



**CHARITABLE INSTITUTIONS
(PROFESSIONAL STAFF SOCIAL WORKERS)
(STATE) AWARD**

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2. DEFINITIONS

"Agency" means a body or organization, which falls within the jurisdiction of the Charitable Institutions (Professional Staff Social Workers) (State) Conciliation Committee.

"Employee" means a qualified social worker employed as such by an agency as defined herein.

"General Supervision" means supervision of a broad set of tasks based more on self-appraisal than daily direction of task performance, and can include professional supervision.

"Service" means continuous service in a position covered by this award or other service acceptable to the employer.

"Social Worker" means an employee who possesses qualifications acceptable to the Australian Association of Social Workers. A Social Worker may be appointed as a Student Supervisor.

"Social Worker Grade 1" means a social worker who is responsible for a defined type of work requiring a specific expertise, including clinical expertise and/or specialist counselling and/or expertise with a particular client group or in the planning, implementation and evaluation of services and/or projects. They may provide training to other staff, and general supervision to staff.

"Senior Social Worker"

A senior social worker would generally be responsible for the overall administration and/or co-ordination of an organization or of a number of specialised functions within an organization.

They would perform work involving specialised, varied or complex tasks calling for the exercise of substantial responsibility and use of independent Initiative and judgement.

They are responsible for the recruitment and supervision of other staff, including other Social Workers. They generally would be accountable to a Management Committee or Board of Management or a Chief Executive Officer or a General Manager.

They provide training to other staff and would undertake professional supervision of staff.

They would be responsible for advising and guiding the policy making and decision-making body and for providing regular reports upon the activities of the organization, or part of it.

They may be responsible for financial management, and for the development and implementation of budget programs and for ensuring compliance with any funding guidelines applicable.

"**Union**" means The Health and Research Employees' Association of New South Wales, and the Australian Services Union of New South Wales.

3. SALARIES

3.1 The minimum salaries to be paid to employees shall be as set out in Table 1 - Salaries, of Part B, Monetary Rates.

Provided that the commencing salary payable to an employee who has obtained a degree in social work or social studies or a degree and diploma in social work or social studies of a university established in Australia, requiring a minimum of four years full-time study, shall be the salary prescribed for the second year of service.

3.2 The rates of pay in this award include adjustments payable under the State Wage Case 2006. These adjustments may be offset against:

- (a) Any equivalent over award payments; and/or
- (b) Award wage increases since 29 May 1991 other than safety net, State Wage Case and minimum rates adjustments.

4. PAYMENT OF WAGES AND CONDITIONS OF EMPLOYMENT

4.1 All employees' pay shall be paid fortnightly into one account with a bank or other financial institution of their choice.

4.2 It is agreed that there should be full flexibility in relation to the payment of wages on the basis that such statement relates to the payment of shift and weekend penalties owing for the second week of a roster period being made in the succeeding pay period.

5. HOURS OF WORK

- 5.1 The ordinary hours of work, exclusive of meal breaks, shall be 152 hours per 28 calendar days.
- 5.2 The hours of work prescribed in subclause 6.1 of this clause shall be worked in one of the following ways:
- (a) 38 hours per week, to be arranged in order that an employee shall not be required to work their ordinary hours on more than five days in one week; or
 - (b) 76 hours per fortnight, to be arranged in order that an employee shall not be required to work their ordinary hours on more than ten days in the fortnight; or
 - (c) 152 hours per 28 calendar days, to be arranged in order that an employee shall not be required to work their ordinary hours on more than 19 days in the roster cycle; or
 - (d) 190 hours per 35 calendar days, to be arranged in order that an employee shall not be required to work their ordinary hours on more than 19 days in the 35 calendar days cycle.

8. MEALS

Where practicable, employees shall not be required to work more than six hours without a meal break. Such meal break shall be of between 30 and 60 minutes duration and shall not count as time worked.

