivalent to 17.5 per cent of four weeks' salary of a Level 8.1 Employee as per Schedule 2 –

General Division Salaries of the *Public Sector CSA Agreement 2022* as at 1 January in the calendar year in which the leave accrues, in accordance with the following:

	Maximum leave loading for annual leave:	Maximum
(a)	Commencing on or after 1 January 2023	\$1,883.76
(b)	Commencing on or after 1 January 2024	\$1,940.28

- 25.5 Part time Employees are paid a proportion of the annual leave loading at the salary rate applicable, provided that the maximum loading payable is calculated in accordance with the following:

Average hours of work per fortnight in the calendar year in which the leave accrues	x	Maximum loading in accordance with clause 25.4
76		1

- 25.6 (a) The loading is calculated on the rate of the normal fortnightly salary, including any allowances paid as a regular fortnightly or annual amount.
- (b) Any allowance paid to an Employee for undertaking higher duties is only included if the allowance is payable during any period of leave taken during the calendar year as provided for under clause 42 – Higher Duties Allowance of this Agreement.
- 25.7 An Employee must refund any leave loading paid in December if the Employee resigns, or ceases employment, or where an Employee is dismissed prior to the 31 December of that year. This provision does not apply in the event of death of an Employee or if the Employee retires.
- 25.8 Where payment in lieu of accrued or pro rata annual leave is made on the death or retirement of an Employee, a loading calculated in accordance with the terms of this clause is to be paid on accrued and pro rata annual leave.
- 25.9 When an Employee resigns, or ceases employment, or where an Employee is dismissed, an annual leave loading is paid as follows:
- (a) accrued entitlements to annual leave – a loading calculated in accordance with the terms of this clause for accrued leave is paid; and
- (b) pro rata annual leave – no loading is paid.
- 25.10 The loading does not apply to Cadets on full time study.

26. ANNUAL LEAVE LOADING FOR SHIFT WORK EMPLOYEES AND EMPLOYEES ON COMMUTED ARRANGEMENTS THAT INCORPORATE ANNUAL LEAVE LOADING

- 26.1 The provisions of this clause replace clause 18 (12) – Annual Leave of the Award for shift work Employees and Employees on commuted arrangements that incorporate annual leave loading.
- 26.2 Subject to the provisions of clauses 26.4 and 26.8, a loading equivalent to 17.5 per cent of normal salary is payable to shift work Employees and Employees on commuted arrangements

that incorporate annual leave loading proceeding on annual leave, including accumulated annual leave.

26.3 Subject to the provisions of clauses 26.4 and 26.8, shift work Employees who are granted an additional week's penalty leave when proceeding on annual leave including accumulated annual leave are paid:

- (a) shift and weekend penalties the Employee would have received had the Employee not proceeded on annual leave; or
- (b) a loading equivalent to 20 per cent of normal salary for five weeks' leave;

whichever is the greater.

26.4 (a) Subject to the provisions of clause 26.6, the loading is paid on a maximum of four weeks' annual leave, or five weeks' in the case of shift work Employees who are granted an additional week's penalty leave. Payment of the loading is not made on additional leave granted for any other purpose (e.g. to Employees whose headquarters are located north of the 26 degrees south latitude).

(b) The maximum payment for the loading provided for in clause 26.2 cannot exceed a rate equivalent to 17.5 per cent of four weeks' salary of a Level 8.1 Employee as per Schedule 2 – General Division Salaries the *Public Sector CSA Agreement 2022* as at 1 January in the calendar year in which the leave commences, in accordance with the following:

	Maximum leave loading for annual leave:	Maximum
(i)	Commencing on or after 1 January 2023	\$1,883.76
(ii)	Commencing on or after 1 January 2024	\$1,940.28

(c) The maximum payment to shift work Employees who are granted an additional week's penalty leave cannot exceed 5/4th of the rates prescribed in clause 26.4 (b), in accordance with the following:

	Maximum leave loading for annual leave:	Maximum
(i)	Commencing on or after 1 January 2023	\$2,354.70
(ii)	Commencing on or after 1 January 2024	\$2,425.35

26.5 Annual leave commencing in any year and extending without a break into the following year attracts the loading calculated on the salary applicable on the day the leave commenced.

26.6 The loading is payable on approved accumulated annual leave at the rate applicable when the leave commences, up to the maximum loading for the approved accumulated annual leave and in addition to the loading for the current year's entitlement.

26.7 A pro rata loading is payable on periods of approved annual leave that are less than four weeks.

26.8 (a) The loading is calculated on the rate of the normal fortnightly salary, including any allowances paid as a regular fortnightly or annual amount.

(b) Any allowance paid to an Employee for undertaking higher duties is only included if the allowance is payable during any period of leave taken during the calendar year as provided for under clause 42 – Higher Duties Allowance of this Agreement.

26.9 Part time Employees are paid a proportion of the annual leave loading at the salary rate applicable, provided that the maximum loading payable is calculated in accordance with the following:

$$\frac{\text{Average hours of work per fortnight in the calendar year in which leave accrues}}{76} \times \frac{\text{Maximum loading in accordance with clause 26.4 (b) or 26.4 (c), whichever applicable}}{1}$$

26.10 An Employee who has been permitted to proceed on annual leave and who ceases duty before completing the required continuous service to accrue the leave must refund the value of the unearned pro rata portion. Provided that no refund is necessary in the event of the death of an Employee.

27. PERSONAL LEAVE

Introduction

27.1 The provisions of this clause replace clause 23 – Short Leave, clause 22 – Carers Leave, and clause 21 – Sick Leave of the Award.

27.2 The intention of personal leave is to give Employees and Employers greater flexibility by providing leave on full pay for a variety of personal purposes. Personal leave replaces sick, paid carer's leave and short leave.

27.3 This clause commenced on 30 July 2004. An Employee's pre-existing sick leave anniversary date is maintained for the purposes of the personal leave entitlement.

27.4 Personal leave is not for circumstances normally met by other forms of leave.

27.5 This clause does not apply to casual Employees.

27.6 An Employee employed on a fixed term contract for a period of 12 months or more is credited with the same entitlement as a permanent Employee. An Employee on a fixed term contract for a period less than 12 months is credited on a pro rata basis for the period of the contract.

27.7 A part time Employee is entitled to the same personal leave credits as a full time Employee but on a pro rata basis according to the number of hours worked each fortnight. Payment for personal leave is only made for hours that would normally have been worked had the Employee not been on personal leave.

27.8 References to illness in this clause include physical and psychological ill health.

Entitlement

- 27.9 The Employer must credit each permanent, full time Employee with 114 personal leave credits for each year of continuous service as follows:

Date	Grant of Leave
On the day of initial appointment	64.6 hours
On completion of six months' continuous service	49.4 hours
On the completion of 12 months' continuous service	114 hours
On the completion of each further period of 12 months' continuous service	114 hours

- 27.10 In the year of accrual the 114 hours personal leave entitlement can be accessed for illness or injury, carer's leave, unanticipated matters or planned matters in accordance with the provisions of this clause. On completion of each year of accrual, unused personal leave from that year is cumulative and hence added to personal leave accumulated from previous years.
- 27.11 Whilst Employees are able to access personal leave in accordance with clause 27.27 to ensure compliance with the *Minimum Conditions of Employment Act 1993 (WA)* a minimum of 76 hours must be available to Employees for the purposes of an Employee's entitlement to paid leave for illness or injury, or carer's leave.
- 27.12 Personal leave cannot be debited for public holidays that the Employee would have observed.
- 27.13 Personal leave can be taken on an hourly basis.
- 27.14 War caused illnesses
- (a) An Employee who produces a certificate from the Department of Veterans' Affairs stating that the Employee suffers from war caused illness is granted special personal leave credits of 114 hours (15 standard hour days) per annum on full pay in respect of that war caused illness. These credits accumulate up to a maximum credit of 342 hours (45 standard hour days), and are recorded separately to the Employee's normal personal leave credit.
 - (b) Every application for personal leave for war caused illness must be supported by a certificate from a registered medical practitioner as to the nature of the illness.

Mental Health

- 27.15 The Employer is committed to providing mentally healthy workplaces. This includes working to eliminate stigma attached to mental health in the workplace and provide support and assistance to Employees (e.g. through employee assistance program services and training) to manage mental health.
- 27.16 Employers must do what is reasonably practicable to eliminate or minimise risks to psychological health and safety in the workplace. In consultation with the Work Health and Safety (WHS) Committee, Employers must assess and implement suitable control measures to eliminate or minimise workplace contributory risks in accordance with legislative requirements. The WHS Committee updates the JCC on progress as appropriate.
- 27.17 Employers must ensure that managers and supervisors undertake appropriate training to

effectively prevent and manage harm from psychosocial risks identified in the workplace. The Employer must provide the JCC with data on completed training.

Variation of Ordinary Working Hours

- 27.18 When an Employee's ordinary working hours change during an anniversary year, personal leave credits are adjusted to reflect the pro rata portion for that anniversary year.
- 27.19 At the time ordinary working hours change, personal leave credits are adjusted to reflect ordinary working hours up to that point in time as a proportion of the total ordinary working hours for the anniversary year.
- 27.20 Personal leave is credited pro rata on a weekly basis from the time ordinary working hours change until the next anniversary date, such that the total hours credited for that anniversary year is on a pro rata basis according to the number of ordinary working hours for the period.

Reconciliation

- 27.21 At the completion of an anniversary year, where an Employee has taken personal leave in excess of their current and accrued entitlement the unearned leave must be debited at the commencement of the following anniversary year/s.
- 27.22 The maximum number of hours debited cannot exceed one third of the Employee's annual entitlement. The remaining portion of unearned personal leave is to be debited at the commencement of the subsequent anniversary year/s.
- 27.23 Where an Employee ceases duty and has taken personal leave that exceeds the leave credited for that anniversary year, the Employee must refund the value of the unearned leave, calculated at the rate of salary as at the date the leave was taken. No refund is required in the event of the death of the Employee.

Access

- 27.24 An Employee is unable to access personal leave while on any period of leave without pay; parental leave; or annual or long service leave, except as provided for in clauses 27.37 (re-crediting annual leave) and 27.38 (re-crediting long service leave).
- 27.25 If an Employee has exhausted all accrued personal leave the Employer can allow the Employee who has at least 12 months' service to anticipate up to 38 hours personal leave from next year's credit. If the Employee ceases duty before accruing the leave, the value of the unearned portion must be refunded to the Employer, calculated at the rate of salary as at the date the leave was taken, but no refund is required in the event of the death of the Employee.
- 27.26 In exceptional circumstances the Employer can approve the conversion of an Employee's personal leave credits to half pay to cover an absence on personal leave due to illness.

Application for Personal Leave

- 27.27 Reasonable and legitimate requests for personal leave are approved subject to available credits. Personal leave is granted in the following circumstances:

- (a) where the Employee is ill or injured;
 - (b) to provide care or support to a member of the Employee's family or household who requires care or support because of an illness or injury to the member; or an unexpected emergency affecting the member;
 - (c) for unanticipated matters of a compassionate or pressing nature which arise without notice and require immediate attention; or
 - (d) for planned matters that cannot be organised outside of normal working hours, or accommodated by flexible working arrangements or other leave and which are either:
 - (i) of a one-off nature; or
 - (ii) of a regular on-going nature in relation to the management of an injury or illness affecting the Employee or a member of the Employee's family or household.
- 27.28 An Employer can grant two days' unpaid personal leave per occasion to an Employee to provide care and support to a member of the Employee's family or household due to the birth of a child to the member. This entitlement does not of itself limit an Employee's access to paid personal leave as provided by clause 27.27 or parental leave as provided for by clause 33.6(d) – Concurrent Parental Leave of this Agreement. This leave can also be substituted with accrued annual leave, long service leave and/or time off in lieu of overtime to which the Employee is entitled.
- 27.29 Employees must complete the necessary application and clearly identify which of the above circumstances apply to their personal leave request.
- 27.30 The definition of family is the definition contained in the *Equal Opportunity Act 1984 (WA)* for "relative". That is, a person who is related to the Employee by blood, marriage, affinity or adoption, and includes a person who is wholly or mainly dependent on, or is a member of the household of, the Employee.
- 27.31 Where practicable, the Employee must give reasonable notice prior to taking leave. Where prior notice cannot be given, notice must be provided as early as possible on the day of absence. Where possible, an estimate of the period of absence from work is to be provided.

Evidence

- 27.32 An application for personal leave exceeding two consecutive working days must be supported by evidence that would satisfy a reasonable person of the entitlement.
- 27.33 In general, supporting evidence is not required for single or two consecutive day absences. Where the Employer has good reason to believe that the absence is not reasonable or legitimate, the Employer can request evidence be provided. The Employer must provide the Employee with reasons for requesting the evidence. The leave cannot be granted where the absence is not reasonable or legitimate.
- 27.34 Personal leave is not granted where an Employee is absent from duty because of personal illness attributable to the Employee's serious and wilful misconduct in the course of the

Employee's employment.

- 27.35 Where there is doubt about the cause of an Employee's illness, the Employer can require the Employee to submit to a medical examination by a medical practitioner of the Employer's choice, which the Employee must attend. Where it is reported that the absence is because of illness caused by the Employee's serious and wilful misconduct in the course of the Employee's employment, or the Employee fails without reasonable cause to attend the medical examination, the fee for the examination must be deducted from the Employee's salary and personal leave cannot be granted.
- 27.36 If the Employer has reason to believe that an Employee is in such a state of health as to render a danger to themselves, fellow Employees or the public, the Employee can be required to obtain and furnish a report as to the Employee's condition from a registered medical practitioner nominated by the Employer. The Employer must pay the fee for any such examination.

Re-crediting Annual Leave

- 27.37 Where an Employee is ill or injured during the period of annual leave and produces at the time, or as soon as practicable thereafter, medical evidence to the satisfaction of the Employer that as a result of the illness or injury, the Employee was confined to their place of residence or a hospital for a period of at least seven consecutive calendar days, the Employer can grant personal leave for the period during which the Employee was so confined and reinstate annual leave equivalent to the period of confinement.

Re-crediting Long Service Leave

- 27.38 Where an Employee is ill or injured during the period of long service leave and produces at the time, or as soon as practicable thereafter, medical evidence to the satisfaction of the Employer that as a result of illness or injury, the Employee was confined to their place of residence or a hospital for a period of at least 14 consecutive calendar days, the Employer can grant personal leave for the period during which the Employee was so confined and reinstate long service leave equivalent to the period of confinement.

Personal Leave Without Pay Whilst Ill or Injured

- 27.39 Employees who have exhausted their personal leave entitlements and are ill or injured can apply for personal leave without pay. Employees are required to complete the necessary application and provide evidence to satisfy a reasonable person. The Employer must not unreasonably withhold this leave.
- 27.40 Personal leave without pay not exceeding a period of three months in a continuous absence does not affect salary increment dates, anniversary date of personal leave credits, long service leave entitlements or annual leave entitlements. Where a period of personal leave without pay exceeds three months in a continuous absence, the period in excess of three months is excised from qualifying service.
- 27.41 Personal leave without pay is not available to Employees who have exhausted their personal leave entitlements and are seeking leave for circumstances outlined in clauses 27.27 (b), (c) and (d) or 27.28. However, applications for other forms of leave, including unpaid carer's leave and leave without pay, can be approved.

Other Conditions

- 27.42 Where an Employee who has been retired from the public service on medical grounds resumes employment, personal leave credits at the date of retirement must be reinstated. This provision does not apply to an Employee who has resigned from the public service and is subsequently reappointed.
- 27.43 Unused personal leave is not cashed out or paid out when an Employee ceases their employment.

