



JOURNALISTS (SPECIALIST PUBLICATIONS) (STATE) AWARD

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1. AREA, INCIDENCE AND DURATION

- (a) This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Journalists (Specialist Publications) (State) Award published 28 September 2001 (328 IG 238) and all variations thereof.
- (b) The award published 30 April 1996 took effect from the beginning of the first pay period to commence on or after that date.
- (c) The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on December 1998 (308 IG 307) will take effect from the first full pay period to commence on or after 8 June 2004.
- (d) Subject to subclause (e), this award shall apply to employees employed as journalists, press artists and press photographers to the extent of the classifications in Clause 5 of the award except;
 - (i) employees on newspapers covered by any other award or by an enterprise agreement in force from time to time.
- (e) No employer who employs more than 20 full-time employees bound by this award shall be subject to this award, and this award shall not apply to the employees of any such employer. If an employer covered by this award commences to employ more than 20 full-time employees covered by this award, the employer shall, within seven days of so commencing, notify in writing its employees and the Secretary of the Alliance that the number of its employees covered by this award has exceeded 20 and the employer and its employees shall, from the beginning of the first pay period commencing on or after 26 weeks after the date on which the employer commenced to employ more than 20 full-time employees covered by this award, cease to be covered by this award unless the employer has before that date ceased to be a respondent to this award by reason of another award or order made by the Industrial Relations Commission of New South Wales.
- (f) This award remains in force until varied or rescinded, the period for which it was made having already expired.

2. PAY EQUITY

The Parties to this Award are committed to ensuring equal remunerations and other conditions of employment of men and women along work of equal or comparable value.

3. DEFINITIONS

- (a) **“Employer”** means a firm, company or individual bound by this award.
- (b) **“Employee”** means a member, or a person eligible to be a member, of the Media, Entertainment and Arts Alliance New South Wales, employed by an employer.
- (c) **“Alliance”** means the media, Entertainment and Arts Alliance New South Wales.

4. MINIMUM RATES OF PAY

- (a) Minimum rates of pay shall be as set out in Table 1 – Rates of Pay, of Part B, Monetary Rates.
- (b) An employee whose weekly rate of pay is at least ten per cent higher than the minimum weekly rate of pay prescribed for a Grade 6 employee, shall be exempted from the operation of Clause 10 – Hours of Employment and Overtime; provided, however, that such an employee shall normally receive at least two clear days off per week. Any dispute about the operation of this subclause shall be processed under Clause 22 – Disputes Settlement.
- (c) In view of the nature of the specialist publications within the scope of this award, employees may, subject to the provisions of this subclause, from time to time be involved in a variety of aspects of their employer’s publication or publications, being aspects, which do not fall within the scope of the definitions contained in Clause 5 – Classification Structure. Without limiting the generality of the foregoing, such aspects include taking photographs, writing captions for photographs, preparing drawings, graphs, art work and layout, and may include, by agreement, duties associated with the commercial, business and promotional activities of the publisher, provided that:

- (i) in the case of employees who, prior to the making of this award, were subject to the provisions of the award of the Industrial Relations Commission of New South Wales entitled the Journalists' (Specialist Publications) (State) Award published 2 December 1994 (282 IG 910):
 - (A) for those employees engaged after 17 April 1989, involvement in such work shall only be by agreement between the employer and the employee, made at the date of employment or subsequent thereto.
 - (B) Persons who were in employment at 17 April 1989 and whose employment will be subject to this award will, throughout that employment, continue to perform the full range of duties they performed prior to the operation of this award, subject to any agreement between them and their employer as to any change in that range of duties.
- (ii) For all other employees:
 - (A) In the case of employees engaged after the date this award comes into effect, involvement in such work shall only be by agreement between the employer and the employee, made at the date of employment or subsequent thereto.
 - (B) Persons who are in employment at the date this award comes into effect and whose employment will be subject to this award will, throughout that employment, continue to perform the full range of duties they performed prior to the operation of this award, subject to any agreement between them and their employer as to any change in that range of duties.
- (d) The minimum weekly award rates of pay herein prescribed have been fixed on the basis that, except as provided for in subclause (f) of this clause, subclause (b) of Clause 10 – Hours of Employment and Overtime, subclause (e) of Clause 12 – Public Holidays, Clause 16 – Expenses, and subclause (b) of Clause 18 – Annual Leave and Annual Leave Loading, they take into account all aspects and conditions of employment of the type referred to in the industry and an employee shall not be entitled to any additional or other payment in respect of overtime or any other penalty, disability or similar payment not provided for in the clauses and subclause specified above. Nothing in this subclause shall prevent conditions being agreed to in individual

negotiations between employer and employee in excess of minimum award conditions.

- (e) An employee shall, at the request of his or her employer, perform the work of any other employee to whom the provisions of this award apply and which the employee is competent to perform, provided that where an employee performs the work of another employee for more than six consecutive weeks or for more than a total of 12 weeks in any one calendar year and the latter employee receives a rate of pay higher than the former employee, the former employee shall, for the whole of the period he or she performs such work, be paid at the higher rate of pay.
- (f) Visual Display Terminal (VDT) Allowance
 - (i) For the purposes of this award:

“Visual Display Terminal” means a computer operated keyboard and screen which produces camera-ready copy from a typesetter by direct or indirect interface with that typesetter.