7. PART-TIME EMPLOYEES

- 7.1 A part-time employee shall mean an employee who works a specified number of ordinary hours, which are less than those, prescribed for a full-time employee.
- 7.2 Part-time employees shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate weekly rate prescribed by clause 3, Salaries.
- 7.3 The provisions of this award shall apply to part-time employees on a pro rata basis.
- 7.4 Notwithstanding the provisions of subclauses 7.1 to 7.3 of this clause, the union and an employer may agree in writing to observe other conditions in order to meet special cases.

8. CASUAL EMPLOYEES

- 8.1 A casual employee is one engaged and paid by the hour.
- 8.2 Casual employees shall be paid a minimum of two hours.
- 8.3 The appropriate hourly rate shall be the hourly rate prescribed in clause 3, Salaries, plus the percentage thereof set out hereunder:

	Percentage %
(a) Monday to Friday	15
(b) Saturday	50
(c) Sunday	75
(d) Public Holidays	150

- 8.4 Casual employees shall not be entitled to the provisions of clauses 9, Overtime; 13, Annual Leave Loading; 14, Public Holidays; 15, Sick Leave; 20, Uniforms and Laundry Allowances, and 25, Termination of Employment.

9. OVERTIME

- 9.1 Where an employee is requested to perform duties in excess of their ordinary hours of work, she/he shall be paid for such time at the rate of time and one-half up to two hours in each day and thereafter at double time.
- 9.2 By agreement between the employee and employer, an employee may be compensated by way of time off in lieu of payment of overtime on the following bases:
 - (a) Time off in lieu of overtime must be taken at ordinary rates within one month of its being accrued.
 - (b) Where it is not possible for an employee to take time off in lieu of overtime within the one-month period, it is to be paid out at the appropriate overtime rate contained in subclause 9.1 of this clause, based on the rates of pay applying at the time payment is made.
 - (c) Employees cannot be compelled to take time off in lieu of overtime.

- (d) Time off in lieu of overtime should only be considered as an option in those circumstances where the employer is able to provide adequate replacement staff to ensure that the level of the quality of service, that would otherwise have been provided had the overtime been paid, is in fact provided.
- (e) Records of all time off in lieu of overtime owing to employees and taken by employees must be maintained by the employer.

10. WEEKEND WORK

Provided that work has been authorised:

- (a) All work performed as ordinary time after noon on Saturday shall be paid at the rate of time and one-half.
- (b) All work performed on Sunday shall be paid at the rate of time and three-quarters.

11. PROVISION OF OR PAYMENT FOR MEALS

An employee who is required to work overtime for more than two hours shall be paid, in addition to payment for such overtime:

- (a) The amount as set out in Item 1 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, for breakfast when commencing such overtime work at or before 6.00 a.m.;
- (b) The amount as set out in Item 2 of the said Table 2 for an evening meal when such overtime is worked for at least one hour immediately following her/his normal ceasing time, exclusive of any meal break, and extends beyond or is worked wholly after 7.00 p.m.;
- (c) The amount as set out in Item 3 of Table 2 for luncheon when such overtime extends beyond 2.00 p.m. on Saturdays, Sundays or holidays;

or shall be provided with adequate meals in lieu of such payment.

12. ANNUAL LEAVE

- 12.1 In this clause the Annual Holidays Act 1944 is referred to as "the Act".

- 12.2 Before an employee is given and takes her/his annual holiday or, where by agreement between the employer and employee the annual holiday is given and taken in more than one separate period, then before each of such separate periods the employer shall pay the employee a loading determined in accordance with this clause.

NOTE: The obligation to pay in advance does not apply where an employee takes an annual holiday wholly or partly in advance - see subclause 12.6 of this clause.

- 12.3 The loading is payable in addition to the pay for the period of annual holidays given and taken and due to the employee under the Act.

- 12.4 The loading is to be calculated in relation to any period of annual holiday to which the employee becomes or has become entitled under the Act (but excluding days added to compensate for holidays prescribed by clause 14, Public Holidays) or, where such annual holiday is given and taken in separate periods, then in relation to each such separate period.