Workers' Compensation

- 27.44 Where an Employee suffers an "injury" within the meaning of section 5 of the *Workers' Compensation and Injury Management Act 1981* (WA), which necessitates that Employee being absent from duty, personal leave with pay must be granted to the extent of personal leave credits. In accordance with section 80 (2) of the *Workers' Compensation and Injury Management Act 1981* (WA) where the claim for workers' compensation is decided in favour of the Employee, personal leave credit is reinstated and the period of absence is granted as personal leave without pay.
- 27.45 A period of personal leave without pay granted to an Employee on account of an illness compensable under the provisions of the *Workers' Compensation and Injury Management Act 1981* (WA), does not affect salary increment dates, the anniversary date of personal leave credits, long service leave entitlements or annual leave entitlements provided the period of leave granted does not exceed six months in a continuous absence. Where the period of personal leave without pay granted does exceed six months in a continuous absence, only the period in excess of six months is excised from qualifying service.

Portability

- 27.46 The Employer must credit an Employee additional personal leave credits up to those held at the date the Employee ceased previous employment provided:
- (a) immediately prior to commencing employment in the Public Service, the Employee was employed in the service of one of the following (or their replacements):
 - (i) the Commonwealth Government of Australia;
 - (ii) any other State of Australia;
 - (iii) a department, SES organisation, or non-SES organisation, as defined in the *Public Sector Management Act 1994* (WA);
 - (iv) statutory authorities listed in Schedule 1 of the *Financial Management Act 2006* (WA);
 - (v) Houses of the Parliament of the State under the separate control of the President or Speaker or under their joint control;
 - (vi) the Health Education Council; or

- (vii) the Western Australian Board of Nursing and Midwifery Board of Western Australia;
- (b) the Employee's employment with the Public Service commenced no later than one week after ceasing previous employment, and
- (c) the personal leave credited in accordance with this clause cannot be greater than that which would have applied had the entitlement accumulated whilst employed by the previous Employer.

27.47 The maximum break in employment permitted by clause 27.46 (b) can be varied by the approval of the Employer provided that where employment with the Public Service commenced more than one week after ceasing the previous employment, the period in excess of one week does not exceed the amount of accrued and pro rata annual leave paid out at the date the Employee ceased with the previous Employer.

Travelling time for Regional Employees

27.48 Subject to the evidence requirements set out in clauses 27.32 to 27.36, a Regional Employee who requires medical attention at a medical facility in Western Australia located 240 kilometres or more from their workplace is granted paid travel time undertaken during the Employee's ordinary working hours up to a maximum of 38 hours per annum.

27.49 The Employer can approve additional paid travel time to a medical facility in Western Australia where the Employee can demonstrate to the satisfaction of the Employer that more travel time is warranted.

27.50 The provisions of clauses 27.48 and 27.49 are not available to Employees whilst on leave without pay or personal leave without pay.

27.51 The provisions of clauses 27.48 and 27.49 apply as follows:

- (a) An Employee employed on a fixed term contract for a period greater than 12 months, is credited with the same entitlement as a permanent Employee for each full year of service and pro rata for any residual portion of employment.
- (b) An Employee employed on a fixed term contract for a period less than 12 months is credited with the same entitlement on a pro rata basis for the period of employment.
- (c) A part time Employee is entitled to the same entitlement as a full time Employee for the period of employment, but on a pro rata basis according to the number of ordinary hours worked each fortnight.
- (d) The provisions do not apply to casual Employees.

28. FAMILY AND DOMESTIC VIOLENCE LEAVE

28.1 In recognition that Employees sometimes face situations of violence or abuse in their personal life that can affect their attendance or performance at work the Employer agrees to the leave which is the subject of this clause. The Employer supports Employees experiencing family and domestic violence.

- 28.2 An Employee must not be discriminated against or have adverse action taken against them because of their disclosure of, experience of, or perceived experience of, family and domestic violence.
- 28.3 The Employer does not tolerate Employees perpetrating family and domestic violence in or from the workplace. Employees must not use work facilities to perpetrate family and domestic violence. Any such conduct is a breach of employment obligations and any Employees who do so face disciplinary action.

Definition of Family and Domestic Violence

- 28.4 (a) The meaning of family and domestic violence is in accordance with the definition of “family violence” in section 5A of the *Restraining Orders Act 1997* (WA).
- (b) To avoid doubt, this definition includes behaviour that:
- (i) is physically or sexually abusive;
 - (ii) is emotionally or psychologically abusive;
 - (iii) is economically abusive;
 - (iv) is threatening;
 - (v) is coercive;
 - (vi) in any other way controls or dominates the family or household member and causes that person to feel fear for their safety or wellbeing or that of another person; or
 - (vii) causes a child to hear or witness, or otherwise be exposed to the effects of, such behaviour.

Access to Family and Domestic Violence Leave

- 28.5 In accordance with clauses 28.6 to 28.27, an Employee, including a casual Employee, can apply for leave to deal with activities related to family and domestic violence. The Employer must assess each application and consider the personal circumstances of the Employee seeking the leave.
- 28.6 Such activities, related to family and domestic violence can include attendance at medical appointments; legal proceedings; counselling; appointments with a medical or legal practitioner; relocation or making other safety arrangements; and other matters of a compassionate or pressing nature related to the family and domestic violence which arise without notice and require immediate attention.
- 28.7 Subject to clauses 28.5 and 28.6, an Employee experiencing family and domestic violence has access to 10 non-cumulative days per year of paid family and domestic violence leave, in addition to their existing leave entitlements.

- 28.8 Upon exhaustion of the leave entitlement in clause 28.7, Employees are entitled to up to two days' unpaid family and domestic violence leave on each occasion.
- 28.9 Family and domestic violence leave does not affect salary increment dates, personal leave entitlements, long service leave entitlements or annual leave entitlements.
- 28.10 Subject to the Employer's approval of the application, family and domestic violence leave can be taken as whole or part days off.
- 28.11 Application of the leave entitlement for casual Employees applies to the extent of their agreed working arrangements.

Notice and Evidentiary Requirements

- 28.12 The Employee must give the Employer notice as soon as reasonably practicable of their request to take leave under this clause.
- 28.13 Supporting evidence of family and domestic violence can be required to access paid leave entitlements however this should not be onerous on the Employee. Leave can be granted without supporting documentation when the manager/supervisor is satisfied that it is not required.
- 28.14 Evidence may include a document issued by the police, a court, a legal service, a health professional, a counsellor, a financial institution, a family and domestic violence support service or a refuge service. A statutory declaration can also be provided.
- 28.15 Such evidence is dealt with in accordance with the confidentiality provisions in this clause. Only the Employee retains a copy of the evidence and information must not be kept on an Employee's personnel file, unless otherwise agreed.

Access to Other Forms of Leave

- 28.16 Subject to the leave provisions of this Agreement and Award, an Employee experiencing family and domestic violence can use other leave entitlements.
- 28.17 Subject to the Employer's approval of the application, and sufficient leave credits being available, leave can be taken as whole or part days off.
- 28.18 Forms of other paid leave include:
- (a) personal leave entitlements;
 - (b) annual leave;
 - (c) accrued long service leave;
 - (d) purchased leave; or
 - (e) accrued time off in lieu of overtime.
- 28.19 Approval of leave without pay is subject to the provisions of this Agreement and Award.

Confidentiality

- 28.20 The Employer must take all reasonable steps to ensure any information or documentation disclosed and or provided by an Employee regarding family and domestic violence is kept strictly confidential and must not be kept on an Employee's personnel file. Generally, only the Employee retains a copy of evidence for accessing family and domestic violence leave.
- 28.21 Any disclosure of information or documentation provided must be on a need-to-know basis only and only to maintain workplace safety. Where possible, disclosure must only occur with the express consent of the Employee.
- 28.22 This clause does not override any legal obligations to disclose information.

Contact Person

- 28.23 The Employer must identify contact/s within the workplace who must be trained in family and domestic violence and associated privacy issues. The Employer must advertise the name of any family and domestic violence contacts within the workplace.

Individual Support

- 28.24 Where there is a risk to the personal health or safety of an Employee who is experiencing or has experienced family and domestic violence, the Employer, where appropriate, can:
- (a) facilitate flexible working arrangements, such as changes to hours/days worked, working different days or length of days, changed shift/rostering arrangements, in accordance with the provisions of this Agreement and Award; and/or
 - (b) make workplace modifications including changes to the Employee's telephone number and email address and, where appropriate/practicable, the Employee's work location.
- 28.25 An Employee who is experiencing or has experienced family and domestic violence can access confidential counselling support via the Employer's employee assistance program.

Workplace Safety

- 28.26 Where an Employee raises issues of family and domestic violence the Employer is to establish with the Employee the level of risk and seek advice from their human resource/safety specialist to review and implement specific safety and emergency management systems and plans.
- 28.27 With the exception of access to the Employer's employee assistance program which is available to all Employees, the provisions of this clause are only applicable to Employees who are victims of family and domestic violence.

29. PURCHASED LEAVE – 42/52 ARRANGEMENT

- 29.1 The provisions of this clause replace clause 12 – Purchased Leave – 44/52 Salary Arrangement of the Award.

- 29.2 The Employer and the Employee can agree to an arrangement whereby the Employee can purchase up to 10 weeks' additional leave.
- 29.3 The Employer must assess each application for a 42/52 salary arrangement on its merits and consider the personal circumstances of the Employee seeking the arrangement.
- 29.4 Priority access to purchased leave of between five and ten weeks, is to be given to Employees with caring responsibilities.
- 29.5 In order to access approved purchased leave, an Employee must:
- (a) satisfy the Agency's accrued leave management policy; and
 - (b) take one weeks' annual leave if purchasing nine weeks' leave; or
 - (c) take two weeks' annual leave if purchasing ten weeks' leave.
- 29.6 Notwithstanding clauses 29.5 (b) and (c), the Employer can allow an Employee to access purchased leave before they have accessed one or two week's annual leave, whichever applies, where the Employee requests it. Any refusal by the Employer must be based on reasonable business grounds.
- 29.7 The provisions of clauses 29.5 (b) and (c) do not apply to an Employee who purchases less than nine weeks' leave.
- 29.8 An agreement to take a reduced salary spread over the 52 weeks of the year yields the following amounts of purchased leave.

Number of weeks salary spread over 52 weeks	Number of weeks purchased leave
42	10
43	9
44	8
45	7
46	6
47	5
48	4
49	3
50	2
51	1

- 29.9 (a) Purchased leave does not accrue. The Employee is entitled to pay in lieu of any purchased leave not taken and, their salary is adjusted in the last pay period in February to reconcile the time worked during the previous year not included in their salary.
- (b) Untaken purchased leave will be paid out at the rate at which it was purchased.
- 29.10 (a) Where an Employee in receipt of an allowance provided for in clause 17 – Higher Duties Allowance of the Award or clause 42 – Higher Duties Allowance of this Agreement takes any period of purchased leave, the Employee is not entitled to receive payment of the allowance for any period of purchased leave.

- (b) Other than when an Employee takes purchased leave, the higher duties allowance component of an Employee's salary is not affected by an agreement to reduce the Employee's salary for purchased leave purposes.

- 29.11 Overtime is paid at the ordinary rate of salary and not the reduced rate. This also applies where overtime is referred to as a percentage of salary.
- 29.12 In the event that a part time Employee's ordinary working hours are varied during the year, the salary paid for such leave is adjusted in the last pay in February to take account of any variations to the Employee's ordinary working hours during the previous year.

30. FOSTER CARER'S LEAVE

- 30.1 Foster and short-term carer's leave is available to an Employee who is a foster carer in the state of Western Australia, to enable them to attend to the care of a child in an emergency or other out of home care placement. Foster carer includes kinship arrangements and respite care that has not been determined to be permanent.
- 30.2 A permanent Employee, fixed term contract Employee or casual Employee has access to three paid days of non-cumulative leave per calendar year.
- 30.3 Employees must give reasonable notice prior to taking foster carer leave and must provide an estimate of the period of absence from work.
- 30.4 Employees can, by agreement with their Employer, take foster carer leave in minimum periods of one hour.
- 30.5 Leave credits can be used to attend training associated with the Employee's Foster Carer responsibilities.
- 30.6 Employees must provide the Employer with documentation supporting their eligibility for the leave.
- 30.7 The entitlement to foster carer leave in accordance with clause 30.2 for casual Employees applies to the extent of their agreed working arrangements.

31. PUBLIC HEALTH EMERGENCY LEAVE

Definitions

- 31.1 In this clause:
 - (a) "Public health emergency" means an incident or emergency that is the subject of Directions issued under Parts 11 or 12 of the *Public Health Act 2016* (WA).
 - (b) "Diagnosed person" means a person who has a current positive test for a disease the subject of the public health emergency or an incident that is deemed a serious public health risk by way of a testing or diagnostic regime accepted within the WA health system as being a reliable indicator that the person has the disease.
 - (c) "Ordinary pay" is to be calculated according to the rostered or ordinary hours the

Employee would have worked, had they not been subject to a government requirement to isolate or quarantine. For casual Employees, ordinary pay is to be calculated with reference to the Employee's rostered future shifts or, if there is no certainty about future rosters, the preceding four-week average of shifts worked.

Special public health emergency leave

- 31.2 The Employer is to credit each Employee with 20 days of non-cumulative special public health emergency leave on January 1 each year.
- 31.3 An Employee employed on a fixed term contract for a period of 12 months or more is to be credited with the same entitlement as a permanent Employee. An Employee on a fixed term contract for a period less than 12 months is to be credited on a pro rata basis for the period of the contract.
- 31.4 A part time or casual Employee is to be credited with the same entitlement as a permanent Employee, calculated on a pro rata basis according to the number of hours worked each fortnight.
- 31.5 Employees absent on special public health emergency leave are to receive their ordinary pay.
- 31.6 Employees who have exhausted their special public health emergency leave can access existing personal leave entitlements under clause 27 – Personal Leave of this Agreement.

Eligibility for Special Public Health Emergency Leave

- 31.7 Special public health emergency leave can only be taken in respect of absences from work during:
- (a) a public health emergency; or
 - (b) other significant events as agreed between the Union and the Executive Director GSLR.
- 31.8 An Employee who is a diagnosed person or is subject to a government requirement to isolate or quarantine can access special public health emergency leave before existing personal leave entitlements under clause 27 – Personal Leave of this Agreement.
- 31.9 Employees with caring responsibilities can access special public health emergency leave if they are caring for, or providing support to a member of the Employee's family or household because:
- (a) the other person is a diagnosed person or is subject to a government requirement to isolate or quarantine; or
 - (b) a child's school has closed or the person's other care arrangements are unavailable because of a public health emergency.
- 31.10 Compassionate access to special public health emergency leave can be granted in exceptional circumstances despite not being a reason referred to in clause 31.9.
- 31.11 Special public health emergency leave is not debited for public holidays that the Employee

would have observed.

- 31.12 An Employee is unable to access special public health emergency leave while on any period of leave without pay, parental or related leave, or annual or long service leave except as provided for in clauses 27.37 (re-crediting annual leave) and 27.38 (re-crediting long service leave) of this Agreement.

Notice and Access

- 31.13 Special public health emergency leave can be taken on an hourly basis.
- 31.14 Reasonable and legitimate requests for special public health emergency leave are approved subject to available credits. Where practicable, the Employee must give reasonable notice before taking leave.
- 31.15 Where prior notice cannot be given, notice must be provided as early as possible on the day of absence. Where possible, an estimate of the period of absence from work is to be provided.

Evidence

- 31.16 The Employer can require evidence that would satisfy a reasonable person to support an application for special public health emergency leave.

32. COMPASSIONATE LEAVE FOR EARLY PREGNANCY LOSS

- 32.1 An Employee and/or partner of the Employee is entitled to up to three consecutive days of paid compassionate leave on each occasion a pregnancy ends without the birth of a living child up to 20 weeks before the expected date of birth.
- 32.2 Leave commences from the date the pregnancy ends and is not to be taken during any other period of leave, including unpaid leave.
- 32.3 The Employee must provide notice as soon as reasonably practicable indicating the period of leave sought and anticipated return to duty.
- 32.4 The Employer can require reasonable evidence that an early pregnancy loss has occurred such as a medical certificate or a recognition certificate for early pregnancy loss issued by the WA Registry of Births, Deaths and Marriages.
- 32.5 The provisions of 32.1 apply to a:
- (a) part time Employee on a pro rata basis; and
 - (b) casual Employee to the extent of their future rostered shifts, or if there is no certainty about future rosters, the preceding four-week average of shifts worked.

