

SCHEDULE OF CHANGES

LOCAL GOVERNMENT (STATE) AWARD 2010 IRC 127 of 2010

28 OCTOBER 2010

This schedule of changes reflects the agreed changes to the Local Government (State) Award 2007.

The **bold** highlights reflect the actual wording changes.

1. At sub-clause (iv) of clause 4 Definitions add:

(iv) *Ordinary Pay* means remuneration for the employee's normal weekly number of hours of work calculated at the ordinary time rate of pay. Ordinary pay shall include, but not be limited to the following penalties and allowances where they are regularly received:

- Saturday, Sunday and shift penalties
- disability allowances
- climatic, west of the line allowances
- tool allowances
- on call allowance
- first aid allowance
- community language and signing work allowances.

provided that subject to the exclusions below and at clauses 10(ii) and 20C(v), an employee's ordinary pay during periods of paid leave under this Award shall not be more or less than what the employee would have received had the employee not been on paid leave.

The following allowances shall be excluded from the composition of ordinary pay:

- overtime payments
- camping allowance
- travelling allowances
- sewer chokes allowance
- car allowances
- meal allowances.

2. Insert a new sub-clause (ix) of clause 4 Definitions:

(ix) *Seven day a week rotating roster system* means a work roster system in which the employee is regularly required to work:

(a) **ordinary hours on each of the seven calendar days of the week; and**

- (b) **ordinary hours on at least one Saturday and one Sunday in every four, or in the case of a seasonal worker an average of at least twelve Saturdays and twelve Sundays during a twelve month period; and**
- (c) **on Public Holidays; and**
- (d) **at different agreed commencement times during the roster period (i.e. different shifts)**

provided that where, prior to the commencement of this Award, an employee regularly worked according to a roster system that the council regarded as a seven day a week rotating roster system, and the employee continues to work according to the same roster system, the roster system shall be deemed to be a seven day a week rotating roster system for that employee.

3. Insert a new sub-clause (xi) of clause 7 Salary Systems:

- (ix) **Where a council changes its salary system structure employees shall not suffer a reduction in pay or salary range.**

4. Following clause 8 Use of Skills, insert at clause 9 the provisions originally found at clause 27 Performance Evaluation and Reward.

5. Following sub-clause 9B(iii) insert the following:

C. BONUS AND ADDITIONAL PERFORMANCE PAYMENTS

- (i) **Councils may make available access to bonus payments or other opportunities for additional reward for those employees who have progressed through the salary system to the maximum point/step for their position.**

- (ii) Where a salary system provides for the payment of a performance component separate from a skills component, variations to payments under the performance component shall not affect payments under the skills component.

6. Renumber clauses 9 to 20 to become clauses 10 to 21.

7. At the end of sub-clause (v) of clause 11 Payment of Employees add the following provisions:

- (v) An employee's ordinary pay shall not be reduced when the employee is prevented from attending work due to bushfire or other climatic circumstances beyond their control, **provided that this subclause shall not apply if:**

- **alternative duties are available that the employee can usefully perform, or**

- **the bushfire or other climatic circumstance occurred outside of the State of New South Wales.**

8. At sub-clause (ii) of clause 12 Salary Sacrifice include the following words:

- (ii) Benefits that may be salary sacrificed include, **but shall not be limited to**, child care facilities operated by council on its premises; and additional superannuation and motor vehicles supplied by council under lease back arrangements where the amount to be salary sacrificed for leaseback of a council motor vehicle is that part of the lease back fee that exceeds council's fringe benefit tax liability.

9. At the end of sub-clause (ii) of clause 14 Allowances, Additional Payments and Expenses add the following:

- (ii) Sewer Chokes

Employees clearing sewer chokages shall be paid at the rate set out in Table 2 of Part B of this Award whilst so engaged.

The sewer choke allowance is to compensate for the highly obnoxious working conditions associated with the clearing of blockages from sewer mains (of any diameter) carrying raw or partially treated sewerage to sewerage treatment plants, often in circumstances where direct contact with the raw sewerage is unavoidable.

For the purposes of this subclause, a *sewer choke* shall mean a partial or total blockage that may result in a spill to the external environment from the sewer system.

The sewer choke allowance shall not be paid in addition to the sewerage treatment works allowance at subclause 14(iv) of this Award.