“Camera-ready Copy” means editorial copy for use in production and for which all typesetting commands (other than typesetter conversion commands) required by the employer to be made have been inserted by one or more employees to whom this award applies.
 - (ii) An employee required by his or her employer to use a visual display terminal to create camera-ready copy shall be paid as per the minimum weekly award rate of pay as set out in column 2 of Table 1 – Rates of Pay, of Part B, Monetary Rates.
- (g) An employer may direct an employee to carry out such duties as are within the limits of the employee’s skill, competence and training.
- (h) Wages shall be paid by cash, cheque or electronic funds transfer, as determined by the employer.
- (i) Employees may be required to work on and between different publications published by the employer.
- (j) Where an employer undertakes editorial staff performance reviews, it is agreed:
 - (i) that where the review results in an employee receiving either or both higher wages or more favourable conditions than are prescribed by this award for the employee, the

employee shall not be entitled, as a right, to receive the benefit of any change in an award wage or condition until the award wage is greater or the condition more favourable than that received by the employee;

- (ii) that amounts paid to an employee above the minimum weekly award rate for the employee (margins) may be absorbed in increases to the minimum weekly award rate as and when the increases occur; and
 - (iii) that in determining any increase in wage rates for an employee which results from any performance review, the employer must have regard to any increases in the rates of pay which have occurred in this award, in the period covered by the review.
- (k) The rates of pay in this award include adjustments payable under the State Wage 2001. These adjustments may be offset against:
- (i) any equivalent over award payments; and/or
 - (ii) award wage increases since 29 May 1991, other than safety net, State Wage Case, and minimum rates adjustments.

5. CLASSIFICATION STRUCTURE

- (a) Employees shall be defined as follows:

“Editor” means an employee with responsibility to the publisher or his/her nominee for the content and/or appearance and/or quality of a publication, who writes or initiates and edits copy, pictures and drawings, supervises and disciplines staff, if any, and generally represents his or her publisher for the publisher’s publication internally and externally.

“Senior Sub-editor” means an employee who is directly responsible to the editor or his/her nominee for the accuracy and style of material in the form of words, photographs or artwork submitted for publication by members of the staff or contributors, and his/her work may include some writing or re-writing and supervision of other sub-editors, if any. He or she would normally supervise technical, legal, layout and customer relation requirements of the Editor and publisher.

“Sub-editor” means an employee normally responsible to the Senior Sub-editor (or Senior Sub-editors) for the preparation of copy.

“Senior Writer” means an employee who, with minimum, if any, supervision, organizes and prepares contributed material for submission to sub-editors or to printers and who initiates and writes original reports and features for publication.

“Writer” means an employee engaged in writing, organizing and/or preparing contributed material under the supervision of the Editor.

“Trainee” means, without limiting the scope for gaining experience, an employee who is not experienced in the work covered by this award and who normally works under the direct supervision of a Publisher, Editor, Senior Writer or Writer. Unless otherwise agreed between the Alliance and the employer, the trainee normally will remain a trainee for a period not exceeding two years, during which time appropriate training will be made available. Following the period of traineeship, the employer shall grade the employee.

A trainee who has or obtains a degree or diploma from an Australian University or Australian College of Advanced Education shall be paid the minimum rate of pay prescribed for a Year 2 trainee.

- (b) Employees defined in subclause (a) shall be graded in one of the following grades considered most appropriate by the employer: Grade 6, 5, 4, 3, 2 and 1, Trainee Year 2 and Trainee Year 1.
- (c) Normally employees classified as editors, senior sub-editors or senior writers will not commence at less than the Grade 2 rate of pay.

6. SUPERANNUATION

- (a) Superannuation Legislation

The subject of superannuation is dealt with extensively by federal legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993*, the *Superannuation (Resolution of Complaints) Act 1993* and section 124 of the *Industrial Relations Act 1996*. This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.

- (b) For the purposes of this clause:

“Fund” means a superannuation fund that complies with the SGA Act and section 124 of the *Industrial Relations Act 1996*, is limited to the following:

- (i) Journalists Union Superannuation Trust (“JUST”), or
- (ii) an alternative superannuation scheme established and approved in accordance with the Commonwealth operational standards for occupational superannuation funds, where employees nominate.

“Ordinary time earnings” means:

- (i) in the case of a full-time employee, the appropriate rate of pay prescribed in clause 4 Part B, Minimum Rates of Payment;
- (ii) in the case of a part-time employee, the appropriate rate of pay prescribed by Clause 9 – Permanent Part-time Work;
- (iii) in the case of a casual employee, the appropriate rate of pay prescribed by Clause 8 – Casuals;

plus any over award payments made in respect of ordinary time worked by the employee.

“Employee” means a full-time, part-time or casual employee of the Company, who is a member of a fund and who has notified the Company in writing of that fact.

- (c) The Company shall, on the date of commencement of this provision or the date of engagement of an employee, whichever is the later, notify each employee of his/her entitlement to have occupational superannuation contributions made on their behalf upon becoming a member.
- (d) The employee shall nominate the fund into which contributions made on his/her behalf are to be paid and shall at the same time provide written evidence to the company of his/her membership of that fund.
- (e) The Company shall, in respect of each member, pay contributions into a fund, at the rate of three percent of the member’s ordinary time earnings, from the beginning of the first

pay period on or after the written evidence in subclause (d) is received by the company.