NOTE: See subclause 12.6 of this clause as to annual holidays taken wholly or partly in advance.

- 12.5 The loading is the amount payable for the period or the separate period, as the case may be, stated in subclause 12.4 of this clause, at the rate per week of 17.5 per cent of the appropriate ordinary weekly rate calculated in accordance with the provisions of clause 3, Salaries, applicable immediately before commencing her/his annual holiday but shall not include any allowances, penalty or disability rates, overtime or other payments prescribed by this award.

- 12.6 No loading is payable to an employee who takes an annual holiday wholly or partly in advance; provided that, if the employment of such an employee continues until the day when she/he would have become entitled under the Act to an annual holiday, the loading then becomes payable in respect of the period of such annual holiday, and is to be calculated in accordance with subclause 12.5 of this clause, applying the award rates of wages payable on that day.

- 12.7 Where, in accordance with the Act, the employer's establishment or part of it is temporarily closed down for the purpose of giving an annual holiday or leave without pay to the employees concerned:

(a) An employee who is entitled under the Act to an annual holiday, and who is given and takes such a holiday, shall be paid the loading calculated in accordance with subclause 12.5 of this clause.

(b) An employee who is not entitled under the Act to an annual holiday and who is given and takes leave without pay shall

be paid, in addition to the amount payable to her/him under the Act, such proportion of the loading that would have been payable to her/him under this subclause if she/he had become entitled to an annual holiday prior to the closedown as her/his qualifying period of employment in completed weeks bears to 52.

- 12.8 (a) When the employee's employment is terminated by her/his employer for a cause other than misconduct, and at the time of termination the employee has not been given and has not taken the whole of an annual holiday to which she/he became entitled, she/he shall be paid a loading calculated in accordance with subclause 12.5 of this clause for the period not taken.
- (b) Except as provided by paragraph (a) of this subclause, no loading is payable on the termination of an employee's employment.

13. ANNUAL LEAVE LOADING

- 13.1 In this clause the Annual Holidays Act 1944 is referred to as "the Act".
- 13.2 Before an employee is given and takes her/his annual holiday or, where by agreement between the employer and employee the annual holiday is given and taken in more than one separate period, then before each of such separate periods the employer shall pay the employee a loading determined in accordance with this clause.
- NOTE:** The obligation to pay in advance does not apply where an employee takes an annual holiday wholly or partly in advance - see subclause 13.6 of this clause.
- 13.3 The loading is payable in addition to the pay for the period of annual holidays given and taken and due to the employee under the Act.
- 13.4 The loading is to be calculated in relation to any period of annual holiday to which the employee becomes or has become entitled under the Act (but excluding days added to compensate for holidays prescribed by clause 14, Public Holidays) or, where such annual holiday is given and taken in separate periods, then in relation to each such separate period.

NOTE: See subclause 13.6 of this clause as to annual holidays taken wholly or partly in advance.

- 13.5 The loading is the amount payable for the period or the separate period, as the case may be, stated in subclause 13.4 of this clause, at the rate per week of 17.5 per cent of the appropriate ordinary weekly rate calculated in accordance with the provisions of clause 3, Salaries, applicable immediately before commencing her/his annual holiday but shall not include any allowances, penalty or disability rates, overtime or other payments prescribed by this award.
- 13.6 No loading is payable to an employee who takes an annual holiday wholly or partly in advance; provided that, if the employment of such an employee continues until the day when she/he would have become entitled under the Act to an annual holiday, the loading then becomes payable in respect of the period of such annual holiday, and is to be calculated in accordance with subclause 13.5 of this clause, applying the award rates of wages payable on that day.
- 13.7 Where, in accordance with the Act, the employer's establishment or part of it is temporarily closed down for the purpose of giving an annual holiday or leave without pay to the employees concerned:
- (a) An employee who is entitled under the Act to an annual holiday, and who is given and takes such a holiday, shall be paid the loading calculated in accordance with subclause 13.5 of this clause.
 - (b) An employee who is not entitled under the Act to an annual holiday and who is given and takes leave without pay shall be paid, in addition to the amount payable to her/him under the Act, such proportion of the loading that would have been payable to her/him under this subclause if she/he had become entitled to an annual holiday prior to the closedown as her/his qualifying period of employment in completed weeks bears to 52.
- 13.8 (a) When the employee's employment is terminated by her/his employer for a cause other than misconduct, and at the time of termination the employee has not been given and has not taken the whole of an annual holiday to which she/he became entitled, she/he shall be paid a loading calculated in accordance with subclause 13.5 of this clause for the period not taken.
- (b) Except as provided by paragraph (a) of this subclause, no loading is payable on the termination of an employee's employment.