33. PARENTAL AND RELATED LEAVE

Preliminary

- 33.1 This clause replaces the parental leave provisions contained in clause 24 – Parental Leave of the Award.

Terms used

33.2 In this clause:

- (a) “Adoption” includes the making of a parentage order under the *Surrogacy Act 2008* (WA);
- (b) “Comparable position” means a position with equivalent classification level, pay, conditions and status as an Employee’s position and that is commensurate with their skills and abilities;
- (c) “Concurrent leave” means unpaid parental leave taken by an Employee under clause 33.6(d);
- (d) “Flexible parental leave” means unpaid parental leave taken by an Employee under clause 33.18;
- (e) “Grandparental leave” means leave to which an Employee is entitled under clauses 33.31 to 33.33;
- (f) “Parental leave” means leave to which an Employee is entitled under clauses 33.4 to 33.20;
- (g) “Partner” means a person who is a spouse or de facto partner;
- (h) “Partner leave” means leave to which an Employee is entitled under clauses 33.28 to 33.30;
- (i) “Primary care giver of a child” means the person who is primarily responsible for the care and supervision, including day-to-day care and supervision, of the child; and
- (j) “Public Sector industrial instrument” means this Agreement, the Award or any other relevant industrial instrument that applies to the Public Sector.

33.3 Employees to whom this clause applies

- (a) This clause applies to:
 - (i) permanent Employees;
 - (ii) fixed term contract Employees; and
 - (iii) eligible casual Employees;whether employed on a full-time or part-time basis.
- (b) For the purposes of this clause, an eligible casual Employee is an Employee:
 - (i) who has been employed in the Public Sector on a regular and systematic basis over a period of at least 12 months (or over a sequence of periods of a

combined length of at least 12 months if any break in employment was on the Employer's initiative and did not exceed three months); and

- (ii) who has a reasonable expectation (but for becoming a parent) of continuing employment on a regular and systematic basis.

Parental Leave

33.4 Nature of parental leave

- (a) Parental leave is leave taken by:
 - (i) a pregnant Employee in connection with the pregnancy and birth of a child; or
 - (ii) an Employee following the birth or adoption of a child for whom they are the primary care giver.
- (b) It does not matter whether the primary care giver is a parent of the child or another person.
- (c) Only one parent or other person can be the primary care giver of a child during any one particular period of time.
- (d) If different Public Sector Employees are the primary care giver of a child during different periods of time, their entitlement to paid or unpaid parental leave under this clause or under any other Public Sector industrial instrument can be shared, but the total period of their combined entitlement to paid parental leave is limited to the paid parental leave entitlement of a single Employee.
- (e) If an Employee is no longer the primary care giver of the child following the birth, their entitlement to any further parental leave in connection with the child ends, unless:
 - (i) the Employee is entitled to remain on unpaid parental leave because they share responsibility for the care and supervision of their child or their partner's biological child under clause 33.6 (Special unpaid parental leave entitlements for Employees who share responsibility for care and supervision of child); or
 - (ii) the Employee is entitled to remain on parental leave under clause 33.12 - Parental leave where pregnancy ends without birth of living child, the child dies or the child or Employee hospitalised.
- (f) An Employee who commences parental leave does not have a separate entitlement to unpaid parental leave under clause 33.6 - Special unpaid parental leave entitlements for Employees who share responsibility for care and supervision of child, if they stop being the primary care giver of their child or their partner's biological child but continue to share the responsibility for the child's care with their partner or another person.

33.5 Period of parental leave to which eligible Employee entitled

- (a) An eligible Employee is entitled to 52 weeks of parental leave.

- (b) The 52 weeks of parental leave comprises 14 weeks of paid leave and 38 weeks of unpaid leave, except as provided by clause 33.5(c).
 - (c) The 52 weeks of parental leave comprises only unpaid leave in the case of:
 - (i) an eligible casual Employee; or
 - (ii) any other Employee who has not completed the minimum period of service required by clause 33.7 - Minimum period of service to be eligible for paid parental leave, for paid leave.
 - (d) The period of paid parental leave to which an Employee is entitled can be extended by the Employee electing to take double the amount of leave on half-pay.
 - (e) An Employee has only a single entitlement, and not separate entitlements, to parental leave for children of a multiple birth or adoption.
 - (f) Parental leave for a fixed term contract Employee cannot extend beyond the term of the contract.
 - (g) Any public holiday that falls during parental leave is counted as part of that leave and does not extend the period of parental leave.
 - (h) An Employee who is on parental leave is not entitled to any days in lieu of public service holidays.
- 33.6 Special unpaid parental leave entitlements for Employees who share responsibility for care and supervision of child
- (a) An Employee who shares responsibility with their partner or another person for the care and supervision of their child or their partner's biological child has the same entitlement to unpaid parental leave under this clause as an Employee who is the primary care giver for the child.
 - (b) An Employee who commences unpaid parental leave under this clause does not have a separate entitlement to paid or unpaid parental leave if they become the primary care giver of their child or their partner's biological child.
 - (c) It does not matter whether or not the other person with whom the Employee shares responsibility for the care and supervision of the child is:
 - (i) an Employee to whom this clause applies; or
 - (ii) the primary care giver for the child.
 - (d) Concurrent leave
 - (i) If an Employee who shares responsibility for the care and supervision of a child takes unpaid parental leave under this clause, they can take unpaid parental leave during the same time that their partner takes unpaid parental leave (concurrent leave).

- (ii) The concurrent leave:
 - (aa) must not be longer than eight weeks in total; and
 - (bb) can be taken in separate periods but, unless the Employer agrees, each period must not be shorter than two weeks.

33.7 Minimum period of service to be eligible for paid parental leave

- (a) An Employee is only entitled to a period of paid parental leave if, on the day parental leave commences, the Employee has completed at least 12 months of continuous service in the Public Sector immediately preceding the parental leave, whether on a full-time or part-time basis.
- (b) For the purposes of this clause, continuous service includes any period of authorised paid leave or authorised unpaid leave not exceeding 14 days. However, continuous service includes personal leave without pay whilst ill or injured not exceeding three months in accordance with clause 27.39 - Personal Leave without Pay Whilst Ill or Injured of this Agreement.
- (c) For the purposes of this clause, continuous service includes a period of service as an eligible casual Employee if:
 - (i) the eligible casual Employee has become a permanent or fixed term contract Employee with the same Employer; and
 - (ii) any break between service as an eligible casual Employee and service as a permanent or fixed term contract Employee does not exceed three months.
- (d) An Employee who takes parental leave is not required to resume work for the purposes of taking parental leave in connection with any subsequent pregnancy or birth or adoption of a child.
- (e) An Employee on leave without pay unrelated to parental leave is required to resume work before taking paid parental leave.

33.8 Taking Parental Leave

- (a) An Employee must take parental leave in one continuous period, except as otherwise provided by this clause.
- (b) The period of parental leave can be interrupted by the following:
 - (i) any period during which the Employee substitutes other paid leave or time off as referred to in clause 33.15 - Interaction with other leave entitlements;
 - (ii) any period during which the Employee engages in special parental leave employment as referred to in clause 33.17 - Employment during unpaid parental leave;

- (iii) any period between periods of flexible parental leave taken by the Employee;
 - (iv) any period between separate periods of concurrent leave taken by the Employee; and
 - (v) any period during which the Employee does not take parental leave as referred to in clause 33.12 - Parental leave where pregnancy ends without birth of living child, the child dies or the child or Employee hospitalised, because the child is hospitalised after birth.
- (c) An Employee can, at any time but subject to the notice requirements of clause 33.9 - Employee required to give notice of parental leave:
- (i) cancel or delay the commencement of their proposed parental leave; or
 - (ii) shorten their period of parental leave; or
 - (iii) extend their period of parental leave up to the maximum period of leave to which they are entitled.
- (d) If an Employee takes less than the maximum period of parental leave to which they are entitled, the unused balance of leave cannot be banked or preserved in any way.

33.9 Employee required to give notice of parental leave

- (a) An Employee who intends to take parental leave must give their Employer at least eight weeks' written notice of:
- (i) the date on which the Employee proposes to commence the leave; and
 - (ii) the period of leave proposed to be taken.
- (b) An Employee who intends to change or cancel their parental leave must give their Employer at least four weeks' written notice of the change or cancellation.
- (c) However, an Employee is not required to give notice of the cancellation of proposed parental leave because the pregnancy ends without the birth of a living child or the child dies.
- (d) An Employee who fails to give the required period of notice does not contravene this clause if it was not reasonably practicable for the Employee to comply because of an early birth or placement for adoption or because of other compelling circumstances.
- (e) An Employee who has given notice of proposed parental leave is required to give their Employer before proceeding on leave, reasonable evidence detailing:
- (i) in the case of a pregnant Employee – the expected date of birth (including by the provision of a medical certificate); or
 - (ii) in any other case – the relationship the Employee has with the child and the Employee's responsibility for the care of the child.

33.10 Commencement of parental leave

- (a) The period of parental leave of a pregnant Employee in connection with the pregnancy can commence up to six weeks before the expected date of birth of the child, but not later than the birth of the child.
- (b) However, the period of unpaid parental leave of the pregnant Employee can commence on an earlier date before the birth of the child with the agreement of the Employer and Employee.
- (c) The period of parental leave of any other Employee can commence at any time on or after:
 - (i) the day the Employee becomes the primary care giver of the child; or
 - (ii) for the purposes of clause 33.6 - Special unpaid parental leave entitlements for Employees who share a responsibility for care and supervision of a child, the day the Employee begins to share the responsibility with their partner or another person for the care and supervision of their child or their partner's biological child.

33.11 Conclusion of paid parental leave

- (a) The period of paid parental leave must conclude within the period of 12 months after the birth or date of placement for adoption.
- (b) The Employer can, in exceptional circumstances, allow an Employee to take paid parental leave after that 12 months' period.
- (c) An Employer can require the Employee to provide reasonable evidence that the circumstances justify the Employee taking paid parental leave after that 12 months' period.

33.12 Parental leave where pregnancy ends without birth of living child, the child dies or the child or Employee hospitalised

- (a) A pregnant Employee remains entitled to paid parental leave if the pregnancy ends without the birth of a living child within 20 weeks before the expected date of birth.
- (b) A pregnant Employee is entitled to remain on paid parental leave if:
 - (i) the child dies or is hospitalised following the birth; or
 - (ii) the Employee is incapacitated as a result of the birth.
- (c) An Employee is not entitled to paid parental leave in those circumstances for any period that the Employee has taken paid personal leave.
- (d) If a pregnancy ends without the birth of a living child within 20 weeks before the expected date of birth, an Employee who would have been entitled under this clause

to unpaid parental leave if the child had been born alive remains entitled to that unpaid parental leave except when the entitlement would have derived from an adoption.

- (e) An Employee who has commenced parental leave can return to work by providing their Employer at least four weeks' written notice of their return to work if:
 - (i) the child dies; or
 - (ii) the pregnancy ends without the birth of a living child within 20 weeks before the expected date of birth.
- (f) If an Employee has commenced parental leave and the child is hospitalised immediately following the birth, the Employee can agree with their Employer not to take parental leave for a period while the child remains in hospital (the permitted work period).
- (g) Only one permitted work period can be agreed and it ends at the earliest of the following:
 - (i) the time agreed by the Employee and Employer;
 - (ii) the end of the day of the child's first discharge from hospital after birth; or
 - (iii) if the child dies before being discharged – the end of the day the child dies.
- (h) The Employer can require the Employee to provide reasonable evidence that the child has been hospitalised following the birth and that the Employee is fit for work (including by the provision of a medical certificate).

33.13 Provisions relating to payment of paid parental leave

- (a) An Employee entitled to paid parental leave is to be paid according to their ordinary working hours at the commencement of parental leave.
- (b) In the case of a part-time Employee, the Employee is to be paid according to the average hours worked over the period of 12 months immediately preceding the commencement of parental leave if those average hours exceed ordinary working hours at the commencement of parental leave.
- (c) An Employee can elect to be paid in advance for paid parental leave or elect to be paid on a fortnightly basis during that leave.
- (d) Allowances or penalties for shift or weekend work are not payable during paid parental leave.
- (e) An Employee who was in receipt of higher duties allowances for a continuous period of 12 months immediately preceding the commencement of parental leave is to continue to be paid the higher duties allowances during the first four weeks of paid parental leave. If the Employee has elected to take parental leave on half-pay, the higher duties allowances are payable at the full rate for those first four weeks of paid leave only.
- (f) If the employment of an Employee who is being paid parental leave on half-pay is

terminated through no fault of the Employee, the Employee is to be paid out any period of unused paid parental leave that is equivalent to the period of leave the Employee would have accessed had they been on parental leave on full pay when their employment was terminated.

- (g) An Employee who takes a subsequent period of paid parental leave without returning to work is to be paid on the basis of their employment when they commenced the original period of paid parental leave and is not affected by any intervening period of special parental leave employment under clause 33.17 – Employment during unpaid parental leave.
- (h) For the purposes of determining the amount of paid parental leave of an Employee to whom clause 33.22 – Modification of duties and transfer to safe job applied, the ordinary working hours of the Employee are the ordinary working hours before the modification of or absence from work under that clause.

33.14 Extension of period of parental leave

- (a) An Employee can apply to their Employer to extend their parental leave by up to two years of unpaid leave after the end of the period of parental leave to which they are entitled under this clause.
- (b) The period of extended leave is a period of parental leave for the purposes of this clause.
- (c) Parental leave can only be extended after the Employee has exhausted all other available paid leave entitlements.
- (d) The Employer must agree to an application for the extension of parental leave unless the Employer has reasonable grounds to believe that agreeing to the application would have an adverse impact on the conduct of the Employer's business or operations.
- (e) Before a refusal under clause 33.14(d) the Employer must give the Employee a reasonable opportunity to discuss the application.
- (f) The Employer must, as soon as practicable but not later than 21 days after an application for the extension of parental leave is made, give the Employee written notice of:
 - (i) the decision of the Employer to agree to or refuse the application; and
 - (ii) if the application is refused - the reasons for the refusal.
- (g) An Employee who believes that their application for the extension of parental leave has been unreasonably refused can seek to enforce it as a minimum condition of employment and, in that case, the Employer has the onus of demonstrating that the refusal was justified in the circumstances.

33.15 Interaction with other leave entitlements

- (a) An Employee entitled to unpaid parental leave can take any of the following to which

the Employee is entitled instead of any part of that parental leave:

- (i) accrued annual leave;
 - (ii) accrued long service leave; or
 - (iii) accrued time off in lieu of overtime.
- (b) The period of any such substituted leave or time off:
- (i) forms part of the period of unpaid parental leave otherwise authorised by this clause and does not extend the period of parental leave; but
 - (ii) is treated as paid leave and not unpaid parental leave for the purposes of clause 33.20 - Effect of parental leave on contract of employment.
- (c) An Employee is not entitled to personal leave during any period of paid or unpaid parental leave.

33.16 Communication during parental leave

- (a) The Employer must take all reasonable steps to inform an Employee who is on parental leave of any decision that significantly affects the status, responsibility level, pay or work location of the Employee and give the Employee an opportunity to discuss the effect of the decision on the Employee's position. The consultation obligations under clause 60.4 of this Agreement apply to Employees on parental leave.
- (b) An Employee on parental leave must notify the Employer of any change in their contact details that might affect the Employer's capacity to comply with this clause.

