

## **PUBLIC HOSPITAL PROFESSIONAL ENGINEERS’ (BIOMEDICAL ENGINEERS) (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

### **Arrangement**

<b>Clause No.</b>	<b>Subject matter</b>
1.	Definitions
2.	Grading Committee
3.	Salaries
4.	On Call
5.	Exemptions
6.	Anti-Discrimination
7.	Conditions of Service
8.	Labour Flexibility
9.	No Extra Claims
10.	Area, Incidence and Duration

### **1. Definitions**

- (i) **"Biomedical Engineer"** means a person appointed as such having qualifications acceptable to the Institution of Biomedical Engineers as an Associate, or such other qualifications deemed by the employer to be appropriate.
- (ii) **"Director/Deputy Director"** means an officer appointed as Head of a Department or as Second-in-Charge of a Department provided that such position is approved by the employer and such officer having qualifications acceptable to the Institution of Biomedical Engineers to be a member of such institution, or such other qualifications deemed appropriate by the employer.
- (iii) **"Employer"** means the Secretary of the Ministry of Health exercising employer functions on behalf of the Government of NSW (and includes a delegate of the Secretary).
- (iv) **"Hospital"** means a public hospital as defined under section 15 of the *Health Services Act 1997*.
- (v) **"Union"** means the Health Services Union NSW.
- (vi) **"Service"** means service before and/or after commencement of this award as a biomedical engineer in any one or more hospitals in New South Wales or any other hospital deemed acceptable by the employer.

### **2. Grading Committee**

A committee consisting of up to three representatives of the employer and up to three representatives of the Union shall be constituted to consider and recommend to the employer upon application by the Union or a

hospital:

- (i) the grading of any new position or any variation of grading of a position as a result of any substantial change in duties and/or responsibilities; and
- (ii) the date of the effect of the grading recommended:

Provided that:

- (i) an officer shall, whilst the grading of his/her position is under consideration, be ineligible to be a member of the Committee;
- (ii) the committee shall not, without sufficient reason, recommend the retrospective operation of any grading or remuneration; and
- (iii) where a retrospective date of effect is recommended, such date shall not be earlier than a date six months prior to the date on which the matter was referred to the Committee.

### **3. Salaries**

For current salaries refer Health Professional and Medical Salaries (State) Award

### **4. On Call**

- (i) An "on-call period" is a period during which an officer is required by the hospital where he or she is employed to be on call.
- (ii) For the purposes of calculation of payment of on-call allowance 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, an allowance which shall be at the option of the employer, either per on-call period or per week.
- (iv) The on-call rates are set out in Table 1 – On Call Rates, of this Award.

### **5. Exemptions**

This award shall not apply to members, novices or aspirants of religious orders in the hospitals the names of which are or shall hereafter be included in the Third Schedule to the *Health Services Act 1997*, of New South Wales.

### **6. Anti-Discrimination**

- (i) It is 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, age and responsibilities as a carer.
- (ii) 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.

- (iii) 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.
- (iv) 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.
- (v) 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.

**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.

## **7. Conditions of Service**

The Public Hospitals (Professional and Associated Staff) Conditions of Employment (State) Award, as varied from time to time, shall apply to all persons covered by this award.

In addition, the Health Industry Status of Employment (State) Award, shall also apply to all relevant employees.

## **8. 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.

## 9. No Extra Claims

Other than as provided for in the *Industrial Relations Act 1996* and the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014*, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2016 by a party to this award.

## 10. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2015 and shall remain in force for a period of one year.
- (ii) This Award rescinds and replaces the Public Hospital Professional Engineers (Biomedical Engineers) (State) Award published 24 April 2009 (367 IG 1334) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained herein employed in the New South Wales Health Service under s115(1) of the Health Services Act 1997, or their successors, assignees or transmittees.

**Table 1 – On-call Rates**

<b>Item No.</b>	<b>Clause No.</b>	<b>Description</b>	<b>Rate from 1.7.2015 \$</b>
1	4	On-call allowance	\$ 8.22
		Per on-call period per week	\$ 41.10