14. PUBLIC HOLIDAYS

- 14.1 Public holidays shall be allowed to employees on full pay.

14.2 Where an employee is required to, and does work on a public holiday, whether for a full day or not, the employee shall, for each such public holiday:

- (a) Be paid one and one-half day's salary in addition to the weekly rate; or
- (b) If the employer and the employee so agree, be paid ordinary pay plus 50 per cent and one day's leave added to her/his period of annual leave or taken at a mutually suitable time.

14.3 For the purpose of this clause, the following shall be public holidays:

New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, August Bank Holiday or any holiday proclaimed in lieu thereof, together with any other day observed as a public holiday within the area in which the agency is situated. Provided that, by agreement between an employer and employee, the August Bank Holiday may be taken on another day.

15. SICK LEAVE

15.1 Employees shall be entitled to sick leave on full pay, calculated by allowing 76 ordinary working hours for each year of continuous service, less any sick leave on full pay already taken, subject to the following conditions:

- (a) An employee in the first year of employment shall accumulate 7.6 hours for each month of employment for the first ten months.
- (b) The agency may require the sickness to be certified by a legally qualified medical practitioner approved by the agency, provided that such approval shall not be unreasonably withheld, or may require other satisfactory evidence thereof.
- (c) An employee shall not be entitled to sick leave until after three months' continuous service.
- (d) Continuous service for the purpose of this clause shall be calculated in the same manner as provided for in the *Long Service Leave Act 1955*.
- (e) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to workers' compensation; provided, however, that an agency

shall pay to an employee who has sick leave entitlements under this clause the difference between the amount received as workers' compensation and full pay. When an agency pays such difference the employee's sick leave entitlements under this clause shall, for each week during which such difference is paid, be reduced by that proportion of one week which the difference paid bears to full pay.

- 15.2 A part-time employee shall be entitled to sick leave in the same proportion of 76 hours as the ordinary weekly hours worked bear to 38 ordinary hours. Such entitlements shall be subject to all of the above provisions applying to full-time employees.

16. PERSONAL/CARER'S LEAVE

16.1 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 (2) of paragraph (c) of this subclause 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 15, Sick Leave, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. 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 or documentation acceptable to the employer, the illness of the person concerned and that the illness is such as to require care by another person or the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee. 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:
 - (1) The employee being responsible for the care of the person concerned; and
 - (2) The person concerned being:
 - (i) A spouse of the employee; or

- (ii) A de facto spouse who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (iii) A child or an adult child (including an adopted child, a stepchild, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (iv) A same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (v) A relative of the employee who is a member of the same household where, for the purposes of this paragraph:
 - (A) **"Relative"** means a person related by blood, marriage or affinity;
 - (B) **"Affinity"** means a relationship that one spouse, because of marriage, has to blood relatives of the other; and
 - (C) **"Household"** means a family group living in the same domestic dwelling.
- (d) An employee shall, wherever practicable, give the employer notice, prior to the absence, of the intention to take leave, the name of the person requiring care and their relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

NOTE: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at Clause 23 should be followed.

16.2 Unpaid Leave for Family Purpose

- (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 the said subparagraph (2) who is ill or who requires care due to an unexpected emergency.

