



Department of the Premier and Cabinet

Public Sector Workforce Relations

**Conditions of Employment for Weekly Paid
Employees**
December 2013

General conditions of employment applying to public sector weekly paid employees.

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This Manual outlines the General Conditions of Employment applying to:

- Weekly paid employees who are employed in a public sector agency (as defined) but are not employed subject to Part 6 of the *Public Sector Act 2009*;
- Weekly paid employees whose employment has been declared by another Act or the *Public Sector (General) Regulations 2010* to be employment to which section 16 of the *Public Sector Act 2009* applies; and
- Other weekly paid employees not under the *Public Sector Act 2009*.

In this Manual, a reference to '*public sector agency*' and '*public sector employee*' has the same meaning as in section 3(1) of the *Public Sector Act 2009*.

This Manual has effect on and from 16 December 2013 and will remain in effect until reviewed, replaced or rescinded.

The provisions contained in this Manual do not apply where other instructions have been issued to observe the provisions of a Determination, Award or Enterprise Agreement relating to any matters dealt with in this Manual or a special approval has been granted.

Procedures and Authorities

Procedures approved by Cabinet to be observed with respect to the rates of pay and conditions of employment of weekly paid employees of the public sector.

1. All questions affecting the rates of pay and conditions of employment of weekly paid employees of the public sector must be submitted by public sector agencies to Public Sector Workforce Relations (PSWR), Department of the Premier and Cabinet (DPC) for determination.
2. When a matter has general application PSWR, DPC, will approve the matter where it has specific delegation to do so or seek the approval of the Minister for Industrial Relations (and Cabinet where necessary) before any variation is made in the existing conditions.
3. **Employees covered by Awards, Determinations or Enterprise Agreements**
 - (1) Before any Award, Determination or Enterprise Agreement or any variation thereof, made by or filed with a Federal or State Industrial Tribunal, which legally binds a public sector agency, is applied to any public sector employee, the approval of the Minister for Industrial Relations or, in those cases where specific delegation exists, PSWR, DPC must first be given for its observance. That approval will indicate the date from which the Award, Standard, Determination or Enterprise Agreement will be observed and the approval is to be regarded as the necessary authority for the payment of the increased rates from the date mentioned therein. Its provisions will be applicable to all employees engaged in work within the ambit or scope of the Award, Determination or Enterprise Agreement concerned.
 - (2) Where employees are engaged upon work covered by Awards, Enterprise Agreements or Determinations which public sector agencies are not legally bound to observe, it will be necessary for public sector agencies to submit to

PSWR, DPC a statement of the duties and the trade or calling of such employees together with an indication of the Award, Enterprise Agreement or Determination which, in their opinion, applies to the work done by them. PSWR, DPC will take action necessary to secure the necessary approval for an appropriate rate of pay.

4. All Other Employees

In all cases where employees are engaged in work which is not covered by any Award, Enterprise Agreement or Determination, a request for a rate of pay to be determined together with a statement of the duties of such employees must be submitted to PSWR, DPC.

5. No alteration will be made in the rate of remuneration of any employee (except under an Award, Enterprise Agreement or Determination, the authority for the observance of which has been given under paragraph 3) until the matter has been referred to PSWR, DPC for consideration and decision.

6. Instructions to Public Sector Agencies

- (1) Decisions of Cabinet, the Minister for Industrial Relations or PSWR, DPC on industrial matters, and Awards and Enterprise Agreements of industrial tribunals are advised by PSWR, DPC to public sector agencies in either of two ways:
- (a) If the matter has limited application to a few public sector agencies only - by separate correspondence;
 - (b) If the matter has general application - by Award or Enterprise Agreement Advices.

1. Conditions of Employment

1.1. Contract of Employment

The contract of hiring of every employee should in the absence of express Award or Enterprise Agreement provision or other contract to the contrary, be deemed to be a hiring by the week, subject, however, to the following provisions relating to those employees whose contract of hiring is by the week:

- 1.1.1 An employee who is absent from duty will not be entitled to payment in respect of time of such absence except in respect of days for which the employee is eligible for paid leave granted by the employer.
- 1.1.2 Where an employee's services are terminated the provisions contained in Schedule 8 "Rules for Terminating Employment" of the *Fair Work Act 1994* must be observed. This does not derogate from the employer's right at common law to dismiss an employee without notice for malingering, misconduct, or other sufficient cause.
- 1.1.3 Where an employee has been given notice as in sub clause 1.1.2, the employee should continue in employment until the date of the expiration of the notice. An employee who, having been given notice, without reasonable cause (proof of which will lie with the employee) is absent from work during such period, the employee will be deemed to have abandoned their employment and will not be entitled to payment for work done within that period.
- 1.1.4 The employer is not liable to pay an employee for time lost when work is unavoidably stopped because of a breakdown of plant and/or machinery or a failure of power or a shortage of material or a strike, or any cause for which the employer cannot reasonably be held responsible.
- 1.1.5 Where public sector agency works, or a section of the works, are closed down for the purpose of allowing annual leave to all or the bulk of the employees concerned, the public sector agency may stand off, for the duration of the close down, all employees on the works or section of the works concerned, and allow a full period of leave to employees qualified for such a period of leave and to those who are not so qualified, paid leave on a proportionate basis to the completed months of the employee's continuous service.
- 1.1.6 An employee justifiably dismissed for any reason will be entitled to payment for work performed in that week proportionate to the time so worked.

1.2. Employment for Duration of Specific Term or Project

- 1.2.1. Employees may only be engaged for the duration of a specific project, defined phase of a project or specific term subject to the provisions of Commissioner's Determination 1 – Merit, Engagement, Assignment of Duties and Transfer of Non-Executive Employees.
- 1.2.2. Employees are to be offered employment in writing stating that:
 - They are to be hired by the week.
 - Their employment may be terminated for misconduct or poor performance.

- They may terminate their employment.
- A project will commence on a specified day and conclude on the completion of the project, on a defined phase of the project or on a specified date, whichever is the sooner.
- A specific term appointment will start on a nominated date and conclude on a specified date.
- At the end of the project or specified phase of the project or specific term, the contract will come to an end and there will be no guarantee of ongoing employment.

1.2.3. Employees must accept the offer of employment and attached conditions in writing prior to commencing employment.

1.3. Employment of Apprentices

The recruitment of apprentices in the Public Service will be conducted on the basis of ability alone. Persons who are best qualified to take up apprenticeship will be hired regardless of sex, race or country of origin.

All youths who are engaged to learn trades in public sector agency employment are to be indentured under the appropriate Award or Enterprise Agreement or Determination under which they are employed. Where relevant to the apprentice's employment the *South Australian Government Departments and Instrumentalities (Metal Trades) Award 2007* prescribes apprentice training conditions.

Public sector agencies employing apprentices should observe the *Training and Skills Development Act 2008*. Where the requirements of this Act are inconsistent with any Federal Award, the Federal Award will prevail.

Despite the provisions of Awards, an "Afternoon Shift" means all ordinary hours (i.e. not being overtime) worked on one continuous period of employment on any one day and finishing not earlier than 6.00pm but at or before midnight, on any day Monday to Friday inclusive. The continuity of a period of employment will not be deemed to have been broken by the taking of an unpaid meal break not exceeding 30 minutes.

1.4. Union Contributions Payable by Public Sector Employees – Deduction from Paysheets

- 1.4.1 Cabinet has authorised the deduction of union subscriptions of public sector employees in the form of payroll deductions. The approval is restricted to the following unions:
- Association of Professional Engineers, Scientists and Managers Australia
 - Australian Education Union – SA Branch
 - United Voice
 - Australian Manufacturing Workers' Union – SA Branch
 - Australian Maritime Officers Union
 - Australian Nursing and Midwifery Federation
 - Australian Workers Union
 - Communications, Electrical, Electronics, Plumbing & Allied Services Union
 - Construction Forestry Mining and Energy Union

- Electrical Trades Union of Australia, South Australian Branch;
- Maritime Union of Australia
- Media, Entertainment and Arts Alliance
- National Union of Workers
- Passenger Transport Union
- Police Association of South Australia
- Public Service Association of South Australia Incorporated
- South Australian Salaried Medical Officers Association
- The Plumbers and Gas Fitters Employees Union of Australia – Adelaide Branch
- Transport Workers Union of Australia

1.4.2 The Minister for Industrial Relations established, through Treasurer's Instruction 9, the following requirements for the making of deductions from wages:

1.4.2.1 An employee is to authorise the deduction of union subscriptions, in writing, on the approved form available from the Departmental payroll section;

1.4.2.2 An administration fee should not be charged for any amounts deducted for union subscription fees.

1.5. Procedures and Conditions for Redeployment of Government Weekly Paid Employees

For details regarding the provisions of redeployment for weekly paid employees refer to Commissioner's Determination 2 – Excess Employees – Income Maintenance and the Commissioner for Public Sector Employment Guideline: Redeployment of Excess Employees in the Public Sector.

1.6. Casual and Part-Time Employment – Weekly Paid Employees

Chief Executives are informed that the Chief Executive, DPC has decided to adopt the following definition of "casual employment" in respect of weekly paid employees.

1.6.1. Definition of Casual Employment

- (i) A casual employee is one who is engaged to work on short term and/or variable employment arrangements. Such employees do not have continuity of employment.
- (ii) A casual employee is paid for each hour worked at one thirty-eighth of the weekly rate prescribed for the work performed and a casual loading as prescribed in sub clause 1.6.1 (iii) is applied to the actual hours worked to compensate for the lack of sick and annual leave entitlements and payment for public holidays not worked.
- (iii) Pursuant to the decision of the Full Commission in the *Casual Loading Case [2012] SAIRCComm 1*, the 20% loading is increased in accordance with the following:

22% from the first full pay period commencing on or after 1 January 2012;
23% from the first full pay period commencing on or after 1 July 2012;

24% from the first full pay period commencing on or after 1 July 2013; and
25% from the first full pay period commencing on or after 1 July 2014.

Note: Should an Award or Enterprise Agreement provide a definition of casual employment different from that above, then the provisions of that Award or Enterprise Agreement will apply.

- (iv) Where a public sector agency has any doubt concerning the employment arrangements of casuals, PSWR, DPC should be contacted to assist in determining the status of these employees.

1.6.2. Definition of Part-Time Employment

- (i) Subject to the provisions of a relevant Award or Enterprise Agreement, persons employed for less than 38 hours per week who do not meet the definition in sub clause 1.6.1, should be regarded as part-time employees. These employees are entitled to pro rata annual leave, sick leave and payment for public holidays on which they are rostered off duty, according to hours normally worked. Part-time employees may, subject to criteria, be eligible for long service leave and the public sector skills and experience retention entitlement (retention leave).

1.6.3. Authority to Employ Casual Employees

- (i) Casual employees as defined in sub clause 1.6.1 may be recruited subject to appropriate approval of the employing authority or employer or Chief Executive (including delegate) and the provisions of Commissioner's Determination 1 – Merit, Engagement, Assignment of Duties and Transfer of Non-Executive Employees. Casual employees must not be hired as a means of circumventing the Government's redeployment policy.
- (ii) Casual employees may be appointed to a permanent position if the position is advertised and the successful applicant is selected under a merit based selection process.

1.6.4. Casual Employees to be Informed

- (i) Casual employees are to be offered employment in writing stating that:
 - (a) they are hired by the hour;
 - (b) they will be paid for actual time worked only;
 - (c) they are not entitled to payment for public holidays not worked, nor paid leave of any type (excluding long service leave and retention leave);
 - (d) they must have no expectation of continued employment.
- (ii) Casual employees must accept the offer of employment and attached conditions in writing prior to commencing employment.

1.6.5. Hourly Rate of Pay for Casual Employees

- (i) "The hourly rate of pay" will be 1/38th of the appropriate weekly wage (which will not include the casual loading as prescribed in sub clause 1.6.1(iii) above).
- (ii) In the case of adult employees the "hourly rate of pay" must not be less than 1/38th of the minimum wage prescribed from time to time by the Industrial Relations Commission of South Australia.

1.6.6. Hours of Casual Employees

Despite the provision of Awards or Enterprise Agreements, the hours (ie. not being overtime) of casual employees covered by an Award or Enterprise Agreement must not exceed 7.6 hours in any one day nor 38 hours in any one week.

1.6.7. Calculation of Actual Rates for Casual Employees

When applying the ordinary time, shift work, weekend penalty and overtime provisions of Awards or Enterprise Agreements to casual employees, the payment of any penalties must be calculated on the "hourly rate of pay" as defined in sub clause 1.6.5 of this Manual. Under no circumstances must the "hourly rate of pay" be increased to include the casual loading (as prescribed in sub clause 1.6.1(iii) above). The following examples are provided:

Examples effective from 1 July 2012 to 30 June 2013

- (i) A casual employee working 7.6 hours in ordinary time on any day Monday to Friday (not being afternoon or night shifts) should be paid as follows:

hours actually worked	7.60)	9.35 hours @ "hourly rate"
casual loading @ 23% of actual hours	1.75)	

- (ii) A casual employee working 7.6 hours in ordinary time on afternoon shift on any day Monday to Friday inclusive should be paid as follows:

hours actually worked	7.60)	10.49 hours @ "hourly rate"
casual loading @ 23% of actual hours	1.75)	
afternoon shift penalty @ 15% of actual hours	1.14)	

- (iii) A casual employee working 7.6 hours in ordinary time and 4 hours in overtime on a Sunday should be paid as follows:

hours actually worked	11.60)	22.071. hours @ "hourly rate"
casual loading @ 23% of actual hours	2.67)	
weekend penalty @ 50% for 7.6 hours (ie. ordinary time)	3.80)	
overtime penalty @ 100% penalty for 4 hours (ie. overtime)	4.00)	

1.6.8. Afternoon Shift

Despite the provision of Awards, an "Afternoon Shift" means all ordinary hours (ie. not being overtime) worked on one continuous period of employment on any one day and finishing not earlier than 6.00pm but at or before midnight, on any day Monday to Friday inclusive. The continuity of a period of employment will not be deemed to have been broken by the taking of an unpaid meal break not exceeding 30 minutes.

1.6.9. Casual Employees Working On Public Holidays

Despite the leave provisions of this Manual, a casual employee working ordinary hours or overtime on a public holiday must be paid at the "hourly rate of pay" as defined in sub clause 1.6.5 of this Manual plus an additional payment calculated at seventy per cent

(70%) for all ordinary hours actually worked. Under no circumstances must the "hourly rate of pay" be increased by the above loading.

The following examples are provided:

- (i) A casual employee working 7.6 hours in ordinary time and 4 hours in overtime on a public holiday should be paid as follows:

hours actually worked	11.60)	23.72 hours @
public holiday penalty @ 70% for 7.6 hours (i.e. ordinary time)	5.32)	"hourly rate"
public holiday penalty @ 170% for 4 hours (i.e. overtime)	6.80)	

- Note:** (A) The additional payments of 70 per cent and 170 per cent are inclusive of the casual loading.
(B) Whilst the penalty for ordinary time and overtime worked on a public holiday is 150 per cent, the casual loading takes into account 100 per cent of the penalty for ordinary time leaving a balance payable of 50 per cent.
(C) The casual loading does not take into account any part of the penalty for overtime worked on public holidays.
(D) Under no circumstances should the hourly rate of pay be increased to include the casual loading.

1.6.10. Programmed Days Off for Casual and Part-Time Employees

Casual and part-time employees must be paid for all hours actually worked. They will not accrue time and accordingly will not be eligible for programmed days off.

Unless there is an agreement arising from a Voluntary Flexible Working Arrangement or other flexible working arrangement pursuant to an award or enterprise agreement, a casual or part-time employee not required to work on a particular day as it is the programmed day off for all full-time employees in their particular branch, section, etc., must not be provided with work and must not be paid for the day. Should any queries arise concerning the application of this Manual they should be referred to PSWR, DPC.

1.7. Time Lost Owing To Weather Conditions, Etc

Subject to Award or Enterprise Agreement conditions, weekly paid employees are to be paid for time lost owing to weather conditions, waiting for materials, or other causes incidental to their employment. The supervisor or other officer in charge will be the person solely responsible for deciding when work is to cease owing to weather conditions, and employees are to hold themselves available for duty until discharged by the supervisor or other officer in charge.