10. At sub-clause (iv) of clause 14 Allowances, Additional Payments and Expenses make the following amendments:

- (iv) Sewerage Treatment Works

Employees required during their ordinary hours of work to enter **and clean or enter and maintain** digestion tanks at sewerage treatment works, aeration ponds or wet wells at sewer pump stations, **where direct contact with raw sewerage is unavoidable**, shall be paid at the rate of double ordinary rates for all time worked. Payments made in accordance with this subclause shall be in substitution of overtime rates and any other penalty.

11. Following sub-clause (vii) of clause 14 Allowances, Additional Payments and Expenses insert a new sub-clause (viii):

- (viii) **Certificates and Licences**

- (a) **Where an employee in Operational Band 1 or Administrative/Technical Trades Band 2 of the Award is required by council to hold a WorkCover NSW approved certificate or licence the council shall reimburse the employee for the cost of such certificate or licence.**
 - (b) **Where an employee in Operational Band 1 or Administrative/Technical Trades Band 2 of the Award is required by council to hold a drivers licence other than a Class C (car) or Class R (rider) licence, the council shall reimburse the employee the difference between the cost of the licence and the cost of a Class C (car) drivers licence.**
- 12. Renumber the remaining sub-clauses of clause 14 Allowances, Additional Payments and Expenses.
- 13. Rename and amend sub-clause (ix)(a), (b) and (c) of clause 14 Allowances, Additional Payments and Expenses:
 - (ix) **Vehicle Allowances**
 - (a) **Where, by agreement, an employer requires an employee to use their own vehicle in or in connection with the performance of their duties for official business, such employee will be paid an allowance for each kilometre of authorised travel as follows: -**
 - (i) **motor vehicle under 2.5 litres (normal engine capacity) — refer to Table 2 of Part B; and**
 - (ii) **2.5 litres (normal engine capacity) and over — refer to Table 2 of Part B.**
 - (b) **An employer may require an employee to record full details of all such official travel requirements in a log book.**
 - (c) **Minimum quarterly payment** – Where the **vehicle** is used for official business and is available continuously when the employee is on duty the employee shall be paid the allowance but with a minimum payment as set out in Table 2 of Part B. Periods of sick leave in excess of 3 weeks, annual leave in excess of 4 weeks, long service leave, paid and unpaid maternity leave shall not be counted when calculating the minimum quarterly payment.
- 14. Amend sub-clause (x)(c) of clause 14 Allowances, Additional Payments and Expenses to provide:
 - (c) **Where more than one starting point is fixed each employee shall be attached to one starting point only. An employee may be transferred to a different normal starting point at any time by agreement or by the giving of reasonable notice provided that the relocation is reasonable in the**

circumstances and does not unreasonably disadvantage the employee. In the event of a dispute Clause 31, Grievance and Dispute Procedures, shall apply.

15. At the end of sub-clause (x)(h) of clause 14 Allowances, Additional Payments and Expenses insert the following:

For the purposes of this subclause, materials shall not include incidental items (including but not limited to keys, mobile phones, lap-top computers and personal protective clothing).

Where an employer provides transport but the employee elects to make their own travel arrangements, the vehicle allowances in this subclause shall not apply.

16. Amend sub-clause (xii) of clause 14 Allowances, Additional Payments and Expenses to provide:

(xiii) Meal Allowance

(a) A meal allowance set out in Table 2 of Part B shall be paid to employees instructed to work overtime:

(i) for two hours or more prior to their agreed commencing time,
or

(ii) for two hours immediately after their agree finishing time and after subsequent periods of four hours, **or**

(iii) after each four hours on days other than ordinary working days

provided that a meal allowance is not payable where, by agreement, a meal is provided by the employer.

17. Insert a new sub-clause (xv) at the end of clause 14 Allowances, Additional Payments and Expenses:

(xv) **Accreditation of council employees by the Building Professionals Board**

Where an employee is required by council to be accredited by the Building Professionals Board under the *Building Professionals Act 2005* (NSW) the council shall:

(a) **pay the reasonable costs associated with obtaining and/or maintaining such accreditation, including the cost of accreditation fees and compulsory continued professional development training/course fees, and**

- (b) grant paid leave to attend course requirements in accordance with subclause (iv) of Clause 27, Training and Development, of this Award.

