

Labour Cost Cap Award Variations, 16 August

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Minimum payment for recall, Perisher Valley

9.5 Recall to Incident

- 9.5.1 An employee who is off duty and who is called upon, pursuant to subclause 9.5.2, to report for duty to attend an incident shall be entitled to a minimum payment equal to two hours at overtime rates.
- 9.5.2 Notwithstanding anything elsewhere contained in this clause, in the case of an incident, all employees off duty shall be liable to be called upon to report for duty and if called upon shall report immediately for duty
- 9.5.3 An employee who is on annual leave or long service leave and who reports for duty to attend an incident shall, in addition to payment pursuant to subclause 9.1, be credited with consolidated leave equal to the amount of time so worked.
- 9.5.4 For meal allowance entitlements when the employee remains on duty for a period of four hours or more in connection with a recall pursuant to subclause 9.5.1, see Clause 10, Meals and Refreshments.

9.6 Recall to Maintain Required Staffing Levels

- 9.6.1 **Subject to subclause 9.6.2, an An** employee off duty who is required to report for duty for the purpose of maintaining required staffing levels shall, on so reporting, be entitled to a minimum payment equal to four hours at overtime rates.
- 9.6.2 **Commencing 8am 1 September 2012 and concluding 8am 1 September 2013, an employee performing relief duties at Perisher Valley Fire Station who is off duty and who is called upon to report for duty to attend an incident shall be entitled to a minimum payment equal be entitled to a minimum payment equal to two hours at overtime rates pursuant to subclause 9.5.1.**

Long Service Leave

- 20.1 Subject also to the provisions of subclause 20.8, Long Service Leave calculated from the date of appointment to the service shall accrue to employees in accordance with the following entitlements:
- 20.1.1 ~~Leave on full pay shall initially accrue at 0.1011 hours per calendar day so after~~ After service for ten years, leave for ~~two months 369.27 hours~~ on full pay or ~~four months 738.54 hours~~ on half pay.
- 20.1.2 After service in excess of ten years, ~~when leave on full pay shall then accrue at 0.2530 hours per calendar day:~~
- 20.1.2.1 Leave pursuant to subclause 20.1.1; and
- 20.1.2.2 In addition, an amount of leave proportionate to the length of service after ten years, calculated on the basis of ~~five months 924.0825 hours~~ on full pay or ~~ten months 1848.165 hours~~ on half pay, for ten years served after service for ten years.
- 20.1.2.3 Long Service Leave shall not include annual leave.
- 20.2 Where the services of an employee with at least five years but less than seven years service are terminated by the Department for any reason other than the employee's serious and wilful misconduct, or by the employee on account of illness, incapacity or domestic or other pressing necessity, or by reason of the death of the employee, the employee shall, for five years' service be entitled to ~~one month's 198.135 hours'~~ leave on full pay and for service after five years to a proportionate amount of leave on full pay calculated on the basis of ~~three months' 594.405 hours'~~ leave for fifteen years' service.
- 20.3 In the event of the termination of the employment of the employee other than by death, the monetary value of Long Service Leave due, if any, shall be paid to such employee.
- 20.4
- 20.4.1 Approval to take Long Service Leave as provided by this clause shall, subject to the exigencies of the Department, be granted by the Department as and when such leave becomes due (i.e. after seven years) or any time thereafter. Provided that an employee shall give notice, in writing, to the Department of the employee's intention to take such leave. Such notice shall be given at least twenty days before the date on which the employee intends to commence such leave.
- 20.4.2 Notwithstanding the provisions of subclause 20.4.1, the period of notice referred to in subclause 20.4.1 may be reduced on a case by case basis, subject to the discretion of the Commissioner.
- 20.5 Approval to take Long Service Leave may be deferred by the Commissioner due to Departmental requirements.
- 20.6 Long Service Leave may be taken in the following combinations and not otherwise:
- 20.6.1 In the case of employees working the roster systems prescribed by subclauses 8.3 and 8.4 of Clause 8, Hours of Work, ~~either as provided by subclause 20.6.4 or~~ in multiples of eight consecutive calendar days with a minimum period of eight consecutive calendar days.
- 20.6.2 In the case of employees working the roster systems prescribed by subclauses 8.5 and 8.6 of Clause 8, Hours of Work, or any other roster system agreed to between the Department and the Union based on a seven day cycle, ~~either as provided by subclause 20.6.4 or~~ in multiples of seven consecutive calendar days with a minimum period of seven consecutive calendar days.