The above instruction does not apply to employees under Awards, Enterprise Agreements and Determinations who are paid a casual or hourly rate of pay which includes a loading for lost time, etc. If an Award or Enterprise Agreement relevant to these employees has an inclement weather provision, the Award or Enterprise Agreement provision must be observed for these employees.

1.8. Shift Work

When an employee is changed from shift work to ordinary day work or vice versa at the convenience of the public sector agency, any time short of 38 hours per week due to the difference in the number of hours on shift work and day work will be ignored, and no time must be lost by the employee on account of the change.

The provisions of the appropriate Award, Enterprise Agreement or Determination will determine whether overtime worked during that week will be taken into account as part of the 38 hours ordinary time.

1.9. Working In A Wet Place

The provision contained in Schedule 2 (l) Wet Work in the *South Australian Government Civil Construction and Maintenance Award* should be applied to employees working in a wet place.

1.9.1 This Clause will not apply to field operations, such as surveying and agricultural operations, or to any employee receiving a "construction work allowance", "industry allowance" or a similar disabilities allowance.

1.9.2 This Clause will not apply to employees who, in accordance with the *South Australian Public Sector Wages Parity (Plumbing, Metal and Building Trades Employees) Enterprise Agreement 2011* or its successor thereto, receive hourly rates that are inclusive of allowances.

1.10. Shelters

Shelters should be provided on all works for use of employees.

1.11. First Aid Equipment

First aid kits should be provided, maintained and located by the employer in accordance with the *Work Health and Safety Regulations 2012*.

For further information, refer to the Code of Practice – First Aid in the Workplace, July 2012, available from SafeWork SA. This Code of Practice on first aid in the workplace is an approved code of practice under section 274 of the *Work Health and Safety Act 2012*.

1.12. Employees Taken Ill or Injured On Works or Taken Ill in Camp

1.12.1. Employees Injured on Works

Where an employee is injured as a result of an accident arising out of and in the course of their employment, the matter of payment for compensation and the payment of hospital and medical expenses as prescribed in Section 32 of the *Workers Rehabilitation and Compensation Act 1986* must be forwarded to the designated officer in the injured employee's Department.

1.12.2. Employees Taken Ill on Works

Where an employee is taken seriously ill on the works and the officer in charge authorises a doctor to be called to the works or the employee is immediately conveyed to the nearest doctor or hospital, the doctor's reasonable charges for one visit and expenses incurred in conveying the employee are to be met by the public sector agency in which the employee is employed.

Any special case where it is necessary for an employee in a camp to revisit the doctor is to be submitted to the public sector agency for consideration before a further medical fee is paid.

1.12.3. Other

Where sub clause 1.12.1 and sub clause 1.12.2 are not applicable, the matter is to be referred to PSWR, DPC for consideration.

1.13. Explosives

Where explosives are used, the general regulations under the *Mines and Works Inspection Act 1920* and the *Explosives Act 1936* must be observed.

1.14. Refund of Fares

When an employee is engaged for any work, which necessitates the payment of a fare to reach the work, such fare will be refunded if the employee continues at the work for a period of two months, or until the completion of the work, whichever is the earlier.

When an employee is transferred by the public sector agency from one job to another, the travelling fare will be refunded by the public sector agency if such employee continues to work for at least two months or until the completion of the work, whichever is the earlier.

If work is completed within two months the employee will be provided with orders for return fares to the place of engagement. The fares referred to in this provision will, be first paid by the public sector agency, then deducted from the wage due to the employee, and finally refunded or not as the case may be, according to whether the employee has or has not continued to work for at least two months or until the completion of the work.

1.15. Holidays

All time worked on Statutory public holidays shall be dealt with as prescribed in clause 2.6 or clause 1.6 of this Manual.

1.16. Emergency Duty

Where employees are called out for duty at night, or on Sundays, and after the completion of the work the usual means of transport are not available, the public sector agency will convey them to their homes free of charge, or pay an allowance.

1.17. Tools

Employees will be provided with tools free of charge and will be required to take reasonable care of same. This Clause will not apply to employees classified at the trades level or above or employees whose rate of pay includes an allowance for tools or whose Award or Enterprise Agreement prescribes payment of a tool allowance.

1.18. Dust-Proof Utensils for Boiling Water

All gangs should be supplied with suitable dust-proof utensils for boiling water.

1.19. Pay Day

A recognised pay day will be established on all works.

1.20. Termination of Services

Facilities for paying off all employees when discharged or leaving the works should be provided by the public sector agency.

Where an employee has retired, resigned, etc., from employment within a public sector agency and an Award, Enterprise Agreement or Determination is made prescribing retrospective adjustment to the rate of pay or allowances of the classification in which the employee was employed, the employee will be entitled to be paid the adjustment, where the employee was employed in that classification during the retrospective period.

1.21. Camp Hand

Where 20 employees or more are encamped, a Camp Hand will be provided whose duties will include attention to the sanitary conditions.

1.22. Shifting Camp

In shifting camp from one locality to another, the actual necessary time will be paid for.

1.23. Accommodation

- 1.23.1 Where a public sector agency requires employees to camp, tents (with flies) and floor coverings where practicable, or other suitable accommodation at the discretion of the public sector agency, stretchers, fuel, waterbags and water, will be supplied free on all camps.
- 1.23.2 Public sector agencies will provide a mattress and detachable outside cover to any employee who has completed one month's continuous service and who is required to camp.

1.23.3 The mattress should be approximately 1.9m x 0.76m x 100mm in height, taped edges, 14 tufts each side with 11kg fibre filling. The cover should be 230grams duck with three tapes at one end.

1.23.4 Employees must maintain mattresses and mattress covers issued by the public sector agency in clean order and condition and at the termination of their employment an employee must return the mattress and mattress cover issued to them in good order and condition, fair wear and tear excepted. Any employee failing to do so will be liable to a charge equal to the cost price of the article concerned.

1.24. Carriage of Provisions

The public sector agency will transport free of charge provisions or domestic supplies from the nearest suitable sources of supply, but where provisions are obtained from Adelaide an amount not exceeding 15 per cent of the cost of such goods should be added to cover cost of freight.

1.25. Camp Equipment

1.25.1 Where it is necessary for employees to be encamped and messes are not supplied by the public sector agency, the following camping equipment (or suitable alternative equipment) will be supplied free of charge.

Each employee: -

- 2 billycans; 2 litres and 14 litres
- 3 plates; 2 large, 1 small
- 2 spoons; 1 large, 1 small
- 1 300mm frying pan
- 1 enamel mug
- 1 knife and fork

Each tent or cabin of two employees: -

- 2 hurricane lamps
- 1 6 litre saucepan and camp oven
- 1 bucket or kerosene tin with handle
- small meat safe
- 1 wash bowl
- 1 wash-up dish
- 1 table

Each camp: -

- Sufficient brooms, axes and bathtubs to be supplied.
- Bath - where possible, shower baths to be erected, if no baths are provided one large bathtub to be provided for each four employees.
- Suitable drying shed

1.25.2 Employees will sign for articles on receipt and will be responsible for all damages beyond ordinary wear and tear, which with all losses should be deducted from monies becoming due when employees leave the works.

1.26. Payment of Wages

All employees should be paid their wages by direct transfer into an employee's bank or other recognised financial institution account.

1.27. Code of Conduct for Public Sector Employees

In accordance with Section 6 of the *Public Sector Act 2009*, public sector employees must observe the public sector code of conduct as issued by the Commissioner for Public Sector Employment pursuant to Part 4 of the *Public Sector Act 2009*.

2. Leave Conditions

The leave conditions set out hereunder apply to the majority of public sector employees who are continuously employed with the following exceptions:-

- (a) Persons employed under the provisions of the *Public Sector Act, 2009* as amended;
- (b) Persons who have the provisions of the above Act specifically applied to them although not Public Service officers;
- (c) Visiting Medical Specialists employed in SA Health; and
- (d) Employees of Hospitals and Health Centres incorporated under the *Health Care Act 2008*.

Employees to be Informed of Provisions

Employees on engagement are to be informed by the public sector agency concerned of the conditions pertaining to the granting of annual leave, sick leave, special leave, payment for public holidays and contract of employment.

Application

These provisions will not apply to:

- Employees who are paid casual or hourly rates of pay;
- Employees who are at present receiving conditions equal to or greater than the conditions set out in this Manual.

2.1. Annual Leave

2.1.1. Period of Leave

At the convenience of the public sector agency and subject to good conduct an employee may, on completion of twelve months continuous service (less the period of leave), be granted annual leave, exclusive of paid public holidays occurring during the period of leave on the following basis:-

- (i) If employed other than as a seven day week worker: Four weeks' annual leave with pay.
- (ii) If employed as a seven day week worker, ie an employee who is rostered to work their ordinary hours over seven days of the week and who is rostered to work regularly on Sundays and Public Holidays: five weeks' annual leave with pay. (N.B. This provision does not apply to employees who are regularly required to work overtime at weekends or to be on call at weekends. These employees would continue to be granted leave in accordance with sub clause 2.1.1 (i)).
- (iii) An employee who is employed for part of a service year as a seven day week worker may be granted annual leave pro rata on the basis of five weeks per annum for completed months of service as a seven day week worker. Where an employee is employed for part of a service year as a seven day week worker for more than one period, then all such periods (whether or not each such period constitutes a completed month of service) shall be aggregated for determining completed months of service as a seven day week worker. A period is defined as

any time rostered as a seven day week worker which includes a Sunday and/or a Public Holiday as part of the ordinary hours of duty.

- (iv) The annual leave to which an employee is entitled in respect of any one year of service shall be taken in one period unless the Chief Executive or delegate is satisfied that good reason exists for allowing such leave to be taken otherwise e.g. Christmas closedown, urgent personal reasons. In all cases, public sector agency convenience should be of prime consideration and due regard should be had to the extensive time recording associated with the principles of the 38 hour week. Having regard to those principles, it is considered that where an employee has been granted annual leave in two or more periods, such periods should be multiples of a week.

An employee is entitled to a period of four or five weeks' annual leave, as appropriate, and a maximum of twelve programmed days off. Consequently, the period of annual leave must include one programmed day off and the period of annual leave must not be extended by that one day.

This means that an employee who takes four weeks annual leave in one period would be entitled during a twelve month period to twelve programmed days off if the employee was working under a system which provided for one programmed day off in each four week cycle.

If, due to extenuating circumstances an employee is granted leave in two or more separate periods, then those periods should be arranged so that throughout the twelve month period an employee is granted no more than twelve programmed days off.

Should circumstances arise such that the period or periods of annual leave include more than one programmed day off, (e.g. employee entitled to five weeks annual leave or employee who splits annual leave to cover unpaid sick leave), then the period(s) of leave shall be extended by each programmed day off in excess of one occurring in that period.

2.1.2. Employees Stationed In Remote Areas

Where employees stationed in the remote areas listed below travel to Adelaide for their normal period of annual leave they may be granted leave for travelling to the extent specified.

<i>Locality</i>	<i>Additional Leave</i>
West of 137 longitude (except localities mentioned below)	1 day
Kangaroo Island	1 day
Hawker	1 day
Lake Victoria	1 day
Locks 7, 8 and 9	1 day
Oraparina	1 day
Andamooka, Leigh Creek	2 days
Marree	2 days
Oodnadatta	2 days
Coober Pedy	2 days
Yalata	2 days
Indulkana	3 days
North West Aboriginal Reserve (Amata)	4 days
Ernabella	4 days
Fregon	4 days

- (ii) if employed as a shift worker or a seven day week worker (ie. An employee entitled to five weeks annual leave in accordance with sub clause 2.1.1. (ii).
- Either
- A loading of 20 per cent calculated on the total of sub clause 2.1.3 (i), (ii) and (iii), where applicable
- or
- the weekend and shift penalties the employee would have received had the employee worked and not been on leave during the relevant period, whichever is the greater.
- (iii) an employee who is employed for part of a year as a shift worker or a seven day week worker will be paid a loading of 17½ per cent plus the difference between the 17½ per cent and 20 per cent loadings calculated on a pro rata basis taking into account the number of completed months worked as a shift worker or a seven day week worker.
- (iv) an employee whose recreation leave is deferred must be paid a leave loading calculated on the rate payable at the time the deferred leave is taken.
- NB. For the purposes of sub clause 2.1.4 a shift worker will mean an employee engaged in a method of working whereby operations are continued by the engagement of one group of employees upon work which another group had been engaged upon immediately prior to the work.

2.1.5. Postponement Of Annual Leave

Employees are to be especially informed that annual leave will be forfeited if it is not applied for and not taken before the next leave falls due unless the prior approval of the Chief Executive or delegate is obtained for annual leave being postponed for one year where this course is necessitated by the urgent need or demand of the work on which the employee is engaged.

In no case is annual leave to be postponed merely at the request or convenience of employees, and postponement beyond one year is not to be permitted without the prior approval of the Chief Executive or delegate.

Where an employee has had the previous year's annual leave postponed and takes two year's annual leave entitlement in the same year, it should be ensured that for the two 12 month periods the employee only has 12 programmed days off in each of those 12 month periods.

Example:

Year 1	12 programmed days off 1 day annual leave 19 days postponed annual leave
Year 2	12 programmed days off 19 days annual leave (postponed from previous year) 20 days annual leave (current entitlement)

2.1.6. Annual Leave on Retirement

An employee who retires will be given the option of taking out annual leave (including pro rata annual leave) due to the employee prior to retirement, or being paid a monetary equivalent of that leave on retirement, provided that cash payment is not to be made for leave deferred from a previous service year. Where such an employee elects to take out pro rata annual leave and where including that pro rata annual leave, an additional month of service is obtained, additional pro rata leave must be granted.

2.1.7. Workers Compensation

Section 40 of the *Workers Rehabilitation and Compensation Act 1986*, states in part that subject to subsection (3), neither the liability to make weekly payments to a worker in respect of a period of incapacity nor the amount of such weekly payments is affected by a payment, allowance or benefit for annual leave to which the worker is entitled in respect of that period.

This section further provides at subsection (3) that “where a worker has received weekly payments in respect of total incapacity for work over a period of 52 weeks or more, the liability of the employer to grant annual leave to the worker in respect of a year of employment that coincides with, or ends during the course of, that period shall be deemed to have been satisfied.” However, this does not affect the obligation of a public sector agency to make a payment in the nature of an annual leave loading.

Where an employee is receiving workers compensation entitlements, and prior to crediting the next year’s entitlement of annual leave, public sector agencies should establish whether the employee has had an aggregate of 52 weeks total incapacity. If this is the case, the employee is not to be credited with an annual leave entitlement for that year.

If an employee is entitled to workers compensation entitlements for a total incapacity of 100% of their weekly earnings and where the annual leave is approved, either:

- the employee is granted annual leave but no further payment for the annual leave is made because the employee is already receiving 100% of their weekly earnings, or
- the employee can sign a “Discontinuance of weekly payments” prior to commencing annual leave and where the appropriate section 36 notice has been served, the employee receives a nil workers compensation payment but a 100% annual leave payment.

If an employee is entitled to workers compensation payments for total incapacity at 90/80% of their weekly earnings and where the annual leave is approved, either:

- the annual leave payment is 10/20% of their weekly earnings in addition to the 90/80% being received as workers compensation weekly earnings, or
- the employee can sign a “Discontinuance of weekly payments” prior to commencing annual leave and where the appropriate section 36 notice has been served, the employee receives a nil workers compensation payment but a 100% annual leave payment.

Public sector agencies should also be aware that an employee absent on workers compensation cannot be required to take annual leave. If such a case does arise where an employee does not wish to take annual leave, public sector agencies should seek to defer the annual leave under the provisions of sub clause 2.1.5.

2.1.8. Payment for Annual Leave

Prior to commencing annual leave, an employee may request any wages due for the period of the annual leave as provided in by sub clauses 2.1.1, 2.1.2 and 2.2.3.

2.1.9. Notice of Annual Leave

Whenever an employee is required to take annual leave by a public sector agency, the employee must be given at least four weeks notice of the leave.

2.1.10. Reinstatement of Annual Leave

Where annual leave has been granted to cover a period of absence as a result of injury or illness and leave without pay is subsequently granted for that same period in terms of sub clause 2.8.5, the number of days annual leave previously approved for that period is to be added to the employee's current annual leave entitlement.

2.2. Pro Rata Annual Leave

2.2.1. On Termination

In all cases of termination of employment, whether by resignation, invalidity or dismissal, an employee will be paid the monetary equivalent of pro rata leave at the rate of one-twelfth of the annual period of leave for which the employee would be eligible for each completed calendar month of service in respect of which the employee has not been granted annual leave.