33.17 Employment during unpaid parental leave

- (a) In this clause:
 - (i) "Keeping in touch day" has the same meaning it has in section 79A of the *Fair Work Act 2009* (Cth); and is one of a maximum of 10 days on which the Employee is employed to enable them to keep in touch with their employment in order to facilitate a return to their employment after the end of parental leave.
 - (ii) "special parental leave employment" means employment of an employee on unpaid parental leave:
 - (aa) that is of an intermittent nature or for a limited specified period (special temporary employment); or
 - (bb) that is casual employment (other than special temporary employment) on an hourly basis for a period not exceeding 4 weeks in any period of engagement (special casual employment).
- (b) Despite anything to the contrary in this clause, an Employee on unpaid parental leave

can be employed by their Employer in special parental leave employment during that unpaid parental leave if both parties agree in writing to that employment.

- (c) Without limiting this clause, any such parental leave employment can be employment for the purposes of a keeping in touch day.
- (d) The following applies to engagement in special parental leave employment:
 - (i) only employees covered by the Award can be employed in special casual employment;
 - (ii) an employee can only engage in special parental leave employment during a period of unpaid parental leave that is not substituted with paid leave under clause 33.15;
 - (iii) in the case of special temporary employment – a public service officer can only be employed in connection with their substantive position;
 - (iv) in the case of special casual employment – an employee is to be employed at a level that is commensurate with the level of the available position under this Agreement;
 - (v) the period of service in special parental leave employment does not break an employee's continuity of service or change the employee's status in regard to their substantive employment;
 - (vi) in the case of special temporary employment - the period of special parental leave employment counts as qualifying service for all purposes under public sector industrial instruments;
 - (vii) in the case of special casual employment – the period of special parental leave employment counts as qualifying service for the ordinary entitlements a casual employee would have for engaging in casual employment, but does not count as qualifying service for all other purposes under public sector industrial instruments.
- (e) The following applies to the effect of special parental leave employment on unpaid parental leave:
 - (i) the period of special parental leave employment is taken to be part of the Employee's original period of unpaid parental leave;
 - (ii) an Employee who immediately resumes unpaid parental leave following a period of special parental leave employment is entitled to extend their period of unpaid parental leave by the period of that special parental leave employment (subject to giving the Employer at least four weeks' written notice of the new date on which they intend to complete parental leave and return to work); and
 - (iii) an Employee who does not immediately resume unpaid parental leave following a period of special parental leave employment cannot preserve the

unused portion of leave for use at a later date.

33.18 Flexible unpaid parental leave

- (a) An Employee can take up to 30 days of their entitlement to unpaid parental leave in separate periods of one or more days each as follows (“flexible parental leave”):
 - (i) the flexible parental leave can only be taken within the period of 24 months after the birth or date of placement for adoption of the child; and
 - (ii) the flexible parental leave can be taken after the Employee takes other parental leave in connection with the same child.
- (b) However, further unpaid parental leave (including any extension of unpaid parental leave under clause 33.14 - Extension of period of parental leave cannot be taken by an Employee after any flexible parental leave is taken by the Employee in connection with the same child.
- (c) If an Employee takes flexible parental leave, the maximum period of parental leave to which the Employee is entitled under this clause is calculated on the basis that the Employee takes all the flexible parental leave days in a single continuous period (on the assumption that the Employee works each day that is not a Saturday or Sunday and there are no public holidays during that period).

33.19 Return to work on conclusion of parental leave

- (a) An Employee who returns to work at the end of their parental leave is entitled to be employed in:
 - (i) the same position as the substantive position they held:
 - (aa) immediately before proceeding on parental leave; or
 - (bb) immediately before any modification of or absence from work under clause 33.22 - Modification of duties and transfer to safe job; or
 - (ii) a comparable position.
- (b) An Employee who returns to work at the end of parental leave can work on a basis modified from the basis on which they worked immediately before proceeding on parental leave. The modified basis can be part-time work, work on a job-share basis, work on different days or at different times (or both) or work on fewer days or for fewer hours (or both).
- (c) An Employee who returns to work on a modified basis can be subsequently required by the Employer to resume work on the same basis as they worked immediately before proceeding on parental leave. Any such requirement can only be made if:
 - (i) the Employer has reasonable grounds to believe that the continuation of work on that modified basis would have an adverse impact on the conduct of the Employer’s business or operations; or

- (ii) the child has reached the compulsory education period under section 6 of the *School Education Act 1999* (WA).
- (d) An Employee who returns to work on a modified basis can subsequently apply to the Employer to resume work on the same basis as they worked immediately before proceeding on parental leave. Any such application must be made in writing at least four weeks before the Employee wishes to resume work on that same basis.
- (e) The Employer must agree to any such application to resume work on the former basis, unless the Employer has reasonable grounds to believe that agreeing to the application would have an adverse impact on the conduct of the Employer's business or operations.
- (f) The Employer must give an Employee written notice of the refusal of an application to resume work on the former basis and of the reasons for that refusal, within 21 calendar days of an application being received.
- (g) An Employee who believes that their application to resume work on the former basis has been unreasonably refused can seek to enforce it as a minimum condition of employment and in that case the Employer has the onus of demonstrating that the refusal was justified in the circumstances.

33.20 Effect of parental leave on contract of employment

- (a) Paid parental leave counts as qualifying service for all purposes under Public Sector industrial instruments.
- (b) The qualifying service is to be calculated according to the number of weeks of paid parental leave taken at full pay (or the number of weeks that would have been taken if the parental leave had not been taken at half pay).
- (c) Employees who take paid parental leave on half pay do not accrue award, agreement or other entitlements beyond those that would have accrued had they taken the leave at full pay.
- (d) Absence on unpaid parental leave does not break the continuity of service of the Employee.
- (e) In calculating a period of service for any purpose under a Public Sector industrial instrument, any single continuous period of unpaid parental leave:
 - (i) is not to be taken into account if it exceeds 14 calendar days; and
 - (ii) is to be taken into account if it does not exceed 14 calendar days.
- (f) An Employee on parental leave can terminate their employment at any time in accordance with any applicable provision of a Public Sector industrial instrument.
- (g) An Employer cannot terminate the employment of an Employee on the ground that the Employee has applied for parental leave or of their absence on parental leave, but

otherwise any right of the Employer to terminate employment is not affected by this clause.

Special provisions relating to pregnant Employees

33.21 Fitness for work in current position

- (a) If the Employer has reason to believe that the continued performance of duties by a pregnant Employee is a danger to the Employee, fellow Employees or the public, the Employer can require the Employee to provide a certificate from a medical practitioner stating that the pregnant Employee is fit for work in their current position for a period stated in the certificate.
- (b) The Employer is required to pay for any examination by a medical practitioner for the purposes of issuing such a certificate.

33.22 Modification of duties and transfer to safe job

- (a) A pregnant Employee can work on a part-time basis in accordance with this Agreement during any one or more periods if the Employee provides the Employer with a certificate from a medical practitioner stating that part-time work is, because of the pregnancy, necessary or preferable.
- (b) The work on a part-time basis must be:
 - (i) work in the Employee's current position or in a comparable position; and
 - (ii) on terms that are recorded in writing and in accordance with this Agreement.
- (c) Unless otherwise agreed with the Employer, a pregnant Employee must give at least four weeks' written notice to the Employer of their intention to seek a variation in the terms of their part-time work or to revert to employment on a full-time basis.
- (d) If a pregnant Employee is fit for work but it is inadvisable for the Employee to continue to perform the duties of their current position for any particular period (the risk period) because of illness or risks arising from the pregnancy or because of hazards connected with their current position, the Employer must, during that period:
 - (i) modify the duties of the Employee; or
 - (ii) transfer the Employee to a safe job in a comparable position (including a position with a different number of ordinary hours agreed to by the Employee).
- (e) The Employer can require the pregnant Employee to provide a certificate from a medical practitioner or other reasonable evidence that it is inadvisable for the Employee to continue to perform the duties of their current position.
- (f) If the Employer considers that it is not reasonably practicable to modify the duties of the pregnant Employee or transfer the pregnant Employee to a safe job:
 - (i) the Employee is entitled to be absent from work during the risk period;

- (ii) the Employee is entitled to be paid the amount they would have reasonably expected to have been paid if they had worked during the risk period; and
- (iii) the Employee's leave entitlements are not affected by the absence from work.
- (iv) Any such entitlement to be absent from work extends to an eligible casual Employee.
- (v) Any such entitlement to be absent from work ends at the earliest of the following:
 - (aa) the end of the risk period stated in the medical certificate or other reasonable evidence provided by the Employee; or
 - (bb) the end of the day on which the pregnancy ends (whether with or without the birth of a living child).

33.23 Unpaid special pregnancy leave

- (a) A pregnant Employee is entitled to unpaid leave ("unpaid special pregnancy leave") during any period that the Employee is not fit for work because:
 - (i) the Employee has a pregnancy related illness; or
 - (ii) the pregnancy ends without the birth of a living child within 28 weeks before the expected date of birth.
- (b) In any such case of unfitness for work, the pregnant Employee can take any personal leave to which they are entitled instead of unpaid special pregnancy leave.
- (c) A pregnant Employee must give the Employer notice of the taking of unpaid special pregnancy leave. The notice:
 - (i) must be given as soon as practicable (whether before or after the commencement of the leave); and
 - (ii) must advise the Employer of the period or expected period of the leave.
- (d) The Employer can require the pregnant Employee to provide reasonable evidence that the Employee has become entitled under this clause to unpaid special pregnancy leave (including by the provision of a medical certificate).
- (e) The entitlement of a pregnant Employee to parental leave under this clause is not reduced by any period of unpaid special pregnancy leave taken by the Employee while pregnant.
- (f) Special pregnancy leave is not required to be taken in a continuous period with parental leave.
- (g) Clause 33.20 – Effect of parental leave on the contract of employment applies to unpaid

special pregnancy leave in the same way as it applies to parental leave, with any necessary modifications.

Special provisions relating to adoption

33.24 Date of placement of child

- (a) For the purposes of the provisions of this clause relating to parental leave following the adoption of a child by an Employee, the date of placement of a child for adoption means the earlier of the following:
 - (i) the date on which the Employee first takes custody of the child for adoption; or
 - (ii) the date on which the Employee starts any travel that is reasonably necessary to take custody of the child for adoption.

33.25 Age of adopted children

- (a) An Employee is not entitled to parental leave in connection with the adoption of a child unless:
 - (i) the child is (or will be) under 16 years of age as at the date or expected date of placement of the child for adoption;
 - (ii) the child has not (or will not have) lived with the Employee continuously for a period of six months or more as at the date or expected date of placement of the child for adoption; and
 - (iii) the child is not (otherwise than because of the adoption) a child or stepchild of the Employee or the Employee's partner.

33.26 Additional unpaid leave in connection with adoption

- (a) An Employee seeking to adopt a child is entitled to two days' unpaid leave to attend interviews or examinations required as part of the procedure for adoption.
- (b) If the Employee works or resides outside the Perth metropolitan area, the Employee is entitled to an additional day's unpaid leave for that purpose.
- (c) The Employee can take any accrued paid leave to which the Employee is entitled for that purpose instead of unpaid leave under this clause.

33.27 Termination of parental leave if adoption does not proceed

- (a) If a proposed adoption for which parental leave has been granted does not proceed, the parental leave is then terminated.
- (b) The Employee can take any other leave to which they are entitled instead of the terminated parental leave or return to work.

Partner Leave

33.28 Entitlement to partner leave

- (a) An Employee is entitled to partner leave while not on parental leave in connection with the birth of a child to, or the adoption of an eligible adoptive child by, the Employee or the Employee's partner.
- (b) An eligible adoptive child is a child:
 - (i) who is under the age of 16 years;
 - (ii) who has not lived continuously with the Employee for six months or longer; and
 - (iii) who is not (otherwise than because of the adoption) the child or stepchild of the Employee or the Employee's partner.
- (c) Partner leave must be taken immediately following the birth or placement of the child for adoption.
- (d) Partner leave is to be taken (subject to available credits) as any combination of the following:
 - (i) paid personal leave;
 - (ii) paid annual or long service leave;
 - (iii) paid accrued time off in lieu of overtime; and
 - (iv) unpaid leave.
- (e) However, an eligible casual Employee can only take partner leave as unpaid leave.

33.29 Period of partner leave to which eligible Employee entitled

- (a) An eligible Employee is entitled to one week of partner leave.
- (b) An eligible Employee is entitled to apply to the Employer for an extension of their partner leave.
- (c) The period of any extension of partner leave is to be taken as unpaid leave.
- (d) The total period of partner leave and any extension of that leave cannot exceed eight weeks.
- (e) An extension of partner leave can be taken in separate periods of at least two weeks or, with the agreement of the Employer, of a shorter period.
- (f) The period of any extension of partner leave must conclude within the period of 12 months after the birth or date of placement for adoption of the child concerned.

- (g) The Employer must agree to an application for an extension of partner leave, unless the Employer has reasonable grounds to believe that granting the leave would have an adverse impact on the conduct of the Employer's business or operations.
- (h) The Employer must give an Employee written notice of the refusal of an application for the extension of partner leave and of the reasons for that refusal.
- (i) An Employee who believes that their application for an extension of partner leave has been unreasonably refused can seek to enforce it as a minimum condition of employment and in that case the Employer has the onus of demonstrating that the refusal was justified in the circumstances.
- (j) An Employee has only a single entitlement, and not separate entitlements, to partner leave for children of a multiple birth or adoption.

33.30 Miscellaneous provisions relating to partner leave

- (a) An Employee who intends to take partner leave is required to give their Employer at least four weeks' written notice of:
 - (i) the date on which the Employee proposes to commence the leave; and
 - (ii) the period of leave proposed to be taken.
- (b) An Employee who has given notice of proposed partner leave is required to give their Employer before proceeding on leave:
 - (i) in the case of a pregnancy – a certificate from a medical practitioner confirming the pregnancy and the expected date of birth; or
 - (ii) in the case of a proposed adoption – a statement of the expected date of placement of the child for adoption.
- (c) Partner leave taken by an Employee does not affect any entitlement the Employee or their partner can have to parental leave. However, partner leave that is taken by an Employee as unpaid leave counts as part of the parental leave entitlement of the Employee in connection with the birth or adoption of the child concerned.
- (d) Any public holiday that falls during partner leave is counted as part of that leave and does not extend the period of partner leave.
- (e) The taking of partner leave as personal leave does not affect an Employee's entitlement to take more than a week's personal leave for any purpose for which personal leave can be taken.
- (f) An Employee is not entitled to paid personal leave while on unpaid partner leave.
- (g) Clause 33.20 – Effect of parental leave on the contract of employment applies to partner leave in the same way as it applies to parental leave, with any necessary modifications.

Grandparental Leave

33.31 Entitlement to grandparental leave

- (a) An eligible grandparent is entitled to grandparental leave following the birth or adoption of a grandchild of the Employee.
- (b) An eligible grandparent is an Employee who:
 - (i) is primarily responsible for the care and supervision of their grandchild on a part time basis; and
 - (ii) provides that care and supervision during what would be the Employee's ordinary hours of work (but for the Employee providing care to their grandchild).
- (c) An Employee is not entitled to grandparental leave in connection with the adoption of a grandchild unless:
 - (i) the grandchild is under the age of five years;
 - (ii) the grandchild has not lived continuously with the adoptive parents for six months or longer; and
 - (iii) the grandchild is not (otherwise than because of the adoption) the grandchild or grand-stepchild of the Employee.
- (d) An Employee has only a single entitlement, and not separate entitlements, to grandparental leave for grandchildren of a multiple birth or adoption.
- (e) An Employee is not entitled to grandparental leave if they:
 - (i) are a casual Employee (including an eligible casual Employee); or
 - (ii) have taken or are on parental leave in connection with the birth or adoption of the same grandchild of the Employee.

33.32 Period of grandparental leave to which eligible Employee entitled

- (a) An eligible grandparent is entitled to 52 weeks of unpaid grandparental leave.
- (b) The period of grandparental leave:
 - (i) can commence any time within 24 months after the birth or date of placement for adoption of the Employee's grandchild; and
 - (ii) must conclude within the period of 12 months after the commencement of grandparental leave.
- (c) With the agreement of the Employer, an Employee can take grandparental leave on a

part time basis, provided they are primarily responsible for the care and supervision of their grandchild on those days the leave is taken.