18. Amend clause 15 Motor Vehicle Leaseback to provide:

15. MOTOR VEHICLE LEASEBACK

A. GENERAL

The parties to this Award recognise that leaseback vehicles may be provided to employees as a condition of employment (e.g. as an incentive for accepting employment) or as a discretionary benefit that is not a condition of employment.

A leaseback vehicle will be considered to be a condition of employment for an employee unless it was clearly identified that it was not being provided on such a basis at the time that it was provided.

Factors to consider when determining whether a leaseback vehicle is a condition of an employee's employment include:

- Whether the vehicle was offered as an incentive to attract and/or retain the employee; and
- The period that the employee has had access to a leaseback vehicle.

B. TERMINATION OF LEASEBACK VEHICLE ARRANGEMENT

- (i) Condition of employment – Unless otherwise provided in this clause, where a council and an employee enter into a leaseback vehicle arrangement and the employee is entitled to a leaseback vehicle as a condition of employment, the arrangement may only be terminated by agreement.
- (ii) Not a condition of employment – Unless otherwise provided, where a council and an employee enter into a leaseback vehicle arrangement and the employee is not entitled to a leaseback vehicle as a condition of employment, the council shall give a minimum of six (6) months written notice of termination of the arrangement.

Notwithstanding the above, where the leaseback vehicle agreement was entered into prior to 1 November 2010, the council shall give a minimum of 12 months notice to terminate the agreement.

- (iii) Other – A council may terminate or suspend access to a leaseback vehicle arrangement immediately on termination of employment, loss of licence, serious breach of the leaseback vehicle agreement or if the employee accepts a new position with the council that does not include access to a leaseback vehicle.

C. VARIATION OF LEASEBACK VEHICLE ARRANGEMENTS

- (iv) Variations to leaseback arrangements – Proposals to vary leaseback vehicle arrangements, including the formula for calculating the leaseback vehicle fee shall be referred to Council’s Consultative Committee in accordance with Clause 28 of this Award.**
- (v) Variations to leaseback fees – A council shall not increase the leaseback vehicle fee an employee is required to pay in any one year by more than ten (10) percent or the percentage movement in the index figure published by the Australian Bureau of Statistics for Eight Capitals, private motoring sub-group (Cat No 6401.0), whichever is the greater. This subclause shall not apply where the leaseback vehicle fee is adjusted to reflect changes in the type of vehicle being used (including changes in vehicle options, the class, model or make of vehicle).**
- (vi) Variations in hours of work and/or extended periods of absence – Where an employee’s hours of work change significantly or the employee is absent on approved leave for an extended period, the council and the employee shall discuss whether the employee will be allowed to retain possession of the vehicle and/or whether the leaseback vehicle fee is to be adjusted. In the event that the leaseback vehicle fee is to be adjusted, subclause (v) above shall not apply. In the absence of agreement, Clause 31, Grievance and Disputes Procedures, shall apply.**

19. Amend sub-clause (v) of clause 17A Hours of Work, Ordinary Hours to provide:

- (v) An employee’s commencement and/or finishing times may be altered by agreement or by the council with the provision of reasonable notice where there are genuine operational or safety reasons supporting the variation. For the purpose of this sub-clause, reasonable notice shall be determined having regard to:**
 - the employee’s personal circumstances including any family and carer responsibilities; and**
 - the needs of the workplace, including any genuine operational or safety reasons.**

Unless otherwise agreed, at least two weeks prior to the proposed alteration the council shall provide the employee with the reasons for the proposed alteration to commencement and/or finishing times in writing. At least one week prior to the proposed alteration the employee shall provide reasons in writing if they do not agree with the proposed alteration, provided that an employee shall not unreasonably withhold agreement. In the event of a dispute, Clause 31, Grievance and Disputes Procedures, shall apply.

This subclause only applies in relation to changes to commencement and/or finishing *times* and does not apply to changes in the *days* that an employee is required to work.

20. Delete sub-clause (i) of clause 17D Hours of Work, Facilitative Provisions so that clause 17D in its entirety now reads as follows:

D. FACILITATIVE PROVISIONS

A Council and the Union may agree on hours of work, weekend penalties and shift penalties other than those prescribed in this clause.