The calculation for pro rata annual leave purposes is:

$$\frac{152}{12} = 12 \text{ and } 2/3 \text{ hours for each completed month of service.}$$

2.2.2. Other than Termination

Subject to public sector agency convenience and in the following circumstances, a Chief Executive or delegate may grant to a weekly paid employee any pro rata leave which may have accrued to the employee's credit provided by sub clause 2.2.1 despite the fact that the employee's engagement is not being terminated:-

- (i) at Christmas time in which case the public sector agency may adjust the employee's leave year to enable leave to be granted regularly at Christmas time and,

- (ii) for urgent personal reasons in which case the employee concerned must apply in writing, setting out, in full, the reasons for requesting the leave. The period of annual leave due to the employee will then be correspondingly reduced.

Note: Employees who are required to take all their annual leave at Christmas time in accordance with paragraph (i) above, should not be granted pro rata leave at any other time during the year unless they can be gainfully employed during the Christmas closedown period.

2.2.3. Payment

Employees entitled to payment of pro rata leave in accordance with sub clauses 2.2.1 and 2.2.2 will be paid the amount of wages they would have received for ordinary time they would have worked had they continued in their employment or had they not been on leave during that period. The payments to be taken into consideration in determining the amount so payable are the same as those set out in sub clauses 2.1.3 and 2.1.4.

2.2.4. Pro Rata Leave Granted To Employee Continuing In Employment

Where for any reason an employee is to be granted pro rata leave and is continuing in the employment of the South Australian public sector and the number of hours leave available to the employee does not divide equally into working days, the employee is to be granted the number of full working days and an additional day or not, at the employees option, for any broken part of a day, e.g. an employee who had 37 hours pro rata leave available would be paid as for 37 hours and be permitted to take either 4 or 5 days leave.

2.2.5. Effect of Long Service Leave on Pro Rata Leave

Where an employee is eligible for long service leave and the employee resigns or retires and elects to receive fortnightly payments for long service leave, the employee will be granted pro rata leave for all service up to the completion of the long service leave, provided that pro rata leave is not to be granted on account of service in a year of service in which an employee is not on active duty for any part of such year. If the employee elects to receive a cash payment in lieu of long service leave, then the notional period of long service leave does not count as service for further pro rata leave.

2.2.6. Recommencement of Employment Following Pro Rata Leave

When an employee has been granted pro rata leave the employee will not be permitted to resume work in the public sector agency which granted the leave or any other public sector agency until the expiration of the leave.

Note: Fractions of a month will not be taken into account in calculating any pro rata leave.

2.3. Long Service Leave

2.3.1. Conditions Prescribed By the *Public Sector Act, 2009*

Entitlement to long service leave is prescribed by the *Public Sector Act, 2009* and is outlined in Commissioner's Determination 3.1: Employment Conditions - Leave, Attachment C Long Service Leave.

2.3.2. Programmed Day off Coinciding with Absence on Long Service Leave

When an employee is absent on long service leave on a day that would otherwise have been the employee's programmed day off, the day will be debited as long service leave. The period of long service leave will not be extended and the employee must not be permitted to substitute another day for the programmed day. Accordingly, the maximum entitlement of twelve programmed days off (refer to sub clause 2.1.1 of this Manual) must be reduced by one day for each such day occurring during long service leave in any year.

2.3.3. Programmed Day off Occurring during Cycles at Commencement and Completion of Long Service Leave

Where an employee commences and/or returns from a period of long service leave part way through a four weekly work cycle(s), the employee will be paid their average weekly pay in each such cycle. Accordingly, if an employee has accrued insufficient or more than sufficient time towards the employees programmed day(s) off, the employee must be paid no less than and no more than their average weekly pay.

Long service leave must not commence or expire on a programmed day off.

2.4. Public Sector Skills and Experience Retention Entitlement (Retention Leave)

Entitlement to the public sector skills and experience retention entitlement (retention leave) is outlined in Commissioner's Determination 3.1: Employment Conditions – Leave; Attachment D Public Sector Skills and Experience Retention Entitlement.

2.4.1. Programmed Day off Coinciding with Absence on Retention Leave

Retention leave is accrued and taken based on working days. Retention leave should not be granted on a programmed day off.

2.4.2. Programmed Day off Occurring during Cycles at Commencement and Completion of Retention Leave

Where an employee commences and/or returns from a period of retention leave part way through a four weekly work cycle(s), the employee will be paid their average weekly pay in each such cycle. Accordingly, if an employee has accrued insufficient or more than sufficient time towards the employees programmed day(s) off, the employee must be paid no less than and no more than their average weekly pay.

2.5. Retirement of Employees

Every employee who has attained the age of fifty-five years will be entitled to retire from public sector employment.

2.6. Public Holidays

2.6.1. Payment

- (i) An employee must be paid at the ordinary rate of pay for any of the following Public Holidays which occur during their employment:-

New Year's Day
Australia Day
Good Friday
The day after Good Friday
Anzac Day
Adelaide Cup Day
Queen's Birthday
Labour Day
Easter Monday
Christmas Day
Proclamation Day

or any other day which by Act of Parliament or proclamation may be created a public holiday throughout the State of South Australia, or which may be substituted for any of such holidays, provided that where an employee is absent from their employment on any part of the day before or any part of the day after a public holiday without reasonable cause or the prior consent of the officer in charge, the employee will not be entitled to payment for such holiday.

For the purpose of this sub clause, the following payments where applicable must be included in determining the amount so payable for public holidays:-

- (a) Rate of pay for appropriate classification.
 - (b) Certain Award allowances, e.g. leading hands, team leader, industry allowances, (where paid for all purposes), lift industry allowances, first-aid allowance, allowances for apprentice pattern-maker.
 - (c) This Clause will not apply to employees who, in accordance with the *South Australian Public Sector Wages Parity (Plumbing, Metal and Building Trades Employees) Enterprise Agreement 2011* or its successor thereto, receive hourly rates that are inclusive of allowances.
 - (d) Other payments to which an employee is entitled under the employee's contract of employment for ordinary hours of work other than - special rates, travelling or board allowances, overtime, reimbursement of expenses, camp allowance and motor mileage.
- (ii) A shift worker whose rostered day off falls on a public holiday, which is a Monday to Friday inclusive, will receive an extra day's pay in respect of such day.
 - (iii) With regard to the payment for public holidays the intention of the Government is that an employee should neither gain nor lose in their wages for the week in which a public holiday occurs if the employee works their usual hours on the other days of the week.
 - (iv) An employee who has qualified for payment for a public holiday and who does not work on the day is to be paid for the time the employee usually works on the day of the week on which the paid public holiday is held. If it is customary for an employee to work 8 hours on the week day then the employee is to be paid for 8 hours, or if it is usual for the employee to work 4 hours on that day then the

employee is entitled to 4 hours pay. The same position will apply to employees who complete the week's work in 5 days, Monday to Friday, in which case such employees will not be paid when a paid public holiday falls on a Saturday.

- (v) Where an employee works on any public holiday for the whole of their usual daily working hours the employee will:-
 - (a) In the case of an employee who is required to work on active duty for seven days a week, be paid at the rate of time and a half and allowed an additional day to their annual leave or pro rata leave as the case may be, provided that the an employee will be paid at the rate of double time and a half for all public holidays worked in excess of seven per annum.
 - (b) In the case of any other employee be paid at the rate of double time and a half; - or
 - (c) On the request of an employee, a day in lieu may be granted at public sector agency convenience and in addition payment at the rate of time and half instead of payment being made at the rate of double time and a half.
- (vi) An employee who works on public holidays and takes out such holidays with their annual leave will be limited to a period of leave of five weeks per annum, if the employee is eligible for four weeks annual leave, and six weeks per annum if the employee is eligible for five weeks annual leave. Days in excess of five or six weeks as the case may be are to be paid at the rate of double time and a half. Wherever possible an employee should not be required to work on more than seven public holidays per annum.
- (vii) Where an employee works on any public holiday for only a portion of their usual daily working hours the employee will be paid their ordinary rate of pay for the day and in addition be paid at time and a half for time worked.
- (viii) Where an employee works on any public holiday for more than or outside their usual daily working hours the employee will, in addition to their entitlement under sub clause 2.6.1 (v) be paid at the rate of double time and a half for all time worked in excess of their usual daily working hours.
- (ix) Where an employee requests, or on a request from a majority of the employees, being provided by a public sector agency to work on any public holiday, the employee will be paid at ordinary rates and a day in lieu may be subsequently granted at the Department's convenience.

2.6.2. Rest Period after Overtime

- (i) An employee, other than a casual employee, not engaged in continuous shift work, who works on a public holiday and (except for meal breaks) immediately afterwards continues the work, will on being relieved from duties, be entitled to be absent until the employee has had eight consecutive hours off duty, without deduction of pay for ordinary time of duty occurring during such absence.
- (ii) Where an employee is entitled to a break of 10 consecutive hours between the work of successive days under the Award or Enterprise Agreement covering their

employment, the employee will be granted 10 consecutive hours off duty instead of the period of eight consecutive hours provided in sub clause 2.6.2(i).

This sub clause will not apply when the employee receives payment for a call-out, but it will apply in such case if more than the minimum period is worked.

2.6.3. Crib Time

An employee not engaged on continuous work, working on a public holiday, will be allowed a crib time of twenty minutes without deduction of pay after four hours of work, if the employee continues work after the crib time.

Where a day worker is required to work on a public holiday the first prescribed crib time will, if occurring between 10.00 a.m. and 1.00 p.m., be paid at ordinary rates.

2.6.4. Public Holidays Occurring During Annual Leave

- (i) Where a paid public holiday falls on a normal working day (i.e. any Monday to Friday) during a period when an employee is on annual leave the period of leave will be extended accordingly. The public holiday will not be regarded as annual leave and accordingly the penalty will not be included in the annual leave loading calculation. However, any weekend or shift penalty payable to a shift worker had they worked on the "extending" day and not been on leave, will be included in the annual leave loading calculation.
- (ii) Where a public holiday does not fall on a normal working day (i.e. any Monday to Friday) during a period when an employee is on annual leave, the period of leave will not be extended. However if a shift worker would have worked on that day had he/she not been on leave, then the appropriate public holiday penalty will be included in the annual leave loading calculation in accordance with sub clause 2.1.4 (ii).
- (iii) Where a paid holiday falls at the end of pro rata leave, payment is not to be made for such holiday.
- (iv) Where a paid holiday falls during pro rata leave, payment is to be made for the day, except where pro rata leave is granted to an employee who terminates their services of their own accord. Where a public holiday immediately precedes the beginning of pro rata leave, the employee is entitled to payment for that day.

2.6.5. Programmed Days Off

Where a public holiday falls on a day that would otherwise have been an employee's programmed day off, then that employee will be given an alternative programmed day off, on the working day immediately preceding or immediately following the public holiday, or as soon as practicable.

2.6.6. Meal Allowance

An employee not engaged on continuous work, required to work on a public holiday for more than four hours without being notified on the previous day or earlier that they will be required to work, will either be supplied with a meal by the employer or paid for the meal taken during each crib break at the rate prescribed at clause 28.9 – 'Meal Allowance' of the *South Australian Government Departments and Instrumentalities (Metal Trades) Award 2007*.

However, such payment need not be made to employees living in the same locality as their worksite who can reasonably return home for meals.

An employee who, following notice, has provided a meal or meals and is not required to work on a public holiday or is required to work for a lesser period of time than advised will be paid the allowances prescribed in this sub clause for meals which the employee has provided but which are now surplus.

2.7. Monetary Equivalent of Leave

The monetary equivalent of annual leave, pro rata leave and days in lieu of public holidays worked, due to an employee at the time of the death may be paid to the employee's dependents. Payment in terms of this clause is subject to the provisions of the *Administration and Probate Act 1919*.

2.8. Sick Leave

2.8.1. Entitlement to Sick Leave

An employee on weekly hire who is absent from work on account of personal illness or on account of injury by accident is entitled to leave of absence without deduction to the employee's ordinary rate of pay on condition that –

- (i) The employee will not be entitled to paid leave of absence for any period in respect of which the employee is entitled to workers compensation.
- (ii) The employee must within 24 hours of the commencement of the absence inform the officer in charge of their inability to attend for duty, and as far as practicable, state the nature of the injury or illness and the estimated duration of the absence.
- (iii) The employee must prove to the satisfaction of the officer in charge they were unable on account of such illness or injury to attend for duty on the day or days for which sick leave is claimed.
- (iv) An employee must not be granted paid leave of absence if the inability to work is the result of their own misconduct.
- (v) An employee will not be entitled in any year of service to leave in excess of 76 hours of working time and, in the first year of service, the employee must not be granted more than 6 1/3 hours leave for each completed month of service, provided that at the completion of the first year of service or on termination of the employee's service by the employer (except for misconduct or other sufficient cause which would justify instant dismissal) or by the employee after giving appropriate notice if such occurs during the first year of service, an employee will be paid for any absence on sick leave which they have not been paid because of this paragraph to the extent that the employee subsequently became entitled to be paid during the first year of service.

Exceptions:

- (a) In the case of employees who work in excess of 38 hours weekly without payment of penalty rates, sick leave in each year to the extent of two normal working weeks may be granted.
 - (b) Where the normal weekly number of hours is less than 38, paid sick leave to the extent of twice the lesser weekly number of hours may be granted. Where an employee transfers from a full time position to a part time position, sick leave may be granted to the extent of twice the lesser weekly number of hours. However, no adjustment should be made to the current service year's entitlement or sick leave accumulation.
 - (c) During their first year of service, employees whose normal working week is other than 38 hours must not be granted more than one-twelfth of the sick leave to which they are entitled for each completed month of service.
 - (d) In the case of employees who are re-employed after retiring and who have been in the employ of the Government for at least twelve months immediately prior to retirement, the sick leave entitlement for their first year of re-employment may be credited to them on the date of their re-employment.
- (vi) Employees working 8 ordinary hours per day
There shall be no changes in the annual sick leave entitlement or the number of hours debited for a day's absence on sick leave i.e. employees will continue to be debited 8 hours for each full day of 8 hours absence.
 - (vii) Where an employee works 7.6 ordinary hours per day, employees will be debited 7.6 hours for each full day's absence.
 - (viii) Where an employee works less than 8 ordinary hours on one or more days each week (e.g. 8 hours on 4 days and 6 hours on the fifth day of the week)

The employees will be debited 8 hours for each full day of 8 hours absence and 6 hours for each full day of 6 hours absence.

Exceptions:

- (a) 7 day week employees
Employees who are required to be on active duty for 7 days of the week (e.g. Lockman, Barrage Attendant) will be granted an annual entitlement of 106.4 hours and will be debited 7.6 hours for each full day's absence. Sick leave entitlements for the current service year and accumulated sick leave entitlements as at 5th July, 1982 shall not be adjusted.
- (b) Part-time employees
Where the normal weekly number of hours is less than 38, paid sick leave to the extent of twice the lesser weekly number of hours may be granted. Where an employee transfers from a full time position to a part time position, sick leave will be granted to the extent of twice the lesser weekly number of hours. However, no adjustment will be made to the current service year's entitlement or sick leave accumulation.

- (c) Employees covered by exceptions at sub sections 2.8.1.(viii) (a) and (b) must not be granted more than one twelfth of the sick leave to which they are entitled for each completed month of service during their first year of service.

- (d) Re-employment of retired employees
In the case of employees who are re-employed after retiring and who have been in the employ of the Government for at least twelve months immediately prior to retirement, the sick leave entitlement for their first year of re-employment may be credited to them on the date of their re-employment.

2.8.2. Payments Applicable During Sick Leave

For the purpose of this Clause the following payments where applicable are to be included in determining the amount so payable for sick leave:-

- (i) Rate of pay for appropriate classification.

- (ii) Certain Award allowances e.g. leading hands, team leaders, industry allowances, (where paid for all purposes), lift industry allowances, first-aid allowance, allowances for apprentice pattern-maker.

- (iii) Other payments to which an employee is entitled under the employee's contract of employment for ordinary hours of work other than - special rates, travelling or board allowances, overtime, shift and weekend penalties, reimbursement of expenses, camp allowance and motor mileage.