16.3 Annual Leave

- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten 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.
- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

16.4 Time Off in Lieu of Payment for Overtime

- (a) For the purpose of providing care and support for a person in accordance with subclause 16.1 of this clause, by mutual agreement between an employee and employer the employee may take time off in lieu of payment for overtime, subject to the provisions contained in clause 9, Overtime.

16.5 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.

16.6 The Catholic Commission for Employment Relations, representing Catholic employers, being Catholic Dioceses, Catholic Parishes or Religious Orders who operate a service are exempted from the provisions of this clause. The Charitable Institutions Catholic Personal/Carer's Leave (State) Award published 7 May 1999 (309 I.G. 200), shall apply.

16.7 Personal Carers Entitlement for casual employees

- (a) Subject to the evidentiary and notice requirements in 16.1(b) and (d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 16.1(c) of this clause 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 employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend 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 employee accessed entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

17. BEREAVEMENT LEAVE

- 17.1 An employee, other than a casual employee, shall be entitled to up to two days bereavement leave without deduction of pay on each occasion of the death of a person prescribed in subclause 17.3 of this clause.
- 17.2 The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will provide to the satisfaction of the employer proof of death.
- 17.3 Bereavement leave shall be available to the employee in respect of the death of a person prescribed for the purposes of personal/carer's leave as set out in subparagraph (2) of paragraph (c) of subclause 16.1 of clause 16, Personal/Carer's Leave, provided that, for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- 17.4 An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
- 17.5 Bereavement leave may be taken in conjunction with other leave available under subclauses 16.2, 16.3, 16.4, and 16.5 of the said clause 16. In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.
- 17.6 The Catholic Commission for Employment Relations, representing Catholic employers, being Catholic Dioceses, Catholic Parishes or Religious Orders who operate a service are exempted from the provisions of this clause. The Charitable Institutions Catholic Personal/Carer's Leave (State) Award published 7 May 1999 (309 I.G. 200), shall apply.

17.7 Bereavement Entitlement for casual employees

- (a) Subject to the evidentiary and notice requirements in 16.1(b) and (d) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 16.1(c) of clause 16 personal/Carer's Leave.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend 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 employee accessed entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

18. LONG SERVICE LEAVE

Employees shall be entitled to long service leave in accordance with the Long Service Leave Act 1955.

19. TRAVELLING ALLOWANCE

- 19.1 An employee sent for duty to a place other than their regular place of duty shall be paid for all excess travelling time at the appropriate rate of pay and reimbursed reasonable expenses.
- 19.2 Where an employee is required by the employer to use their own vehicle in the performance of their duties, she/he shall be paid the mileage allowance as set out in Item 4 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates.

20. UNIFORMS AND LAUNDRY ALLOWANCES

- 20.1 Where an employer requires a uniform to be worn by an employee, the employer shall provide sufficient suitable and serviceable uniforms free of cost to the employee; provided that an employee, to whom a new uniform or part of a uniform has been supplied by the employer who, without good reason, fails to return the corresponding article last supplied to him or her, shall not be entitled to have such article replaced without payment therefor at a reasonable price.
- 20.2 An employee on leaving the service of an employer shall return any uniform or part thereof supplied by that employer which is still in use immediately prior to leaving.
- 20.3 In lieu of supplying a uniform to an employee, an employer shall pay to such employee an amount per week as set out in Item 5 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates.
- 20.4 If the uniform of an employee is not laundered at the expense of the agency, an amount per week as set out in Item 6 of the said Table 2 shall be paid to such employee.

21. AMENITIES

Suitable lavatory conveniences shall be provided for all employees and, when and where practicable, dining room accommodation, dressing room and lockers also shall be provided.

22. LABOUR FLEXIBILITY

- 22.1 An employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training. Such duties may include work, which is incidental or peripheral to the employee's main tasks, provided that such duties are not designed to promote deskilling.
- 22.2 The employer may direct an employee to carry out such duties and use such tools and equipment as may be required, provided that the employee has been properly trained or has otherwise acquired the necessary skills in the use of such tools and equipment.
- 22.3 Any direction issued by the employer pursuant to subclauses 22.1 and/or 22.2 of this clause shall be consistent with the employer's

responsibility to provide a safe and healthy working environment for employees and the employer's duty of care to residents.