- (f) The employer shall not be obliged to pay contributions in respect of:
 - (i) a member in respect of any periods when the employee is absent without pay from his/her employment;
 - (ii) a member employed on a casual basis:
 - (1) until such employee has worked shifts equivalent to 20 full days work within 13 weeks, when contributions shall be made in respect of work performed thereafter;
 - (2) in respect of any week during which such employee did not work shifts equivalent to 7.5 hours.
- (g) Such contributions shall be paid at the intervals and in accordance with the procedures and subject to the requirements prescribed by the relevant fund.
- (h) A member shall be entitled to elect to transfer his or her interest in one fund to another fund and to direct payment of future contributions by the Company to such other fund, but shall not be entitled to make such an election within five years after the initial notification by the member of the fund into which contributions are to be paid or the last notification under this subclause, whichever is the later.

The Company shall only be obliged to make such contributions to the other fund where the company has been advised in writing:

- (i) by the member of such change;
 - (ii) by the Trustees of the member's present fund that the member no longer belongs to that fund; and
 - (iii) by the Trustees of the other fund that the member now belongs to the other fund.
- (i) This clause, in so far as it applies to part-time and casual employees, commenced to operate from the first full pay period to commence on or after 23 April 1991.

7. HEALTH AND SAFETY

(a) Eye Tests

- (i) An employer will arrange for each employee required to operate a visual display terminal to receive a full eye examination by an optometrist nominated by the employer or the employee and at the employer's expense.
- (ii) Results of the test will be available to both the employer and the employee.
- (iii) A follow-up examination will be arranged by the employer at the request of the employee six months after the employee first uses visual display terminals in production and thereafter at a minimum of every two years if required by the employee.
- (iv) Where the optometrist prescribes spectacles or a lens change specifically for visual display terminal operation, the employer will pay for the cost of the lens and up to the amount set out in Item 1 of Table 2 – Other rates and Allowances, of Part B, Monetary Rates, towards the cost of the frames.
- (v) Where the employee receives a health fund or other benefit towards the cost of spectacles, the employer will pay the difference between the cost of the spectacles and the benefit, with a maximum payment on the frames as set out in Item 2 of the said Table 2.
- (vi) The amount referred to in paragraphs (iv) and (v) above shall be adjusted every six months in line with movements in the CPI (all groups) for Sydney.

(b) Rest Breaks

- (i) No employee shall be required to work on a visual display terminal for more than two hours straight without a break.
- (ii) Where an employee on any shift works on a visual display terminal for two hours straight, that employee shall be entitled to a ten-minute break in respect of each such two-hour period.
- (iii) A break of the type referred to in (ii) above shall be counted as time worked.

- (iv) An employee who qualifies for a visual display terminal break under this subclause will normally be entitled to two such breaks. However, on extended shifts or parts of shifts, an employee may be entitled to more than two such breaks.
- (v) In an emergency, an employer may require an employee to work on a visual display terminal for a maximum of two hours and 30 minutes straight.

8. CASUAL EMPLOYEES

- (a) A person maybe employed as a casual employee in any of the classifications and grades of employee referred to in Clause 5 – Classification Structure, on the following terms and conditions:

- (i) The person shall be engaged either by the day, of seven and one-half hours, or half day, of three and three-quarter hours.
- (ii) No person shall be engaged as a casual employee for a total of more than four days in any week, except where such person is required to take the place of an employee temporarily absent from duty as a result of illness, leave or other authorised absence, or to meet production emergencies that may arise from time to time.
- (iii) The minimum rate of pay for a person employed, as a casual employee shall be:

For a casual engaged by the day – one fifth; and

For a casual engaged by the half day – one tenth

Of the minimum weekly award rate of pay prescribed for the definition and grading of employee in which the person is employed as a casual employee, plus 20 per cent.

- (iv) All time worked by a casual employee in excess of seven and a half hours in any day shall be overtime and shall be paid at the rate of time and one half for the first three hours and double time thereafter.

- (v) The following provisions of this award and no other shall apply to the employment of casual employees:

Subclauses (a)(d)(e) and (f) of Clause 4 – Minimum Rate of Payment;

Clause 5 – Classification Structure;

Clause 6 – Superannuation;

Subclause (b) of Clause 7 – Health and Safety;

Clause 8 – Casual Employees;

Subclause (e) of Clause 12 – Public Holidays;

Clause 16 – Expenses;

Clause 20 – Time and Wages Books

- (vi) The provisions of Clause 18 – Annual Leave and Annual Leave Loading, do not apply to casual employees. The rate of pay in this award for casual employees includes compensation for these elements.