- 20.6.3 Where approval is granted to take Long Service Leave on half pay the multiples and minimum periods specified in subclauses 20.6.1 and 20.6.2 shall be doubled.
- 20.6.4 The minimum period of Long Service Leave that may be taken by an employee other than an Executive Officer is a single day or shift. An employee's leave balance will be debited by the same number of hours as the number of hours they would have worked according to their roster had they not taken the leave.
- 20.7 Prior to an employee entering upon a period of Long Service Leave, the employee may elect to be paid with respect of the period of leave in one of the following ways:
- 20.7.1 in full when the employee commences the period of leave; or
- 20.7.2 at the same time as the employee's normal pay would have been paid if the worker had remained on duty.
- 20.8 Notwithstanding anything elsewhere provided by this clause, effective on and from the date of operation of this Award:
- 20.8.1 employees may apply to take pro-rata Long Service Leave after the completion of seven (7) years of service. Additionally employees with such service shall be entitled to pro-rata Long Service Leave on resignation or termination.
- 20.8.2 employees may apply to take a period of Long Service Leave at double pay provided that:
- 20.8.2.1 The additional payment will be made as a non-superable taxable allowance payable for the period of the absence from work.
- 20.8.2.2 The employee's leave balance will be debited for the actual period of the absence from work and an equivalent number of ~~hours~~ ~~days~~ as are necessary to pay the allowance.
- 20.8.2.3 Other leave entitlements, e.g., ~~recreation~~ annual leave, sick leave and Long Service Leave will accrue at the single time rate where an employee takes Long Service Leave at double time.
- 20.8.2.4 Superannuation contributions will only be made on the basis of the actual absence from work, i.e., at the single time rate.
- 20.8.2.5 Where an employee other than an Executive Officer elects to take Long Service Leave at double pay, the minimum & multiple periods of actual absence as prescribed in 20.6 shall apply. Where an Executive Officer elects to take Long Service Leave at double pay, the minimum period of actual absence should be not less than one week.
- 20.8.3 Where a public holiday falls during a period of Long Service Leave the employee shall be paid for that day and additionally it shall not be deducted from the period of the leave.
- 20.8.3.1 In respect of public holidays that fall during a period of double pay Long Service leave an employee will not be debited in respect of the leave on a public holiday. The employees leave balance will however be reduced by an additional day to fund the non-superable taxable allowance.
- 20.9 Entitlements to Extended Leave (Long Service Leave) pursuant to the *Public Sector Employment and Management Act 2002* shall take effect on and from 5 October 1993, provided that the total years of service will count for the determination of entitlements accruing from that date.

Personal/Carer's Leave

- 22.1.2 The employee shall, if required, establish, by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.
- 22.1.3 Commencing 8am 1 September 2012 and concluding 8am 1 September 2013, the provisions of subclause 22.1.2 shall not have effect and the provisions of subclause 22.1.3.1 shall operate instead:
- 22.1.3.1 Subject to subclause 22.1.3.2, an employee shall produce a medical certificate or statutory declaration, to establish the illness of the person concerned, but not the nature of the person's illness, and that the illness is such as to require care by another person.
- 22.1.3.2 An employee may not produce more than one statutory declaration each calendar year in support of their absence unless it is not possible or practicable to obtain a medical certificate, in which case their statutory declaration will also set out the reason or reasons preventing their production of a medical certificate.
- 22.1.3.3 In normal circumstances an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.

(re-number remaining subclauses).

