

## **PUBLIC HOSPITAL (CAREER MEDICAL OFFICERS) (STATE) AWARD**

### **INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES**

#### **PART A**

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## PART A

### 2. Definitions

"Service" for the purpose of Clause 4, Salaries, means service before and/or after the commencement of the Award in one or more hospitals or in the other institutions approved from time to time by agreement between the parties to this Award. It shall include service as a qualified medical practitioner in the Australian Armed Forces and service, whether continuous or not, in other hospitals within the Commonwealth of Australia.

"Area Health Service" means an Area Health Service constituted pursuant to section 17 of the *Health Services Act 1997*.

"Hospital" means a public hospital as defined under section 15 of the *Health Services Act 1997*.

"Corporation" means the Health Administration Corporation.

"Association" means the Australian Salaried Medical Officers' Federation (New South Wales) or the Health and Research Employees' Association of New South Wales.

"Higher Medical Qualifications" means such qualifications obtained by a career medical officer subsequent to graduation and includes -

- (a) post-graduate University degrees and diplomas recognised by the Medical Board of New South Wales as qualifications; or
- (b) membership or fellowship of the Royal College or Royal Australasian College of Physicians or fellowship of the Royal College or Royal Australasian College of Surgeons or membership or fellowship of the Royal College of Obstetricians and Gynaecologists; or
- (c) such other post-graduate qualifications obtained by examination and recognised by the Medical Board of New South Wales and acceptable to the Corporation, including fellowship of the Royal Australian College of General Practitioners.

"Medical Officer" means a person licensed or registered by the Medical Board of New South Wales pursuant to the *Medical Practice Act 1992* employed in a position covered by this Award.

"Career Medical Officer" means a Medical Officer who is employed and/or appointed to a position, not being that of a medical officer in training, in a hospital, who may be required to undertake such duties and at such places as directed within such the hospital.

"Authority" means the Public Employment Office established under Division 2A of the Public Sector Management Act 1988.

"Officer" means a Career Medical Officer employed on a full-time or permanent part-time basis at a hospital, area health service or health facility.

### 3. Salaries

#### Part A –

Salaries for Career Medical Officers shall be as set out in the Health Professional and Medical Salaries (State) Award.

Career medical officers in receipt of a salary higher than that of Senior Registrar as set out in the Health Professional and Medical Salaries (State) Award are to have penalty, overtime and public holiday payments calculated on the salary ascribed to Senior Registrar, as varied from time to time.

#### Part B -

- (a) For the purpose of calculation of payments to officers pursuant to the provisions of this Award, one hour's pay shall be calculated in accordance with the following formula:

$$\frac{\text{Annual Salary}}{52.17857} \times \frac{1}{38}$$

and one day's pay shall be calculated by multiplying "one hour's pay" (as calculated in accordance with the above formula) by 7.6.

- (b) Officers shall be eligible to progress to the next higher step in the scale on the anniversary of the date on which they were appointed.

#### Part C -

Permanent Part-Time Career Medical Officers -

- (i) A permanent part-time employee is one who is permanently appointed to work a specified number of hours which are less than those prescribed for a full-time employee;
- (ii) Employees engaged under Part C of this clause shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed by Part A, and where applicable one thirty-eighth of the appropriate allowance prescribed by Clause 5, Qualification Allowance, with a minimum payment of two hours for each start and one thirty-eighth of the appropriate allowances prescribed by Clause 16, Uniform and Laundry Allowances, if applicable but shall not be entitled to an additional day off or part thereof as prescribed by Clause 7, Hours of Work.
- (iii) Employees engaged under Part C of this clause shall be entitled to all other benefits of this award not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.
- (iv) Employees engaged under Part C of this clause are entitled to contribute to the appropriate superannuation scheme subject to the requirements of relevant legislation.

#### **4. Qualification Allowance**

An allowance per annum as set out in Item 1 of Table - 1 Allowances shall be paid to officers who obtain an appropriate higher medical qualification subsequent to graduation.

Provided that this clause shall not apply to an officer who has salary equal to or in excess of the Senior Registrar rate of pay contained in the Health Professional and Medical Salaries (State) Award.

Provided further that where an officer in his/her 5th and subsequent years of training is expected to meet the formal requirements of a higher medical qualification in that year he/she shall be paid half the qualification allowance.