- (iv) This Clause will not apply to employees who, in accordance with the *South Australian Public Sector Wages Parity (Plumbing, Metal and Building Trades Employees) Enterprise Agreement 2011* or its successor thereto, receive hourly rates that are inclusive of allowances.

2.8.3. Personal Illness

The question of "personal illness" has been considered on a number of occasions, and the following decisions and approval which have been given will assist public sector agencies in determining whether or not paid sick leave should be granted:

- (i) Industrial fatigue is not an illness in terms of this Clause.

- (ii) Absence for the purpose of obtaining medical attention including treatment by a health practitioner (as defined in sub clause 2.8.4 (v) (d)) which does not preclude immediate attendance for duty is not covered by sick leave.

However, when an employee is required to attend a Specialist or Medical Officer (doctor) for medical examinations or tests which cannot be undertaken outside normal working hours, a certificate should be produced stating the reason for the attendance and the period involved.

- (iii) Sunburn is not an illness in terms of this Clause.

2.8.4. Production of Medical Certificates

The following conditions apply to the production of medical certificates:-

- (i) **Absences for Periods of Less Than Three Days**
Except as provided in sub section (iii) of sub clause 2.8.4 of this Manual an employee may be absent from duty on account of personal illness or injury (other than one for which Worker's Compensation is payable) for periods of up to three working days without the production of a medical certificate or a certificate from a health practitioner, as defined in sub clause 2.8.4 (v) (d).
- (ii) **Absences for Periods Exceeding Three Days**
Where an employee is absent from duty for a period in excess of three consecutive working days the employee must produce a medical certificate or a certificate from a health practitioner (as defined) covering the whole of the period of absence. However, the Chief Executive or delegate or the employer in charge need not insist upon the production of a certificate for the first three working days absence, where the employer is satisfied that the employee has been unable to obtain a certificate for the first three working days and was unfit for work for the whole period of the absence due to sickness or injury.
- (iii) **Satisfaction of Employer**
Nothing in sub sections (i) and (ii) of sub clause 2.8.4 of this Manual will limit the necessity for an employee to prove to the satisfaction of the employer in charge that the employee was unable to attend for duty as required by sub section (iii) of sub clause 2.8.1.
- (iv) **Employees Living in Camps Located in Remote Areas**
Where an employee, who is living in a camp remote from any town, is absent on sick leave, the public sector agency may waive the necessity for the production of a medical certificate on the certificate of the supervisor or employer in charge of the camp that they are satisfied that the employee was unable to work on account of sickness (not being due to the employee's own misconduct) on the days for which sick leave is claimed.

This sub section only applies to employees living in camps remote from any town where it is impracticable for a medical certificate to be obtained.
- (v) **Certificates Acceptable for Sick Leave Purposes:**
 - (a) The certificate of a legally qualified medical practitioner (doctor) may be accepted for any period of sick leave absence.
 - (b) The certificate of a health practitioner, as defined, may be accepted for a period not exceeding five consecutive working days.
 - (c) Where employees are required to be treated by a health practitioner, as defined, and the absence from duty exceeds five consecutive working days, a certificate signed by a doctor is required in addition to a certificate of absence signed by the relevant health practitioner.
 - (d) A health practitioner must include a legally qualified medical practitioner, registered chiropractor, registered dentist, registered optician, registered occupational therapist, registered physiotherapist, registered podiatrist, registered psychologist and registered speech pathologist.

2.8.5. Programmed Day off Coinciding with Personal Illness

- (i) Where an employee is absent due to personal illness on their programmed day off, the day will stand as the programmed day off, and the employee will not be permitted to substitute another day for the programmed day. The employee will not be entitled to sick pay in addition to payment for the programmed day off and the day will not be debited as sick leave.
- (ii) Where an employee has been informed that they will be required to work on their programmed day off, and is subsequently absent on that day due to personal illness, the day must be paid as the programmed day off and a substitute day shall not be granted.

2.8.6. Accumulation of Sick Leave

Sick leave will accumulate from year to year so that any balance of any period will be allowed in a subsequent year without diminution of the sick leave prescribed in that year of service. The maximum period of sick leave which may be granted with pay in respect of any continuous absence is 52 weeks.

2.8.7. Reinstatement of Sick Leave Credits

Where sick leave has been granted to cover a period of absence as a result of injury or illness and leave without pay is subsequently granted for that same period in terms of sub clause 2.9.6 the number of days sick leave with pay previously approved for that period is to be added to the employee's current sick leave entitlement.

2.8.8. Family Carer's Leave

The provision contained in Part 4 Work Life Flexibility, in the *South Australian Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2013* and any successor thereto, should be applied.

2.8.9. Programmed Day off Coinciding with Absence on Worker's Compensation

- (i) Where an employee is absent due to worker's compensation on their programmed day off and has accrued credits towards the day off the employee may retain those accrued credits for use upon their return to work. An alternate day off may be taken on return to duty and arrangements for taking the day off should be agreed between the public sector agency and the employee concerned and should be taken as soon as is practicable.
- (ii) During periods of worker's compensation the accrual of credits for the taking of the programmed day off will be on the following basis:-
 - (a) Where an employee is absent for a period of 19 working days or less, credits will continue to accrue during such absence.
 - (b) Where an employee is absent for a continuous period exceeding 19 working days they will not accrue credits towards the programmed day off for those days of absence exceeding 19. Credits will commence to accrue on the employee's return to work.

2.8.10. Sickness during Currency of Other Leave

- (i) **Leave Without Pay**
An employee absent on leave without pay is not eligible for paid sick leave until after the expiration of the leave without pay, except that where an employee is on leave without pay because of sickness, an employee may be granted sick leave with pay immediately a new entitlement becomes due.
- (ii) **Annual Leave**
An employee who becomes sick while on annual leave and produces a satisfactory medical certificate covering the period of illness may apply to convert the period of illness to paid sick leave where the employee concerned has sufficient sick leave credit available.
- (iii) **Long Service Leave and Retention Leave**
An employee who becomes sick while on long service leave or retention leave and produces a satisfactory medical certificate covering the period of illness may apply to convert the period of illness to paid sick leave provided that the employee concerned has sufficient sick leave credit available. Where approval is given for a transfer of debits, a period of long service leave or retention leave equivalent to the period of approved sick leave may be taken at the end of the period of the approved long service leave or retention leave, or added to the employee's future long service leave or retention leave entitlement.

2.9. Continuity of Employment

2.9.1. Applications for Leave Without Pay

- (i) Chief Executives are authorised to grant leave without pay for all periods of absence in the case of illness or injury (including workers compensation) and for periods not exceeding 12 months at one time, or for broken periods of less than 12 months within an employee's service year in the cases of justifiable pressing necessity or personal pleasure.

Examples of justifiable pressing necessity include instances of family illness or emergency, which do not satisfy the requirements in clause 2.12 Special Leave or where the period sought exceeds the maximum of 3 working days.

Another example would be attending to cultural responsibilities such as traditional ceremonial obligations of Aboriginal employees. Here it is the employee's responsibility to indicate the relevant community group's perception of the extent of the person's obligations and the Chief Executive or delegate must have regard to that perception in determining whether leave is justified in the particular circumstances.

When submitting applications for leave without pay, the following particulars are to be supplied by the employee:

- (a) Employee's name, initials, and occupation.
- (b) Date of leave without pay for which approval is required, showing total number of working days.
- (c) Reason for absence without pay.

- (d) Date from which service has been continuous.
- (ii) All leave without pay must be applied for and recorded in working days.
- (iii) Where a member of a Superannuation scheme regulated by Super SA wants to take leave without pay, advice from Super SA should be sought concerning contributions by the employer and the employee.
- (iv) In considering applications for leave without pay the Chief Executive or delegate should have regard to the provisions of clause 2.16 - General Guidelines - Applications for Special Leave Without Pay, of this Manual.

2.9.2. Leave Without Pay For Work Purposes

In considering applications for leave without pay to undertake outside employment the Chief Executive or delegate should have regard to the provisions of Commissioner's– Determination 3.1: Employment Conditions - Leave.

Where the leave without pay is sought for the purpose of undertaking work of an industrial nature with an employee association, these requests together with appropriate comments by the Chief Executive are to be referred to PSWR, DPC for a determination.

2.9.3. Effect of Leave Without Pay on Annual Leave, Sick Leave and Public Holidays

When leave without pay is granted, the following conditions will apply:-

- (i) Subject to paragraph (ii), where an employee is granted leave without pay, the period of absence up to one month is to count as service for annual leave, sick leave and payment for public holidays.
- (ii) Where an employee has been granted leave without pay (other than for sickness in respect of which a medical certificate has been produced) in excess of the period provided in paragraph (i), the annual entitlement of leave, for which an employee is eligible must be reduced by one-twelfth for each month or broken part of a month in excess of the first month.
- (iii) Where an employee is absent on worker's compensation, the full period of absence until the day on which the employee resumes duty or is certified as permanently unfit to return to duty will count as service for annual, sick and long service leave and retention leave eligibility. It is pointed out that absence on worker's compensation is not leave without pay but is absence on account of injury.
- (iv) In determining eligibility for an annual increment of pay, each period of leave of absence without pay is to be excluded in computing the length of service required.
- (v) Where an employee is granted leave without pay on account of sickness or personal or private reasons, e.g. overseas trip or for study relevant to employee's employment and the period of absence exceeds one month, either in a continuous period or in broken periods, in any year of service, the period of absence in excess of one month will not count as service for long service leave and retention leave eligibility, unless,

- (a) The absence is due to worker's compensation, in which case the full period of absence until the day on which the employee resumes duty, or is certified as permanently unfit to return to duty, counts as service for long service leave and retention leave eligibility.
- (b) The Delegate directs, in writing at the time of granting the leave, that it shall count.

2.9.4. Leave Without Pay for Studentships, Scholarships and Cadetships

Periods covered by Studentships, Scholarships and Cadetships are to count for long service leave eligibility.

- (i) Any absence arising directly or indirectly from an industrial dispute will not break the continuity of service of the employee if they return to work under the terms of settlement of the dispute, and the period of the absence is regarded as leave without pay.
- (ii) Where an employee is re-engaged immediately following the nominated day for resignation their continuity of service is not to be broken.
- (iii) Where there is a break of one day or more between the nominated day for resignation and re-employment, the continuity of service in relation to sick and annual leave is to be broken. Any request for continuity of service in relation to long service leave and retention leave must be submitted to PSWR, DPC for determination.
- (iv) Special leave is not to be granted between jobs to keep service intact, except with the approval of the relevant Minister.

2.9.5. Effect of Leave Without Pay on Programmed Day Off

- (i) Where an employee is absent on leave without pay on their programmed day off, the day will stand as the programmed day off and the employee will not be permitted to substitute another day for the programmed day.
- (ii) If due to leave without pay an employee is not entitled to any pay for their programmed day off, then that day will also be recorded as a day's leave without pay even though it remains the programmed day off.

2.9.6. Substitution of Leave Without Pay for Paid Leave and Reinstatement of Paid Leave Credits

- (i) Subject to the terms of this Clause, Chief Executives or delegates may grant leave without pay for a period of absence previously covered by paid leave.
- (ii) The employee must have previously applied for, and been granted, long service leave, retention leave, recreation leave, or sick leave for that period of absence as a result of injury or illness incurred other than in the course of their current employment as an employee.
- (iii) At the time of application being made for paid leave, there was a claim pending for some type of compensation.
- (iv) The employee has subsequently received some form of compensation.

- (v) The employee has made application on the appropriate form for leave without pay to cover the period of absence and has applied for reinstatement of paid leave credits previously used for that period.
- (vi) The employee has produced satisfactory medical evidence that the period of absence for which reinstatement of paid leave credits is sought was due to injury or illness incurred other than in the course of their employment as an employee.
- (vii) Leave without pay granted in terms of this Clause is not to be treated as sick leave without pay.
- (viii) The amount of paid leave previously used to cover the period of absence is to be reinstated (refer sub clause 2.1.10 and sub clause 2.8.7).
- (ix) An adjustment in wages will be necessary where a reinstatement of paid leave credits is made.

2.10. Leave for Employees to Receive Medical Treatment for War Injuries

2.10.1. Leave Of Absence to Receive Medical Attention

Employees who are discharged from the Defence Forces may be granted leave of absence to receive medical attention as approved by the Department of Veterans' Affairs for injuries arising out of war service as follows:-

- (i) if the absence does not exceed half a day, it is to be regarded as time on duty;
- (ii) if the absence exceeds half a day, it is to be regarded as if due to illness and to be debited to sick leave to which an employee may be entitled with pay or at their option to the special War Service Sick Leave) credit in accordance with sub clause 2.11 if the employee is eligible for such leave;
- (iii) in each case the employee should be required to produce evidence of their having attended for examination as approved by the Department of Veterans' Affairs.

2.10.2. Programmed Day Off

Where an employee is required to attend an appointment for medical attention (as previously approved by the Department of Veterans' Affairs) on their programmed day off, the day will stand as the programmed day off and the employee will not be permitted to substitute another day for the programmed day.

2.11. Leave On Account Of Disability Arising From War Service

2.11.1. Entitlement to Leave for War Service Disability

Employees are entitled to special leave for war service disability leave in accordance with Commissioner's Determination 3.1: Conditions of Employment – Leave, Attachment E – Special Leave With and Without Pay, Part 7: Disability Resulting from War Service Leave.

2.11.2. Programmed Day Off

Where an employee is absent on war service disability leave on their programmed day off, the day will stand as the programmed day off and the employee will not be permitted to substitute another day for the programmed day. Accordingly, the day will not be debited as war service disability leave.

2.12. Special Leave With Pay

2.12.1. Entitlement

- (i) A Chief Executive or delegate may grant an employee up to the equivalent of 15 days special leave with pay each service year to employees in accordance with Commissioner's Determination 3.1: Employment Conditions – Leave, Attachment E Special Leave With and Without Pay.
- (ii) Entitlements relating to Jury Service; Defence Force Training; Special Leave for Volunteer Members of Community Service Organisations; Special Leave With Pay to Participate in International and National Sporting Events and Blood Donors in the Manual dated November 2009 are covered by the Commissioner's Determination 3.1: Employment Conditions – Leave, Attachment E Special Leave With and Without Pay.

2.12.2. Programmed Day Off

Where an employee is absent on account of special leave with pay on their programmed day off, the day will stand as the programmed day off and the employee will not be permitted to substitute another day for the programmed day.

2.12.3. Programmed Day Off – Defence Reserves Leave

- (i) Where an employee is absent on defence reserves leave in accordance with Commissioner's Determination 3.1 on their programmed day off, the day will stand as the programmed day off and the employee will not be permitted to substitute another day for the programmed day. The day must not be debited as defence reserves leave and the employee may utilise the day of additional defence reserves leave if sought later in that financial year.
- (ii) Where an employee is absent on defence reserves leave in accordance with Commissioner's Determination 3.1 the absences will accumulate time towards the programmed day off and public sector agencies must pay the employee their ordinary wages for the day. However, the Chief Executive or delegate will take this payment into account where the programmed day off occurred during the period of defence reserves leave. This information should be included in submissions forwarded to the Chief Executive.

2.12.4. Programmed Day Off – International and National Sporting Events

Where an employee is absent on special leave with pay granted for a sporting event on their programmed day off, the day will stand as the programmed day off, and the employee will not be permitted to substitute another day for the programmed day. Accordingly, the day must not be debited as "sporting leave" (or special leave as the case may be) and the employee may utilise the day if additional special leave is sought later in that two-year period.

2.13. Attendance in Court As A Witness

2.13.1. Witness Other Than On Behalf Of The State

Employees subpoenaed as a witness or defending a civil right in court may be granted special leave. Employees should be aware that the party issuing the subpoena is expected to reimburse their lost salary. If necessary an employee should request the court to make an order to that effect before giving evidence.

The granting of special leave with pay is subject to any fees received towards the reimbursement of salary being paid into general revenue.

Court appearances in other situations must be covered by annual leave or leave without pay.

2.13.2. Witness On Behalf Of The State

When an employee is required to attend court as a witness on behalf of the State they are regarded as being on duty, and it is not necessary to grant them special leave with pay. In these circumstances employees must not accept witness fees. Fares and expenses are to be paid by the public sector agency which initiated the request for the employee to attend.