Sick leave

- 23.7 The granting of sick leave, the duration thereof and the pay, if any, for the same shall be on the following basis:
- 23.7.1 One hundred and forty-four hours on full pay in any one year, ~~cumulative to a maximum of three thousand two hundred and seventy six hours.~~
- 23.7.2 ~~Effective 17 February 1997, the sick leave prescribed in 23.7.1 shall be fully cumulative less any sick leave taken.~~ Sick leave beyond the scale provided for shall be sick leave without pay.
- 23.7.3 ~~Sick leave beyond the scale provided for shall be sick leave without pay.~~ Commencing 8am 1 September 2012 and concluding 8am 1 September 2013, the provisions of subclause 23.7.1 shall not have effect and the provisions of subclause 23.7.3.1, 23.7.3.2 and 23.7.3.3 shall operate instead.
- 23.7.3.1 Eighty four hours of short-term sick leave on full pay in any one year, cumulative to a maximum of two thousand one hundred hours.
- 23.7.3.2 Sixty hours of long-term sick leave, which shall only be payable for absences in excess of twenty one or more consecutive days, cumulative to a maximum of one thousand five hundred hours.
- 23.7.3.3 Short-term sick leave and long-term sick leave shall be granted, taken and accumulated separately, with all sick leave accumulated by employees prior to 1 January 2012 being deemed long-term sick leave, provided that on 1 September 2013 all short-term and long-term sick leave accumulated as at that date shall be combined and restored as one sick leave balance.
- 23.7.4 Sick leave is intended to be allowed in respect of absences from duty caused by ordinary illness or incapacity for duty as the result of an illness or injury sustained whilst off duty. When the incapacity is due to organised sporting activity or paid work, unconnected with the Department, any sick leave payment shall take into account any benefit in the nature of sick leave or workers compensation payments the employee concerned receives from the body organising the sporting activity or paid work, but to the extent of such benefit, the employee's sick leave entitlement shall not be affected.
- 23.7.5 Where payment has been made for sick leave, under this clause, to an employee whose sick leave entitlement previously has been exhausted, or whose right to sick leave is not established, the Department may deduct the amount overpaid from the salary of the employee concerned in the next pay period or, if such a deduction would cause hardship, in accordance with the provisions of subclause 6.15 of this Award.
- 23.7.6 Recruit firefighters shall be eligible for sick leave. However, such employees shall only be entitled to use up to and including 72 hours of sick leave.
- 23.7.7 When the incapacity is due to a cause which would entitle an employee to workers' compensation, the Department shall pay the difference between the amount of workers' compensation payment and the ordinary rate of pay of the employee concerned. The employee's entitlement for sick leave arising from ordinary illness shall not be affected.
- 23.7.8 The employee shall prove to the satisfaction of the Department, or, in the event of a dispute, to the satisfaction of the Industrial Relations Commission, that the employee was unable, on account of such illness or incapacity, to attend for duty on that day or days for which sick leave is claimed. Payment shall not be allowed for such leave until this condition is fulfilled. A medical certificate tendered in support of such claim shall state the illness or incapacity, and

that the employee was prevented by such illness or incapacity from attending for duty on the day or days for which sick leave is claimed.

23.8 Employees are entitled to take unsupported sick leave absences, where no medical certificate is required, subject to the following provisions:

23.8.1 ~~Subject to subclause 23.8.6, Such~~ such absences may not exceed 3 separate occasions in any calendar year, where an 'occasion' shall be a shift or part of a shift (or in the case of Executive Officers, 3 separate days in any calendar year; and

23.8.2 Such absences may not be taken on consecutive days; and

23.8.3 Such absences may not be taken on public holidays; and

23.8.4 Such absences may not be taken in relation to any matter that may be covered by workers' compensation.

23.8.5 Such absences may not be taken in relation to any matter that may be covered by workers' compensation.

23.8.6 The parties agree to trial a reform commencing 1 September 2012 to operate for the remaining life of this Award whereby employees who take less than 84 hours sick leave and less than 3 unsupported sick leave absences over the 2012 calendar year may accumulate any residual unsupported sick leave entitlement and access such additional entitlement during the course of the following or subsequent years.

(re-number remaining subclauses).

Replacement of km payments for transport of gear with a flat “recall allowance”

9.10 Commencing 8am 1 September 2012 and concluding 8am 1 September 2013, the provisions of subclause 9.7 shall not have effect and the provisions of subclause 9.11 shall operate instead.

9.11 Where an employee recalled pursuant to either subclauses 9.5.2 or 9.6.1:

9.11.1 Is directed perform the recall, such employee shall be paid the Kilometre Allowance set at Item 2 of Table 3 of Part C, for the return distance travelled from the employee’s station/location to the recall station/location and back again, or the amount set at subclause 9.11.2, whichever is the greater. For the purpose of this subclause “distance travelled” means the agreed distance or, if the distance is not covered by a Matrix, the actual kilometres travelled.

9.11.2 Elects or agrees to perform the recall, such employee shall be paid an amount equivalent to [insert yet to be agreed figure] kilometres of the Kilometre Allowance set at Item 2 of Table 3 of Part C.