#### **5. In-Charge Allowance**

An allowance as set out in Item 2 of Table 1 - Allowances shall be paid to officers for each twelve hours of duty or part thereof of continuous in-charge duty for responsibility for after hours medical services.

#### **6. Hours of Work**

- (i) The ordinary hours of work shall not exceed an average of 38 hours per week. This shall be achieved by rostering officers for duty over either forty hours in any period of seven consecutive days or eighty hours in any period of fourteen consecutive days and, in addition, then granting officers roster leave additional to that prescribed in subclause (ii) of this clause to the extent of one additional day per calendar month. Such additional roster leave may accumulate to a maximum of twelve days and shall be granted in multiples of one day for periods ranging from one day to two weeks. Upon termination of employment an officer shall be paid the monetary value of any untaken additional roster leave, calculated at the officer's ordinary time rate of pay as prescribed by Clause 3, Salaries.
- (ii) Officers shall be free from ordinary hours of duty for not less than two days in each week or where this is not practicable, four days in each fortnight. Where practicable, days off shall be consecutive and where possible additional rostered days off shall be combined with other rostered time off.
- (iii) No shift shall be less than eight hours in length on a weekday or less than four hours in length on a Saturday, Sunday or public holiday.
- (iv) No broken or split shifts shall be worked.
- (v) All time worked in excess of ten hours in any one shift shall be paid as overtime.
- (vi) Where in any pay period, an officer is not employed by a hospital for the whole of the pay period, the ordinary hours of work for the purpose of calculating salary for that pay period (i.e., 38 or 76 hours) will be adjusted by the following factor, rounded to the nearest whole number -

$$\frac{\text{Number of calendar days employed}}{\text{Number of calendar days in pay period}}$$

- (vii) Officers shall be given at least two weeks' notice of rosters to be worked in relation to ordinary

hours of work and also where practicable, in relation to additional (overtime) rostered hours of work, provided that a hospital may change the rosters without notice to meet any emergent situation. This subclause shall not apply in respect of the granting by hospitals of additional roster leave pursuant to this clause.

## **7. Penalty Rates**

Any ordinary hours worked between the following hours shall be paid at ordinary time plus the appropriate penalty rate:

- (i) Hours worked between 6.00 pm and midnight, Monday to Friday – 12.5%.
- (ii) Midnight and 8.00 am, midnight Sunday to midnight Friday – 25%.
- (iii) Midnight Friday and midnight Saturday – 50%.
- (iv) Midnight Saturday and midnight Sunday – 75%.

## **8. Times Worked**

Time worked means the time during which an officer is required by a hospital to be in attendance at a hospital for the purpose of carrying out such functions as the hospital may call on him/her to perform, and it shall include times when the officer, in waiting to carry out some active functions, is studying or resting or sleeping or engaged in any other activity.

Provided that time worked does not include uninterrupted breaks allowed and actually taken for meals.

Provided further that where an officer attends of his/her own volition outside of hours rostered on duty, or where an officer remains in attendance when formally released from the obligation to perform professional duties, the hospital shall not be liable to make any payment for such attendance.

## **9. Overtime**

- (i) All time worked by officers in excess of the ordinary hours specified in clause 6, Hours of Work, shall be paid at the rate of time and one half for the first two hours, and double time for the remaining hours worked provided that all overtime performed on a Sunday, shall be at double time.
- (ii) All time worked by employees employed pursuant to Part C, Permanent Part-Time Career Medical Officers, of clause 3, Salaries, in excess of the rostered daily ordinary hours of work prescribed for the majority of full-time employees employed on that shift shall be paid at the appropriate overtime rate prescribed herein. Time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on the shift concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.
- (iii) An officer who works authorised overtime and was not notified on or prior to his/her previous

shift of the requirement to work such overtime shall be paid in addition to payment for such overtime:

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

Or shall be provided with adequate meals in lieu of such payments. The rates prescribed in this sub-clause shall be varied in accordance with any variations in the rates payable under Clause 35 of the regulations under the *Public Sector Management Act, 1988*.

- (iv) Provided however that an officer employed in a community health facility shall be granted time in lieu of overtime payments. Such time in lieu shall be taken within three months of accrual and at ordinary time. If such accrued time in lieu is unable to be taken within the three month period, it is to be paid out at the end of the three month period in accordance with subclause (i) above at the current rates of pay then applying.