21. Sub-clause (v) of clause 18A Overtime, General is amended to provide:

- (v) An employee (**other than a casual**) who works **four or more hours** overtime:

- (a) between the completion of ordinary work on one shift and the commencement of ordinary work on the next shift **so** that they have not had at least ten (**10**) consecutive hours off duty between those times, or
- (b) **on days other than ordinary working days so that they have not had ten (10) consecutive hours off duty in the fourteen (14) hours preceding the employee's ordinary commencement time on the next ordinary working day,**

shall be released after completion of such overtime until they have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If an employee is instructed to resume work without having had ten consecutive hours off duty, the employee shall be paid at double ordinary rates until released from duty and then shall be entitled to a ten hour break without loss of pay.

This subclause only applies to employees who are on call or called back to work:

- for four hours or more, or
- on consecutive days without having had a ten hour break, or
- on more than one occasion during the day outside of the four hour period.

22. Amend sub-clause (vii) of clause 18B Overtime, On call to provide:

- (vii) For each public holiday an employee is required to be on-call, the employee shall be granted one-half day's **leave** to be taken at an agreed time, **provided that where there is prior agreement a council may pay the employee an additional one-half day's pay in lieu of the one-half day's leave.**

23. At the end of sub-clause (ii) of clause 19A Holidays, General insert the following words:
- (ii) In addition to the days provided for in subclause (i), employees who are Aboriginal and Torres Strait Islanders shall be entitled to one day during NAIDOC week so that they can participate in National Aboriginal and Islander Day celebrations. **Eligible employees shall provide council with at least seven (7) days notice of their intention to take the holiday in accordance with this subclause.**
24. Amend sub-clause (i) of clause 20A Leave Provisions, Sick Leave to provide:
- (i) Employees who are unable due to sickness to attend for duty shall be entitled during each year of service to sick leave of 3 weeks at the ordinary rate of pay subject to the following conditions: -
- (a) the council shall be satisfied that the sickness is such that it justifies the time off; and
- (b) **the council shall be satisfied** that the illness or injury does not arise from engaging in other employment; and
- (c) proof of illness to justify payment shall be required after 3 separate periods of absence in each service year or where an absence exceeds 2 working days; **and**
- (d) when requested, proof of illness shall indicate the employee's inability to undertake their normal duties; **and**
- (e) **where a person is employed on a fixed-term or temporary basis of less than twelve (12) months duration the employee shall be entitled to one (1) weeks sick leave on commencement. The employee shall be entitled to a further one (1) weeks sick leave after each four (4) months of continuous service.**
25. Insert the following words into sub-clause (ii)(b) of clause 20B Leave Provisions, Carer's Leave:
- (b) Where more than ten days' sick leave in any year **of service** is to be used for caring purposes the council and employee shall discuss appropriate arrangements which, as far as practicable, take account of the council's and employee's requirements.
26. Sub-clause (iii) of clause 20B Leave Provisions, Carer's Leave is amended to provide:
- (iii) **In normal circumstances, an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.**

27. Renumber sub-clauses (iv) – (x) to become sub-clauses (v) – (xi) of clause 20B Leave Provisions, Carer’s Leave.
28. Insert a new sub-clause (iv) of clause 20B Leave Provisions, Carer’s Leave to provide:
- (iv) **The council may require the employee to provide proof of the need for carer’s leave as follows:**
 - (a) **Less than 10 days – Where less than ten days’ sick leave in any year of service is sought to be used for caring purposes the council may require the employee to** establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person; or
 - (b) **More than 10 days – Where more than ten days’ sick leave in any year of service is sought to be used for caring purposes the council may require the employee to produce a medical certificate from a qualified medical/health practitioner showing the nature of illness of the person concerned and such other information as may be reasonably necessary to demonstrate that the illness is such as to require care by the employee and that no other appropriate care arrangements are reasonably available, or**
 - (c) establish by production of documentation acceptable to the council or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.
29. Insert the following words into sub-clause(x) of clause 20D Leave Provisions, Long Service Leave:
- (x) Where an employee's service is terminated **at the end of a season or** through shortage of work, material or finance or through illness certified by a duly qualified medical practitioner and such employee is re-employed by the same council within 12 months of termination of service, prior service shall be counted for the purpose of this clause.

