

## Award Review Process

Dear Member,

The Industrial Relations Commission is currently reviewing our NSW state health awards as required by Section 19 of the *Industrial Relations Act 1996*. The purpose of the review is to modernise awards, rescind any obsolete awards, consolidate awards where appropriate. This process is conducted every three years. The process is not one where we can make substantial additional claims.

As part of that process, the Commission has been reviewing the *Health Employees Conditions of Employment (State) Award 2019*. This is one of the main Awards that determines conditions of employment for HSU members in public health.

As a result, a number of changes have been proposed to update this award. We do not believe that the proposed changes will make any substantive difference to the rights of members covered by the awards, but we want to give you the opportunity to review these changes, ask questions, and provide any feedback that you have.

The main changes are:

1. Changes to Clause 6, Part 1 – Part time work by updating the language used;
2. The introduction of a clause that identifies entitlements for casual employees. The absence of a clause on casual entitlements was identified by the Supreme Court during our Long Service Leave claim for casuals.
3. Changes to Clause 24(iii)(c) – Promotions and appointments to reflect practices currently in place regarding the use of eligibility lists.

Copies of each of these proposed clauses are provided with this newsletter.

Please send any feedback that you have regarding these changes, using subject line *Public Health Awards*, to [brendan.edghill@hsu.asn.au](mailto:brendan.edghill@hsu.asn.au) by Friday 8 November 2019.

If you have any questions about this process, or if you would like more information – including a complete copy of the Award, please contact Brendan Edghill at the Union office by emailing [brendan.edghill@hsu.asn.au](mailto:brendan.edghill@hsu.asn.au) or calling 1300 478 679.

In unity,



Gerard Hayes  
Secretary, HSU NSW/ACT/QLD

## Proposed changes to Health Employees Conditions of Employment Award

### Clause 6

#### 6. Part Time Work, Old Part Time Employees and Casual Employees

##### Part 1 - Part-Time Work (other than Old Part Time Employees)

- (i) A **part-time** employee is one who is appointed by the employer to work a specified number of hours each roster cycle which are less than those prescribed for a full-time employee.
- (ii) A **permanent part-time employee** shall be paid an hourly rate calculated on the basis of one thirty eighth of the normal weekly rate available for full-time employees of the same classification (Radiographers and Radiation Therapists will be calculated on the basis of one thirty fifth)
- (iii) Persons employed on a part-time work basis may be employed for not less than two or more than 32 hours in any full week of seven days, such week to be coincidental with the pay period, provided that nothing prevents an employee requesting, and subsequently entering into a part time work agreement for the employee to work more than 32 and less than 38 hours per week
- (iv) An Employee engaged in part time work is not entitled to an allocated day off. The specified number of hours may be balanced over a roster cycle, provided that the average weekly hours worked shall be deemed to be the specified number of hours for the purposes of accrual of leave provided for by this Award. Provided further that there shall be no interruption to the continuity of employment merely by reason of an employee working on a "week-on", "week-off" basis in accordance with this subclause.
- (v) Employees engaged under this clause shall be entitled to all other benefits of the Award not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.
- (vi) All time worked in excess of the total rostered daily ordinary hours of work prescribed for the majority of full-time employees employed on that shift in the ward or section concerned shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time.
- (vii) Time worked up to the total rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the ward or section 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.

##### Part 2 – Old Part-Time Employees

- (i) Employees shall only be engaged as an Old Part Time Employee if they were engaged under the provisions contained in this subclause as at 20 September 1994, and who continue to be engaged on such basis.
- (ii) Old Part Time Employees , may be employed for not less than eight or more than 30 hours in any full week of seven days, such week to be coincidental with the pay period, and shall be paid for the actual number of hours worked each week an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed plus 15 per cent thereof (in the case of Radiographers and Radiation Therapists the calculation would be one thirty-fifth of the appropriate rate plus 15 per centum thereof).
- (iii) In an emergency Old Part Time Employees may be allowed to work more than 30 hours in one week and in such case will be paid for the hours actually worked at a rate calculated in accordance with sub-clause (ii) of this part.
- (iv) With respect to employees employed as Old Part Time Employees, the provisions of subclauses (vi) to (xi) of clause 3, Hours, shall not apply.
- (v) All time worked by Old Part Time Employees in excess of the total rostered daily ordinary hours of work prescribed for the majority of full-time employees employed on that shift in the ward or section concerned

shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time.