2.13.3. Programmed Day Off

- (i) Where an employee is subpoenaed or called as a witness as set out in sub clause 2.13.1, on their programmed day off, the day will stand as the programmed day and the employee will not be permitted to substitute another day for the programmed day.
- (ii) Where an employee is required to attend as a witness on behalf of the State on their programmed day off, the employee concerned will be permitted to substitute another day for the programmed day. The substitute day should be agreed between the employee and the officer in charge and should be taken as soon as practicable.

2.14. Parental Leave

Parental leave encompasses maternity leave and leave for child care/rearing, including leave required as a result of adoption of a child.

2.14.1. Maternity Leave

Leave of absence may be granted by a Chief Executive or delegate under the following conditions to female employees on account of pregnancy and childbirth.

- (i) Application for leave under this provision must be accompanied by a statement from a qualified medical practitioner which will indicate the date upon which the birth of the child is expected.
- (ii) Leave granted under this provision must commence on the date requested in the application and will be available as a continuous period:-
 - (a) during the continuation of the pregnancy and until the expiration of six weeks after the actual date of birth of the child.

- (b) at the request of the applicant for a period exceeding the expected duration of the pregnancy but not exceeding 52 calendar weeks. Where such leave is sought in excess of 52 calendar weeks such applications with appropriate supporting evidence must be submitted to the Chief Executive or delegate for consideration and approval.
- (iii) Sick leave must not be granted for any period of maternity leave except for any illness arising from the pregnancy where the above provisions relating to the supply of a medical certificate apply.

2.14.2. Adoption Leave

- (i) A Chief Executive or delegate must grant leave without pay to an employee to undertake the care of a newly adopted child under school age for a period (or aggregate periods) of up to 52 weeks for any one child.
- (ii) The employee must provide the Chief Executive or delegate with a statement from the Department for Education and Child Development as to the presumed date of placement of the child with the employee for adoption purposes; or
 - a statement from the Department for Education and Child Development confirming that the employee is to have custody of the child pending application for an adoption order; or
 - a copy of the application to the court under the *Adoption Act 1988* made by the employee for the adoption of the child.
- (iii) If both parents of a child are employees (including non-Government employees) :
 - both employees are not to be granted leave at the same time except in the case of the adoption of a child resident overseas, in which case such concurrent leave will be granted provided that the period of concurrent leave does not exceed six weeks;
 - the leave granted to both employees in aggregate must not exceed 52 weeks. A Chief Executive or delegate before granting adoption leave to an employee may request the employee to provide a statutory declaration to the effect that no other employee is concurrently seeking adoption leave in respect of the same child;
 - where one adoptive parent has proceeded on adoption leave and the other adoptive parent (referred to as the second parent) wishes to share adoption leave in respect of the same child, the second parent must notify the employer in writing of the date the first parent will cease adoption leave, the date upon which the second parent intends to commence adoption leave and the name of the employer of the first parent. Notice to the Chief Executive or delegate must be given at least fourteen days prior to the date upon which the second employee intends to commence adoption leave;
 - where an employee has been granted leave on the grounds of an overseas adoption and the employee applies for leave to undertake the care of that child, the maximum period (52 weeks) of leave to be granted for the care of the child is to be reduced by the portion of leave which was taken for the purpose of the overseas adoption.

- (iv) A Chief Executive or delegate may grant an employee special leave without pay not exceeding five working days in total to attend any interviews, workshops, court attendances or medical examinations as are necessary or required for the purpose of adopting a child provided that the employee will give notice as is reasonable but adequate in the circumstances of the desire to take such special leave.

In this sub clause a "child" includes a person under the age of 16 years.

- (v) Adoption leave, applied for but not commenced, must be cancelled should the placement of the child not proceed.

Where the adoption of a child by an employee who is adoption leave does not proceed or continue, or if the court refuses to make an order for adoption, the employee must give written notification to the Chief Executive or delegate immediately and the Chief Executive or delegate will nominate a time not exceeding four weeks from receipt of notification for the employee's resumption of work.

2.14.3. Parental Leave for Child Care/Rearing

- (i) Subject to the terms of this sub clause and following the receipt of an application, the Chief Executive or delegate may grant leave without pay to an employee for the purpose of care/rearing of a child (including a newly adopted child) who has not yet commenced schooling.
- (ii) Applications for leave under this sub clause must be accompanied by satisfactory evidence that the employee is entitled to parental leave. The Chief Executive or delegate, before granting such leave, must be satisfied that the leave is being sought for the purpose of child care/rearing.
- (iii) Leave granted under this sub clause will be available as a continuous period of up to 52 weeks or as separate periods which, in aggregate, do not exceed 52 weeks, for the care/rearing of any one pre-school child.
- (iv) A period of leave granted for this purpose will be regarded as being in respect of all of the employee's children of pre-school age at the time of commencement of the leave.
- (v) Although this leave may be granted on more than one occasion e.g. in respect of a child born or adopted after 52 weeks leave has already been taken for the care/rearing of an employee's existing pre-school children, leave granted in respect of any one child is not to exceed 52 weeks.
- (vi) Applications for leave in excess of 52 weeks in respect of any one child are not to be approved unless the Chief Executive or delegate is satisfied that special reasons exist to justify a longer period.
- (vii) In circumstances where both parents are employees of the State and both wish to take leave to care for a child, the aggregate of leave granted to both parents is not to exceed 52 weeks.

No employee may take parental leave concurrently with such leave taken by the employee's spouse, apart from paternity leave of up to two weeks at the time of the birth of the child or adoption leave of up to three (3) weeks at the time of the placement of the child. In addition, the Chief Executive or delegate could consider allowing the employee access to accrued paid leave or special leave without pay.

- (viii) Where a female employee applies for parental leave for child care/rearing immediately following a period of maternity leave, the maximum period of 12 months leave is to be reduced by that portion of maternity leave which was taken after the birth of the child.
- (ix) Leave must be granted from the date requested in the application if the above criteria are satisfied and where the leave is required for the proposed adoption of a child, the leave may be granted to commence prior to the date of adoption, if requested, to allow for necessary preparation.

2.14.4. General Provisions Applicable To Parental Leave

- (i) Whilst it is not considered necessary to require any specific period of notice employees are expected to give reasonable notice, depending on the circumstances, of their intention to take parental leave.
- (ii) An employee who has made application for leave under this provision may, whether or not the leave has actually commenced, apply in writing to the Chief Executive or delegate to vary the duration of the leave, where the amended application has been submitted at least 14 days prior to any change of dates or other reasonable notice of such change has been given.

However, this paragraph will not authorise the granting of leave for a period not authorised by sub clauses 2.14.1, 2.14.2 or 2.14.3 in this provision.

- (iii) Subject to sub clauses 2.14.1(iii) and 2.14.4(iv) leave granted under this sub clause will be without pay for the whole period. However, where an employee is entitled to long service leave, retention leave and/or recreation leave may, at the employee's discretion, use all or any of that entitlement during the period of leave taken under this sub clause.

Applications for recreation leave or long service leave or retention leave to be taken immediately before or after (not during) a period of leave granted under this sub clause are subject to the normal requirements of public sector agency convenience.

- (iv) An employee who becomes sick whilst on recreation leave or long service leave or retention leave, as provided for in sub clause 2.14.4 (iii), may apply to convert the period of illness to paid sick leave under the provisions in Commissioner's Determination 3.1: Employment Conditions – Leave, Attachment A Sick Leave, Part 11 Sick leave while on other types of leave.
- (v) Leave without pay granted under this Clause is subject to the conditions outlined in sub clauses 2.9.3 and 2.9.5 of this Manual.

- (vi) An employee who is a contributor to a South Australian Government Superannuation Fund should seek advice from Super SA regarding payment of personal contributions during any proposed period of absence on leave without pay.

2.15. Absence Without Leave

2.15.1. Effect on Continuity of Service

Where an employee is absent without leave and is continued in employment, the question of the effect such absence is to have on the employee's continuity of service for the purposes of leave of absence is to be submitted to PSWR, DPC for direction. The following information is to be supplied:-

- (i) the reason for the absence, and whether in the opinion of the officer in charge it was deliberate or otherwise;
- (ii) the length of absence;
- (iii) the length of employee's continuous service;
- (iv) a statement as to the past attendance record of the employee;
- (v) whether the absence occasioned loss or inconvenience to the public sector agency and to what extent.

2.15.2. Communication With Employee Absent Without Leave

- (i) Where an employee has been absent without leave for more than two weeks, the public sector agency should communicate in writing with the employee informing the employee that unless they report for duty or furnish a satisfactory reason for their absence and the estimated duration of it within a specified time (which is to be not more than two weeks from the date of the written communication) the employee will be regarded as having terminated their employment on the date that they last attended (i.e. without notice).
- (ii) If the employee does not report for duty or send in a satisfactory reply within the specified time, the employee must be informed in writing that they are regarded as having terminated their service on the date they last attended for duty (i.e. without notice).
- (iii) In these circumstances, any monies held on behalf of the employee will, to the extent of a week's wage, be forfeited in lieu of notice.

2.15.3. Effect on Continuity of Service for Imprisoned Employees

- (i) If an employee is sentenced to a term of imprisonment or remanded in custody, the Chief Executive or delegate must determine whether specific action should be taken to terminate the employee's services having regard to the duration of the term of imprisonment, the nature of the offence, the employee's record with the public sector agency and other relevant factors.
- (ii) If specific action is taken to terminate the employment of the employee they will be regarded as a new entrant for all purposes if subsequently re-employed.

- (iii) If specific action is not taken to terminate the employment of the employee and the employee has not resigned:-
 - (a) Long service leave and retention leave – an employee’s service will be deemed continuous if re-employed within two years but the period of absence from duty until their re-engagement will not count as service.
 - (b) Annual leave and pro rata leave –
 - the period of absence other than the period for which paid leave is granted will not count as service for annual leave or pro rata leave purposes.
 - annual leave accrued may be paid if the employee is not normally granted annual leave at a close down period but must be paid if the period of absence includes the period of close down.
 - pro rata leave must not be paid unless the period of absence includes the period of close down.
- (iv) Sick leave - sick leave credited to the employee before their imprisonment or remand may be retained on their re-engagement by the public sector agency but the date on which they will next receive additional sick leave credit must be extended by the period of absence.
- (v) Superannuation – advice from Super SA should be sought in these circumstances.

2.16. General Guidelines - Applications for Special Leave Without Pay

Whilst it is recognised that a day or two of absence without pay may not cause any significant loss of efficiency, it must be assumed that absences exceeding one month would affect the normal public sector agency activity, particularly as it is often impracticable to provide an effective replacement.

Accordingly applications for special leave without pay should be considered within the following framework and unless, in the opinion of the Chief Executive or delegate, there are special reasons to justify departure from this pattern; applications for leave without pay which do not conform should not be granted:

- (i) Where an employee has completed 12 months service but has not completed 2 years service, leave without pay up to 2 months may be approved.
- (ii) Where an employee's service is in excess of 2 years, one month’s leave without pay for each completed year of service may generally be approved, up to a maximum of 6 months.
- (iii) Where an application is for leave without pay in excess of 6 months, each case should be examined on its merits by the Chief Executive or delegate. Unless there are exceptional circumstances, leave should not be granted for periods in excess of 6 months unless an employee's service is in excess of 5 years.
- (iv) Leave without pay should only be granted for personal pleasure provided the employee has taken or takes all the annual leave to which they are entitled for completed years of service.

- (v) In all cases involving leave without pay applications, public sector agency convenience should be the paramount consideration.
- (vi) Employees should not anticipate approval for leave without pay by making overseas travel or other arrangements without first obtaining authority for the leave. Leave without pay for overseas travel will not exceed 12 months.

2.17. Standard Symbols Designating Types of Leave

When recording absences from work and time lost by weekly paid employees on paysheets and other records, the following symbols should be adopted:

Symbol	Indicating
ACL	Accouchement Leave
AWL	Absence without Leave
AL	Annual Leave
BL	Bushfire Leave
CL	Compassionate Leave
CFS	Country Fire Services Leave
LPH	Day in lieu of public holiday worked
DFT	Defence Force Training
ID	Industrial Dispute, i.e. strike
LSL	Long Service Leave
NST	National Services Training
PSL	Paid Sick Leave
PDO	Programmed Day Off
PRL	Pro Rata leave
PH	Public Holiday
RDO	Rostered Day Off
SW	Shift Work
USL	Sick Leave Without Pay
SPL	Special Leave Without Pay
SD	Stand Down, e.g. power failure, strike
SDO	Substitute Day Off
U	Unemployed between jobs
WSL	War Service Sick Leave
WW	Wet Weather
ACC	Workers Compensation
WC	Works Closed

2.18. Bushfire Leave

Where employees remain at or return home in the event of bushfires endangering their homes, the Chief Executive or delegate may grant special leave with pay for absences up to a maximum of three days per year. Periods in excess of three days resulting from a major bushfire emergency, will be considered by PSWR, DPC on the merits of each case.

Employees remaining at or returning home as a precautionary measure on days of high fire risk should be permitted to be absent for this purpose on request and will be required to utilise their own leave entitlements.

PSWR, DPC retains discretion to direct that special leave with pay be granted in special cases (major emergencies e.g. Ash Wednesday).

Where employees utilise their own leave entitlements to remain at home as a precautionary measure and a bushfire actually does occur which endangers their home no retrospective action should be considered unless the employee can justify a special case for leave with pay for the whole of the absence. In such cases the onus is on the employee to prove that the emergency had involved more than half a day in working time.

2.19. Recognition of Prior Service for Leave Purposes

Conditions for recognition of prior service for leave purposes applicable to new employees under the *Public Sector Act 2009* are contained in Commissioner's Determination 3.1: Employment Conditions – Leave, Attachment F Recognition of Prior Service and Leave Accruals. The principles of that Determination or its successor apply equally to weekly paid employees.

3. Miscellaneous Provisions

3.1. Higher Duty Pay - Weekly Paid Employees

3.1.1. Requirements to Perform Higher Duties

Payment to weekly paid employees for the performance of higher duties must only be made when the Chief Executive or delegate requires the employees to perform higher duties.

When determining whether an employee should be required to perform higher duties, consideration should be given to the need for the higher duties to be performed, particularly in a short term situation. The employee's relevant Award or Enterprise Agreement should be consulted concerning any procedures which must be observed.

3.1.2. Employees Required To Perform the Duties of a Position under another Award

Section 95 of the *Fair Work Act 1994*, as amended, provides that employees who perform different classes of work are to be remunerated by calculating time spent in, and the rate of remuneration for, each class of work. Duties of a position classified under another Award must be paid the rate of pay applicable to that position for the time worked provided that the employee's substantive rate of pay is not reduced. The "mixed functions" or "relieving work" provisions of individual Awards will not apply in such circumstances.

3.1.3. Employees Required To Perform the Duties of a Position Under The *Public Sector Act 2009*

Approval has been granted for Chief Executives or their delegate/s to determine appropriate rates of pay for weekly paid employees who are performing or who have performed the whole or substantially the whole of the duties of a position under the provisions of the *Public Sector Act 2009* for a maximum of 6 months.

If the *Public Sector Act 2009* position is expected to be vacant for a period in excess of 6 months, the position should be filled using the processes outlined in Determination 1 – Merit, Engagement, Assignment of Duties and Transfer of Non-Executive Employees.

In these cases, the employee should be appointed under the *Public Sector Act 2009* and be entitled to the remuneration applicable to the position.

When the employee is undertaking the duties for less than 6 months, the following should apply:

- (i) The employee must be performing the whole or substantially the whole of the duties of the position under the *Public Sector Act 2009*.
- (ii) Where employees who have received their existing rate of pay for less than 12 months, the weekly rate determined whilst performing the duties of the position will be the weekly equivalent of the lowest salary limit of the position.
- (iii) Where employees have received their existing rate of pay for more than 12 months and the weekly equivalent of the lowest salary limit of the position does not give an increase in the employee's total actual weekly rate of pay at least equal to half the difference between the lowest salary limit and the next salary step of the

higher position, the weekly rate determined will be the weekly equivalent of the second salary step in the salary range of the position.

However if the second salary step does not give an increase in the total actual weekly rate of pay equal to half the difference between the second and third salary steps of the higher position, the procedure described above (subject to sub clause 3.1.4 (v)) should be repeated until the total actual weekly rate is increased by at least half of an increment.

- (iv) If the maximum salary step of the higher position is less than the employee's actual substantive rate of pay the employee should be paid their substantive rate during the period of higher duty.