30. Amend clause 20E Leave Provisions, Parental Leave to provide:

E. PARENTAL LEAVE (GENERAL)

Relationship with federal legislation – Clauses 20E, 20F, 20G and 20I of this Award shall apply in addition to:

- (i) **Chapter 2, Part 2-2, Division 5 – ‘Parental leave and related entitlements’ of the National Employment Standard (NES) under the *Fair Work Act 2009* (Cth); and**

- (ii) the *Paid Parental Leave Act 2010* (Cth).

Note: Division 5 of the *Fair Work Act 2009* (Cth) relates to:

- unpaid parental leave, including unpaid adoption leave
- unpaid special maternity leave
- transfer to a safe job and no safe job leave

31. Replace and insert a new clause 20F Leave Provisions, Requests for Flexible Working Arrangements:

F. REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS

Requests for flexible working arrangements

Chapter 2, Part 2-2, Division 4, Requests for Flexible Working Arrangements of the *Fair Work Act 2009*, shall apply.

32. Replace and insert a new clause 20G Leave Provisions, Paid Parental Leave:

G. PAID PARENTAL LEAVE

- (i) **Definitions – in this clause:**

- (a) *PPL instalments* shall mean instalments paid during the paid parental leave period under the *Paid Parental Leave Act 2010* (Cth).
- (b) *parental leave make-up pay* shall mean the employee's ordinary pay, inclusive of PPL instalments. A casual employee's ordinary pay shall be calculated by averaging the employee's ordinary time earnings in the 12 months immediately prior to the employee commencing paid parental leave.

- (ii) **Eligibility**

This clause shall apply to an employee who is receiving PPL instalments as a primary or secondary claimant under the *Paid Parental Leave Act 2010* (Cth).

- (iii) **Entitlement to parental leave make-up pay**

- (a) **An employee shall be entitled to parental leave make-up pay for the period that they are receiving PPL instalments, up to a maximum of 18 weeks.**
- (b) **The period of parental leave make-up pay shall be counted as service for the purposes of long service, annual and sick leave accruals and superannuation.**

For the avoidance of doubt, superannuation is calculated on the full parental leave payment (i.e. the employee's ordinary rate of pay inclusive of PPL instalments).

(c) **Requalification period** – An employee shall not be entitled to a further period of parental leave make up pay unless the employee has returned to work for the council for at least 3 months since their previous period of parental leave.

(iv) **Employee's right to choose**

(a) An employee who satisfies the eligibility criteria for paid maternity leave or paid special maternity leave under Clause 19F, Paid Maternity Leave, of the *Local Government (State) Award 2007*, may elect to receive paid maternity leave and / or paid special maternity leave in accordance with the provisions of the *Local Government (State) Award 2007* in lieu of the entitlement to parental leave make-up pay under this Award, provided that the requalification period in subclause (iii) above shall apply.

(b) This subclause shall not apply where another employee of council receives parental leave make-up pay in connection with the pregnancy or birth of the child.

33. Renumber clauses 20H – 20J to become clauses 20J – 20L

34. Insert a new clause 20H Leave Provisions, Concurrent Leave:

H. CONCURRENT PARENTAL LEAVE

An employee, other than a casual, who is a supporting parent shall be entitled to up to 10 days paid concurrent parental leave from their accrued sick leave balance at the time their partner gives birth to a child or at the time the employee adopts a child provided that the employee has had 12 months continuous service with council immediately prior to the commencement of their concurrent parental leave.

35. Insert a new clause 20I Leave Provisions, Adoption Leave

I. ADOPTION LEAVE

(i) **Eligibility**

This clause applies to an employee who is entitled to adoption-related leave under the *Fair Work Act 2009* (Cth).

(ii) **Pre-adoption Leave**

(a) An employee, other than a casual, who is entitled to unpaid pre-adoption leave under the *Fair Work Act 2009* (Cth) is entitled to up

to 2 days paid pre-adoption leave at ordinary pay for the period of such leave.

(b) An employee who is entitled to a period of paid pre-adoption leave is entitled to take the leave as:

(1) single continuous period of up to 2 days; or

(2) any separate periods to which the employee and council agree.

(iii) Adoption Leave

(a) An employee, other than a casual, who has or will have primary responsibility for the care of an adopted child is entitled to up to 4 weeks paid adoption leave at ordinary pay from the date the child is placed with the employee for adoption.

(b) Paid adoption leave must not extend beyond 4 weeks of the date of placement of the child.