#### **10. On-Call and Call-Back**

- (i) An "on-call period" is a period during which an officer is required by the employer to be on-call.
- (ii) For the purposes of calculation of payment of on-call allowances and for call-back duty, an on-call period shall not exceed 24 hours.
- (iii) An officer shall be paid for each on-call period which coincides with a day rostered on duty an allowance as set out in Item 4 of Table 1 – Allowances and for each on-call period coinciding with a rostered day off an allowance as set in the said Item 4 with a maximum payment as set out in the said Item 4 per week.
- (iv) An officer who is called back for duty shall be paid for all time worked at the appropriate overtime rate, with a minimum of 4 hours at such rates.
- (v) The amounts specified in subclause (iii) shall be taken to include expenses incurred in taking telephone calls at one's own residence and other expenses incurred being available for emergency duty.

#### **11. Annual Leave**

- (i) All officers shall be allowed four calendar weeks leave of absence on full pay in respect of each twelve months service as defined in this Award plus one day on full pay in respect of each public holiday occurring within the period of such leave.
- (ii) Officers who are required to work on Sundays and/or public holidays during a qualifying period of employment for annual leave purposes shall be entitled to receive additional annual leave in

respect of each complete period of eight hours so worked as follows:

- (a) if 35 or more such periods on such days have been worked - one week;
  - (b) if less than 35 such periods on such days have been worked - leave proportionately calculated on the basis of 38 hours leave for 35 such periods worked;
  - (c) work performed by reason of call-backs pursuant to clause 10, Overtime, shall be disregarded when assessing an officer's entitlement under this subclause.
  - (d) The calculations referred to in paragraphs (a) and (b) of this sub-clause shall be made to the nearest one-fifth of the ordinary hours worked, half or more than half of one-fifth being regarded as one-fifth and less than half being disregarded.
- (iii) Annual leave shall be given and shall be taken in one consecutive period or, if the officer and the employer so agree, in either two or three separate periods, but not otherwise.
  - (iv) Annual leave shall be given and shall be taken within a period of six months after the date when the right to annual leave accrued; provided that the giving and taking of the whole or any separate period of such annual leave may, by mutual agreement between the employer and the officer, be postponed for a further period not exceeding six months.
  - (v) If the officer and the employer so agree, the annual leave or any such separate periods may be taken wholly or partly in advance before the officer has become entitled to that leave, but where leave is taken in such circumstances a further period of annual leave shall not commence to accrue until the expiration of the twelve months in respect of which the annual leave or part thereof has been so taken.
  - (vi) Except as provided by this clause, payment shall not be made to an officer in lieu of any annual leave or part thereof nor shall any such payment be accepted by the officer.
  - (vii) The officer shall be given at least two months notice of the date from which his/her annual leave is to be taken.
  - (viii) Each officer shall be paid before entering upon annual leave his/her ordinary rate of salary for the period of leave. For the purposes of this subclause "ordinary rate of salary" means the sum of the officer's award rate of salary and qualification allowance if applicable.
  - (ix) Where the employment of an officer is terminated, the officer shall be entitled to receive proportionate payment for each completed month of service, together with such additional annual leave entitlements due under sub clause (ii). All payments are to be made at the rate of salary to which such officer is entitled under this Award.
  - (x) Where the annual leave under this clause or any part thereof has been taken in advance by an officer pursuant to sub clause (v), of this clause; and
    - (a) the employment of the officer is terminated before he/she has completed the year of employment in respect of which such annual leave or part thereof was taken; and
    - (b) the sum paid to the officer as ordinary pay for the annual leave or part so taken in advance exceeds the sum which the employer is required to pay to the officer under sub

clause (ix) of this clause, the employer shall not be liable to make any payment to the officer under the said sub clause (ix), and shall be entitled to deduct the amount of such excess from any remuneration payable to the officer upon the termination of the employment.

- (xi) Any annual leave which had accrued to an officer employed immediately prior to the operative date of this Award under the provisions then in force and who continues in employment under this Award shall remain to his/her credit and such leave may be allowed as provided in this clause in addition to any other leave which has accrued to an officer under the provisions of this clause.

(NOTATION: The conditions under which the annual leave loading shall be paid to officer are the same as generally applied through circulars issued by the Corporation).