23. GRIEVANCE AND DISPUTE SETTLING PROCEDURES

23.1 The following procedure shall be followed in relation to grievances of individual employees:

- (a) The employee is required to notify the employer in writing as to the substance of the grievance, request a meeting with the employer for bilateral discussions and state the remedy sought.
- (b) A grievance must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
- (c) Reasonable time limits must be allowed for discussion at each level of authority.
- (d) At the conclusion of the discussion, the employer must provide a response to the employee's grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy.
- (e) While a procedure is being followed, normal work must continue.

23.2 The following procedure shall be followed in relation to disputes, etc., between employers and their employees:

- (a) A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
- (b) Reasonable time limits must be allowed for discussion at each level of authority.
- (c) While a procedure is being followed, normal work must continue.

23.3 For the procedure set out in subclauses 23.1 and 23.2 of this clause, the employer may be represented by an industrial organization of employers, and the employees may be represented by the union or the union's representative.

23.4 For the purpose of this clause, union representative shall mean an employee appointed as a union representative who shall, upon notification to the employer in writing thereof and within 14 days of

such appointment, be recognised as the accredited representative of the union.

- 23.5 This clause shall not apply to an employer who employs not more than 20 employees or an employer with a management structure under which all employees are directly supervised and controlled by the employer or the chief executive of the facility.

24. ANTI-DISCRIMINATION

24.1 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.

24.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award, which, by its terms or operation, has a direct or indirect discriminatory effect.

24.3 Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

24.4 Nothing in this clause is to be taken to affect:

- (a) Any conduct or act which is specifically exempted from anti-discrimination legislation;
- (b) Offering or providing junior rates of pay to persons under 21 years of age;
- (c) Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
- (d) A party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

24.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

NOTES:

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

“Nothing in this 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.”

25. TERMINATION OF EMPLOYMENT

- 25.1 During the first three months of employment in any agency, employment shall be from week to week.
- 25.2 After three months continuous service, employment may be terminated by the employee by the giving of 14 days notice by the employee at any time during the week or by payment or forfeiture of 14 days salary, as the case may be.
- 25.3 Nothing in this clause shall prevent the summary dismissal of an employee for misconduct.
- 25.4 Except for misconduct justifying summary dismissal, the services of an employee shall be terminated by an employer only by notice as prescribed by the following:

Years of Continuous Service Required	Notice
Not more than 1	at least one week
More than 1 but not more than 3	at least two weeks
More than 3 but not more than 5	at least three weeks
More than 5	at least four weeks

Where an employee is over 45 years of age they shall receive, in addition to the above table, one week's extra notice, provided the employee has had two years service.

26. REDUNDANCY

26.1 Application

- (i) This clause shall apply in respect of full-time and part-time persons employed under this award.
- (ii) In respect to employers who employ more than 15 employees immediately prior to the termination of employment of employees, in the terms of this clause.

26.2 Introduction of Change

Employer's Duty to Notify

- (a) Where an employer had made a definite decision to introduce changes in production, programme, 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 the union to which they belong.
- (b) "**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, promotion 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. Provided that where the award makes provision for alteration of any of the matters referred to herein, an alteration shall be deemed not to have significant effect.

26.3 Employer's Duty to Discuss Change -

- (a) The employer shall discuss with the employees affected and the union to which they belong, inter alia, the introduction of the changes referred to in subclause 26.2 of this clause, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the union in relation to the changes.
- (b) The discussion shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in subclause 26.2 of this clause.

- (c) For the purpose of such discussion, the employer shall provide to the employees concerned and the union to which they belong all relevant information about the changes, including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

26.4 Discussions Before Terminations

- (a) 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 pursuant to paragraph (a) of subclause 26.2 and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the union to which they belong.
- (b) 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 (a) of this subclause and shall cover, inter alia, 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.
- (c) For the purposes of the discussions the employer shall, as soon as practicable, provide to the employees concerned and the union to which they belong 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.