Note: For the purposes of this sub clause "substantive rate" will mean:-

- (a) Rate of pay for appropriate classification.
- (b) Certain Award allowances e.g. leading hands, team leader, industry allowances, (where paid for all purposes), lift industry allowances, first aid allowance, allowances for apprentice pattern-maker.
- (c) Other payments to which an employee is entitled under their contract of employment for ordinary hours of work other than - special rates, travelling or board allowances, overtime, shift and weekend penalties, reimbursement of expenses, camp allowance and motor mileage.
- (d) This sub clause will not apply to employees who, in accordance with the *Public Sector Wages Parity (Plumbing, Metal and Building Trades Employees) Enterprise Agreement 2011* or its successor thereto, receive hourly rates that are inclusive of allowances.
- (e) An employee whose ordinary working hours are an average of 38 per week and who is required to perform the duties of a position classified under the *Public Sector Act 2009* for which the ordinary working hours are 37½ per week, will be required to work 39½ hours per week or 7.9 hours per day, in order to maintain an entitlement to programmed days off.

The employee will be paid 7.6 hours for their programmed day off and payment for the day will be on a pro rata basis according to the number of days worked in the higher position and in their substantive position.

Example

Where employees perform the duties of a *Public Sector Act 2009* position (37½ hours per week) for a fortnight and they revert to their substantive position (an average of 38 hours per week) in the second fortnight of a four weekly work cycle. The employees programmed day off occurs in the second fortnight.

First fortnight - works 79 hours but paid for 75 hours at rate determined in accordance with sub clauses 3.1.4 (a), (b) and (c).

Second fortnight - works 72 hours but paid for 76 hours made up 4 hours at rate determined under sub clauses 3.1.4 (a), (b) and (c) and 72 hours at substantive rate.

- (v) Where an employee performs only part of the duties of a *Public Sector Act 2009* position the Chief Executive or delegate may determine an appropriate rate of pay for these duties.
- (vi) All queries must be referred to PSWR, DPC for consideration. Brief breaks between transfers should not be seen as providing a basis for a fresh start in measuring the duration of a transfer.

3.1.4. Special Circumstances to be Submitted to PSWR

In circumstances requiring special consideration, public sector agencies are still required to submit full details to PSWR for determination of an appropriate rate of pay. Without limiting the special cases, circumstances may include the following:

- (i) where the employee acting is not academically or otherwise qualified to act in the higher position;
- (ii) where there are seasonal fluctuations in work requirements.
- (iii) where the weekly equivalent of the maximum salary of the higher position is less than the actual weekly rate of pay.
- (iv) in any situation where circumstances involved appear to justify some different basis of compensation.

3.1.5. Out of Hours Work

Where an employee is eligible, within the terms of this Manual, for higher duty payment, care should be taken to ensure that the employee does not receive payment for out of hours work if the salaries determined for the office concerned include an allowance for work performed outside of normal working hours.

3.1.6. Endorsement of Applications

Approval for higher duty pay in accordance with this Manual should be endorsed on the application using the following words:-

"In accordance with the approval contained in the Conditions of Employment Manual for Weekly Paid Employees, approval is hereby given for (name) (position/title) to be paid at the rate of \$ per week from/to inclusive whilst they perform all of the duties of (acting position/title)."

3.2. Education Assistance Study Leave

These provisions will not apply to study undertaken by apprentices under the provisions of the *Training and Skills Development Act 2008*.

3.2.1. Applications

Where an employee desires to improve qualifications for the performance of the duties of the employee's present or future position by undertaking a course of study, part-time and for this purpose seeks:-

- (i) Time off during normal working hours for attendance at lectures, practical work or examinations; and/or
- (ii) Reimbursement of fees (where incurred), the employee must apply to the Chief Executive or delegate to be eligible as a student for study assistance under the relevant conditions.

3.2.2. Counselling

Employees should be given advice and assistance in choosing and undertaking courses of study and the Chief Executive or delegate should nominate an employee whose responsibility is to ensure that counselling is provided for all employees prior to enrolling for a course and to take a continuing interest in the progress of students.

3.2.3. Approved Students

In considering an application by an employee to become an approved student the Chief Executive or delegate will take into account the following:-

- (i) That the application has been lodged prior to the commencement of the academic year (late applications should be refused unless in the opinion of the Chief Executive or delegate, exceptional circumstances justify late approval).
- (ii) That the course proposed is an approved course in the terms of this Clause.
- (iii) That before enrolling in a course, the employee has been counselled to ensure as far as practicable that:-
 - (a) the study is relevant to the employee's present or probable future career with the South Australian public sector.
 - (b) the level of the course is appropriate and is assessed to be within the capabilities of the employee.
 - (c) the number of subjects the employee proposes to undertake in the year in which the application is made and in subsequent years will result in the course being completed in a reasonable time having regard for the individual's circumstances and the requirements of the educational institution concerned.
 - (d) that the employee's conduct, diligence and satisfactory progress with their studies is maintained.

3.2.4. Approved Courses

- (i) Courses of study accepted for the purpose of this sub clause include those set out in Appendix A. This is not intended to be a complete list of courses available.

- (ii) Time off is not to be granted for the study of individual subjects unless the subject forms part of an approved course which the employee has proposed to study and fully complete. However, individual cases of post qualification subjects may be approved by the Chief Executive or delegate on recommendation of the public sector agency concerned.
- (iii) Correspondence courses provided by Public Education Authorities or non-official or private coaching authorities in this or other States and any other courses which in the opinion of the Chief Executive or delegate should be approved courses for the purpose of this Clause must be referred to the PSWR, DPC for consideration.

3.2.5. Time Off

The Chief Executive or delegate may authorise time off for an employee who is approved (as an eligible student) under the following conditions:-

- (iv) Time off with pay up to five hours per week, plus necessary travelling time. The time required for essential examinations may be granted without limit.
- (v) When the syllabus requires additional attendance within the study program approved for an employee, apart from the grant of time off with pay, the Chief Executive or delegate may grant time off without pay. However, an employee may elect to make up this additional time for lectures up to a maximum of three hours per week as an alternative to time off without pay.
- (vi) In exceptional circumstances, where an employee has a study commitment in which the time table demands extensive day attendances, but makes no adequate provision for evening alternatives special time off provisions exist. These provisions and the courses concerned are the subject of a special direction by Chief Executives.
- (vii) All approvals for time off will be subject to:-
 - (a) Public sector agency convenience,
 - (b) The employee undertaking a satisfactory lecture and study load in their own time where practicable.
- (viii) Time off for any repeat subject or substitute subject cannot be made up and is to be approved without pay. The only exceptions to this condition relate to those employees studying courses for which special provisions have been approved pursuant to paragraph (iii).
- (ix) Time made up must be made up within the spread of hours determined for the employee in the appropriate Award or Enterprise Agreement.
- (x) Time off for lectures is to be calculated on a weekly (or fortnightly where appropriate) basis but is not to be averaged over a full year.
- (xi) Where an employee attends lectures, tutorials, practical work, examinations etc. on their programmed day off, the employee must not be permitted to substitute another day for the programmed day.

3.2.6. Reimbursement of Fees

The Chief Executive or delegate will authorise reimbursement of fees to an employee approved (as an eligible student) in accordance with the following conditions:-

- (i) Reimbursement is to be limited to Lecture or Tuition Fees and Examination Fees only. Costs of books, union, statutory or graduation fees, fees for supplementary examinations, or fees payable as a result of some act or omission on the part of the student do not qualify for reimbursement.
- (ii) Reimbursement may be authorised for any approved subject or subjects passed for which the approved eligible student was enrolled during the relevant academic year.
- (iii) Where an employee holds a Commonwealth Scholarship or other award which already provides for payment of fees in whole or part, reimbursement is to be limited to that amount not covered by such award.
- (iv) Documentary evidence of those subjects of an approved course passed during the year must be produced (supplementary exams will be deemed to have been held in the main year).
- (v) Amounts claimed must be supported by receipts.
- (vi) An employee newly employed will be eligible for refund of only that portion of the fees paid relating to the period in which the employee has been in the employ of the Government.
- (vii) To qualify for reimbursement a person must be an employee of the Government at the time the examination results are published.

3.2.7. General

- (i) While the study assistance concessions are not a right and the work of the public sector agency must have priority it is expected that the privileges will be refused only after the most careful examination. The privilege may be withdrawn at any time if deemed necessary or justified.
- (ii) In the absence of specific instructions to the contrary, time off for studies counts as time worked for all purposes.
- (iii) No service obligation is incurred by time off or other privileges granted under this sub clause.
- (iv) Employees intending to apply for reimbursement of fees must be informed of the need to retain receipts for fees paid, for presentation with applications for reimbursement.
- (v) Public sector agencies must take the necessary provision in the Estimates for fees reimbursement.

- (vi) Public sector agencies must maintain adequate records of time off showing the extent of each authorised absence for each employee and test checks should be made to ensure that employees having time off are in fact attending lectures.
- (vii) Where necessary the Chief Executive may delegate a senior officer as "Approving Officer" who should also be the officer responsible for ensuring that proper counselling is given under sub clause 3.2.2 and will liaise with PSWR, DPC.
- (viii) Any employee seeking guidance and advice on part-time studies should be referred initially to the Approving Officer nominated under paragraph (vii).

3.3. Apprenticeship Training

3.3.1. Attendance At TAFE SA or other Registered Training Organisation On Programmed Day Off

Where an apprentice is required to attend TAFE SA or other Registered Training Organisation ("RTO") on their programmed day off, they will be permitted to substitute another day for the programmed day off. The substitute day off may be taken on the day before or the day after their attendance at TAFE SA or the RTO.

3.3.2. "In Block" Attendance At TAFE SA or other RTO On Programmed Day Off

Where an apprentice is required to attend TAFE SA or other RTO "In Block" (e.g. 6 weeks at one time), the employee will accumulate time towards their programmed day(s) off, and therefore be permitted to substitute another day(s) for the programmed day(s). The substitute day(s) should be taken as soon as practicable after the apprentice returns to duty.

3.4. Trade Union Training

Where an employee's Award or Enterprise Agreement does not provide for leave to attend Trade Union Training, the provisions prescribed in Commissioner's Determination 3.1: Employment Conditions – Leave will apply.

3.4.1. Records

Public sector agencies must maintain adequate records of time off showing the extent of each authorised absence and attendances should be verified.

Approvals under this arrangement will not affect the provisions of time off for employees studying under the Part-Time Education Assistance Scheme described in Clause 3.2 above.

3.5. Workplace Health and Safety

3.5.1. Notices

In the interest of workplace health and safety and accident prevention and for the protection of public sector employees, the approval of the responsible Minister has been given for the adoption of a uniform policy in all public sector agencies on measures to be taken in cases where employees neglect or refuse to use equipment provided for their protection, or to observe safe working methods, practices and safety rules approved by the public sector agency, subject at all

times to the employees concerned having received the necessary training associated with these aspects of their employment.

To implement this approval the following procedures should be adopted at all public sector works and in workshops -

- (i) Notices are to be prominently displayed wherever practicable indicating when protective clothing is to be worn or used.
- (ii) A direction in the following terms is to be given to Supervisors and displayed or brought to the attention of all employees:-

"Workplace Health and Safety"

It is a condition of continued employment that the safe working methods, practices and safety rules approved by the public sector agency are to be strictly observed.

All Supervisors must enforce the observance of safety regulations, and in cases of neglect or refusal will, after due warning, take disciplinary action to enforce these regulations.

- (iii) A record shall be kept of warnings given to employees disregarding safety measures to substantiate any subsequent action necessary.

3.6. Supply of Overalls

Cabinet has approved the supply of overalls to certain employees of the public sector.

3.6.1. Persons Eligible and Basis Of Issue

Weekly paid employees, who are not regularly paid a construction or industry-type allowance may be issued with two sets of lightweight protective clothing (where appropriate) and two pairs of combination type overalls, free of cost, as an initial issue. The lightweight protective clothing is intended to be worn when working in hot weather, and, if work is regularly performed outdoors, should be designed to protect the employee from possible sunburn.

Subsequent issues will be made, at not less than yearly intervals and at the rate of not more than one pair per year, on request, accompanied by the return of a pair of overalls which, in the opinion of the supervising officer, are beyond useful wear and effective repair. Normally, replacement will occur of one pair of overalls and one set of lightweight clothing every second year on an alternating basis, commencing two years after initial issue.

Special consideration for earlier replacements should be given to cases where the overalls or lightweight protective clothing are damaged due to the nature of the work and through no fault of the employee. Where, for safety reasons, employees cannot wear lightweight protective clothing replacement of overalls should be on an annual basis commencing one year after initial issue.

The issue of overalls is subject to the employee concerned signing an undertaking, in similar form to that outlined in sub clause 3.6.2:-

- (i) to wear the overalls or lightweight protective clothing whenever required to do so for occupational health and safety reasons, and
- (ii) where safety reasons for wearing overalls or lightweight protective clothing do not apply, to wear the overalls or lightweight protective clothing regularly in the course of the employee's employment.

Substantial failure to comply with either of these conditions will result in forfeiture of the employee's right to receive subsequent issues.

3.6.2. Undertaking to Be Given

To the Chief Executive

REQUEST FOR OVERALLS AND/OR LIGHTWEIGHT PROTECTIVE CLOTHING

I request the (name of public sector agency) supply me with overalls and lightweight protective clothing without charge and I agree –

- (i) to wear the overalls or lightweight protective clothing whenever required to do so for safety reasons, and
- (ii) where safety reasons for wearing overalls or lightweight protective clothing do not apply, to wear the overalls or lightweight protective clothing regularly in the course of my work in the (name of public sector agency).

I understand that failure by me to observe these conditions may cause future issues to be withheld.

Signed

Division or Section

Date

3.6.3. Laundering And Maintenance

The laundering and maintenance of the overalls and lightweight protective clothing will be the responsibility of the employee concerned.

3.6.4. Termination Of Employment

On termination of employment the overalls and lightweight protective clothing must be returned to the employing public sector agency.

However, employees may elect to purchase overalls and/or lightweight protective clothing issued to them on the following basis:-

Where the overalls or lightweight protective clothing have been on issue for up to 6 months:

One-half of the cost of overalls to the public sector agency

Where the overalls or lightweight protective clothing have been on issue for longer than 6 months:

No charge

3.6.5. Persons Ineligible

The issue of overalls and lightweight protective clothing does not extend to the following:-

- (i) Employees regularly in receipt of a construction or industry type allowance which includes compensation for disabilities associated with the work e.g. the Construction Work Allowance as prescribed in the *South Australian Government Civil Construction and Maintenance Award*.
- (ii) Employees who are presently provided with uniforms or in receipt of a uniform allowance.

Any queries concerning the issue of overalls and lightweight protective clothing should be referred to PSWR, DPC for direction.

3.7. Safety Footwear

Approval has been given for a free issue of safety footwear to eligible employees.

3.7.1. Conditions

The following conditions applying to the free issue of safety footwear:-

- (i) Issue
Public sector employees who are eligible for an issue of free safety footwear will be entitled to one pair of appropriate safety boots or shoes as the case may be, as follows:-
 - (a) New Employees – on commencement of employment,
 - (b) Current Employees.

When in the opinion of the employee's supervisor the current issue of free or subsidised footwear is worn out beyond useful wear and effective repair.

"Current employee" includes an employee of a State public sector agency or State Statutory Authority who may be transferring from one of these organisations to another and who is in receipt of free or subsidised footwear at the time of transfer.

- (ii) Replacement
An eligible employee will be entitled to a free replacement of safety footwear if in the opinion of the employee's supervisor the footwear is worn out beyond useful wear and effective repair or damaged due to work requirements and a new pair is warranted.

The employee's second pair of safety footwear may be approved when the initial pair has reached the stage when repairs are necessary and they will be unavailable due to the repairs being effected.

In the event of a dispute between the employee and the supervisor the matter should be referred to the public sector agency Safety Officer or other relevant person for decision.

(iii) Purchase

A delegate of the Chief Executive will be authorised to issue departmental purchase orders on suppliers to eligible employees.

(iv) Displays

Where appropriate, public sector agencies should make arrangements with suppliers to provide a suitable display of safety footwear at the worksite.