## **12. Public Holidays**

- (i) Public Holidays shall be allowed to officers on full pay.
- (ii) Where an officer is required to and does work on any of the public holidays, as set out in this clause, the officer shall have one day added to the period of his/her annual leave for each public holiday so worked unless time off in respect of time worked on any such public holiday has already been granted to the officer. The provisions of this sub clause shall also apply to officers where a public holiday falls on a rostered day off.
- (iii) For the purpose of this clause, the following shall be deemed to 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, or in lieu of any such day any holiday proclaimed in lieu thereof, together with any other day duly proclaimed as a special day and observed as a public holiday within the area in which the hospital in which the officer is employed is situated.
- (iv) All hours worked on public holidays shall be paid at the rate of time and one half.

## **13. Sick Leave**

- (i) An officer shall be allowed sick leave on full pay calculated by allowing fourteen calendar days for each year of continuous service less any sick leave on full pay already taken subject to the following conditions:
  - (a) The employer may require the sickness to be certified to by the medical superintendent or by a legally qualified medical practitioner, approved by the hospital, or may require other satisfactory evidence thereof.
  - (b) An officer shall not be entitled to sick leave until the expiration of three months' continuous service.
  - (c) Each officer shall take all reasonably practicable steps to inform the employer of his or her inability to attend for duty and as far as possible state the estimated duration of the

absence. Where practicable such notice shall be given within twenty-four hours of the commencement of such absence.

- (d) An officer shall not be entitled to sick leave on full pay for any period in respect of which such officer is entitled to workers' compensation; provided, however, an employer shall pay to an officer who has sick leave entitlements under this clause, the difference between the amount received as workers' compensation and full pay, if the employee elects such payment. The officer's sick leave entitlements under this clause shall, for each week during which such difference is paid, be reduced by that proportion of hours which the difference paid bears to full pay. On the expiration of available sick leave, weekly compensation payments only shall be payable.
- (e) An officer not eligible for sick leave during periods when he/she would have normally been rostered on overtime shifts.
- (f) An officer is not entitled to more than 8 hours' sick leave in respect of any one day.
- (ii) Continuous service for the purpose of this clause shall be calculated in the same manner as provided for in paragraph (a) of subclause (ii) of Clause 19, Long Service Leave.
- (iii) Full pay for the purpose of this clause shall include the uniform allowance where payable under clause 15, Uniform and Laundry Allowance.
- (iv) Sick leave as defined, shall accrue and be transferable between hospitals, at the rate of fourteen calendar days per year of continuous service, minus days taken.
- (v) Any sick leave which had accrued to an officer employed immediately prior to the operative date of this Award, under the provisions then in force and who continues in employment under this Award shall remain to his/her credit and such leave may be allowed as provided in this clause in addition to any other leave which has accrued to an officer under the provisions of this clause.

#### **14. Personal/Carer's Leave, Family and Community Services Leave**

Employees shall be granted Personal/Carer's Leave, Family and Community Services Leave in accordance with Health Department Circular No 97/11, as amended from time to time.

#### **15. Uniform and Laundry Allowances**

- (i) Sufficient suitable and serviceable uniforms shall be provided for each officer required to wear a uniform and such uniforms shall be laundered at the expense of the hospital.
- (ii) Where a hospital requires a uniform to be worn but does not provide such uniform, the following allowances shall be paid:
  - (a) where a full uniform, including special shoes, is required, an amount per week as set in Item 5 of Table 1 - Allowances;
  - (b) in other cases, an amount as also set in Item 5 of Table 1.

## 16. Study Leave

- (i) Subject to the terms of this clause an employer may grant to medical officers study leave without loss of pay as follows:

For Face-to-Face courses - Half-hour study time for every hour of compulsory lecture and/or tutorial attendance, up to a maximum of four hours' study time per week.

Where no Face-to-Face course is provided - A maximum of four hours' study time per week for a maximum of 27 weeks per year.

- (ii) Study leave shall only be granted in respect of a course -
  - (a) leading to higher medical qualifications as defined in clause 2, Definitions; and
  - (b) in respect of a qualification which when obtained would be relevant to the needs of the hospital.
- (iii) The officer shall submit to the chief executive officer a timetable of the proposed course of study and evidence of the officer's enrolment in the course.
- (iv) The grant of study leave is subject to the convenience of the hospital and should not interfere with the maintenance of essential services nor with patient care.
- (v) Periods of study leave granted shall not be taken into account for the purposes of calculating overtime payments.
- (vi) Study leave granted subject to the terms of this clause may be accrued to a maximum of seven working days for the purpose of enabling the officer to study prior to a written, oral or clinical examination. An option to accumulate study leave in terms of this subclause shall be exercised at the commencement of each academic year, and the officer shall notify the employer accordingly.
- (vii) Officers who have given continuous service of more than one year, shall be allowed to accrue study leave not taken up to a maximum of fourteen calendar days.