- (d) If an Employee takes less than the maximum period of grandparental leave to which they are entitled, the unused balance of leave cannot be banked or preserved in any way.

33.33 Miscellaneous provisions relating to grandparental leave

- (a) An Employee who intends to take grandparental leave is required to give their Employer at least four weeks' written notice of:
 - (i) the date on which the Employee proposes to commence the leave; and
 - (ii) the period of leave proposed to be taken.
- (b) The Employer can waive the notice period in exceptional circumstances.
- (c) The Employer can require an Employee who has given notice of proposed grandparental leave to provide reasonable evidence that the Employee is entitled to grandparental leave.
- (d) Clause 33.16 - Communication during parental leave and clause 33.20 – Effect of parental leave on the contract of employment apply to grandparental leave in the same way as they apply to parental leave, with any necessary modifications.

34. SUPERANNUATION ON UNPAID PARENTAL LEAVE

- 34.1 In this clause, “unpaid parental leave” means unpaid parental leave under clause 33.4 – Nature of parental leave or unpaid special pregnancy leave under clause 33.23 – Unpaid special pregnancy leave of this Agreement.
- 34.2 An Employee or eligible casual Employee who is entitled to unpaid parental leave is entitled to have superannuation contributions made in respect of the period of unpaid parental leave taken to a maximum of 24 weeks.
- 34.3 Superannuation contributions made under this clause are calculated:
 - (a) in respect of the period of unpaid parental leave taken or 24 weeks, whichever is lesser;
 - (b) based on the amount that would have been paid to the Employee had they taken paid parental leave for that period and in accordance with the following:
 - (i) for full time Employees – the ordinary working hours at the time of commencement of parental leave;
 - (ii) for part time Employees – an average of the hours worked by the Employee over the preceding 12 months; or their ordinary working hours at the time of commencement of parental leave, whichever is greater; or

- (iii) for eligible casual Employees – an average of the hours worked by the eligible casual Employee over the preceding 12 months;

exclusive of shift and weekend penalties.

34.4 Superannuation contributions will be paid:

- (a) to the Employee's superannuation fund in respect of which superannuation contributions for that Employee are made; and
- (b) at the time that the period of unpaid parental leave in respect of which the contributions are payable concludes.

34.5 Superannuation contributions will be made in accordance with the *State Superannuation Act 2000* (WA) and the *State Superannuation Regulations 2001* (WA).

35. EARLY ACCESS TO PRO RATA LONG SERVICE LEAVE

35.1 This clause is read in conjunction with clause 20 – Long Service Leave of the Award.

35.2 Subject to clause 35.4, Employees within seven years of their preservation age under Western Australian Government superannuation arrangements can, by agreement with their Employer, choose early access to their long service leave at the rate of 9.28 days per completed 12-month period of continuous service for full time Employees.

35.3 Part time and casual Employees have the same entitlement as full time Employees.

- (a) For part time Employees their entitlement is calculated on a pro rata basis according to any variations to their ordinary working hours during the accrual period.
- (b) For casual Employees their entitlement is calculated on a pro rata basis according to the average hours worked during the accrual period.

35.4 Early access to pro rata long service leave does not include access to long service leave which the Employee has accumulated or become entitled to, prior to being within seven years of their preservation age.

35.5 Under this clause, long service leave can only be taken as paid leave and there is no capacity for payment in lieu of leave.

35.6 Employees can, by agreement with their Employer:

- (a) clear pro rata long service leave in minimum periods of one day; and/or
- (b) access pro rata long service leave at half, full or double pay.

35.7 Any period of leave taken in accordance with this clause is excised for the purpose of continuous service in accordance with clause 20 (4) – Long Service Leave of the Award.

36. PRO RATA ADDITIONAL ANNUAL LEAVE FOR NORTH WEST EMPLOYEES

- 36.1 The provisions of this clause replace the provisions of clause 18 (7) – Annual Leave of the Award and are read in conjunction with all other provisions of clause 18 – Annual Leave of the Award.
- 36.2 An Employee whose headquarters are located north of 26 degrees south latitude, is entitled to 38 hours leave in addition to the Employee’s normal entitlement to annual leave.
- 36.3 North West Employees are provided the additional leave on a pro rata basis without the requirement for an Employee to complete 12 months’ continuous service in the North West. A North West Employee accrues 0.10404 hours of paid additional annual leave per day, provided that the maximum accrual does not exceed 38 hours for each completed 12 month period of continuous service.
- 36.4 An Employee can proceed on leave by accessing the pro rata entitlement provided in clause 36.3.
- 36.5 Where an Employee is no longer located north of 26 degrees south latitude they cease to accrue the additional leave provided by this clause.
- 36.6 The additional leave provided by this clause accrues after each 12-month period of continuous service.
- 36.7 Employees do not accrue additional leave for any period of leave without pay exceeding 14 continuous calendar days. The 12-month period of continuous service does not include any period of leave without pay exceeding 14 continuous calendar days.
- 36.8 The provisions of this clause do not apply to an Employee in receipt of additional leave as provided by clause 50 – Weekend Absence from Residence of this Agreement.

37. PUBLIC SERVICE HOLIDAYS

- 37.1 For the purpose of this clause “repealed public service holidays” are Easter Tuesday and 2nd January.
- 37.2 Employees are entitled to two days in lieu of the repealed public service holidays where they would normally be expected to work these days.
- 37.3 Subject to the provisions of this clause, days in lieu of the repealed public service holidays:
- (a) are made available on the date of the relevant repealed public service holiday;
 - (b) are not available to an Employee who is on any period of leave without pay;
 - (c) are paid at the rate of ordinary time;
 - (d) can be added to annual leave or taken individually;
 - (e) must be taken in the calendar year in which they occur;
 - (f) are forfeited if not taken in the year in which they occur; and

(g) are not to be paid out on termination of employment.

37.4 By prior agreement with the Employer the day can be taken on the date of the relevant repealed public service holiday.

Easter Sunday

37.5 Permanent and fixed term contract Employees are provided an additional day of paid leave for Easter Sunday.

37.6 The day of paid leave is made available to the Employee regardless of whether the Employee would normally be expected to work on that date.

37.7 The day of paid leave accrues on the date that Easter Sunday falls each calendar year.

37.8 Employee access to the day of leave is subject to the conditions set out in clause 37.3 (b)-(g).

38. DEFENCE FORCE RESERVES LEAVE

38.1 The provisions of this clause are read in conjunction with clause 34 – Defence Force Reserves Leave of the Award.

38.2 An Employee is entitled to paid leave for a period not exceeding 105 hours on full pay in any period of twelve months commencing on 1 July in each year.

39. BEREAVEMENT LEAVE

39.1 The provisions contained in this clause replace those contained in clause 27 – Bereavement Leave of the Award.

39.2 Employees are eligible for up to three days' paid leave on the death of:

- (a) the spouse or de-facto partner of the Employee;
- (b) a former spouse or former de-facto partner of the Employee;
- (c) a child, step-child, foster child or grandchild of the Employee (including an adult child, step-child or grandchild);
- (d) a parent, step-parent, foster parent or grandparent of the Employee;
- (e) a parent in law or former parent in law of the Employee;
- (f) a brother, sister, step brother or step sister of the Employee; or
- (g) any other person who, immediately before that person's death, lived with the Employee as a member of the Employee's household.

- 39.3 The Employer must not unreasonably withhold approval to grant bereavement leave to an Employee in respect of some other person with whom the Employee had a special relationship, on the request of the Employee.
- 39.4 The three days need not be consecutive.
- 39.5 Bereavement leave is not taken during any other period of leave, including periods of unpaid leave.
- 39.6 If requested by the Employer, payment of such leave can be subject to the Employee providing evidence that would satisfy a reasonable person of the death or relationship to the deceased.
- 39.7 An Employee requiring more than three days' bereavement leave in order to travel interstate or overseas in the event of a death of a person referred to in clause 39.2 or 39.3 can, in addition to any bereavement leave and upon providing evidence that would satisfy a reasonable person, have immediate access to annual leave and/or accrued long service leave, or leave without pay provided all accrued leave is exhausted.
- 39.8 Travelling time for Regional Employees
- (a) Subject to prior approval from the Employer, an Employee entitled to bereavement leave and who, because of the bereavement, travels to a location within Western Australia that is more than 240 km from their workplace is granted paid time off for the travel period undertaken in the Employee's ordinary working hours up to a maximum of 15 hours per bereavement. The Employer cannot unreasonably withhold approval.
 - (b) The Employer can approve additional paid travel time within Western Australia where the Employee can demonstrate to the satisfaction of the Employer that more than two days travel time is warranted.
 - (c) The provisions of clauses 39.8 (a) and (b) apply as follows.
 - (i) An Employee employed on a fixed term contract for a period greater than 12 months, is credited with the same entitlement as a permanent Employee for each full year of service and pro rata for any residual portion of employment.
 - (ii) An Employee employed on a fixed term contract for a period less than 12 months is credited with the same entitlement on a pro rata basis for the period of employment.
 - (iii) A part time Employee is entitled to the same entitlement as a full time Employee for the period of employment, but on a pro rata basis according to the number of ordinary hours worked each fortnight.
 - (iv) For casual Employees, the provisions apply to the extent of their agreed working arrangements.

40. CULTURAL LEAVE FOR ABORIGINAL AND TORRES STRAIT ISLANDERS

- 40.1 Employees who identify as Aboriginal or Torres Strait Islanders are entitled to paid cultural leave to participate in any of the following:
- (a) cultural and ceremonial obligations under Aboriginal or Torres Strait Islander lore, customs or traditional law; and
 - (b) community cultural events such as NAIDOC Week activities, Reconciliation Week or Coming of the Light festivals.
- 40.2 Up to five days of paid cultural leave per calendar year is available under this clause. The leave need not be taken in one continuous period. Paid cultural leave will not accrue from year to year and is not paid out on termination.
- 40.3 The Employer must assess each application for cultural leave on its merits and consider the personal circumstances of the Employee seeking the leave.
- 40.4 The Employer can request reasonable evidence of the legitimate need for the Employee to be allowed time off.
- 40.5 If an Employer requires an Employee to attend to business associated with an Aboriginal or Torres Strait Islander organisation, or an organisation that works to facilitate Aboriginal or Torres Strait Islander interests, the attendance is considered part of the Employee's normal duties and the Employee need not access leave under this or any other clause to enable it.
- 40.6 Cultural leave granted under this clause is in addition to the leave provided by clause 39 – Bereavement Leave of this Agreement and clause 28 – Cultural/Ceremonial Leave of the Award.

PART 6: ALLOWANCES

41. FIRST AID ALLOWANCE

- 41.1 For the purposes of this clause the terms below have the following meanings:
- (a) "Appointed" means the Employer has obtained agreement from a suitably qualified Employee, to be assigned the position of first aid officer; to provide first aid in the workplace, as determined by the Employer.
 - (b) "Deputy first aid officer" means a suitably qualified Employee who has been appointed by the Employer to take on first aid responsibilities in a workplace when the first aid officer is unable to do so.
 - (c) "Suitably qualified in first aid" means holding a current statement of attainment that satisfies the national training requirement HLTAID011 – Provide First Aid. This includes, but is not limited to, the successful completion of the two day Provide First Aid – St John Ambulance Association; or the Provide First Aid – Australian Red Cross Society training courses.
 - (d) "Workplace" means the direct area in which the Employee has been employed to work in the ordinary course of their employment.

- 41.2 An Employee who has been appointed by the Employer to be the first aid officer in a workplace is paid a first aid allowance in accordance with the following table:

Effective date	13 June 2022	13 June 2023
Rate (per hour)	\$0.33	\$0.35

The hourly rate is calculated as one per cent of the gross hourly salary of a level 1.4 of the applicable year as per Schedule 2 – Salaries of this Agreement.

- 41.3 An eligible part time Employee is entitled to this allowance on a pro rata basis.
- 41.4 The first aid allowance is paid to either the appointed first aid officer or the deputy first aid officer in a workplace. The deputy first aid officer is not paid the first aid allowance for any period in which the allowance is paid to the appointed first aid officer.
- 41.5 By agreement with the Employer, a deputy first aid officer is paid the first aid allowance where the appointed first aid officer is unable to do so. For example, where the appointed first aid officer is on annual or long service leave, or extended personal leave.

42. HIGHER DUTIES ALLOWANCE

Higher Duties Allowance and Leave

- 42.1 This clause replaces clause 17 (6) and (7) – Higher Duties Allowance of the Award.
- 42.2 Where an Employee in receipt of an allowance granted under clause 17 – Higher Duties Allowance of the Award for a continuous period of 12 months or more, proceeds on any period of paid leave and:
- (a) resumes in the office immediately on return from leave, the Employee continues to receive the allowance for the period of leave; or
 - (b) does not resume in the office immediately on return from leave, the Employee continues to receive the allowance for the period of leave accrued during the period of higher duties.
- 42.3 Where an Employee who is in receipt of an allowance granted under clause 17 – Higher Duties Allowance of the Award for less than 12 months proceeds on a period of paid leave, whether in excess of the normal entitlement or not, the Employee continues to receive the allowance for the period of normal leave provided that:
- (a) during the Employee's absence, no other Employee acts in the office in which the Employee was acting immediately prior to proceeding on leave; and
 - (b) the Employee resumes in the office immediately on return from leave.
- 42.4 For the purpose of clause 42.3, "normal leave" means the period of paid leave an Employee would accrue in 12 months. It also includes any public holidays and leave in lieu accrued during the preceding 12 months taken in conjunction with such paid leave.

Part Time Higher Duties Allowance Arrangements

- 42.5 This clause is read in conjunction with clause 17 – Higher Duties Allowance of the Award.
- 42.6 Where a part time Employee acts in a higher office, the allowance is payable after the completion of 38 hours service in that position. The 38 hours service in the higher position must be worked consecutively according to the hours the part time Employee normally works.
- 42.7 Where the higher office is a part time position, the allowance is payable after the completion of 38 hours service in that position. The 38 hours service in the higher position must be worked consecutively according to the normal working hours of the part time position for which the allowance is being paid.
- 42.8 Provided that where the hours of duty of an Employee performing shift work are greater than 7.6 hours per day as provided for in clause 21.10 (a) – Shift Work Allowance of this Agreement the allowance is payable after the completion of 38 consecutive working hours in the higher classified position. This period must not include any time worked as overtime.

43. COMMUTED ALLOWANCES

- 43.1 The introduction of any commuted allowance in lieu of overtime, on call or shift allowances must be negotiated between the Union and the Employer. On the request of either party the other party is obliged to enter into negotiations for such arrangements.

44. DISTRICT ALLOWANCE

- 44.1 This clause applies to Employees covered by the *District Allowance (Government Officers) General Agreement 2010*.
- 44.2 Clauses 44.3 to 44.6 replace clauses 9.1.4 and 9.1.5 of the *District Allowance (Government Officers) General Agreement 2010* respectively.
- 44.3 When an Employee is on approved annual leave, the Employee must, for the period of such leave, be paid the District Allowance the Employee would ordinarily be entitled.
- 44.4 When an Employee is on approved personal leave or bereavement leave, the Employee must, for the period of such leave, be paid the District Allowance the Employee would ordinarily be entitled to a maximum of two weeks unless the Employee, Employee's dependant/s or partial dependant/s remain in the district. Where the Employee, Employee's dependant/s or partial dependant/s remain in the district the District Allowance continues to be paid.
- 44.5 Notwithstanding clause 44.4, an Employer can approve payment of a District Allowance for an Employee on approved personal leave in excess of two weeks where the Employer considers the payment being justified by the circumstances.
- 44.6 Except as otherwise provided in this clause, when an Employee is on long service leave or other approved leave with pay the Employee is only paid District Allowance for the period of such leave if the Employee, dependant/s or partial dependant/s remain in the district in which the Employee's headquarters are situated.
- 44.7 Any increase to District Allowance rates resulting from negotiations between the Government

and Public Sector unions, including the Union, for a replacement for the *District Allowance (Government Officers) General Agreement 2010* is payable as per that replacement District Allowance General Agreement.