26.5 Notice for Changes in Production, Programme, Organization or Structure

This subclause sets out the provisions to be applied to terminations by the employer for reasons arising from "production", "programme", "organization" or "structure" in accordance with subclause 26.2 of this clause.

- (a) In order to terminate the employment of an employee, the employer shall give to the employee the following notice:

Period of Continuous Service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

- (b) 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.
- (c) 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.

26.6 Notice for Technological Change

This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from "technology" in accordance with subclause 26.2 of this clause.

- (a) In order to terminate the employment of an employee, the employer shall give to the employee three months notice of termination.
- (b) Payment in lieu of the notice specified in paragraph (a) of this subclause 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.
- (c) 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.

26.7 Time Off During the Notice Period

- (a) 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 purpose of seeking other employment.

- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment the employee 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.

26.8 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.

26.9 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.

26.10 Notice to Centrelink

Where a decision has been made to terminate the employment of employees, the employer shall notify Centrelink 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.

26.11 Centrelink 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.

26.12 Transfer to Lower-paid Duties

Where an employee is transferred to lower-paid duties for reasons set out in subclause 26.2 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 rate for the number of weeks of notice still owing.

26.13 Severance Pay

Where the employment of an employee is to be terminated pursuant to 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, the employer shall pay in accordance with the following scale:

Years 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 or over, the entitlement shall be in accordance with the following scale:

Years 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) **"Week's 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 paid in accordance with this award.

26.14 Incapacity to Pay

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 26.13 of this clause.

The Commission shall have regard to such financial and other resources of the employer concerned as the Commission thinks relevant, and the probable effect paying the amount of severance pay in the said subclause 26.13 of this clause will have on the employer.

26.15 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 subclause 26.13 of this clause if the employer obtains acceptable alternative employment for an employee.

26.16 Nothing in this award shall be construed so as to require the reduction or alteration of more advantageous benefits or conditions which an employee may be entitled to under any existing redundancy arrangement, taken as a whole, between the union and any employer bound by this award.

27. EXEMPTION

The Catholic Health Association is exempted from the provisions of this award in respect of its employees, provided that it observes the terms and conditions provided in, and continues to be bound by, the following industrial agreement or agreements replacing it: The Catholic Health Association of NSW registered No. 6079 - filed 21 June 1979.

28. PARENTAL LEAVE

28.1 Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).

28.2 An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because :

28.2.1 the employee or employee's spouse is pregnant; or

28.2.2 the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

28.3 Right to Request

28.3.1 An employee entitled to parental leave may request the employer to allow the employee:

- (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
- (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
- (iii) to return from a period of parental leave on a part-time basis until the child reaches school age

to assist the employee in reconciling work and parental responsibilities.

28.3.2 The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

28.3.3 Employee's request and the employer's decision to be in writing.

The employee's request and the employer's decision made under 28.3.1 (ii) and (iii) must be recorded in writing.

28.3.4 Request to return to work part-time

Where an employee wishes to make a request under 28.3.1 (iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

28.4 Communication During Parental Leave

28.4.1 Where an employee is on parental leave and a definite decision has been made to introduce significant changes at the workplace, the employer shall take reasonable steps to:

- (i) make information available in relation to any significant effect the change will have on the status or responsibility Level of the position the employee held before commencing parental leave; and
- (i) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

28.4.2 The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

28.4.3 The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with Clause 28.4.1.

29. REMUNERATION PACKAGING

29.1 Where agreed between the employer and an employee, an employer may introduce remuneration packaging. Neither the employer nor the employee may be compelled to enter into a remuneration packaging agreement. Employees may exercise their right to continue to receive their applicable award salary.

29.2 Remuneration packaging shall mean that the employee will have part of their remuneration packaged into a fringe benefit which does not constitute a direct payment to the employee but is payable to a bona fide third party.

29.3 The terms and conditions of a remuneration package offered to an employee shall not, when viewed objectively, be less favourable than the entitlements otherwise available under this award and shall be subject to the following provisions:

- (a) A copy of the agreement shall be made available to the employee.