## 17. Settlement of Disputes

- (i) Where a dispute arises in a particular section which cannot be resolved between the employees or their representative and the supervising staff, it shall be referred to the chief executive officer of the hospital or establishment or his/her nominee, who will arrange for the matter to be discussed with the employees concerned and a local representative or representatives of the Association.
- (ii) Failing settlement of the issue at this level, the matter shall be referred to the Health Administration Corporation and the Head Office of the Association(s). The dispute will then be dealt with pursuant to subclause (v) of this clause.
- (iii) Whilst these procedures are continuing, no stoppage of work or any form of ban or limitation of work shall be applied.
- (iv) The Association(s) reserve(s) the right to vary this procedure where it is considered a safety

factor is involved.

- (v) With a view to an amicable and speedy settlement, all disputes that firstly cannot be settled in accordance with subclauses (i) and (ii) of this clause may be submitted to a committee consisting of not more than six members with equal representatives of the Corporation and the Association(s). Such committee shall have the power to investigate all matters in dispute and to report to the Chief Executive Officer and the Association(s) respectively with such recommendation as it may think right and in the event of no mutual decision being arrived at by such committee, the matter in dispute may be referred to the industrial committee.
- (vi) This clause shall not interfere with the rights of either party to institute proceedings for the determination of any matter in accordance with the *Industrial Relations Act 1996*.

### **18. Travelling Allowances**

- (i) An officer seconded to another hospital may be granted a daily travel allowance at the rate of the difference between the cost of travel by public transport to his/her normal place of employment and travel by public transport to the seconding hospital. Provided that where an officer drives his/her own vehicle, he/she shall, in lieu, be eligible for an allowance equivalent to the transport allowance rate payable to members of the New South Wales Public Service as determined by the Authority from time to time, for the difference between the distance to his/her normal place of employment and the distance to the seconding hospital.
- (ii) An officer who, with the approval of the chief executive officer, uses on official business, a motor vehicle maintained primarily for other than official business, shall be paid the abovementioned allowance from time to time effective. However, where it is estimated that an officer will, with the approval of the chief executive officer, be required to use his/her private vehicle on official business on at least 50 days during any period of 12 months and during that period aggregate at least 805 kilometres of official running, he/she shall be paid at the official business rate prescribed by the Regulation of the Authority at the rate in force from time to time throughout the year.
- (iii) For the purpose of sub-clause (ii) travel on official business:
  - (a) occurs when an officer is required by the chief executive officer as part of his/her duty to use his/her motor vehicle to attend away from his/her normal place of employment or seconding hospital to another clinic, annexe or hospital. Where an officer travels on official business direct from his/her place of residence to a clinic, annexe or hospital, other than his/her normal place of employment he/she shall be paid for the difference between the distance to his/her normal place of employment or seconding hospital and that other annexe, clinic or hospital;
  - (b) does not include "call backs";
- (iv) Nothing in this clause shall make the employer liable for the cost of the officer's daily travel to his/her usual and normal place of employment.

(NOTATION:-

- (1) For conditions relating to secondments see relevant Departmental circulars.
- (2) Travelling compensation applies to staff required to work at centres other than their headquarters).

## 19. Long Service Leave

- (i) (a) Each officer shall be entitled to two months' long service leave on full pay after ten years' service; thereafter additional long service leave shall accrue on the basis of five months' long service leave for each ten years' service.
- (b) Where the services of an officer with at least five years' service as an adult and less than ten years' service are terminated by the employer for any reason other than the officer's serious and wilful misconduct, or by the officer on account of illness, incapacity or domestic or other pressing necessity, he/she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service.

For the purpose of this sub-clause "service as an adult" means service with an employer during which the officer received a rate of pay not less than the lowest rates fixed under this Award for an adult in the same classification as the officer.