9. PERMANENT PART-TIME EMPLOYEES

- (a) An employer may employ an employee as a permanent part-time employee.
- (b) The following terms and conditions of employment shall apply to any employee employed as a permanent part-time employee:
- (i) No fewer than eight ordinary hours and not more than 32 ordinary hours shall be worked by any one permanent part-time employee in a week, with four hours being the minimum number of hours of work which shall be performed by such an employee on any day.
- (ii) Subject to paragraph (i) of this subclause, the ordinary hours of work and days on which such work is to be performed, shall be specified in writing by the employer to the permanent part-time employee before the employee begins employment. Such agreed hours and days may be changed only by:
- (1) agreement (in writing) between the permanent part-time employee and the employer; or

- (2) seven days notice (in writing) between the permanent part-time employee and the employer, provided that there is no diminution of the total agreed number of ordinary weekly hours of work.
- (c) The grade of each permanent part-time employee, which shall be not less than Grade 1, shall be agreed to in writing between the permanent part-time employee and the employer before the employee commences employment.
- (d) The minimum weekly rate of pay for a permanent part-time employee shall be the rate which is that proportion of the weekly rate for an employee of the same grade as the permanent part-time employee which the ordinary weekly hours of work of that employee bear to 38.
- (e) Application of award provisions not referred to above for permanent part-time employees:
 - (i) For the purposes of this clause, pro rata means, in the case of each permanent part-time employee, the proportion, which the ordinary weekly hours of work of the employee bear to 38.
 - (ii) Annual leave entitlements shall accrue for permanent part-time employees in the same manner as for full-time employees. Payment for any period of, or entitlement to, annual leave for permanent part-time employees shall be calculated pro rata for the period of leave or entitlement.
 - (iii) Sick leave shall accrue for permanent part-time employees in the same manner as for full-time employees and payment for absences shall be in respect of the hours each week that would have been worked by the employee concerned had that employee been working.
 - (iv) All other provisions of this award applicable to full-time employees which are capable of having application to permanent part-time employees shall apply to permanent part-time employees, provided that where such provisions specify the payment to be made to an employee which is calculated on the basis of or by reference to weekly hours of work of a full-time employee, the payment shall be made pro rata to the permanent part-time employee.

- (f) The provision of permanent part-time employment is not to prejudice the rights of the parties in respect of the employment of casual employees and is not to be applied so as to prejudice the employment of full-time employees.

10. HOURS OF EMPLOYMENT AND OVERTIME

- (a) The ordinary hours of duty shall be 38 per week, which may be worked on any day of the week determined by the employer.
- (b) Normally employees employed by specialist publishers work seven hours a day, worked Monday to Friday (i.e. 9.00 am to 5.00 pm) with a lunch break of one hour which is not counted as time worked – a total of 35 hours. The employer may require an employee to work three additional hours of work in a week to accommodate editorial production needs and to achieve suitable arrangements for employees.
- (c) Where an employee other than a casual employee, is required to work in excess of 38 hours in any week, the member shall be entitled to time off for a period, which is the same as the period of overtime worked, to be taken within six weeks of the end of the week in which the overtime was worked. The time in which time off can be taken in that six-week period is to be a time, which is agreed between the employer and the employee, or, if no such agreement is reached, at a time determined by the employer. If, for any reason, such overtime in lieu has not been so given and taken, the employee shall be paid for such overtime at the rate of time and one half for the first eight hours overtime in any week and at the rate of double time for all overtime in excess of eight hours in any week.
- (d) Employees may be required to work occasionally at exhibitions or conventions or the like at weekends, in which case such work will be overtime and subclause (c) of this clause will apply.
- (e) Requirements to Work Reasonable Overtime
 - (a) Subject to subclause (b), an employer may require an employee to work reasonable overtime at overtime rates or as otherwise provided for in this award.
 - (b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.

- (c) For the purposes of subclause (b), what is unreasonable or otherwise will be determined having regard to:
 - (i) any risk to employee health and safety;
 - (ii) the employee's personal circumstances including any family and carer 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.

11. DISTANT ENGAGEMENTS

- (a) An employee shall not be required to undertake a distant engagement against the employee's will.
- (b) Practices existing at the date of this award in relation to employees working on distant engagements, including practices in relation to travel and accommodation on such an engagement, shall continue.
- (c) Employees working on distant engagements shall be paid expenses as provided for in this award.
- (d) For the purposes of this clause, a distant engagement is an assignment, which requires an employee to be away from his or her work at the employer's premises at the direction of the employer for one or more nights.
- (e) An employer shall allow an employee time off, within eight weeks of the completion of a distant engagement, equal to the time taken by the employee in travelling to and from the assignment which falls outside the employee's normal hours of work. The time when time off can be taken in the eight-week period is to be agreed upon between the employer and the employee or, if no agreement is reached, at the time determined by the employer. If, for any reason, such time off in lieu has not been so given and taken within the eight-week period, the employee shall be paid for such time at the rate of time and one-half for the first eight hours and at the rate of double time for all time in excess of eight hours.