- (b) the employer shall ensure that the structure of any package complies with taxation and other relevant laws;
- (c) All award conditions, other than the salary and those conditions as agreed in sub clause (d) below shall continue to apply.
- (d) Where packaging arrangements apply, the employer and employee may by mutual agreement delete the application of certain award clauses, excepting clauses involving: Annual Leave, Sick Leave, Long Service Leave, Personal/Carer's Leave, Public Holidays and Grievance and Disputes Resolution Procedures.
- (e) The employee shall be entitled to inspect all details of the payments made under the terms of this agreement.
- (f) Superannuation Guarantee Contributions will be calculated with reference to the salary the employee would have been entitled to receive but for the remuneration packaging agreement.
- (g) Any allowance, penalty rates, overtime, payment for unused leave entitlements, other than any payments for leave taken whilst employed, shall be calculated by reference to the salary which would have applied to the employee but for the remuneration packaging agreement.
- (h) Pay increases granted to employees in accordance with this award shall also apply to employees subject to remuneration packaging arrangements.
- (i) Remuneration packaging arrangements shall cease during any period of leave without pay, including periods of unpaid sick leave.
- (j) Where at the end of the Fringe Benefit Tax year the full amount allocated to a specific benefit has not been utilised, it will be paid as salary, which will be subject to appropriate taxation requirements. By agreement between the employer and the employee, any unused benefit may be carried forward to the next period on the basis that any FBT obligation is accepted by the employee.
- (k) A remuneration package may be changed or terminated at any time, by the agreement of the parties.
- (l) Either party may unilaterally withdraw from a remuneration packaging agreement by providing one month's written notice to the other party. A lesser period of notice or no notice may be provided in circumstances identified in sub clause 29.3(m).

- (m) the employer may terminate a remuneration packaging agreement at any time, should the employer cease to attract exemption from the payment of Fringe Benefit Tax or should amendments to legislation be made that are detrimental to, or increase the costs of, remuneration packaging arrangements.
- (n) Where a remuneration packaging agreement is terminated the employee's salary will revert to the applicable award classification rate the employee would have been entitled to receive but for the remuneration packaging agreement.
- (o) In the event that the employee ceases to be employed by the employer this agreement will cease to apply as at the date of termination. Benefits not paid on or before the date of termination shall be treated as salary and the appropriate tax deducted.

30. REASONABLE HOURS

- 30.1 Subject to sub clause (ii) an employer may require an employee to work reasonable overtime at overtime rates or as otherwise provided for under the award.
- 30.2 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.
- 30.3 For the purposes of sub clause (ii) what is reasonable or other wise will be determined having regard to:
 - (a) any risk to employee health and safety
 - (b) The employee's personal circumstances including any family and carer responsibilities
 - (c) The needs of the workplace or enterprise
 - (d) The notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
 - (e) Any other relevant matter.

31. SECURE EMPLOYMENT

(a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

(b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this subclause within four weeks of the employee having attained such period period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time

employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
 - (1) whether the employee will convert to full-time or part-time employment; and
 - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the Industrial Relations Act 1996 (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
 - (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire

business arising under the Occupational Health and Safety Act 2000 or the Workplace Injury Management and Workers Compensation Act 1998.

(d) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

(e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

32. AREA, INCIDENCE AND DURATION

32.1 This award shall apply to all employees as defined herein within the jurisdiction of the Charitable Institutions (Professional Staff Social Workers) (State) Industrial Committee.

32.2 This award rescinds and replaces the Charitable Institutions (Professional Staff Social Workers) Award published 6 September 1996 (294 I.G. 944), and all variations thereof.

32.3 It shall take effect on and from 8 December 1998 and remain in force until 30 June 1999.

32.4 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 NSW on 28 April 1999 (310 I.G. 359) and take effect on 8 June 2004.

32.5 This award remains in force until varied or rescinded, the period for which it was made having already expired.