(c) This subclause shall not apply where an employee of council receives parental leave make-up pay in connection with the adoption of the child.

36. Insert the following words into sub-clause (i) of clause 20K Leave Provisions, Bereavement Leave:

(i) Where an employee, **other than a casual**, is absent from duty because of the death of a person in accordance with paragraphs (a)-(e) below and provides satisfactory evidence to council of such, the employee shall be granted **four** days leave with pay upon application. Persons in respect of whom bereavement leave may be claimed shall include:

37. Amend sub-clauses (ii)(a) and (b) of clause 20K Leave Provisions, Bereavement Leave to provide:

(a) Subject to providing satisfactory evidence to the council, 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 (i) paragraphs (a)-(e) of Clause **20**, Part **K**, Bereavement Leave.

(b) Council 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 work for up to **96** hours (i.e. **four** days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

38. Insert the following words into sub-clause (i) of clause 20L Leave Provisions, Leave Without Pay:

- (i) Periods of leave without pay, shall be taken at a time mutually convenient to council and the employee, and shall not be regarded as service for the purpose of computing long service leave, sick leave, annual leave **or an employee's entitlement to parental leave make-up pay**. Such periods of leave without pay shall not however, constitute a break in the employee's continuity of service.
39. At the end of sub-clause (ii) of clause 21 Flexibility for Work and Family Responsibilities add the following:
- (ii) Flexible work and leave arrangements include but are not limited to:
 - (a) make up time;
 - (b) flexi time;
 - (c) time in lieu;
 - (d) leave without pay;
 - (e) annual leave;
 - (f) part-time work;
 - (g) job share arrangements;
 - (h) variations to ordinary hours and rosters;
 - (i) **purchased additional annual leave arrangements; and**
 - (j) **arrangements to accommodate breastfeeding women.**
40. Renumber clauses 21 to 25 to become clauses 23 to 27.
41. Insert a new clause 22 Phased Retirement:

22. PHASED RETIREMENT

- (i) **In recognition of the ageing workforce in local government and the need to retain skills and experience within the industry, councils are encouraged to develop and promote flexible work and leave arrangements to enable their employees to better manage their transition into retirement.**
- (ii) **Examples of flexible work and leave arrangements include:**
 - (a) **Part-time work;**
 - (b) **Flexi time;**
 - (c) **Leave without pay;**
 - (d) **Job sharing arrangements;**
 - (e) **Variations to ordinary hours and rosters;**
 - (f) **Job redesign; and**
 - (g) **Purchased additional annual leave arrangements.**
- (iii) **The terms of a flexible work and leave arrangements shall be in writing and may be varied from time to time, by agreement, to suit the specific needs of either council or the employee.**

42. At sub-clauses (v) and (vi) of clause 24 Casual Employment insert the following words:
- (v) Subject to clause 18A (viii), a casual employee will not be offered to work overtime in a position held by a **permanent** employee of council, if such **permanent** employee is available to work that overtime. Overtime shall be paid where a casual employee works outside the ordinary hours for that position. In cases where there are no ordinary hours for the position, overtime shall be paid for the hours worked in excess of those prescribed in Clause 17, Hours of Work.
 - (vi) In addition to the amounts prescribed by subclause (ii) of this clause, a twenty-five percent loading, calculated on the ordinary hourly rate, shall be paid. This loading shall not attract any penalty. This loading shall be paid in lieu of all leave and severance pay, except for paid **parental leave** prescribed by the Award. Casual loading is not payable on overtime.
43. At subclause (x)(c) of clause 26E Junior and Trainee Employment, Government Funded Traineeships insert the following words:
- (c) The provisions of subclause (b) above do not apply to the engagement of Indigenous trainees **and trainees paid at Band 1/ Level 1 of the Award. This sub-clause shall not be used to reduce the core number of employees at a council.**
44. Renumber clauses 27 to 40 to become clauses 28 to 41.
45. At the end of sub-clause (i) of clause 28C Consultative Committees, Scope of Consultative Committees insert:
- (i) The functions of the consultative committee shall include:
 - (a) Award implementation
 - (b) training
 - (c) consultation with regard to organisation restructure
 - (d) job redesign
 - (e) salary systems
 - (f) communication and education mechanisms
 - (g) performance management systems
 - (h) changes to variable working hours arrangements for new or vacant positions
 - (i) local government reform
 - (j) **proposed variations to leaseback vehicle arrangements.**
46. Clause 30 Term Contracts is amended to provide:

30. TERM CONTRACTS

- (i) **A council may only employ a person on a term contract of employment in the following situations:**

- (a) for the life of a *specific task or project* that has a definable work activity, or
 - (b) to perform the duties associated with an *externally funded position* where the length of the employment depends on the length of the funding, or
 - (c) to perform the duties associated with a *vacant position* until the vacant position is filled on a permanent basis, provided that the duration is not longer than is reasonably necessary to undertake recruitment for the vacant position, or
 - (d) to *temporarily replace* an employee that is on approved leave, secondment, workers compensation or acting in a different position, or
 - (e) to undertake training and work as part of an *apprenticeship, traineeship or student work experience program* in conjunction with an education institution, or
 - (f) to trial *a new work area*, provided that the duration is not longer than is reasonably necessary to trial the new work area, or
 - (g) to perform the duties associated with a vacant position during the intervening period between *when a council has made a definite decision to introduce major changes in production, program, organisation structure or technology that are likely to have significant effects on the employment in the vacant position and the date that the changes are implemented;*
 - (h) to accommodate *time limitations imposed by law or sought by the employee* (e.g. visa restrictions).
- (ii) Notwithstanding the above, all term contracts of employment entered into prior to 1 November 2010 may continue until the expiry of their fixed or maximum term.

47. A new sub-clause (ix) is inserted at the end of clause 33C Occupational Health and Safety, Specific Provisions:

- (ix) In the case of extreme and unusual weather conditions which could be assessed as hazardous council will review and conduct a risk assessment to determine what action, if any, needs to be put in place to minimise unnecessary exposure and risks to its employees during such unusual occurrences.

48. Sub-clause (i) of clause 34 Termination of Employment is amended to provide:

- (i) (a) An employee in **Operational Band 1 or the Administrative/Technical Trades Band 2** shall give to council 2 weeks notice of their intention to terminate their employment.
- (b) **The notice of intention to terminate for an employee in Professional/Specialist Band 3 or Executive Band 4 of the Award shall be the same as that required of an employer in subclause (iv) of this clause.**

If no such notice is provided, council shall be entitled to deduct pay equivalent to the required notice from any entitlements payable under this Award.

49. Insert the following words into sub-clause (vi)(b) of clause 35 Workplace Change and Redundancy:

- (b) In addition to any required period of notice, and subject to subclause (v) of this Clause, the employee shall be entitled to **severance pay** as follows:

50. Amend sub-clause (x) of clause 35 Workplace Change and Redundancy to provide:

- (x) If the employee agrees to be redeployed by council into a lower paid position, the employee's existing salary and conditions shall be maintained for a period equivalent to the amount of notice and **severance** pay that the employee would be entitled to under this Award. Provided that should the employee resign during the period of salary maintenance, as provided for by this subclause, the balance of any notice and **severance** pay that the employee would have been entitled to for the remainder of the period of salary maintenance shall be paid on termination.

51. Amend sub-clause (ii)(a) of clause 37 Council Agreement to provide:

- (a) the extent of the agreement shall be limited to the Award's Clause **9**, Performance Evaluation and Reward; Clause **11**, Payment of Employees; Clause **14** subclauses (x) and (xi), Travelling and Camping Allowances; Clause **17**, Hours of Work; Clause **18**, Overtime, Clause **19**, Holidays; Clause **23**, Part time Employment; and Clause **25**, Job Share Employment.

52. Amend clause 40 Leave Reserved to provide:

40. LEAVE RESERVED

- (i) Leave is reserved for the parties to the Award to apply to vary tool allowances as set out in Clause 13(v)(a) and **compensation of tools as set out in Clause 14(v)(d)** of this Award in line with the Crown Employees (Skilled Trades) Award.
- (ii) **Following any adjustment to the federal *Local Government Industry Award 2010*, leave is reserved for the parties to apply to amend the vehicle allowances as set out in clause 14(ix) of this Award to reflect such adjustment. The relevant adjustment factor for this purpose is the**

percentage movement in the index figure published by the Australian Bureau of Statistics for Eight Capitals, private motoring sub-group (Cat No 6401.0).