12. PUBLIC HOLIDAYS

- (a) An employee shall be entitled to holidays on the following days:
 - (i) New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day; and
 - (ii) the following days, as prescribed; Australia Day, Anzac Day, Queen's Birthday and Labour Day; and
 - (iii) the first Monday in August.
- (b)
 - (i) When Christmas Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on 27 December.
 - (ii) When Boxing Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on 28 December.
 - (iii) When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.
- (c) Where, in the State or locality, public holidays are declared or prescribed on days other than those set out in subclauses (a) and (b) above, those days shall constitute additional holidays for the purpose of this award.
- (d)
 - (i) An employer, with the agreement of the Alliance, may substitute another day for any prescribed in this clause.
 - (ii)
 - (1) An employer and his or her employees may agree to substitute another day for any holiday prescribed in this clause. For this purpose, the consent of the majority of affected employees shall constitute agreement.
 - (2) An agreement pursuant to subparagraph (1) of this paragraph shall be recorded in writing and be available to every affected employee.
 - (3) The Alliance shall be informed of an agreement pursuant to the said subparagraph (1) and may, within seven days, refuse to accept it. The Alliance will not unreasonably refuse to accept the agreement.
 - (4) If the Alliance, pursuant to subparagraph (3), refuses to accept an agreement, the parties will

seek to resolve their differences to the satisfaction of the employer, the employees and the Alliance.

- (5) If no resolution is achieved pursuant to subparagraph (4), the employer may apply to the Industrial Relations Commission of New South Wales for approval of the agreement reached with his or her employees. Such an application must be made 14 or more days before the prescribed holiday. After giving the employer and the Alliance an opportunity to be heard, the Commission will determine the application.
- (e) Where an employee is required by the employer to work on a public holiday, the employee shall be paid at the rate of double time and one-half for all such time worked, with a minimum payment for four hours worked.
- (f) Where an employee is not required by the employer to work on a public holiday the employee shall be entitled to receive the public holiday without deduction from pay.

13. SICK LEAVE

- (a) In each year of employment commencing from the date of appointment to the staff, an employee absent through illness or incapacity shall, subject to the provisions of this subclause, be entitled to sick leave without deduction of pay:
 - (i) In the first year of employment – a total of eight working days; and
 - (ii) in the second and each subsequent year of employment – a total of ten working days.
- (b) An employee shall not be entitled to sick leave in the first three calendar months of his or her service, provided that nothing in this clause shall prevent the employer granting paid sick leave during the first three months of an employee's employment at the employer's discretion.
- (c) The right to sick leave shall be subject to the employer being satisfied that the employee's absence is due to sickness or incapacity. The employer shall be entitled to require production of a medical certificate and/or to require the employee to undertake a medical examination by a doctor nominated by the employer and at the employer's expense. An employee, who refuses to supply a medical certificate and/or undergo such

medical examination when requested, shall not be entitled to the benefits of this clause.

- (d) An employer shall not be liable for payment under the provisions of this clause to any employee absent from duty as a result of an injury received from a specific form of recreation, hobby or exercise if the employer has given specific individual notification in writing to the employee that if he or she further indulges in that particular form of recreation, hobby or exercise, no liability in the case of injury arising there from shall attach to the employer. A general notification by circular or otherwise shall not exempt an employer from liability under this clause.
- (e) Any sick leave not taken during the year of service may, provided the employee remains in the service of the same employer, be accumulated for a maximum of ten years service.
- (f) An employee may use all or part of the employee's sick leave entitlements in the event of illness or incapacity within the employee's immediate family on notifying the employer at the time and. If requested, providing proof of such illness or incapacity.

14. PERSONAL CARER'S LEAVE

- (1) Use of Sick Leave
 - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (ii) of paragraph (c), who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for in Clause 13 – Sick Leave, for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.
 - (b) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.
 - (c) The entitlement to use sick leave in accordance with this subclause is subject to:

- (i) the employee being responsible for the care of the person concerned; and
 - (ii) the person concerned being:
 - (a) a spouse of the employee; or
 - (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
 - (c) a child or adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
 - (d) a same sex partner who lives with the employee as the de facto partner of the employee on a bona fide domestic basis; or
 - (e) a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:
 - 1. **“relative”** means a person related by blood, marriage or affinity;
 - 2. **“affinity”** means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - 3. **“household”** means a family group living in the same domestic dwelling.
- (d) An employee shall, whenever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person’s relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of the absence.

- (2) Unpaid leave for family purposes
 - (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subparagraph (ii) of paragraph (c) of subclause (1) who is ill.

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

- (4) Time off in lieu of payment for overtime
 - (a) For the purpose only of providing care and support for a person in accordance with subclause (1) of this clause, and despite the provisions of Clause 10 – Overtime, the following shall apply.
 - (b) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.
 - (c) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.
 - (d) If, having elected to take time as leave in accordance with paragraph (a) of this subclause, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12-month period or on termination.

- (e) Where no election is made in accordance with the said paragraph (a), the employee shall be paid overtime rates in accordance with the award.
- (5) Make-up time
- (a) An employee may elect, with the consent of the employer, to work “make-up time”, under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
 - (b) An employee on shift work may elect, with the consent of the employer, to work “make-up time” (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate, which would have been applicable to the hours taken off.
- (6) Rostered Days off
- (a) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
 - (b) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
 - (c) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.
 - (d) This subclause is subject to the employer informing each union which is both party to the award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.

15. BEREAVEMENT LEAVE

Subject to prompt notice being given to the employer and, if requested, proof of death being given, an employee shall be entitled to up to three days leave on the death of a spouse, including a de facto spouse, child, stepchild, father, mother, brother, sister, grandparents, mother-in-law, father-in-law, son-in-law, daughter-in-law or the partner of an employee living in an established homosexual relationship with the

employee, if such leave is necessary to arrange for and/or attend the funeral of the deceased.