3.7.2. Conditions For The Issue Of Free Safety Footwear

Requirement To Wear

- (i) Where safety footwear is provided the employees concerned must wear the footwear at all times during working hours.
- (ii) Where an employee reports for duty without the appropriate footwear the employee must not be permitted to commence duty until the obligation set out in paragraph (i) is fulfilled. Any time lost by an employee reporting for work without the footwear will be without pay.
- (iii) The requirements of paragraphs (i) and (ii) are to be relaxed only in a situation where an employee has appropriate medical certification that the employee is unable to wear the safety footwear. The certification should state the reason why and the period that the employee is unable to wear safety footwear.

3.7.3. Guidelines For Issue

- (i) When deciding if employees qualify for issue of free safety footwear, supervisors should take into account the following:-
- (ii) The provisions of the *Work Health and Safety Act 2012* and the *Work Health and Safety Regulations 2012*.
- (iii) The work upon which eligible employees are engaged must be such, that without safety footwear, a probable risk of foot injury could occur.
- (iv) The circumstances which are most likely to provide a basis for forming an opinion that safety footwear is warranted are where an employee is engaged in:
 - (a) handling materials which, because of their size, shape and/or weight are likely to cause foot injury;
 - (b) working in areas where the risk of puncture injuries to the feet is likely to occur through stepping on or striking sharp objects;
 - (c) work where feet may be struck by falling objects such as hand tools or jack hammers;
 - (d) work where feet may be caught between or in or run over by vehicles or other mechanical equipment;

- (e) the use of equipment, such as agricultural plant or chain saw, where the cutting edges are very difficult to guard against.
- (v) It is not intended that the issue should apply to employees engaged in areas of spasmodic and negligible risk of foot injury such as employees normally working in office or similar work situations.
- (vi) Supervisors are expected to consult public sector agency Safety Officer/s or other relevant persons where any doubt exists concerning the need for safety footwear in a particular work situation.

3.7.4. Record Of Issue

Public sector agencies should ensure that appropriate records of issue of safety footwear are kept.

3.8. Safety Glasses

Employees can be reimbursed the actual cost of case hardening prescription lenses of one pair of private spectacles where it is necessary for them to be worn in "hazard areas".

3.9. Supply of Information

From time to time verbal and/or written requests are received by public sector agencies from individuals, employee associations and other organisations (local and interstate) seeking information concerning salaries and wages, duties of positions and conditions of employment of public sector employees.

Under the provisions of the *Fair Work Act 1994*, the Chief Executive, DPC is the statutory employer of public sector employees, except those prescribed by Regulation. By decision of Cabinet, the Chief Executive, DPC is also responsible for all industrial matters affecting the Crown and its employees.

Therefore any request received by public sector agencies for information of an industrial nature from or on behalf of any person, industrial organisation, employee association, or interstate authority, must be forwarded to PSWR, DPC for attention. To assist in considering what reply or action should occur, matters of detail relating to particular employees or circumstances (as distinct from matters of principle or policy) should be included. A formal acknowledgment providing advice that it has been forwarded to PSWR, DPC should be sent to the writer.

Where necessary, PSWR, DPC will arrange for information to be supplied to the enquirer.

It is not intended that these arrangements should apply to routine enquiries received by public sector agencies from employee organisations with established representation and dealing with matters concerning the application of Awards or Enterprise Agreements within your public sector agency. These enquiries should be dealt with by public sector agencies.

3.10. Industrial Disputes

In the event of industrial disputation the following standard procedures are to be followed:-

- 3.10.1 Employees to be informed that they are required to attend for duty and that any absence will be regarded as unauthorised i.e. absence without leave. These absences will have an effect on leave entitlements according to the provisions of sub clause 2.9.3 of this Manual.
- 3.10.2 Where the action involves unauthorised absence from work, immediate steps should be taken to record the period of absence for each employee involved.
- 3.10.3 Employees who participate in strike action and/or stop work meetings are not to be paid for the time they are absent from work.
- 3.10.4 All employees who want to work are to be permitted to do so and should be treated in the normal manner.
- 3.10.5 Government facilities such as telephones etc. are not to be used for the purpose of promoting industrial disputation.
- 3.10.6 PSWR, DPC must be informed immediately when an industrial dispute and/or action occurs.

Information required includes the following:-

- (vii) Public sector agency(s) concerned, section(s) involved and location(s).
- (viii) Name(s) of employee organisation(s) involved.
- (ix) Date and time action commenced.
- (x) Nature of industrial action e.g. ban, stoppage, strike, threatened ban.
- (xi) Award and Enterprise Agreement coverage.
- (xii) Classification(s) and number(s) of employees involved.
- (xiii) Cause of dispute (explanation of matter involved and demands being made).
- (xiv) Effect of action (particularly on health, welfare and security).
- (xv) Any repercussive action that the industrial dispute may cause and how the public sector agency proposes to maintain work flow and minimise inconvenience to the public.
- (xvi) Expected duration.
- (xvii) Any other information available

3.10.7 When the industrial disputation has been terminated, PSWR, DPC must be provided with, in writing, the information required in sub clause 3.10.6(vi) and the total number of hours lost by all employees.

3.10.8 In addition the *Census and Statistics Act 1905*, as amended, requires employers to supply statistical information relating to industrial stoppages by their employees, to the Australian Bureau of Statistics. Forms relevant to major stoppages are sent directly to PSWR, DPC.

3.11. Reimbursement Claims - Personal Possessions

Chief Executives or delegates may approve ex gratia payments up to a maximum of \$1000 for any single claim for reimbursement for clothing or personal effects of Government employees damaged or lost during the course of their employment. Claims in excess of \$1000 should be referred to PSWR, DPC.

The following guidelines will assist Chief Executives and delegates in considering claims for reimbursement for clothing or personal effects of Government employees damaged or lost during the course of their employment.

Where personal injury is sustained, the appropriate compensation claim forms should be completed and forwarded to the Workers' Compensation Claims Manager/Administrator in their public sector agency.

Where no Award, Enterprise Agreement or statutory provisions exist to reimburse employees for the cost of repairs and replacement, Chief Executives or delegates may approve that an ex-gratia payment be made in those instances where the loss or damage was attributed to the service of the employee and resulted from one of the following circumstances:-

3.11.1 While protecting or endeavouring to protect property of the State from loss or damage.

For example reimbursement has been made in similar situations to the following:-

- damage to trousers by flood waters whilst endeavouring to protect Government property from water damage.
- clothing soiled whilst containing fire in basement of Government building.

In both instances the above examples were emergency situations with no time to seek appropriate protective clothing.

3.11.2 Because of a fault or defect in goods or other property belonging to the State, for example,

- reimbursement was made when an employee tore their trousers on a spring that had protruded through the seat of a public sector agency vehicle. The damaged seat was reported and repaired, however,
- reimbursement was not made when an employee claimed compensation for two pairs of trousers worn out over the period of one year. The cause of the excess wear was said to be a frame bar of the seat that had protruded through the vinyl cover. Clearly the employee should have

reported the damaged seat as soon as it was noticed and not left it for a year. The employee's own negligence was held to be responsible for the excess wear.

- reimbursement was not made when an employee claimed compensation for trousers torn on the protruding edge of a filing cabinet drawer.

The employee was aware of the potential hazard and should have exercised more care. The employee's own negligence in leaving the drawer open was held to be responsible for the damage.

3.11.3 As a result of an act or an omission by another person employed by the State or by circumstances beyond the control of the employee concerned and not contributed to by the employee's negligence or lack of care, for example payment was made when: –

- an employee's spectacles were damaged when a visitor struck the employee on the face.
- an employee was climbing a stairway at the end of a loading jetty carrying valuable equipment when a gust of wind blew their glasses off into the sea.
- an employee's spectacles were damaged when items incorrectly stored by another employee fell from a shelf onto their head.

Reimbursement would not have been made however if the employee had stored the items incorrectly as the damage would have resulted from their own lack of care.

Reimbursement was not made when a claim was made for reimbursement for broken spectacles. The spectacles were broken when one employee collided with another when turning a corner. The employees concerned in this case showed a lack of care.

Reimbursement was not made when an employee made a claim for cash and personal items stolen from the employee's worksite. The employee's own negligence in leaving such items unattended contributed to the loss.

The attention of Chief Executives and delegates is drawn to the fact that personal possessions worn or used by an employee or left on Government premises remain the responsibility of the employee concerned at all times. No reimbursement should be made for items of this nature lost or stolen from the worksite.

To assist Chief Executives and delegates in considering whether claims should be met, the following relevant information should be supplied: -

- (i) A description of the work being performed.
- (ii) Where applicable, the conditions under which the employee was working, e.g. working over water.
- (iii) Whether the work being performed was part of the employee's normal duties.

- (iv) The cause of the accident, stating whether a third party was involved.
- (v) The age of the clothing, equipment etc. lost or damaged.
- (vi) Itemised account showing separate cost components if applicable.
- (vii) Receipts if available; state any amount reimbursed by Health Benefit funds.
- (viii) Whether the employee was issued with a "General Information" Booklet.

Any other information which could assist the Chief Executive or delegate in determining the reimbursement rate.

Public sector agencies should note that if:-

- (a) clothes, personal effects and tools belonging to building workers are lost or damaged during the course of their employment, reimbursement may be made under the appropriate Award or Enterprise Agreement;
- (b) employees do not insure their personal belongings against loss or damage, reimbursement will not be made on electrical goods and other similar items such as cameras and cassette recorders that warrant the above cover. Employees should be advised accordingly;
- (c) employees are eligible to claim items under private health benefit funds (e.g. spectacles), reimbursement will be restricted to the difference between the amount refunded by the fund and the total cost;
- (d) employees working in "hazard areas" do not avail themselves of the provisions of Clause 3.8 of this Manual, reimbursement for damaged lenses will be restricted to one occasion only. Employees working in hazard areas should be encouraged to avail themselves of the provisions of Clause 3.8.

3.12. Absence To Contest A Federal Or State Election

Provisions relating to government employees who intend contesting parliamentary elections are contained in the *Public Sector Act 2009*, Section 66. These provisions will apply equally to weekly paid employees. Accordingly these provisions have not been detailed in this Manual.

3.13. Personal Files

Public sector agencies who currently maintain personal files for weekly paid employees should have regard to the following:-

3.13.1. Relevance

Whilst it is recognised that public sector agencies have responsibility for a range of personnel management functions and in order to perform these functions there is a need to gather and maintain personal information about employees, it remains the responsibility of the public sector agency to ensure that only relevant information is maintained as well as protecting the privacy of employees.

In this regard, contents of files should be reviewed and where necessary culled to ensure that only relevant documentation is maintained. Any documentation culled should be destroyed.

3.13.2. Performance Reports

Performance Reports relating to work ability and conduct which have been seen by the employee concerned should only be maintained in the employee's personal file as long as they are considered relevant to current employment.

It is considered that, as a general rule, this type of information would become outdated after two years.

3.13.3. Access

Personal files must be confidential and kept in a secure place where access to them can only be obtained through the person in charge of these files. The only persons who should be permitted to have access to a file are those who are required in the course of their duties to refer to a specific file.

An individual employee should be permitted on request to inspect the contents of their own personal file. Under no circumstances other than strictly in the line of duty should individual employees be allowed to refer to the personal file of another employee.

3.14. Rates Of Pay, Etc. - Eligibility For Retrospective Adjustment

Where a retrospective Determination is made in respect of an Award, Enterprise Agreement or directive of PSWR, DPC, and a person was employed in a classification affected by a Determination for any time during the retrospective period but had ceased to be employed in that classification on or before the date on which the Determination was made, that person will be entitled to be paid the rate of pay increased by that Determination for the period, subsequent to the commencing date of employment.

3.15. Work Health and Safety Representatives

Section 70 of the *Work Health and Safety Act 2012* provides that "The person conducting a business or undertaking must allow a health and safety representative to spend such time as is reasonably necessary to exercise his or her powers and perform his or her functions under this Act. ... Any time that a health and safety representative spends for the purposes of exercising his or her powers or performing his or her functions under this Act must be with pay that he or she would otherwise be entitled to receive for performing his or her normal duties during that period."

Section 72 of the *Work Health and Safety Act 2012* enables an elected health and safety representative and an elected deputy (ss.60 and 67, *Work Health and Safety Act 2012*) to attend authorised training in paid time (that is, he or she is entitled to be paid what he or she would otherwise be entitled to receive for performing his or her normal duties during the applicable period).

3.15.1. Programmed Day Off

Time off with pay to attend training courses is to be granted to an elected health and safety representative or deputy health and safety representative at a time when the period of absence will not include their programmed day off.

3.16. Issue Of Sun Protection Aids - Employees Working Outdoors

3.16.1. Persons Eligible And Basis Of Issue

Approval has been given for the provision of sunscreen to all employees required to work outdoors at any time, and the supply of sunhats and UV light filtered sunglasses to employees who regularly work outdoors.

Sunhats and sunglasses will be replaced as necessary, on request, accompanied by the return of a hat or pair of glasses, which, in the opinion of the Supervising Officer, is beyond useful wear or effective repair, and which can be reasonably assessed as having suffered fair wear or damage due to the nature of the work and through no fault of the employee.

Sunscreen with a UV protection factor of 30+ will be available as required and should be applied according to the directions regarding the length of time exposed to the sun.

The issue of these protective aids is subject to the employee concerned signing an undertaking in similar form to that outlined in sub clause 3.16.2, to apply the sunscreen and wear the hat and glasses whenever appropriate and practicable while outdoors in the course of his or her employment.

3.16.2. Undertaking To Be Given

To the Chief Executive

Request for Sunhat and UV Light Filtered Sunglasses.

I request the (name of public sector agency) to supply me with a sunhat and UV light protective sunglasses without charge and I agree to use these whenever appropriate and practicable while outdoors in the course of my work for the (name of public sector agency). I understand that failure by me to observe this condition may cause the replacement issues of hats and glasses to be withheld.

Signed

Division or Section

Date

3.16.3. Cleaning And Maintenance

The cleaning and maintenance of the sunhats and sunglasses will be the responsibility of the employee concerned.

3.16.4. Termination Of Employment

On termination of employment the sunhat and sunglasses must be returned to the employing public sector agency. However, employees may choose to purchase the hat and/or glasses at half the cost to the public sector agency where they have been on issue of up to 12 months. The employee may retain the hat and glasses at no cost after 12 months.

3.16.5. Persons Ineligible

Employees who are presently provided with uniforms which include a suitable protective sunhat, or who are in receipt of a uniform allowance, which covers the cost of a hat, will not be entitled to be issued with a sunhat.

3.17. Grievance And Dispute Avoidance Procedures

- 3.17.1 This procedure aims to avoid industrial disputes. Where a dispute occurs, it provides a means of settlement based on consultation, co-operation and discussion and the avoidance of interruption to work performance.
- 3.17.2 Except where a bona fide health and safety issue is involved, during any dispute the status quo existing immediately prior to the matter giving rise to the dispute will remain. Work will continue as it was prior to the matter giving rise to dispute.
- 3.17.3 No party will be prejudiced as to final settlement by the continuance of work in accordance with this Clause.
- 3.17.4 All parties have a right to seek representation in order to resolve any dispute.
- 3.17.5 Any grievance or dispute will be handled as follows:
- (i) Stage 1: Discussions between the employee/s and supervisor.
 - (ii) Stage 2: Discussions involving the employee/s and/or nominated representatives or delegates with the relevant agency management representative or nominated delegate.
 - (iii) Stage 3: Discussions involving employees and/or nominated representatives or delegates and the relevant agency management representative or nominated delegate. At this stage, discussions may include representatives of PSWR, DPC.
- 3.17.6 A dispute will not be referred to the next stage until a genuine attempt to resolve the matter has been made at the appropriate level.
- 3.17.7 Sensible time limits will be allowed for the completion of the various stages of the discussions. Discussions outlined in each of the first two stages above should, if possible, take place within 24 hours after the request of the employee/s or their representative.
- 3.17.8 Emphasis should be placed on a negotiated settlement. However, if the process breaks down, or is exhausted without the dispute being resolved, any party may refer the matter to the Industrial Relations Commission of South Australia where appropriate. In order to allow for peaceful resolution of grievances the parties will be committed to avoid industrial disputation while the procedures of negotiation and conciliation are being followed.
- 3.17.9 The parties will ensure that all practices applied during the operation of the procedure are in accordance with safe working practices.

3.18. Traffic Infringement Expiation Notices - Red Light/Speed Cameras

Commissioner's Determination 3.2: Employment Conditions – Remuneration – Allowance and Reimbursements, will apply.