- (vi) Time worked up to the total rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the ward or section 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.
- (vii) With respect to employees engaged as Old Part Time Workers, the provisions of clause 9, Overtime, shall not apply, except where provided in subclauses (iv) and (v) of this part.
- (viii) Temporary employees called to work on an ad hoc basis in base grade positions shall at the completion of 12 months' continuous service, be given priority one for appointment to permanent part-time or permanent full-time positions with the Public Health Organisation. For the purpose of this subclause continuous service shall be where an employee has worked a minimum of one shift per week.

### Part 3 – Casual Employees

#### A. General Provisions

- (i) A Casual employee is an employee engaged as defined by the Health Industry Status of Employment (State) Award as a casual employee.
- (ii) A casual employee will be engaged and paid for the number of hours worked each week at the hourly rate as a full-time employee in the same classification, plus 10 per cent, with a minimum payment of two hours at ordinary pay at the commencement of each shift.
- (iii) With respect to a casual employee, the following provisions shall not apply:

Clause 3(ii) and (xv) with respect to apprentices, and subclauses (vi) to (xi)  
Clause 3A, Multiple Assignments  
Clause 4, Roster of Hours  
Clause 7, Board and Lodging  
Clause 8, Relieving Other Members of Staff  
Clause 9, Overtime  
Clause 10, On Call  
Clause 11, Penalty Rates for Shift and Weekend Work  
Clause 13, Excess Fares and Travelling  
Clause 15, Public Holidays  
Clause 16, Annual Leave  
Clause 17, Long Service Leave – except as provided under subclause 17(ix)(a)  
Clause 18, Sick Leave  
Clause 20, Termination of Employment  
Clause 28, Family and Community Services Leave and Personal / Carer's Leave – except as provided under Part C of Clause 28.  
Clause 28A, Family Violence Leave – except as provided under subclauses (xi) to (xiii)  
Clause 34, Teleworking  
Clause 35, Workforce Review  
Clause 37, Union Subscriptions  
Clause 38, Telephone Allowance  
Clause 39, Removal Expenses  
Clause 41, Maternity, Adoption and Parental Leave,  
Clause 42, Study Leave,  
Clause 43, Trade Union Leave,  
Clause 44, Salary Sacrifice to Superannuation  
Clause 45, Salary Packaging

#### Clause 46, Reasonable Hours

- (iv) The following penalty rates apply to casual Employees working such shifts:
  - (a) 10% for afternoon shift commencing at 10.00am and before 1.00pm  
12.5% for afternoon shift commencing at 1.00pm and before 4.00pm  
15% for night shift commencing at 4.00pm and before 4.00am  
10% for night shift commencing at 4.00am and before 6.00am
  - (b) Weekend work and public holidays:
    - 50% for work performed between midnight on Friday and midnight on Saturday
    - 75% for work performed between midnight on Saturday and midnight on Sunday
    - 150% for work performed on public holidays
- (v) The shift penalties prescribed in subclause (v)(a) shall be additional to, but not cumulative on the rates prescribed in subclause (ii).
- (vi) The shift penalties outlined in subclause (v)(b) are in substitution for and not cumulative on the shift premiums prescribed in subclause (ii).
- (vii) A casual employee is eligible to claim appropriate allowances (per day/ shift / pro rata) prescribed under clause 12, Special Working Conditions and Clause 32, Infectious Cleaning Allowance.

#### **Annual Leave**

- (viii) For entitlement to payment in respect of annual leave, see *Annual Holidays Act 1944*.

#### **Long Service Leave**

- (ix) For entitlement in respect of long service leave, see *Long Service Leave Act 1955*.

#### **Bereavement Entitlements**

- (x) For Bereavement entitlements for casual employees see subclause (i) of Part C of clause 28, Family and Community Services Leave and Personal / Carer's Leave

#### **Personal Carer's entitlement**

- (xi) For Personal carer's entitlement for casual employees see subclause (ii) of Part C of clause 28, Family and Community Services Leave and Personal / Carer's Leave.

#### **Family Violence entitlement**

- (xii) For Family violence entitlement for casual employees see subclauses (xi), (xii) and (xiii) of Clause 28A, Family Violence Leave.

Clause 24

**24. Promotions and Appointments**

- (i) Promotion and/or appointment shall be by merit, with the use of eligibility lists in appropriate cases.
- (ii) In the case of an employee or employees disputing a promotion and/or appointment the Union may refer the matter to a disputes committee established under clause 26, Dispute Resolution.
- (iii) Eligibility lists are intended to be used in the following manner:
  - (a) The employer may create eligibility lists for all base grade vacant positions.
  - (b) Lists to operate for six months.
- (i) If an employee, working in a position on a part time basis on a regular and systematic basis during a calendar period of 12 months, requests to be considered for full-time employment, the District, at their discretion, can fill the vacancy by merit, or allow the employee to convert to full-time employment.