16. EXPENSES

- (a) All employees shall be reimbursed for out-of-pocket expenses reasonably incurred in the employer's service and authorised by the employer, normally in advance.
- (b) If an employee's hours on duty compel him or her to take more than one meal a day away from home, any excess of one meal a day, at reasonable cost, shall be paid by the employer.

17. TERMINATION OF EMPLOYMENT

An employee's employment may be terminated by either the employer or employee by notice given at any time and as specified in this clause or by the payment or forfeiture of the equivalent minimum weekly award rate of pay in lieu of notice, as the case maybe. This shall not affect the employer's right to dismiss any employee suddenly without notice for refusal or neglect of duty or misconduct and, in such case, salary shall be paid to the date of dismissal only:

Period of continuous service with the employer	Period of notice
Up to and including 6 months	2 weeks
More than 6 months and less than 2 years	4 weeks
2 years and less than four years	6 weeks
4 years or more	8 weeks

18. ANNUAL LEAVE AND ANNUAL LEAVE LOADING

- (a) Employees, other than casual employees, shall be entitled to four weeks annual leave on each anniversary of the commencement of their employment, to be taken and paid as follows:
 - (i) Annual leave must be taken in full within 26 weeks of the date it falls due, unless otherwise agreed between the employer and the employee.
 - (ii) Annual leave may be taken in any period or periods agreed by the employer and the employee or, in the absence of agreement, as directed by the employer;

provided that at least 28 days notice is given to the employee of the date on which annual leave is to commence.

- (iii) Annual leave shall be paid in advance of it being taken.
 - (iv) Payment must be made by the employer to the employee for any untaken annual leave (including leave not taken as provided for in paragraph (i) hereof) on termination of the employment of an employee.
- (b)
- (i) Employees, other than casual employees, shall be paid a loading of 17.5 per cent of the minimum rate of pay prescribed in Table 1 – Rates of Pay, of Part B, Monetary Rates, for the employee’s classification for the period of annual leave prescribed by this clause.
 - (ii) The loading prescribed by this subclause shall apply to proportionate leave on termination, except where summary dismissal for refusal or neglect of duty or misconduct takes place in accordance with Clause 17 – Termination of Employment.

NOTATION: Because of the cyclic nature of some publications published in the industry of specialist publications, it is the employer’s expectation that some annual leave will be taken by members during production “downtime” during the Christmas – New Year holiday period. At least 28 days notice will be given to the employee to take leave as envisaged in this notation.

19. PARENTAL LEAVE

19.1 Definitions

For the purposes of this award, parental leave is maternity leave, paternity leave or adoption leave. Parental leave provisions are governed by the provisions set out in this clause and the provisions set down in the *Industrial Relations Act 1996* (NSW).

Maternity leave is leave taken by a female employee in connection with the pregnancy or the birth of a child of the employee. Unpaid maternity leave consists of an unbroken period of leave.

Paternity leave is leave taken by a male employee in connection with the birth of a child of the employee or the employee’s spouse. Unpaid paternity leave consists of:

- (i) an unbroken period of up to one week at the time of the birth of the child or other termination of the pregnancy (short paternity leave), or
- (ii) further unbroken period in order to be the primary care giver of the child (extended paternity leave).

Adoption leave is leave taken by a female or male employee in connection with the adoption by the employee of a child under the age of 5 years (other than a child who has previously lived continuously with the employee for a period of 6 months or who is a child or stepchild of the employee or the employee's spouse). Unpaid adoption leave consists of:

- (i) an unbroken period of up to three weeks at the time of the placement of the child with the employee (short adoption leave), and
- (ii) further unbroken period in order to be the primary care giver of the child (extended adoption leave).

Spouse includes a de facto spouse.

Special maternity leave is leave taken by an employee for recovery from a termination of pregnancy or illness related to pregnancy and to special adoption leave up to 2 days to attend interviews or examinations for the purposes of adoption. The requirement of unbroken periods of leave is subject to employee and employer agreement to interrupted parental leave by return to work.

Paid parental leave is leave taken by a female or male employee in connection with the birth of a child of an employee or spouse. The paid parental leave entitlement is for a period of 6 weeks on full pay.

19.2 Parental leave eligibility

- (i) An employee is entitled to take up to 52 weeks unpaid parental leave only if the employee has had at least 12 months of continuous service with the employer. Such leave shall commence at a time mutually agreed between the employee and the employer.
- (ii) A male or female employee is entitled to 6 weeks paid parental leave if the employee has had at least 3 years continuous service with the employer and where the employee provides the employer with the statutory declaration that he or she is to be the primary care giver

of the child. Where two employees may have an entitlement, an election concerning the payment should be made. Such leave shall commence at a time mutually agreed between the employee and the employer.

19.3 Notification requirements for parental leave

An employee intending to take parental leave shall make an application in writing to the employer. An employee intending to take parental leave shall also provide to the employer at the earliest time possible, medical and/or legal evidence pertaining to the expected date of the arrival of the child.

19.4 Parents not to take parental leave at the same time

An employee is not entitled to parental leave at the same time as his/her spouse is on parental leave. This does not apply to short paternity leave or short adoption leave.