45. PROPERTY ALLOWANCE

45.1 In this clause the following expressions have the following meanings:

- (a) "Agent" means a person carrying on business as an estate agent in a State or Territory of the Commonwealth, being, in a case where the law of that State or Territory provides for the registration or licensing of persons who carry on such a business, a person duly registered or licensed under that law.
- (b) "Dependant" in relation to an Employee means:
 - (i) a spouse including de facto partner;
 - (ii) a child/children; or
 - (iii) other dependant family;who resides with the Employee and who relies on the Employee for support.
- (c) "Expenses" in relation to an Employee means all costs incurred by the Employee in the following areas -
 - (i) Legal fees paid to a solicitor, or in lieu thereof fees charged by a settlement agent, for professional costs incurred in respect of the sale or purchase, the maximum fee to be claimed shall be as set out in the Solicitors Cost Determination for non-contentious business matters made under section 275 of the *Legal Profession Act 2008*.
 - (ii) disbursements duly paid to a solicitor or a settlement agent necessarily incurred in respect of the sale or purchase of the residence.
 - (iii) real estate agent's commission in accordance with that fixed by the Real Estate and Business Agents Supervisory Board, acting under Section 61 of the *Real Estate and Business Agents Act 1978*, duly paid to an agent for services rendered in the course of and incidental to the sale of the property, the maximum fee to be claimed shall be fifty percent (50 per cent) as set out under Items 1 or 2 – Sales by Private Treaty or Items 1 or 2 – Sales by Auction of the Maximum Remuneration Notice.
 - (iv) stamp duty.
 - (v) fees paid to the Registrar of Titles or to the Employee performing duties of a like nature and for the same purpose in another State of the Commonwealth.
 - (vi) expenses relating to the execution or discharge of a first mortgage.

- (vii) the amount of expenses reasonably incurred by the Employee in advertising the residence for sale.
 - (d) "Locality" in relation to an Employee means:
 - (i) within the metropolitan area, that area within a radius of 50 kilometres from the Perth City Railway Station, and
 - (ii) outside the metropolitan area, that area within a radius of 50 kilometres from an Employee's headquarters when they are situated outside of the metropolitan area.
 - (e) "Property" means a "residence" as defined in this clause, including a block of land purchased for the purpose of erecting a residence thereon to the extent that it represents a normal urban block of land for the particular locality.
 - (f) "Residence" includes any accommodation of a kind commonly known as a flat or a home unit that is, or is intended to be, a separate tenement, including dwelling/house, and the surrounding land, exclusive of any other commercial property, as would represent a normal urban block of land for the particular locality.
 - (g) "Settlement agent" means a person carrying on business as settlement agent in a State or Territory of the Commonwealth, being, in a case where the law of that State or Territory provides for the registration or licensing of persons who carry on such a business, a person duly registered or licensed under that law.
 - (h) "Transfer" or "Transferred" means a permanent transfer or permanently transferred.
- 45.2 When an Employee is transferred from one locality to another in the public interest or in the ordinary course of promotion or transfer, or on account of illness due to causes over which the Employee has no control, the Employee is entitled to be paid a property allowance for reimbursement of expenses incurred:
- (a) in the sale of a residence in the Employee's former locality, which, at the date on which the Employee received notice of transfer to a new locality:
 - (i) the Employee owned and occupied;
 - (ii) the Employee was purchasing under a contract of sale providing for vacant possession; or
 - (iii) the Employee was constructing for the Employee's own permanent occupation, on completion of construction; and
 - (b) in the purchase of residence or land for the purpose of erecting a residence thereon for the Employee's own permanent occupation in the new locality.
- 45.3 An Employee is reimbursed such following expenses incurred in relation to the sale of a residence:

- (a) if the Employee engaged an agent to sell the residence on the Employee's behalf – 50 per cent of the amount of the commission paid to the agent in respect of the sale of the residence;
 - (b) if the Employee engaged a solicitor to act in connection with the sale of the residence – the amount of the professional costs and disbursements necessarily incurred and paid to the solicitor in respect of the sale of the residence;
 - (c) if the land on which the residence is created was subject to a first mortgage and that mortgage was discharged on the sale, then an Employee shall, if, in a case where a solicitor acted for the mortgagee in respect of the discharge of the mortgage and the Employee is required to pay the amount of the professional costs and disbursements necessarily incurred by the mortgagee in respect of the discharge of the mortgage – the amount so paid by the Employee;
 - (d) if the Employee did not engage an agent to sell the residence on the Employee's behalf – the amount of the expenses reasonably incurred by the Employee in advertising the residence for sale.
- 45.4 An Employee is reimbursed such following expenses incurred in relation to the purchase of a residence:
- (a) if the Employee engaged a solicitor or settlement agent to act in connection with the purchase of the residence – the amount of the professional costs and disbursements necessarily incurred and paid to the solicitor or settlement agent in respect of the purchase of the residence;
 - (b) if the Employee mortgaged the land on which the residence was erected in conjunction with the purchase of the residence, then an Employee shall, if, in a case where a solicitor acted for the mortgagee and the Employee is required to pay and has paid the amount of the professional costs and disbursements (including valuation fees but not a procuration fee payable in connection with the mortgage) necessarily incurred by the mortgagee in respect of the mortgage – the amount so paid by the Employee; or
 - (c) if the Employee did not engage a solicitor or settlement agent to act for the Employee in connection with the purchase or such a mortgage – the amount of the expenses reasonably incurred by the Employee in connection with the purchase or the mortgage, as the case may be other than a procuration fee paid by the Employee in connection with the mortgage.
- 45.5 An Employee is not entitled to be paid a property allowance under clause 45.2(b) unless the Employee is entitled to be paid a property allowance under clause 45.2(a), provided that the Employer can approve the payment of a property allowance under clause 45.2(b) to an Employee who is not entitled to be paid a property allowance under clause 45.2(a) if the Employer is satisfied that it was necessary for the Employee to purchase a residence or land for the purpose of erecting a residence thereon in the new locality because of the Employee's transfer from the former locality.
- 45.6 For the purpose of this clause it is immaterial that the ownership, sale or purchase is carried out on behalf of an Employee who owns solely, jointly or in common with:

- (a) the Employee's spouse;
 - (b) a dependant relative; or
 - (c) the Employee's spouse and a dependant relative.
- 45.7 Where an Employee sells or purchases a residence jointly or in common with another person – not being a person referred to in clause 45.6 the Employee is paid only the proportion of the expenses for which the Employee is responsible.
- 45.8 An application by an Employee for a property allowance must be accompanied by evidence of the payment by the Employee of the expenses, being evidence that is satisfactory to the Employer.
- 45.9 Notwithstanding the foregoing provisions, an Employee is not entitled to the payment of a property allowance:
- (a) in respect of a sale or purchase prescribed in clause 45.2 which is effected:
 - (i) more than 12 months after the date on which the Employee took up duty in a new locality; or
 - (ii) after the date on which the Employee received notification of the transfer back to the former locality;

provided that the Employer can, in exceptional circumstances, grant an extension of time for such period as is deemed reasonable.
 - (b) Where the Employee is transferred from one locality to another solely at the Employee's own request or on account of misconduct.

46. PROTECTIVE CLOTHING ALLOWANCE

- 46.1 An Employee engaged on work which requires the provision of protective clothing must be:
- (a) provided with the requisite protective clothing, with the laundering costs for such protective clothing being at the expense of the Employer; or
 - (b) provided with an annual allowance, as agreed between the Union and the Employer, which incorporates the cost of purchase and laundry of the requisite protective clothing.
- 46.2 Nothing contained in this clause affects the obligations of the Employer to provide clothing pursuant to the *Work Health and Safety Act 2020 (WA)*.

47. REMOVAL ALLOWANCE

- 47.1 When an Employee is transferred in the public interest, or in the ordinary course of promotion or transfer, or on account of illness due to causes over which the Employee has no control, the Employee is reimbursed:

- (a) The actual reasonable cost of conveyance of the Employee and dependants.
- (b) The actual cost (including insurance) of the conveyance of an Employee's household furniture effects and appliances up to a maximum volume of 45 cubic metres provided that a larger volume can be approved by the Employer in special cases.
- (c) An allowance of \$633.00 for accelerated depreciation and extra wear and tear on furniture, effects and appliances for each occasion that an Employee is required to transport their furniture, effects and appliances provided that the Employer is satisfied that the value of household furniture, effects and appliances moved by the Employee is at least \$3,792.00.
- (d) Reimbursement of reasonable expenses in kennelling and transporting of domestic pet or pets up to a maximum amount of \$233.00.

Pets are defined as dogs, cats, birds or other domestic animals kept by the Employee or the Employee's dependants for the purpose of household enjoyment.

Pets do not include domesticated livestock, native animals or equine animals.

47.2 An Employee who is transferred solely at their own request or on account of misconduct must bear the whole cost of removal unless otherwise determined by the Employer prior to removal.

47.3 An Employee must be reimbursed the full freight charges necessarily incurred in respect of the removal of the Employee's motor vehicle. If authorised by the Employer to travel to a new locality in the Employee's own motor vehicle, reimbursement is as follows:

- (a) Where the Employee will be required to maintain a motor vehicle for use on official business at the new headquarters, reimbursement for the distance necessarily travelled is the appropriate rate prescribed by clause 37 (2) – Motor Vehicle Allowance of the Award.
- (b) Where the Employee will not be required to maintain a motor vehicle for use on official business at the new headquarters reimbursement for the distance necessarily travelled is one half ($\frac{1}{2}$) of the appropriate rate prescribed by clause 37 (2) – Motor Vehicle Allowance of the Award.
- (c) Where an Employee or their dependants have more than one vehicle, and all the vehicles are to be relocated to the new residence, the cost of transporting or driving up to two vehicles is deemed to be part of the removal costs.
- (d) Where only one vehicle is to be relocated to the new residence, the Employee can choose to transport a trailer, boat or caravan in lieu of the second vehicle. The Employee can be required to show evidence of ownership of the trailer, boat or caravan to be transported.
- (e) If the Employee tows the caravan, trailer or boat to the new residence, the additional rate per kilometre is to be 4 cents per kilometre for a caravan or boat and 2.5 cents per kilometre for a trailer.

- 47.4 The Employee must, before removal is undertaken obtain quotes from at least two carriers which shall be submitted to the Employer, who can authorise the acceptance of the more suitable: Provided that payment for a volume amount beyond 45 cubic metres will not occur without the prior written approval of the Employer.
- 47.5 The Employer can, in lieu of conveyance, authorise payment to compensate for any loss in any case where an Employee, with prior approval of the Employer, disposes of their household furniture effects and appliances instead of removing them to the new headquarters. Provided that such payments must not exceed the sum which would have been paid if the Employee's household furniture effects and appliances had been removed by the cheapest method of transport available and the volume was 45 cubic metres.
- 47.6 Where an Employee is transferred to government owned or private rental accommodation, where furniture is provided, and as a consequence the Employee is obliged to store furniture, the Employee is reimbursed the actual cost of such storage up to a maximum allowance of \$1,178.00 per annum. Actual cost is deemed to include the premium for adequate insurance coverage for the value of the furniture stored. An allowance under this subclause must not be paid for a period in excess of four years without the approval of the Employer.
- 47.7 Receipts must be produced for all sums claimed.
- 47.8 New appointees to the public service are entitled to receive the benefits of this clause if they are required by the Employer to participate in any training course prior to being posted to their respective positions in the service. This entitlement is only available to Employees who have completed their training and who incur costs when moving to their first posting.
- 47.9 An Employer can agree to provide removal assistance greater than specified in this Agreement. In the event that the Employee to whom the benefit is granted elects to leave the position, on a permanent basis, within twelve months, the Employer can require the Employee to repay the additional removal assistance on a pro rata basis. Repayment can be deducted from any monies due to the Employee.
- 47.10 For the purposes of clause 47.9, "elects to leave the position," means the Employee freely chooses to leave the position in the ordinary course of promotion, transfer or resignation and this necessitates the Employer obtaining a Replacement Employee.

48. TRANSFER ALLOWANCE

- 48.1 The provisions of this clause replace clause 39 – Transfer Allowance of the Award.
- 48.2 (a) Subject to clauses 48.3 and 48.6, an Employee who is transferred to a new locality in the public interest, or in the ordinary course of promotion or transfer, or on account of illness due to causes over which the Employee has no control, is paid:
- (i) at the rates prescribed in Column A, Item (4), (5) or (6) of Schedule D – Travelling Allowance of the Award for a period of 14 days after arrival at new headquarters within Western Australia; or
 - (ii) Column A, Items (7) and (8) of Schedule D – Travelling Allowance of the Award for a period of 21 days after arrival at a new headquarters in another State of Australia.

- (b) If an Employee is required to travel on official business during the said periods, such period will be extended by the time spent in travelling.
- (c) Under no circumstances will the provisions of this subclause operate concurrently with those of Clause 40 – Travelling Allowance of the Award to permit an Employee to be paid allowances in respect of both travelling and transfer expenses for the same period.

48.3 Prior to the payment of an allowance specified in clause 48.2, the Employer must:

- (a) Require the Employee to certify that permanent accommodation has not been arranged or is not available from the date of transfer. In the event that permanent accommodation is to be immediately available, no allowance is payable; and
- (b) Require the Employee to advise the Employer that should permanent accommodation be arranged or become available within the prescribed allowance periods, the Employee must refund the pro rata amount of the allowance for that period the occupancy in permanent accommodation takes place prior to the completion of the prescribed allowance periods.

Provided also that should an occupancy date which falls within the specified allowance periods be notified to the Employer prior to the Employee's transfer, the payment of a pro rata amount of the allowance should be made in lieu of the full amount.

48.4 (a) If an Employee is unable to obtain reasonable accommodation for the transfer of his or her home within the prescribed period referred to in clause 48.2, the Employee is paid in accordance with the rates prescribed by Column B, Items (4), (5), (6), (7) or (8) of Schedule D. - Travelling Allowance of the Award as the case requires, until such time as the Employee has secured reasonable accommodation, provided that:

- (i) the Employer is satisfied that the Employee has taken all possible steps to secure reasonable accommodation; and
- (ii) the prescribed period referred to in clause 48.2 has expired.

(b) Provided that the period of reimbursement under this subclause shall not exceed 77 days without the approval of the Employer.

48.5 When it can be shown by the production of receipts or other evidence that an allowance payable under this clause would be insufficient to meet reasonable additional costs incurred by an Employee on transfer, an appropriate rate of reimbursement shall be determined by the Employer.

48.6 An Employee who is transferred to Government owned accommodation is not entitled to reimbursement under this clause, provided that:

- (a) where entry into the Government owned accommodation is delayed through circumstances beyond the Employee's control an Employee can, subject to the production of receipts, be reimbursed actual reasonable accommodation and meal expenses for the Employee and dependants less a deduction for normal living expenses

prescribed in Column A, Items 15 and 16 of Schedule D – Travelling Allowance of the Award; and

- (b) if any costs are incurred under clause 49.2 – Disturbance Allowance of this Agreement they shall be reimbursed by the Employer.

49. DISTURBANCE ALLOWANCE

49.1 Where an Employee is transferred and incurs expenses in the areas referred to in clause 49.2 as a result of that transfer then the Employee must be granted a disturbance allowance and is reimbursed by the Employer the actual expenditure incurred upon production of receipts or such other evidence as required.

49.2 The disturbance allowance includes:

- (a) costs incurred for telephone installation at the Employee's new residence provided that the cost of telephone installation is reimbursed only where a telephone was installed at the Employee's former residence including Government owned accommodation;
- (b) costs incurred with the connection or reconnection of services to the Employee's household including Government owned accommodation for water, gas or electricity; and
- (c) costs incurred with the redirection of mail to the Employee's new residence for a period of no more than three months.