Where some of the service of the officer has not been under this Award "service as an adult" means - in the case of a worker employed to do any work for which the price, rate or wage has been fixed by an award made under the Industrial Relations Act 1996 or made under the *Industrial Relations Act*, 1988 or made under the *Industrial Arbitration Act*, 1940 or has been fixed by an industrial agreement made pursuant to or registered under the said Acts, or an agreement or Award made pursuant to the *Public Sector Management Act*, 1988 the period of service during which the remuneration applicable to the officer was at a rate not less than the lowest rate fixed under the award, industrial agreement, agreement or Award for an adult male or adult female in the same trade, classification, calling group or grade as the officer; or, in the case of an officer being an apprentice the terms of whose employment are governed by an award application only to apprentices - the period of service with an employer during which the remuneration applicable to the officer was at a rate not less than the rate prescribed by the award covering a journeyman carrying out work in the same trade, classification, or calling as the officer.

- (ii) For the purposes of sub-clause (i) of this clause -
  - (a) "Service" shall mean continuous service in one or more hospitals. For the purpose of this paragraph, continuous service shall have the same meaning as in the *Transferred Officers Extended Leave Act*, 1961.
  - (b) Provided that broken periods of service in one or more hospitals shall count as service subject to the following:
    - (1) Where an officer after ceasing employment in a hospital subsequent to the 1st July, 1974, any service of that officer before he/she was so re-employed shall not be counted for the purpose of determining any long service leave due to that officer in respect of his/her service after he/she was so re-employed.
    - (2) Where an officer, after ceasing employment in a hospital is re-employed in a hospital subsequent to the 1st July, 1974, any service of that officer before he/she was so re-employed shall not be counted for the purpose of determining any long service leave due to that officer in respect of his/her service after

he/she was so re-employed unless he/she has completed at least five years' continuous service from the date of his/her being so re-employed.

- (c) Service shall not include -
  - (1) any period of leave without pay except in the case of officers who have completed at least ten years service (any period of absence without pay being excluded therefrom) in which case service shall include any period of leave without pay not exceeding six months taken after 1st July, 1974;
  - (2) any period of part-time service, except permanent part-time service as per clause 3, Salaries, Part C.
- (iii) Long service leave shall be taken at a time mutually arranged between the employer and the officer.
- (iv) (a) On the termination of employment of an officer, otherwise than by his/her death, an employer shall pay to the officer the monetary value of all long service leave accrued and not taken at the date of such termination and such monetary value shall be determined according to the salary payable to the officer at the date of such termination; provided that where an officer is transferring from one hospital to another he/she may, if he/she so desires and by agreement with his/her present employer and his/her proposed employer, be allowed to retain his/her credit to long service leave in lieu of payment of the monetary value under this sub-clause.  
  
(b) Where an officer who has acquired a right to long service leave, or after having had five years service as an adult and less than ten years service, dies, the officer's Estate shall be entitled to receive the monetary value of the leave not taken or which would have accrued to such officer had his/her services terminated as referred to in subclause (i) (b), and such monetary value shall be determined according to the salary payable to the officer at the time of his/her death.
- (v) Rights to long service leave under this clause shall be in replacement of rights to long service leave, if any, which at 1st July, 1974 may have accrued or may be accruing to an officer and shall apply only to persons in the employ of the employer on or after 1st July, 1974. Where an officer has been granted long service leave or has been paid its monetary value prior to 1st July, 1974 the employer shall be entitled to debit such leave against any leave to which the officer may be entitled pursuant to this clause.

## **20. Leave Reserved**

Leave is reserved to the Associations to apply as they may be advised in respect of Clause 3, Salaries, for the addition of a Grade 4 and in respect of any adjustment to the rates for classifications covered by the Public Hospital (Medical Officers) Award; in respect of Clause 10, Overtime, for the removal of the overtime barrier.

Leave is reserved to the Corporation to apply as it may be advised in respect of clauses 3, Salaries, 9, Overtime and 19, Long Service Leave, in relation to permanent part-time work.

## 21. Secondment

(i) Allowance -

An officer, other than an intern, seconded to work in a 2nd or 3rd schedule hospital shall have his/her salary increased by one incremental step, by way of allowance, for the period the officer works in such hospital.

For the duration of the officer's secondment, other than periods of leave, the allowance shall be treated as salary for the purpose of calculating overtime and shift penalties.

(ii) Travel -

An officer referred to in subclause (i) of this clause shall be allowed a paid journey to Sydney and return by economy class airfare or equivalent thereof for each period of 7 weeks in the employment of a 2nd or 3rd schedule hospital.