19.5 Return to work after parental leave

An employee returning to work after a period of parental leave is entitled to be employed:

- (i) in the position held by the employee immediately before proceeding on maternity leave; or
- (ii) if the employee worked part time because of the pregnancy before proceeding on maternity leave, the position held immediately before commencing that part time work; or
- (iii) if an employee was transferred to a safe job before proceeding on maternity leave, the position held immediately before the transfer; or
- (iv) if the position no longer exists but there are other positions available that the employee is qualified for and is capable of performing, the employee is entitled to be employed in a position as nearly as possible comparable in status and pay to that of the employee's former position.

19.6 Employment of Replacement Staff

Before employing a replacement staff member for an employee on parental leave, an employer must notify the person employed of the temporary nature of the employment.

20. TIME AND WAGES BOOKS

See Section 129 of the *Industrial Relations Act* 1996.

21. AWARD MODERNIZATION AND HOUSE AGREEMENTS

- (a) The parties are committed to modernizing the terms of this award so that it provides for more flexible working arrangements, improves the efficiency and productivity of the industry, enhances skills and job satisfaction and assists positively in the restructuring process.
- (b) Each of the parties is prepared to discuss any matter raised by any other party in accordance with the award modernization provisions of this award. Agreements may be made on a house basis between individual publishers and employees. Any discussions by the employer with the Alliance and/or its employees represented by Alliance House Committees must be premised on the understanding that:
 - (i) Where the matter may involve a variation or contested interpretation of this award, the branch Secretary or his or her nominee shall be involved in discussions.
 - (ii) In any other matter, discussions will be conducted with authorized representatives of Alliance members employed by the employer. This may involve branch officials of the Alliance at the option of the Alliance or the employer.
 - (iii) Where any agreement is reached, the majority of employees affected must agree.
 - (iv) The Alliance must be a party to the agreement and will not unreasonably oppose any agreement.
 - (v) Where any agreement involves a variation of this award, the parties will make a consent application to the Industrial Relations Commission of New South Wales to have the agreement ratified. The terms of any agreement so ratified shall substitute for the provisions of this award to the extent that they deal with the same matter. Such variation will not take effect until approved by the Commission.
 - (vi) The disputes settling procedure in Clause 22 – Disputes Settlement, will apply if agreement cannot be reached on a particular issue.

- (vii) The procedures of this clause will not be used to negotiate wages or conditions less favourable than those provided by this award.

22. DISPUTES SETTLEMENT

(a) Statement of Principle

- (i) It is the intention of this clause to facilitate a consultative procedure that will assist in preventing and/or limiting disputes, which are likely to cause work stoppages or other industrial action. It is agreed that every endeavour will be made to settle any disputes, which arise, by direct negotiation and consultation.
- (ii) Matters affecting conditions of employment shall be subject to consultation, which will ensure that all affected parties are promptly and fully informed about the issue.
- (iii) While procedures outlined in subclause (b) are being followed, normal work shall continue and if the subject of the dispute concerns any proposed changes to be introduced by the employer, they will not be implemented.
- (iv) No party shall be prejudiced as to the final settlement by continuation of normal work as a pre-requisite for the operation of these procedures.
- (v) Procedures for the settlement of disputes, claims and grievances are to follow the steps set out in subclause (b). All issues raised by the Alliance shall start at Step 3. Every attempt will be made to resolve issues quickly and at the lowest possible level. If the matter is not resolved at the first step, such subsequent steps are to be followed until resolution is achieved.

(b) Procedure

Step 1

As soon as possible after a dispute or claim has arisen, the matter is to be discussed in the first instance between employee(s) and his/her supervisor/editor.

Step 2

If necessary, the matter is to be discussed by the employee(s) concerned, the employer and an Alliance representative of the Alliance's members in the office.

Step 3

If the matter has not then been resolved the problem, complaint or claim shall be referred to the employer and a duly accredited Alliance official from the relevant branch office. The Alliance official shall then arrange to discuss the matter with the employee(s) involved and the employer.

Step 4

If there is still no resolution, the matter may be submitted to the Industrial Relations Commission of New South Wales or other relevant industrial tribunal for determination.

23. AWARD FOR REFERENCE

A copy of this award, with all variations thereof, shall be supplied by each employer and shall be placed in a convenient position in each office for reference. The employer shall be responsible for supplying and replacing copies of the award.

24. NAMES TO BE FURNISHED

- (a) An employer shall keep a record in which the following entries shall be kept separate and up-to-date:
 - (i) The name of each employee who is classified and the grade and classification in which the employee is classified.
 - (ii) The name of each trainee, the date of commencement of employment with the employer and the year of traineeship.
 - (iii) The name of each person employed on casual work.
- (b) The record shall be available for inspection during normal office hours by the Secretary of the Alliance or by any officer authorized by the branch committee.
- (c) A copy of each entry shall, on written request, be provided to the Secretary of the Alliance. A request shall not be made to any employer under this subclause more than twice in any calendar year.

- (d) An employee shall, on appointment and/or promotion, be supplied with a written record of his or her classification, grade and salary.