50. WEEKEND ABSENCE FROM RESIDENCE

50.1 An Employee who is temporarily absent from normal headquarters on relieving duty or travelling on official business outside a radius of 320 kilometres measured from normal headquarters, and is necessarily absent from the Employee's residence and separated from dependants, is granted an additional day's leave for every group of three consecutive weekends so absent provided that each weekend is counted as a member of only one group, provided that:

- (a) the relief duty or travelling on official business is within Australia and the Employee is not directed to work on the weekend by the Employer;
- (b) an additional day's leave is not allowed if the Employer has approved the Employee's family accompanying the Employee during the period of relief or travelling;
- (c) additional leave under this subclause must commence within one month of the period of relief duty or travelling being completed unless the Employer approves otherwise; and
- (d) the annual leave loading provided by clauses 25 – Annual Leave Loading and 26 – Annual Leave Loading for Shift Workers and Employees on Commuted Arrangements that Incorporate Annual Leave Loading of this Agreement does not apply to any leave entitlement under this clause.

- 50.2 An Employee who is temporarily absent from normal headquarters on relieving duty or travelling on official business outside a radius of 320 and up to 400 kilometres measured from normal headquarters, can elect to have the benefit of concessions provided by clause 50.3 in lieu of those provided by clause 50.1. Kalgoorlie, Albany and Geraldton shall be regarded as being within a radius of 400 kilometres for the purposes of this subclause in the case of an Employee resident in the metropolitan area.
- 50.3 An Employee who is temporarily absent from normal headquarters on relieving duty or travelling on official business within a radius of 320 kilometres measured from normal headquarters, and such relief duty or travel would normally necessitate the Employee being absent from the Employee's residence for a weekend, is allowed to return to the residence for the weekend. Provided that:
- (a) an Employee who is directed to work on a weekend by the Employer is not entitled to the concessions provided by this subclause;
 - (b) all travelling to and from the Employee's residence is undertaken outside of the hours of duty prescribed by clause 20 – Hours of this Agreement;
 - (c) an Employee, who has obtained the approval of the Employer for the family to accompany the Employee during the period of relief or travelling is not entitled to the concessions provided by this subclause;
 - (d) when an Employee is authorised by the Employer to use the Employee's own motor vehicle to travel to the locality where the relief duty is being performed or when travelling on official business the Employee is reimbursed on the basis of one half of the appropriate rate prescribed by clause 37 (3) – Motor Vehicle Allowance of the Award, for the journey to the Employee's residence for the weekend and the return to the place of relief duty. Provided that the maximum amount of reimbursement shall not exceed the cost of the rail or bus fare by public conveyance which otherwise would be utilised for such journey and payment shall be made only to the owner of such vehicle;
 - (e) when an Employee has been authorised by the Employer to use the Employer's motor vehicle in connection with the relief duty or travelling on official business, the Employee is allowed to use that vehicle for the purpose of returning to the Employee's residence for the weekend;
 - (f) an Employee who does not use a private motor vehicle or the Employer's motor vehicle as provided by clause 50.3 (d) and (e), is reimbursed the cost of the fare by public conveyance by road or rail for the journey, to and from the Employee's residence for the weekend;
 - (g) an Employee who does not make use of the provisions of this subclause is paid travelling allowance or relieving allowance as the case may require in accordance with the provisions of clause 40 – Travelling Allowance or clause 38 – Relieving Allowance of the Award; and
 - (h) Employees who return to their residence for the weekend in accordance with the provisions of this subclause are not entitled to the reimbursement of any expenses allowed by clause 38 – Relieving Allowance and clause 40 – Travelling Allowance of the

Award during the period from the time when the Employee returns to the Employee's other residence to the time of departing from such residence to travel to resume duty at the place away from the residence.

51. MISCELLANEOUS ALLOWANCES AND CONDITIONS

51.1 Subject to the other provisions of this Agreement, the following Award clauses will be updated in line with equivalent changes to *Public Service Award 1992* and any amendments thereto including their replacement, or any Public Sector CSA Agreement as appropriate and apply once the changes have been made:

- (a) clause 36 – District Allowance
- (b) clause 37 – Motor Vehicle Allowance
- (c) clause 38 – Relieving Allowance
- (d) clause 40 – Travelling Allowance
- (e) clause 18(7) – Additional Leave for the North West
- (f) clause 18(8) – Annual Leave Travel Concession

PART 7: REGIONAL PROVISIONS

52. REMOTE AND ISOLATED LOCATIONS

52.1 For the purpose of this clause remote and isolated locations include those facilities established as a result of Government's response and action plan associated with the Gordon inquiry and located at: Kintore, Warburton, Balgo, Kalumburu, Warakurna/Docker River, Bidyadanga, Dampier Peninsula, Warmun, Jigalong, Blackstone, Burringurrah, Oombulgurri and Looma.

52.2 Where Employees are posted to work in a remote and isolated location detailed in clause 52.1 as their headquarters they receive, in addition to any other benefits they are entitled to:

- (a) remote community allowance of \$4,000 per annum, paid fortnightly;
- (b) free housing, electricity and water;
- (c) four weeks of remote-community leave for each completed year of service. Remote community leave accrues per year of service and is taken at the end of the Employee's posting to the location, unless otherwise agreed by the Employee and Employer. Absence on remote community leave counts for service for all purposes; and
- (d) upon completion of tenure at remote and isolated locations, Employees are given preference to return to a location of their choice, subject to operational requirements.

52.3 An Employee, posted to a location listed in clause 52.1 and in receipt of an attraction and retention incentive (ARI) pursuant to Public Sector Commissioner's Instruction 35 – Attraction and Retention Incentives remains entitled to the benefits of this clause that exceed the entitlements provided for by the ARI.

- 52.4 Where an Employee is posted to work in any location listed in clause 52.1 as their headquarters and, due to the actions of the Employer, they do not complete a full term of their posting at the location, they are entitled to receive the remote community leave set out in clause 52.2 (c) on a pro-rata basis, and the preference in accordance with 52.2 (d).

53. REGIONAL TRAINING AND DEVELOPMENT

- 53.1 Effective workforce management practices and opportunities are provided to staff employed in regional areas.

For the purposes of this clause:

- (a) “Training” includes, but is not limited to the provision of approved, formal instruction by an Agency representative or an external provider to one or more Employees to assist them to undertake a particular role or function, or to enhance their personal skills, knowledge and/or abilities.
- (b) “Development” is the opportunity for an Employee to gain on-the-job experience and skills by working in a position other than the Employee’s substantive position. Development opportunities include, but are not limited to:
 - (i) performance of duties at a higher classification level (acting);
 - (ii) secondment to another Agency at the Employee’s substantive classification level or at a higher classification level; or
 - (iii) temporary deployment within the same Agency at the Employee’s substantive classification level but where the duties differ from those of the Employee’s substantive position.

- 53.2 Employers must:

- (a) Ensure Regional Employees are, as far as reasonably practicable, provided with access to Training and Development opportunities having regard to that Agency’s operational requirements and opportunities provided to metropolitan based staff.
- (b) Ensure Regional Employees are offered job related Training opportunities within their local area or by agreement, in another location. The Employer must cover all costs associated with the Training activity.
- (c) Ensure costs are covered when Employer initiated Development opportunities are provided away from the Employee’s home base, to the extent of clause 38 – Relieving Allowance of the Award and clause 50 – Weekend Absence from Residence of this Agreement.
- (d) Ensure Registered Employees located in regional areas are provided career transitional support, including ongoing professional Development opportunities.

- 53.3 Each Agency that employs people in regional areas in Western Australia must conduct a review into the accessibility to personal Development opportunities including Training and acting

opportunities within 12 months of the registration of this Agreement. The findings of these reviews must be provided to the Agency's JCC.

PART 8: WORKFORCE MANAGEMENT

54. REDEPLOYMENT AND REDUNDANCY

- 54.1 The *Public Sector Management (Redeployment and Redundancy) Regulations 2014* (WA) (Regulations) provide the legislative framework for redeployment and redundancy for all Employees covered by this Agreement. If the provisions of this Agreement and the Regulations are inconsistent, the provision of the Regulations prevail.
- 54.2 The Employer and prospective Employer must assess the Suitability of a Surplus Employee broadly which includes, but is not limited to:
- (a) acknowledging that the Employee's classification level illustrates core competencies for that classification level;
 - (b) providing sufficient weight to the Employee's knowledge, skills and experience; and
 - (c) recognising the transferability of skills to roles where a direct fit cannot exist.
- 54.3 The Employer and prospective Employer are to place Surplus Employees in suitable positions in accordance with clause 54.2.
- 54.4 The Employer must provide Surplus Employees with access, via their Case Manager, to priority vacancies through the online Recruitment Advertising Management System.
- 54.5 The Employer must provide Surplus Employees with case management in accordance with the Public Sector Commission's Redeployment and Redundancy – A guide for agencies and the Public Sector Commission's Redeployment and Redundancy – Case management guidelines or any revised arrangement subsequent to the review of the redeployment and redundancy provisions referred to in clause 56.5 of the *Public Sector CSA Agreement 2022*. The Employer must ensure that Surplus Employees are provided with an appropriately skilled case manager/s, a skills audit and continual support to find Suitable employment.
- 54.6 The Employer must notify an Employee of the Employer's intention to register them under regulation 18 of the Regulations and provide written reason/s for the intended registration and details of the possible employment, placement and training options available to them.
- 54.7 The Employer can, when acting consistent with Commissioner's Instruction No. 12 – Redeployment and Redundancy, Suspend the Redeployment period of a Registered Employee for the duration the Employee is participating in retraining, a secondment or other employment placement arrangement. Where suspension of the total duration would exceed the allowable duration under Commissioner's Instruction No. 12 – Redeployment and Redundancy, the Employer can suspend the Redeployment period for the portion allowable.
- 54.8 The Employer must notify the Union prior to a Registered Employee entering the last three months of their Redeployment period.

55. WORKING FROM HOME

- 55.1 The parties support working from home arrangements facilitated in accordance with this clause.
- 55.2 Subject to this clause, Employees can request a working from home arrangement to support their personal circumstances. A request made under this clause must be made in writing and should set out the details of the proposed working from home arrangement.
- 55.3 The Employer must consider an Employee's working from home request. Any consideration is to be informed by the Employer's obligations under the *Equal Opportunity Act 1984* (WA) and subclause 55.4 of this Agreement.
- 55.4 The Employer can only refuse a request for a working from home arrangement on reasonable business grounds. Without limiting what are reasonable business grounds for the purpose of this clause, reasonable business grounds include the following:
- (a) the working from home arrangement requested by the Employee would be too costly for the Employer;
 - (b) it is not possible or would be impractical to change the working arrangements of other Employees, or recruit new Employees, to accommodate the working from home arrangement requested by the Employee; or
 - (c) it would result in a significant loss of efficiency or productivity or have a significant negative impact on customer service.
- 55.5 If the working from home arrangement is refused in accordance with clause 55.4, the Employer and Employee will consider whether other flexible working arrangements provided under this Agreement can be facilitated.
- 55.6 Irrespective of the number of days an Employee is permitted to work from home, a working from home arrangement does not provide for an Employee's headquarters to be moved to the Employee's home for the purposes of this Agreement or the Award.
- 55.7 Statutory requirements apply to Employees working from home as they do to Employees working at an Employer's workplace. A working from home arrangement must address:
- (a) duty of care responsibilities owed by the Employer and Employee under the *Work Health and Safety Act 2020* (WA); and
 - (b) all additional statutory obligations affecting the Employer/Employee relationship.
- 55.8 Employers are required to undertake a risk assessment of the work activities carried out by Employees. In carrying out any assessment, Employers must look at who and what can be affected by, and the possible effects of, the work being done from home.
- 55.9 Prior to implementing a working from home arrangement, Employers must discuss matters relevant to a working from home arrangement with Employees including; insurance, provision of equipment and tools, related overhead costs, the Employee's ordinary hours of work and flexible working arrangements provided under this Agreement, and any agreed reasonable

accommodations. Employers can only initiate a working from home arrangement once this discussion has occurred and subject to the agreement of the Employee.

55.10 Approved working from home arrangements can, on the request of either the Employer or Employee, be reviewed. If the working from home arrangement is to be modified, the date of the implementation of the changes is to be agreed between the parties.

55.11 A working from home arrangement can be terminated by either:

(a) the Employer by giving three weeks' notice, where it can be substantiated the arrangement:

(i) is having an ongoing adverse effect on the Employee's ability to deliver on their performance objectives; or

(ii) can no longer be accommodated on reasonable business grounds in accordance with clause 55.4; or

(b) an Employee by giving three weeks' notice.

55.12 A working from home policy or procedure developed by an Employer, must be consistent with the provisions of this clause and statutory obligations under relevant legislation, including but not limited to, the *Work Health and Safety Act 2020* (WA) and the *Equal Opportunity Act 1984* (WA).

56. WORKLOAD MANAGEMENT

56.1 Employers have a duty to provide a safe and healthy work environment and must not require Employees to undertake unreasonable workloads in the ordinary discharge of their duties.

56.2 The objective of this clause is to ensure workload allocation is fair, manageable and without risk to health and safety.

56.3 The Employer must take reasonable steps to ensure that Employees:

(a) do not work excessive or unreasonable hours;

(b) can clear annual leave; and

(c) are paid or otherwise recompensed for work as provided for under the Award and this Agreement.

56.4 Employees are required to perform, attain or sustain a standard of work that can be reasonably expected of them.

56.5 Relevant indicators of workload must be monitored and recorded by the Employer on an ongoing basis. Indicators include but are not limited to:

(a) nature of work;

(b) work patterns;

- (c) hours of work including overtime;
- (d) levels of accrued annual and long service leave;
- (e) environment in which work is performed;
- (f) volume of work;
- (g) level of performance;
- (h) turnover;
- (i) accident rate;
- (j) workers' compensation claims lodged;
- (k) personal leave usage;
- (l) early retirement records;
- (m) referral rates to Employee assistance program providers and general feedback regarding workload issues, if raised, from counsellors;
- (n) exit information regarding workload, if raised; and
- (o) summary information on the results of Employee workload surveys if conducted.

56.6 Where Employee performance issues are identified these are managed in accordance with the Agency's performance management policy and consider:

- (a) training and development;
- (b) application of skill and competencies;
- (c) capacity to perform at a required level;
- (d) individual accountability; and
- (e) communication and feedback.

56.7 With the exception of identified Employee performance issues, any workload issues, including workload indicators and the associated monitoring and recording of those indicators, must be dealt with as a function of the JCC.

56.8 Any disputes in relation to this clause are resolved in accordance with clause 66 – Dispute Settlement Procedure of this Agreement.

56.9 Where potential workload issues are identified by the Union or the Employer, a review team is convened within 21 days of a written request from either party. The review team is made up of representatives nominated by the Employer and the Union.

- 56.10 Once established, the review team must conduct a workload survey of affected Employees covered by this Agreement.
- 56.11 The review team determines the content and scope of the workload survey based upon criteria stated in clause 56.5.
- 56.12 A workload survey can only be conducted where one has not been completed in the previous 12 months.
- 56.13 The collated results of the survey, together with the report outlining the findings of the review team, must be provided to the parties to this Agreement within two months of the commencement of the survey.
- 56.14 Broader consultation on the workload survey results, and the findings of the review team can be undertaken through the JCC.