- (iii) **Following any adjustment to the federal *Local Government Industry Award 2010*, leave is reserved for the parties to apply to amend the meal allowance set out in clause 14(xiii) to reflect such adjustment. The relevant adjustment factor for this purpose is the percentage movement in the index figure published by the Australian Bureau of Statistics for Eight Capitals, take away and fast foods sub-group (Cat No 6401.0).**
- (iv) Leave is reserved for the parties to the Award to apply to vary the traineeship wage rates in Clause 26E(xvi) in accordance with the pay scales derived from the **federal *Local Government Industry Award 2010***.
- (v) **Leave is reserved for the parties to the Award to apply to vary Clause 26, Junior and Trainee Employment, to reflect industry training needs.**
- (vi) **Leave is reserved for the parties to apply to vary the Award consistent with the principles of the Industrial Relations Commission of New South Wales in relation to the accreditation of council employees by the Building Professionals Board.**

53. Clause 41 Area, Incidence and Duration is amended to provide:

41. AREA, INCIDENCE AND DURATION

- (i) This Award shall apply to all employees in Local Government within New South Wales, including employees of City of Penrith Regional Indoor Aquatic and Recreation Centre Limited (Ripples) and employees of committees of council established under the Local Government Act 1993. The Award does not cover those employees employed by Sydney City Council, Wollongong City Council and County of Yancowinna. And excepting those employees covered by the Local Government (Electricians) State Award, Butchers' Wholesale (Country) Award and Butchers' Wholesale (Newcastle and Northern) Award and Section 332 of the Local Government Act 1993 **and Newcastle City Council employees covered by the Entertainment and Broadcasting Industry Award – Live Theatre and Concert Award 1998.**
- (ii) This Award shall rescind and replace the Local Government (State) Award 2007 published the **thirtieth day of November, 2007 (364 IG 491)** and all variations thereof.
- (iii) This Award shall operate from the commencement of the first pay period on or after the 1 November 2010 and shall remain in force for a period of three years.
- (iv) The Award in column (a) of Table 1 of Part B provides for a **2.6%** increase in rates of pay with a minimum payment of \$19.00 per week to operate from the first full pay period to commence on or after 1 November 2010.

- (v) The Award in column (b) of Table 1 of Part B provides for a **2.15%** increase in rates of pay with a minimum payment of \$17.00 per week to operate from the first full pay period to commence on or after 1 **July 2011**.
- (vi) The Award in column (c) of Table 1 of Part B provides for a **3.25%** increase in rates of pay with a minimum payment of \$23.00 per week to operate from the first full pay period to commence on or after 1 **July 2012**.
- (vii) **The Award in column (d) of Table 1 of Part B provides for a 3.25% increase in rates of pay with a minimum payment of \$23.00 per week to operate from the first full pay period to commence on or after 1 July 2013.**
- (viii) **It is the intention of the parties that there shall be a 12 month delay between the 1 July 2013 increase in rates of pay under this Award and the increase in rates of pay under the award to succeed this Award. In agreeing to this award, the parties have undertaken not to pursue increases in rates of pay and existing allowances (other than to increase existing allowances in accordance with the terms of this Award) until 1 July 2014. This subclause shall not prevent the parties from holding discussions in relation to future adjustments to award rates of pay and allowances.**
- (ix) The increases in rates of pay provided by this Award shall apply to the rates of pay in council's salary system.
- (x) The increases granted by this Award may be absorbed into enterprise increases granted since 29 May 1991 exceeding any award increases since that date, that is an \$8 safety net adjustment and increases of 6%, 2.5%, 2.5%, 3.5%, 3.25%, 3.25%, 2.7%, 3.3%, 3.25%, 3.25%, 4.0%, 3.5%, 3%, **3.2%, 3.2% and 3.2%** provided that the following increases shall not be absorbed:
 - (a) placement or progression within the council's salary system;
 - (b) increases in hours of work; and
 - (c) incorporation of penalty rates and shift or other allowances into the employee's rate of pay.
- (xi) In agreeing to increases in rates of pay for the term of this Award, the parties recognise that councils and employees have and shall continue to engage in enterprise bargaining.
- (xiii) Clause 14(xiv) (Civil Liability - Engineering Professionals) shall be effective from the first pay period commencing on or after 15 December 2006.