3.19. Job Representatives

The Chief Executive, DPC acknowledges and accepts the authority and duties of all Union elected representatives as contained in their relevant Union's constitution, rules and/or by-laws, in accordance with the detail of procedure contained in this Clause 3.19 of this Manual.

The Chief Executive, DPC and the Unions with members in the public sector, in the interest of harmonious employee relations, seek the co-operation of public sector agency management and Union representatives in relation to this Clause which reflects the abovementioned Agreement.

A union for the purposes of this Manual means a public sector representative organisation as defined in Section 3 of the *Public Sector Act 2009*.

3.19.1. Advice of Election

Following the election of a job representative, the Secretary of the Union will advise the Chief Executive of the relevant public sector agency, in writing, of each elected job representative. The elected member will be issued with written credentials by the Secretary authorising that member to act in accordance with the duties of a job representative as prescribed in the rules and/or by-laws of the Union.

3.19.2. Role, Rights and Responsibility

- (i) Job representatives are expected to maintain a representation role. Therefore, matters raised should only reflect issues that are raised by members employed at the worksite. Management should also ensure that when consultation with a job representative is initiated, the views being sought are those of the members employed on the work site and not the personal views of the job representative.
- (ii) Should a member or members apprise their elected job representatives of a matter as defined by the rules and/or by-laws of the relevant Union and request appropriate assistance, the job representative will inform the immediate management of the public sector agency, division, branch or section (whichever is appropriate) of the nature of the matter.
- (iii) Notwithstanding this procedure, the Chief Executive, DPC recognises the right of the job representative to inform the Union of the matter or matters for the purpose of seeking advice and assistance where necessary.
- (iv) Job representatives are required at all times to act in accordance with the rules and/or by-laws of the relevant Union and the Agreement referred to herein provided the relevant rules and/or by-laws of the Union are not inconsistent with the *Public Sector Act 2009* and *Public Sector Regulations 2010* or Award, or any relevant Agreement.

- (v) Job representatives will be allowed reasonable time within normal hours of duty to permit them to perform their duties as elected job representatives within their respective electorates.
- (vi) Each Union, through its staff of full time officials has agreed that every assistance will be made available to elected job representatives.
- (vii) The Unions agree to determine and resolve all claims that a job representative is acting contrary to its constitution rules and/or by-laws, and the Unions agree that notification can be made to the applicable Union by the Chief Executive or PSWR, DPC where such a matter is recognised.

3.19.3. Delegates Conference

- (i) The Chief Executive, DPC and the Unions accept that, in the interests of the Public Service and the members of the Unions, some reasonable time during normal hours of duty should be available to all accredited delegates to permit them to attend Delegates Conferences or equivalent.
- (ii) The Unions agree that such Conferences will be held at times which involve the minimum of interference to the normal working of public sector agencies. A maximum of three days every two years will be available for such purposes.
- (iii) Accredited delegates should be granted time off without pay to enable them to attend the conference to the extent that it is held during normal working hours. However, the use of recreation leave and flexitime, where appropriate and within the guidelines will be acceptable.
- (iv) The Unions agree to inform the Executive Director, PSWR, DPC and the relevant Chief Executives at least 28 days prior to the conference of the persons eligible to attend, the date, venue and times.
- (v) It is the responsibility of the individual employee to make application for such leave of absence as may be required to attend the Conference.

3.19.4. Regional Council Delegates Meetings

- (i) It is accepted that, due to the particular difficulties caused by the geographic dispersal of members of Unions in country areas, some time off during normal hours of duty should be available to all accredited job representatives permanently stationed outside of the metropolitan area, to enable them to attend Council Delegates meetings or equivalent.
- (ii) Subject to public sector agency convenience, those job representatives who are permanently stationed outside of the metropolitan area, may be credited with up to one days leave without pay, not more than four times per year, for the purpose of travelling to and attending meetings or equivalent. However, the use of recreation leave and flexitime, where appropriate and available within the guidelines of existing approvals, will be acceptable.
- (iii) It is the responsibility to the individual employee concerned to make an application for such leave of absence as may be required to attend a meeting.

3.19.5. Communications

- (i) There should be effective means of communication and consultation between local management and job representatives on matters of mutual interest and concern whether or not those matters are likely to give rise to a dispute. The attention of both local management and job representatives is drawn to both the informal and formal means of communication and consultation at each work site.
- (ii) Where a job representative raises a matter with local management on behalf of a member employed within the job representatives work site, local management should acknowledge the request and respond in a manner consistent with the level of authority of the particular manager.

3.19.6. Transfer of Representatives

Wherever possible, public sector agency management will discuss with job representatives matters, which affect their ability to properly carry out their duties and responsibilities as job representatives. In particular, where it becomes necessary to transfer, relocate, or change the duties of an employee who is a job representative, management will inform the job representative to enable the relevant Union reasonable time to make appropriate arrangements for continued representation at the worksite.

3.19.7. Resolution of Complaints etc.

- (i) To assist job representatives and local management in allowing reasonable time within normal hours of duty to permit job representatives to perform their duties within their respective electorates, it will be appropriate to have regard to the responsibilities of job representatives on the worksite as set out in the rules and/or by-laws of the relevant Union.
- (ii) A job representative, having referred a matter to an organiser or the Union for industrial assistance, will normally not be required to be involved in further discussion occurring away from the worksite. As a general guide, the involvement of a job representative in discussions away from the worksite would normally require acceptance by local management that the presence of the job representative is essential to the appropriate resolution of the matter raised.
- (iii) If a matter is not resolved by consultation and/or discussion between the job representative and local management, the job representative will normally refer the matter to an organiser. The organiser and job representative should then seek to confer with the appropriate public sector agency management on the matter. Normally such a conference should commence within 24 hours. However, if there is agreement between the job representative, organiser, and management the period may be longer.
- (iv) If the matter is not resolved at that conference or is such that it has wider implications than the particular worksite, then it would be appropriate for the organiser to seek further industrial assistance, and for public sector agency management to advise the Chief Executive and/or PSWR, DPC as the case may be. Normally a job representative would not be required to participate in discussions other than those which involve local management.

3.19.8. Recrimination

- (v) A job representative who carries out duties in accordance with the rules and/or by-laws of the relevant Union and acts on behalf of the members within that

representative's electorate, will be permitted by the Chief Executive to do so without recrimination or detriment to that person's employment.

- (vi) Where it is claimed that an employee has been discriminated against or that some recrimination has occurred which is solely related to that employee's appointment as a job representative, it is incumbent upon public sector agency management to make immediate enquiries to establish whether or not such discrimination or recrimination has occurred and for the Chief Executive to inform the job representative of the decision in writing.
- (vii) Where a job representative is not satisfied with the finding of the Chief Executive the job representative may, initiate the Grievance and Dispute Resolution process as prescribed in this Manual at Clause 3.17.

4.1. First-Aid

The provisions contained in Clause 6.8, First Aid in the *South Australian Government Services Award* should be applied to employees eligible to receive this allowance. Accordingly, the conditions and allowance prescribed in this Award have not been detailed in this Manual.

4.2. Camp Allowance

The provisions contained in Clause 6.14, Camp Allowance in the *South Australian Government Civil Construction and Maintenance Award* should be applied to employees eligible to receive this allowance. Accordingly, the conditions and allowance prescribed in this Award have not been detailed in this Manual.

4.3. On Call And Recall To Duty

4.3.1. On Call

Approval has been granted for public sector agencies to authorise the payment of on call allowances to weekly paid employees who are directed by public sector agencies to be rostered on call. Payments of these allowances should be authorised by either the Chief Executive or delegate with appropriate authority within public sector agencies.

(i) Allowances

- (a) The rate of the allowances contained in sub clauses 6.9.1 and 6.9.2 of the *South Australian Government Services Award* should be applied to employees eligible to receive this allowance.

(ii) Conditions

- (a) Employees concerned will not be required to remain at home for the whole time of on call but may leave their home, provided that they can be contacted and remain in reasonably close proximity to the most probable place of employment. Advice of the telephone contact must be given by the employees concerned prior to leaving their homes.
- (b) If an employee on the on call roster wishes to interchange with another employee on the roster, they may do so if the approval of the officer in charge is obtained before normal finishing time.
- (c) When an employee is called out to work outside of their normal working hours they should be paid under the relevant overtime or call out provisions of the employee's Award or Enterprise Agreement.
- (d) Chief Executives and delegates should exercise care in the authorisation of on call rosters. Only those employees who are considered necessary to remedy an emergency situation should be rostered on call after hours.

4.3.2. Programmed Day Off

Where an employee is recalled to duty, on their programmed day off, the employee should be paid under the relevant overtime or call out provisions of their Award or Enterprise Agreement and they will not be entitled to substitute another day for the programmed day.

4.4. Employees Required To Work on Programmed Day Off Other Than Recall To Duty

Where an employee has been given prior notice (such notice to be given as soon as practicable) that they will be required to work on their programmed day off due to an emergency, the employee will be paid at ordinary time for the day and a substitute day off must be granted.

4.5. Excess Fares and Travelling Allowances/Travelling Time

The provisions contained in Clause 6.13, Fares and Travelling in the *South Australian Civil Construction and Maintenance Award* should be applied to employees eligible to receive this allowance.

4.6. Travelling Expenses

For details regarding travelling expenses reimbursement and allowances, refer to Commissioner's Determination 3.2: Employment Conditions – Remuneration – Allowances and Reimbursements.

4.7. Travelling Conditions - Personal Emergency

4.7.1 Where a personal emergency occurs to an employee working at a location which is so far from their permanent depot where they are required to temporarily live away from their permanent depot and the employing public sector agency agrees that it is necessary for the employee to return home, the Department will make every reasonable effort to assist the employee to return home promptly, including the provision of transport from the work site to the nearest suitable public transport and the provision of a bus or railway fare to the bus or railway station nearest the employee's usual place of residence.

In the circumstances, the employee should be paid for time involved in travel, within South Australia, at ordinary time rates for travel in ordinary working hours.

4.7.2 Where a personal emergency occurs to an employee working at a location at or near their permanent depot and the employing public sector agency agrees that it is necessary for the employee to return home, the public sector agency should make every reasonable effort to assist the employee to return home promptly by providing transport from the work site or depot to the nearest suitable public transport.

4.7.3 A "personal emergency" means the death or serious illness or serious bodily injury of a near relative, or substantial damage to an employee's residence by fire or storm, or some such similar emergency, where the employing public sector

agency is satisfied that the employee's urgent attendance is reasonably necessary.

4.8. Changing Headquarters - Relocation Expenses

For details regarding reimbursement of relocation expenses, refer to Commissioner's Determination 3.2: Employment Conditions – Remuneration –Allowances and Reimbursements.

4.9. Transport Reimbursement For Employees With A Disability

For details regarding the transport reimbursement for employees with a disability, refer to Commissioner's Determination 3.2: Employment Conditions – Remuneration –Allowances and Reimbursements.

CERTIFICATE BY CLAIMANT

I certify that:-

1. I am the holder of current Disabled Persons Parking Permit No. issued by the Registrar of Motor Vehicles;
2. The distance for which payment is claimed was actually travelled from home to headquarters; and
3. I travelled the distance claimed in:-
 - a taxi
 - a motor vehicle powered by an engine or four cylinders or less
 - a motor vehicle powered by an engine or more than four cylinders; or
 - a rotary engine.
4. The car parking fees claimed was actually paid in respect of the provisions outlined in Clause 4.9 (v) of this Manual.

Approved
Chief Executive or Delegate
Claimant
Date

4.10. Official/Private Use Of Private Motor Vehicle

The Chief Executive or delegate may grant approval to a full-time or part-time employee who applies to use a private motor vehicle for a combination of official and private purposes in circumstances where such use is mutually convenient to the public sector agency and the employee.

The type of situation to which this is intended to apply is where, for example, an employee located in the country is required to visit Adelaide (or vice versa) on official business and to give mobility to attend to private business whilst away from normal headquarters, the employee wishes to use a private vehicle for the journey rather than a Government vehicle (or other form of transport).

4.11. Reimbursement Rates

The rates prescribed in Clause 8.9, Transfer of Headquarters, in the *S.A. Public Sector Salaried Employees Interim Award* should be applied to employees eligible to receive this allowance.

4.12. Juniors With Dependants

Cabinet has decided that juniors within the employment of the Government of the State who have at least one child and whose spouse or de facto spouse is not in receipt of any income should be paid an additional allowance above their normal rate of pay to bring their earnings in any pay period up to the minimum wage prescribed for adult employees. The minimum adult wage will be in accordance with the Minimum Standard for Remuneration as determined by the Industrial Relations Commission of South Australia pursuant to section 69(3) of the *Fair Work Act 1994*.

In making these payments, public sector agencies should also note that:-

- The allowance does not form part of the wage rate for any purpose;
- The allowance is not related to the adult rate of pay for a particular job but to the specified minimum wage applying from time to time, irrespective of the nature of the employment;
- In determining the payment to be made any other income of the junior and spouse or de facto spouse should be taken into account;

This provision also applies to juniors who are without a spouse but who have at least one child.

4.13. Camping Out

For details regarding Camping Out Allowance, refer to Commissioner's Determination 3.2: Employment Conditions – Remuneration – Allowances and Reimbursements.

4.13.1. Camping Out On Programmed Day Off

Where an employee is required to camp out on their programmed day off then the appropriate allowances prescribed in Clauses 4.13, 4.13.2 and 4.13.3 will be payable on the day.

4.13.2. Proceeding To Or Returning From Camp

Where an employee is proceeding to camp or returning officially to headquarters, the employee will be reimbursed on the basis of expenditure actually and necessarily incurred while travelling in accordance with the rates prescribed in Commissioner's Determination 3.2: Employment Conditions – Remuneration – Allowances and Reimbursements.

4.13.3. Hotel, Motel, Boarding House Accommodation

Where an employee on any day is authorised to use hotel, motel or boarding house accommodation, an employee will be reimbursed on the basis of expenditure actually and necessarily incurred under the rates set out in Commissioner's Determination 3.2: Employment Conditions – Remuneration – Allowances and Reimbursements.

4.13.4. Exclusions

- (i) When an employee is entitled to travelling expenses reimbursement under Commissioner's Determination 3.2: Employment Conditions – Remuneration - Allowances and Reimbursements, the allowances prescribed by Clause 4.12 are not payable.
- (ii) This instruction does not apply to employees covered by the provisions of Clause 4.2 'Camp Allowance' of this Manual.

4.14. Locality Allowances

For details regarding the provisions for the locality allowances to compensate employees (other than those living in public sector agency camps or in receipt of camping out allowances) employed in remote localities, refer to Commissioner's Determination 3.2: Employment Conditions – Remuneration – Allowances and Reimbursements.

4.15. Travel And Accommodation Expenses: Medical And Dental Treatment

4.15.1. Introduction

Employees necessarily residing outside the metropolitan area (because of their employment) should be reimbursed under Commissioner's Determination 3.2: Employment Conditions – Remuneration – Allowances and Reimbursements, Travel and Accommodation Expenses for Medical/Dental Treatment, when travelling to obtain medical or dental treatment.

4.15.2. Definitions

For the purposes of Commissioner's Determination 3.2: Employment Conditions – Remuneration – Allowances and Reimbursements, an "employee" means any employee contracted by the week or fortnight but shall not include a casual employee.

4.16. Travel Costs - Employees Stationed On Kangaroo Island

For information regarding reimbursement of travel costs for employees returning to the mainland from Kangaroo Island during periods of recreation leave refer to the provisions of Commissioner's Determination 3.2: Employment Conditions – Remuneration – Allowances and Reimbursements.

General Approved Courses

Available at Institutions in South Australia

Study Institution	Course Level	Course
TAFE SA and/or other RTO	Post Trade Certificate	Automotive Electricians and Automotive Mechanics Building, Electrical Fitters, Electrical Mechanic, Electronics, Furnishing Trades, Mechanical, Metal Fabrication, Painting, Decorating and, Signwriting, Plumbing, Refrigeration Mechanics, Sheetmetal Work, Tool Room Production, Tractor Mechanics
TAFE SA and/or other RTO	Certificate	Safety Children's Services
University of South Australia and/or TAFE SA and/or other RTO	Technical Certificate	Automotive, Building, Civil, Electrical, Electronic, Mechanical, Production, Science, Survey