Responding to work-related information and communications outside of work hours

- 56.15 In this clause:
- (a) “Business-critical matters” means any situation which is unexpected and requires an immediate response in relation to which the Employee’s expertise, advice or assistance is required to enable an agency to perform its primary function.
 - (b) “Genuine welfare and safety matters” means serious matters likely to have an imminent effect on the welfare and/or safety of the Employee.
 - (c) “Work-related communications” include all communication concerning work matters that are not business critical or genuine welfare and safety matters sent via SMS, teams messages, phone-calls, or any other means of technological communication, to a personal or work issued phone, computer or other device.
- 56.16 The Employer is committed to minimising work-related communications to support work/life balance for employees, whilst ensuring operational needs are met.
- 56.17 Managers and supervisors recognise employees are not required to access or respond to work-related communications sent outside an Employee’s ordinary or rostered hours, unless there is a business-critical matter or genuine welfare and safety matter.
- 56.18 Employees cannot be penalised or otherwise disadvantaged for choosing not to engage, respond or access work-related information or communication technologies outside their ordinary or rostered working hours.
- 56.19 This clause does not apply where an Employee is in receipt of an ‘Out of Hours Contact’ allowance or undertaking reasonable overtime in accordance with clause 22 – Overtime Allowance of this Agreement, or where an Employee has provided contact details for the purpose of being notified for available casual or overtime shift work.

57. HEALTH AND SAFETY REPRESENTATIVES’ RECORDS

- 57.1 The Employer must maintain a Health and Safety Representative Register (Register).
- 57.2 The Register is to record the following information for each health and safety representative in the Department/Organisation:
- (a) name;
 - (b) work branch/division (as appropriate);
 - (c) work location;
 - (d) job title/occupation;
 - (e) date of election as a health and safety representative; and
 - (f) training details on completion of relevant health and safety training courses, including initial and refresher training dates.
- 57.3 The Employer must provide a copy of the Register to the Union every six months.
- 57.4 The Register is to be submitted to GSLR on 31 January each year, for the previous year.

58. UNION FACILITIES

Inductions

- 58.1 In addition to clause 33 (5) (e) – Facilities for Union Representatives of the Award, the Employer must provide the Union with time to discuss the benefits of Union membership with new Employees as part of the Employees' formal induction program. Where the induction is wholly online, the Union is afforded the opportunity to provide content on the benefits of union membership for inclusion in the online induction program.

Union meetings

- 58.2 Subject to reasonable notice being provided to the Employer:
- (a) Employees will be granted paid time off to attend up to four meetings per calendar year of up to one hour's duration at the workplace held by the Union;
 - (b) where a meeting exceeds one hour, any absence will be without pay for that part of the meeting which exceeds one hour; and
 - (c) to conduct these meetings the Union, upon written request, is given access to a private facility at the workplace for the duration of each meeting, if such a facility is reasonably available at the workplace.

Notification of new Employees

- 58.3 Unless otherwise agreed, the Employer must notify the Union of the commencement of any new employees on a quarterly basis. Notification includes the new employee's name, commencement date, position title, type of employment, work location, business email

addresses, and business phone numbers where available.

59. TRANSITIONAL ARRANGEMENTS

Hours of work

- 59.1 Any Employee employed as a Family Support Officer (previously Family Resource Employee or Family Resource Worker) as at 23 July 2009, being the date of registration of the Family Resource Employees and Parent Helpers General Agreement 2009 is entitled to withhold consent to a variation of their ordinary working hours which would involve regularly working on Saturdays or Sundays.
- 59.2 Clause 54.1 of clause 54 – Redeployment and Redundancy of this Agreement ceases to apply where an Employee commences working under a new contract of employment.

PART 9: CONSULTATIVE MECHANISMS AND REVIEWS

60. CONSULTATION AND JOINT CONSULTATIVE COMMITTEE

Consultation on Proposals for Change

- 60.1 The provisions of this clause are read in conjunction with clause 43 – Notification of Change of the Award.
- 60.2 For the purposes of this clause the terms below have the following meanings:
- (a) “Change” means situations where the Employer proposes to make a change or changes likely to affect existing practice(s), working conditions or employment prospects of Employees.
 - (b) “Consultation” means a process that involves the timely exchange of relevant information and the opportunity for discussions between the parties on matters relevant to a proposed change. These discussions are to provide the Union and Employees with a genuine opportunity to contribute to the decision-making process.
- 60.3 The parties acknowledge that decisions continue to be made by the Employer who is responsible and accountable to Government for the effective and efficient operation of the Agency.
- 60.4 The parties agree that:
- (a) Consultation must occur prior to the Employer’s decision to make a change.
 - (b) The Employer must notify the Union and Employees who may be affected by a proposed change as soon as practicable. To enable genuine consultation to occur, the notification must be in writing and include, at a minimum, the nature of the proposed change and the effects it is likely to have on Employees.
 - (c) The consultation discussion must commence as soon as possible after the Employer notifies the Union and affected Employees of the proposed change.

- (d) The consultation process must be open and transparent, and apply the following principles:
 - (i) Employers must ensure appropriate mechanisms and communication channels are in place to facilitate consultation;
 - (ii) the Employer and the Union must provide all reasonable and relevant information except confidential commercial, business or personal information, the release of which can seriously harm a party or individual;
 - (iii) information provided must be clear and with sufficient background information available so that issues are understood;
 - (iv) Employers must assess the impacts of change broadly;
 - (v) throughout the consultation process, the Employer must provide adequate time, resources and support for information to be considered by affected Employees and the Union and for consultation to occur; and
 - (vi) once a change is implemented, the Employer must evaluate and review the change and inform the Union of the review outcomes.

60.5 Where the Employer is proposing change that can result in Surplus Employees, they must provide information on their overall workforce composition to the Union and the likely affected Employees as soon as possible. This includes, but is not limited to, data on the use of fixed term contract Employees, casual Employees, labour hire Employees and contractors including the:

- (a) number of Employees or persons engaged in each category;
- (b) position or duties being undertaken by each Employee or person engaged;
- (c) reason for the arrangement or employment;
- (d) total duration of each arrangement or employment (including successive contracts); and
- (e) expiry date of contracts (excluding for casual Employees).

Joint Consultative Committee

60.6 Effective communication is necessary to improve the business/operational performance and the working environment in the Agency.

60.7 The parties confirm their ongoing commitment to the Joint Consultative Committee (JCC) process.

60.8 Each Agency must have a JCC, for the purposes of consultation under this Agreement, comprising of the Employer or their nominee, Employer nominated representatives and Union nominated representatives, unless it is otherwise agreed between the Employer and the Union to effect consultation through some other means.

60.9 The JCC must convene within 28 days of a written request being received from either party.

60.10 The JCC must determine its own operating procedures.

60.11 JCCs are a forum for consultation on issues such as:

- (a) development of workload management tools within the Agency;
- (b) industrial issues;
- (c) fixed term contract employment; casual employment and labour hire usage;
- (d) changes to work organisation and/or work practices occurring in the workplace;
- (e) Employer implementation of recommendations from Government decisions, policies and initiatives; and
- (f) Employer implementation of other aspects of this Agreement.

60.12 The consultation process must comply with the parameters set out in clause 60.4.

60.13 Matters not resolved through the JCC can be referred to the provisions of clause 66 – Dispute Settlement Procedure of this Agreement.

61. REVIEW OF COMMON USE AGREEMENTS AND CONTRACTS

Employer Reviews

61.1 Consistent with the preference for directly employed Public Sector Employees to provide public services at clause 14 – Direct and Permanent Employment of this Agreement, during the life of this Agreement, Employers, who have not already, must review any contracts for service including contracts which utilise a Common Use Arrangement (CUA), falling into any of the following categories:

- (a) tendered contracts for services with a term of four years or more, including any extension to the original term; and
- (b) contracts with a term of 12 months or more for the provision of payroll, human resource management services, internal audit services, financial advice or ICT services, the annual value of which exceeds \$1 million;

to identify opportunities to return the delivery of services to the Employer to be carried out by directly employed Public Sector Employees following the expiry of the contract, where it is economically viable to do so.

61.2 When undertaking the review described in clause 61.1, Employers will examine:

- (a) the procurement planning process, including consideration of whether there are non-financial risks and benefits to the State and whether the contract currently provides value for money. In particular:
 - (i) an estimate of the cost of direct delivery of the service;

- (ii) the capacity of the agency to continue to deliver the service in the event the contractor becomes unable to; and
 - (iii) the availability of labour and expertise within the employing authority and/or the broader Public Sector, including registered and registrable Employees;
 - (b) whether the efficacy of each contract has been regularly assessed, including the outcome of any audit of whether suppliers under the contract have met their contractual obligations; and
 - (c) whether there is adequate expertise within agencies to provide oversight and evaluation of the contractual arrangement and use of the contract, including effective records management and data storage to inform future contracts. In particular:
 - (i) that the agency is resourced to manage the contract for its duration considering any relevant requirements of the *Procurement Act 2020* (WA); and
 - (ii) whether agency records management and data storage processes are sufficient to assess the contracting decision was compliant with AP 5, and recommendations to address any gaps.
- 61.3 Within three months of the registration of this Agreement, Employers must advise the JCC, where one is established, or the Union of the contracts to be reviewed under this clause; and a target date for submission of a final report to the JCC or Union.
- 61.4 During the life of this Agreement, Employers must provide relevant information from the review, the review report and the review outcome in relation to the contracts reviewed under this clause to the union.
- 61.5 Employers must notify the Union of the expiry date of any of the following contracts to which they are a party:
- (a) a contract referred to in clause 61.1:
 - (i) if the Employer does not intend to extend the contract before it expires – 18 months before the expiry date; or
 - (ii) in any other case – when the contract is extended; and
 - (b) a contract referred to in clause 61.1 (b) – six months before the expiry date.
- 61.6 The requirements of clauses 61.1 – 61.4 do not apply to any contract that an Employer and the Union agree does not involve the delivery of services that are core Public Sector functions.
- 61.7 A JCC, or any member of that Committee, can refer to the PCF for review any proposal by an Employer to enter into a contract of a kind referred to in clause 61.1 (a) or (b).
- 61.8 The parties acknowledge that decisions will continue to be made by Employers, who are responsible and accountable to Government for the effective and efficient operation of the Agency. Nothing in this clause prevents the Employer from using contracts for service where it is appropriate to do so.

Provision of Relevant Information for Proposed Contracts for Service – Contracting Out

- 61.9 Consistent with the requirements in clause 60 – Consultation and Joint Consultative Committee of this Agreement, Employers must provide the Union with the business case for, and all relevant information and data pertaining to, any proposed contracting out of any service or function currently performed by classifications of Employees employed by an Employer.

Confidentiality

- 61.10 Employers are not required to supply any information to the Union, the JCC or the PCF from the reviews under clause 61.1 if doing so would disclose confidential, commercial in confidence, or personal information.

62. REVIEW INTO A DISCOUNTED PUBLIC TRANSPORT SCHEME

- 62.1 Government recognises that increased use of public transport has environmental, social and economic benefits and seeks to implement a scheme for Employees that provides more affordable access to public transport. Government wishes to consider options that deliver benefits to Employees and attract minimal implementation, ongoing compliance monitoring and other costs.
- 62.2 The parties acknowledge the Public Transport Scheme Working Group has submitted a final evaluation report, including recommendations, to Government for consideration and implementation of appropriate recommendations.

63. PUBLIC SECTOR DELIVERY OF PUBLIC SERVICES

- 63.1 The Government and Employers prefer the delivery of public services to be undertaken by Employees.
- 63.2 Only in exceptional circumstances, and having considered the public interest, can work or functions currently undertaken by Employees be privatised or outsourced. Meaningful consultation must occur with the Union and affected Employees at the earliest possible opportunity.
- 63.3 If Government identifies work carried out by persons external to the Public Sector which can be returned to the Public Sector in line with its stated preference the Union must be consulted at the earliest opportunity.

64. AMALGAMATION OF PUBLIC SECTOR CSA AGREEMENTS

- 64.1 The parties acknowledge significant work has been undertaken with the aim of restructuring and amalgamating existing Public Sector CSA agreements. The shared aim is to provide consistent conditions across the sector where possible.
- 64.2 The parties will explore opportunities to facilitate this consistency in the Replacement Agreement.

65. RESERVED MATTERS/LIBERTY TO APPLY

65.1 Notwithstanding clause 7 – No Further Claims of this Agreement, the parties agree to negotiate possible variations to clause 60 – Consultation and Joint Consultative Committee of this Agreement during its life.

65.2 If the parties reach agreement on this matter, the Agreement will be varied via section 43 of the *Industrial Relations Act 1979* (WA).

65.3 The parties will consider varying the notification of change and consultative mechanism provisions in the Award.

66. DISPUTE SETTLEMENT PROCEDURE

66.1 Any questions, difficulties or disputes arising in the course of the employment of Employees covered by this Agreement must be dealt with in accordance with this clause.

66.2 The Employee can be accompanied by a Union representative during all stages of this procedure.

66.3 The Employee/s and the manager with whom the dispute has arisen must discuss the matter and attempt to find a satisfactory solution within three working days.

66.4 If the dispute cannot be resolved at this level, the matter must be referred to, and be discussed with, the relevant manager's superior and an attempt made to find a satisfactory solution within a further three working days.

66.5 If the dispute is still not resolved, it can be referred by the Employee/s or Union representative to the Employer or Employer nominee.

66.6 Where the dispute cannot be resolved within five working days of the Union representative's referral of the dispute to the Employer or Employer nominee, either party can refer the matter to the WAIRC.

66.7 The period for resolving a dispute can be extended by agreement between the parties.

66.8 Notwithstanding the operation of clauses 66.3 to 66.6, questions, difficulties or disputes involving multiple Employees can be raised by the Union directly with the Employer or the Employer's nominated representative.

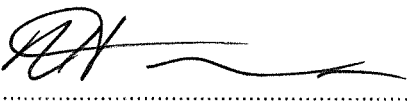
66.9 If a dispute is raised by the Union via clause 66.8, the parties must make a genuine attempt to reach an agreed solution. If the dispute cannot be resolved, either party can refer the dispute to the WAIRC for conciliation or, where appropriate, arbitration.

66.10 Nothing in this clause constitutes a referral agreement within the meaning of section 12 of the *Employment Dispute Resolution Act 2008* (WA).

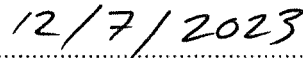
PART 10: SCHEDULES TO THE AGREEMENT

SCHEDULE 1 – SIGNATURES OF PARTIES

Signed:



Signature



Date

Rikki Hendon
General Secretary
The Civil Service Association of Western Australia (Inc)

Signed:



Signature

7 July 2023

Date

Mike Rowe
Director General
Department of Communities

SCHEDULE 2 – SALARIES

Level	Current rate (per annum)	2023 rate (per annum) From 13 June 2023
Level 1		
1.1	\$ 57,060	\$ 60,190
1.2	\$ 59,872	\$ 63,002
1.3	\$ 62,828	\$ 65,958
1.4	\$ 65,506	\$ 68,636
Level 2		
2.1	\$ 67,302	\$ 70,432
2.2	\$ 68,911	\$ 72,041
2.3	\$ 70,612	\$ 73,742
2.4	\$ 72,386	\$ 75,516
Level 3		
3.1	\$ 76,026	\$ 79,156
3.2	\$ 77,911	\$ 81,041
3.3	\$ 79,853	\$ 82,983
3.4	\$ 81,847	\$ 84,977
Level 4		
4.1	\$ 84,582	\$ 87,712
4.2	\$ 86,723	\$ 89,853
4.3	\$ 88,927	\$ 92,057
Level 5		
5.1	\$ 93,177	\$ 96,307
5.2	\$ 96,045	\$ 99,175
5.3	\$ 99,026	\$ 102,156
5.4	\$ 102,124	\$ 105,254

SCHEDULE 3 – OVERTIME ALLOWANCE

PART I – OUT OF HOURS CONTACT

(Operative from the date of registration)

	Date of registration
	2023
Standby	\$14.57
On Call	\$7.29
Availability	\$3.64

PART II – MEALS

(Operative from the date of registration)

Breakfast	\$12.05 per meal
Lunch	\$14.85 per meal
Evening Meal	\$17.80 per meal
Supper	\$12.05 per meal