9.11.3 Incurs a toll as a consequence of using a bridge, tunnel or motorway when travelling to perform the recall, such employee shall be reimbursed for the cost of the toll.

Acting Down

Clause 42. Employees' Duties

- 42.1 An Employee may be directed to carry out duties which are within the limits of his or her skills, competence, and training, in such a manner, as may be required by the Department, provided that:
- 42.1.1 the direction is reasonable, and
 - 42.1.2 the direction is not otherwise inconsistent with a provision of this Award.
- 42.2 Any direction issued by the Department pursuant to subclause 42.1 shall be consistent with:
- 42.2.1 the provision of a safe and health working environment,
 - 42.2.2 ensuring that the Department responds to relevant technological changes and changes in its operating environment in a timely and effective manner.
- 42.3 To avoid doubt, an employee of any classification may be directed to carry out the duties of an employee of any lower classification provided, firstly, that such duties are within the limits of his or her skills, competence, and training and secondly, that an employee who does perform lower duties shall retain the conditions of employment applicable to their substantive classification.
- 42.4 The parties to this Award shall work collaboratively to ensure the effective and reasonable operation of this clause.

Retained stand by duties – retained vacancies at incident rate

6.7 Standing By for Non-Available Staff

- 6.7.1 ~~Subject to subclause 6.7.4, where~~ ~~Where~~ an employee is required to stand by with a brigade to fill a vacancy created through the non-availability of firefighting staff, retained or permanent, such employee shall be paid at the rate prescribed at Entitlement Code L of Table 1 of Part B of this Award for the period which elapses from the time the employee signed on in the occurrence book of the stand by station, until the time such employee signs off in the occurrence book of the stand by station. Provided that employees who perform stand by duties in accordance with this subclause shall not attract additional payment under this Clause for attendance at incidents or performing authorised duties or drills during the period of the stand by.
- 6.7.2 Employees who stand by at a station other than their own shall be paid the appropriate rate per hour prescribed for the employee's classification for the duration of the forward and return journeys between the employee's station and the location of the stand-by. All such time shall be paid to the minute.
- 6.7.3 Where it is necessary for an employee to use the employee's private vehicle to perform stand by duties, such employee shall be paid the rate per kilometre prescribed at Entitlement Code "K" of Table 1 of Part B for the forward and return journeys between their residence and their station, and the forward and return journeys between their station and the location of the stand-by.
- 6.7.4 Commencing 8am 1 September 2012 and concluding 8am 1 February 2013, the provisions of subclause 6.7.1 shall not have effect and the provisions of subclauses 6.7.4.1 and 6.7.4.2 shall operate instead.
- 6.7.4.1 ~~Where an employee is required to stand by with a brigade to fill a vacancy created through the non-availability of firefighting staff such employee shall be paid:~~
- 6.7.4.1.1 ~~if the vacancy is created through the non-availability of permanent firefighting staff, at the rate prescribed at Entitlement Code L of Table 1 of Part B of this Award for the period which elapses from the time the employee signed on in the occurrence book of the stand by station, until the time such employee signs off in the occurrence book of the stand by station; or~~
- 6.7.4.1.2 ~~if the vacancy is created through the non-availability of retained firefighting staff and the employee has performed less than 80 hours within the current calendar year performing such duties, at the rate prescribed for their classification, as provided for at subclause 6.3.1 and Table 1 of Part B of this Award, for the period which elapses from the time the employee signed on in the occurrence book of the stand by station, until the time such employee signs off in the occurrence book of the stand by station; or~~
- 6.7.4.1.3 ~~if the vacancy is created through the non-availability of retained firefighting staff and the employee has performed 80 or more hours within the current calendar year performing such duties, at the rate prescribed at Entitlement Code L of Table 1 of Part B of this Award for the period which elapses from the time the employee signed on in the occurrence book of the stand by station, until the time such employee signs off in the occurrence book of the stand by station.~~

6.7.4.2 Employees who perform stand by duties in accordance with this subclause shall not attract additional payment under this Clause for attendance at incidents or performing authorised duties or drills during the period of the stand by.

(Note: this Award amendment will also need to be accompanied by the suspension of the 2008/22 provision which precludes the use of retained firefighters to fill retained staff shortages where there is a permanent firefighter available within 60km to perform a recall.