25. REDUNDANCY

- (a)
 - (i) This clause shall apply in respect of full-time and part-time persons employed in the classifications specified by this award.
 - (ii) This clause shall only apply to employers who employ 15 or more employees immediately prior to the termination of employment of employees.
 - (iii) Notwithstanding anything contained elsewhere in this award, the provisions of this clause shall not apply to employees with less than one year's continuous service and the general obligation on employers shall be no more than to give such employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.
 - (iv) This clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency, misconduct or neglect of duty, or in the case of casual employees, apprentices or employees engaged for a specific period of time or for a specified task or tasks or where employment is terminated due to the ordinary and customary turnover of labour.
- (b) Employer's duty to notify and discuss
 - (i) Where an employer has made a definite decision to introduce major changes in production, program, organization, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and, if they are members of the Alliance, notify the Alliance.
 - (ii) The employer shall discuss with the employees affected and the Alliance, if the employee is a member, the introduction of such changes and the likely effect on the employees and the measures taken to avert or mitigate the adverse effects of such changes.

- (iii) **“Significant effects”** include termination of employment, major changes in the composition, operation or size of the employer’s workforce or in the skills required, the elimination or diminution of job opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.
- (c) Discussions before terminations
 - (i) Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing to be done by anyone, and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and, if the employee is a member of the Alliance, with the Alliance.
 - (ii) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of paragraph (i) of this subclause and shall cover, amongst other things, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination on the employees concerned.
 - (iii) For the purposes of the discussion the employer shall, as soon as practicable, provide to the employees concerned and, if they are members of the Alliance, to the Alliance all relevant information about the proposed terminations, including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of workers normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.
- (d) Notice for changes in production, program, organization or structure
 - (i) This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from “production”, “program”, “organization” or “structure” in accordance with subclause (b) of this clause.
 - (A) In addition to the notice above, employees over 45 years of age at the time of the giving of the notice,

with not less than two years continuous service shall be entitled to an additional week's notice.

- (B) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

(e) Notice for technological change

- (i) This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from "technology" in accordance with subclause (b) of this clause.

- (A) In order to terminate the employment of an employee the employer shall give the employee three months notice of termination.

Payment in lieu of the notice above shall be made if the appropriate notice period is not given; provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

- (B) The period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of the *Long Service Leave Act 1955*, the *Annual Holidays Act 1944*, or any Act amending or replacing either of these Acts.

(f) Time off during the notice period

- (i) During the period of notice of termination given by the employer an employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purposes of seeking other employment.
- (ii) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

(g) Employee leaving during the notice period

If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this clause had the employee remained with the employer until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

(h) Statement of employment

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of, or the type of work performed by, the employee.

(i) Notice to Centrelink or its equivalent

Where a decision has been made to terminate employees, the employer shall notify Centrelink or its equivalent thereof as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

(j) Centrelink or its equivalent Employment Separation Certificate

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form required by Centrelink or its equivalent.

(k) Transfer to lower paid duties

Where an employee is transferred to lower paid duties for reasons set out in subclause (b) of this clause, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated, and the employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary-time rate of pay and the new ordinary-time rates for the number of weeks notice still owing.

(l) Severance pay

(i) Where an employee is to be terminated pursuant to subclause (d) of this clause, subject to further order of the Industrial Relations Commission of New South Wales, the

employer shall pay the following severance pay in respect of a continuous period of service:

- (A) If an employee is under 45 years of age, then employer shall pay in accordance with the following scale:

Year of Service	Under 45 years of age entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

- (B) Where an employee is 45 years of age and over, the entitlement shall be in accordance with the following scale:

Year of Service	45 years of age and over entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

(C) **“Weeks Pay”** means the all-purpose rate of pay for the employee concerned at the date of termination and shall include, in addition to the ordinary rate of pay, over award payments, shift penalties and allowances provided for in this award.

(ii) Incapacity to pay

Subject to an application by the employer and further order of the Industrial Relations Commission of New South Wales, an employer may pay a lesser amount (or no amount) of severance pay than that contained in paragraph (i) of subclause (e) of this clause.

The Industrial Relations Commission shall have regard to such financial and other resources of the employer concerned that the Commission thinks relevant, and the probable effect paying the amount of severance pay in the said paragraph (i) will have on the employer.

(iii) Alternative Employment

Subject to an application by the employer and further order of the Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in the said paragraph (ii) if the employer obtains acceptable alternative employment for an employee.

26. LEAVE RESERVED

Leave is reserved as follows:

- (i) To the Alliance and employers to seek a review of the operation of this award after a period of 12 months from the date of it commencing operation.
- (ii) Australian Business Publishers Ltd and the Alliance agree that they will undertake a joint study of the nature of VDT usage under this award within the duration of this award.

27. ANTI-DISCRIMINATION

- (a) It is the intention of the parties bound by this award to seek to achieve the object in Section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace.

This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity and age.

- (b) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed in this award that parties have obligations to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award, which, by its terms of operation, has a direct or indirect discriminatory effect.
- (c) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee that has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (d) Nothing in this clause is to be taken to effect:
 - (i) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (ii) offering or providing junior rates of pay to persons under 21 years of age;
 - (iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (iv) a party to this award from pursuing matters of unlawful discrimination.
- (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.
 - (i) Employers and employees may also be subject to Commonwealth Anti-Discrimination legislation.
 - (ii) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

“Nothing in the Act affects...any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.”