At the discretion of the hospital the paid journey may be taken in advance. Such travel may be used for the purpose of furthering the officer's medical education.

## 22. Labour Flexibility

- (i) An employer may direct an employee to carry out such duties as are reasonable, and within the limits of the employee's skill, competence and training consistent with employee's classification, grouping and/or career stream provided that such duties are not designed to promote deskilling.
- (ii) An 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.
- (iii) Any direction issued by an employer pursuant to sub-clause (i) and (ii) shall be consistent with the employer's responsibilities to provide a safe and healthy work environment.
- (iv) Existing provisions with respect to the payment of mixed functions/higher duties allowances shall apply in such circumstances.

## 23. Anti-Discrimination

- (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.
- (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 fulfillment 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.
- (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.

- (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.
- (5) 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.

#### **24. Redundancy – Managing Displaced Employees**

Employees shall be entitled to the provisions of Health Department Circular No 2000/78 - Managing Displaced Employees, as amended from time to time.

#### **25. Salary Packaging**

1. By agreement with their employer, employees may elect to package a portion (but no more than 50%) of their salary in accordance with this clause, to obtain a range of benefits as set out in the NSW Health Services Salary Packaging Policy and Procedure Manual, as amended from time to time. Such election must be made prior to the commencement of the period of service to which the earnings relate. Where an employee also elects to salary sacrifice to superannuation under this award, the combined amount of salary packaging/sacrificing shall not exceed 50% of salary.
2. Where an employee elects to package a portion of salary :
  - (a) Subject to Australian taxation law, the packaged portion of salary will reduce the salary subject to appropriate PAYG taxation deductions by the amount of that packaged portion.
  - (b) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under this award in the absence of any salary packaging or salary sacrificing made under this award.
  - (c) 'Salary' for the purpose of this clause, for superannuation purposes, and for the calculation of award entitlements, shall mean the award salary as specified in Clause 4

Salaries, and which shall include 'approved employment benefits' which refer to fringe benefit savings, administration costs, and the value of packaged benefits.

3. The salary packaging scheme utilises the Public Benevolent Institution (PBI) taxation status, which provides for a fringe benefits tax exemption cap of \$17,000 per annum. The maximum amount of fringe benefits-free tax savings that can be achieved under the scheme is where the value of benefits when grossed-up, equal the fringe benefits exemption cap of \$17,000. Where the grossed-up value exceeds the cap, the employer is liable to pay fringe benefits tax on the amount in excess of \$17,000, but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits, are deducted from pre tax dollars.
4. The parties agree that the application of the fringe benefits tax exemption cap and the PBI status of NSW Health Services are subject to prevailing Australian taxation laws.
5. If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the Salary Packaging Policy and Procedure Manual.
6. Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.
7. Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.
8. The employer and the employee shall comply with the procedures set out in the NSW Health Services Salary Packaging Policy and Procedure Manual as amended from time to time.
9. This variation shall take effect on and from 1 January 2002.

## **26. Area, Incidence and Duration**

This Award has been reviewed in accordance with section 19 of the *Industrial Relations Act 1996*.

This award rescinds and replaces the Public Hospitals (Career Medical Officers) (State) Award published 16 April 1993, and all variations thereof.

This Award shall apply to all officers as defined herein, and shall take effect on and from the beginning of the first pay period to commence on or after 14 May 2001 and it shall remain in force thereafter for a period of twelve months.

The provisions of this Award do not apply to medical officers who are employed as Interns, Resident Medical Officers, Registrars or Senior Registrars.

**PART B**

**Table 1 - Allowances**

<b>Item No.</b>	<b>Clause No.</b>	<b>Brief Description</b>	<b>Amount \$</b>
1	4	Qualification Allowance	2435.00 per annum
	5	In charge Allowance	17.65
3	9(iii)	Meal Allowances for overtime:  (a) breakfast at or before 6.00 a.m.  (b) evening at least 1 hour after normal ceasing time and extends beyond or is worked wholly after 7.00 p.m.  (c) lunch beyond 2.00 p.m. Saturdays, Sundays or Holidays	17.90  17.90  17.90
4	10(iii)	On-call Allowance per on-call period which coincides with a day rostered on duty  On-call Allowance per on-call period which coincides with a rostered day off  per week	11.77  23.53  82.37
5	15(ii)(a)	Uniform Allowance -  Full Uniform including special shoes if required  Other cases	2.30 per week  1.70 per week