

**PUBLIC TRANSPORT AUTHORITY/ARTBIU RAILWAY EMPLOYEES
(TRANSPERTH TRAIN OPERATIONS) INDUSTRIAL AGREEMENT 2022**

WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

PARTIES	PUBLIC TRANSPORT AUTHORITY OF WESTERN AUSTRALIA	APPLICANT
	-v-	
	AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION OF EMPLOYEES, WESTERN AUSTRALIA BRANCH	RESPONDENT
CORAM	COMMISSIONER T EMMANUEL	
DATE	THURSDAY, 13 APRIL 2023	
FILE NO/S	AG 5 OF 2023	
CITATION NO.	2023 WAIRC 00197	

Result Agreement registered

Representation

Applicant Ms M Fayomi and Mr R Lindsay (as agents)

Respondent Mr J Dekuyer (as agent)

Order

WHEREAS this is an application pursuant to section 41 of the *Industrial Relations Act 1979* (WA) to register an industrial agreement;

AND WHEREAS I am satisfied that the agreement meets the requirements of the *Industrial Relations Act 1979* (WA) and that it should be registered;

AND WHEREAS the parties consent to this agreement being registered on the papers;

AND HAVING heard from Ms M Fayomi and Mr R Lindsay (as agents) on behalf of the applicant and Mr J Dekuyer (as agent) on behalf of the respondent;

NOW THEREFORE the Commission, pursuant to the powers conferred under the *Industrial Relations Act 1979* (WA), orders –

THAT the agreement made between the parties filed in the Registry on 28 March 2023 entitled *Public Transport Authority/ARTBIU Railway Employees (Transperth Train Operations) Industrial Agreement 2022* and attached to this order be registered as an industrial agreement

in replacement of the *Public Transport Authority Railway Employees (Transperth Train Operations) Industrial Agreement 2020*, which by operation of s 41(8) is cancelled.

L.S. (Sgd.) T. EMMANUEL

COMMISSIONER T EMMANUEL

**PUBLIC TRANSPORT AUTHORITY/ARTBIU
RAILWAY EMPLOYEES
(TRANSPERTH TRAIN OPERATIONS)
INDUSTRIAL AGREEMENT 2022**

1 APPLICATION AND OPERATION

1.1 Title

This Agreement shall be known as the Public Transport Authority/ARTBIU Railway Employees (Transperth Train Operations) Industrial Agreement 2022.

1.2 Arrangement

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1.3 Application and Parties Bound

- 1.3.1 This Agreement applies to and binds approximately 200 Employees who are engaged by the Employer in the classifications listed at Schedule A – Wages Tables of this Agreement and who are members of or are eligible to be members of the Union.
- 1.3.2 This Agreement also applies to and binds the Employer and the Union.
- 1.3.3 This Agreement is made in substitution for the *Public Transport Authority Railway Employees (Transperth Train Operations) Industrial Agreement 2020*.
- 1.3.4 This Agreement is a standalone agreement. The provisions of the Award will not apply while this Agreement remains in force.
- 1.3.5 This Agreement shall operate throughout the state of Western Australia.

1.4 Term of Agreement

- 1.4.1 This Agreement shall apply from the beginning of the first pay period on or after the date the Agreement is registered by the Commission (except where specifically provided) and will expire at midnight on 21 May 2024.
- 1.4.2 Upon expiry, the Agreement shall continue in force until replaced by a new Industrial Agreement.
- 1.4.3 The parties to this Agreement agree to re-open negotiations for a replacement agreement at least six months prior to its expiry.

1.5 Definitions

- 1.5.1 “Agreement” means the *Public Transport Authority/ARTBIU Railway Employees (Transperth Train Operations) Industrial Agreement 2022*.
- 1.5.2 “Additional Shift(s)” means shifts which are not rostered or which are beyond the maximum number permitted under subclause 3.3.3 or any applicable special provision.
- 1.5.3 “Aggregated Wage Rate(s)” means a wage rate calculated by reference to the Base Wage Rate, applicable allowances and entitlements and the applicable shift work roster in accordance with the Aggregate Methodology described in Schedule C - Aggregation Methodology.
- 1.5.4 “Award” means the *Railways Employees Award No 18 of 1969*.
- 1.5.5 “Base Wage Rate” means the rate of pay for ordinary hours worked excluding any allowances (referred to in previous agreements as the “flat” rate) as set out in Schedule A - Wages Table of this Agreement.
- 1.5.6 “Base Roster” means a roster described in subclause 3.3.6
- 1.5.7 “Classification Definitions” means the classification definitions at subclause 4.11.1(a) of the Award.
- 1.5.8 “Commission” means the Western Australian Industrial Relations Commission.

- 1.5.9 “Competency” means knowledge and skills and the application of the knowledge and skills to the standards of performance required in the workplace, consistent with any relevant criteria under the Australian Qualifications Framework (AQF) guidelines.
- 1.5.10 “Consultative Committee” means the Committee established under subclause 7.3 of this Agreement.
- 1.5.11 “EAP” means Employee Assistance Program.
- 1.5.12 “Emergency” means an event which is unplanned and/or not able to be reasonably predicted and does not include rostering errors and incorrect train scheduling.
- 1.5.13 “Employee” means a person employed by the Employer in the classifications listed in Schedule A – Wages Tables.
- 1.5.14 “Employer” means the Public Transport Authority of Western Australia.
- 1.5.15 “Higher Classified Position” means a position under this Agreement which attracts a higher Base Wage Rate of pay than an Employee’s ordinary classification.
- 1.5.16 “Job Description Form” means the current Job Description Form registered for a position by the Employer setting out the position’s title, role, responsibilities and selection criteria and replaces the Classification Definitions at subclause 4.11.1(a) of the Award.
- 1.5.17 “Operational Roster” means a roster described in subclause 3.3.11a).
- 1.5.18 “Ordinary Shifts” means Rostered Shifts within the maximum number permitted under subclause 3.3.3 or any applicable special provision.
- 1.5.19 “Ordinary Wage Rate(s)” means the Base Wage Rate referred to in Schedule A - Wages Tables plus any applicable annualised leave loading calculated in accordance with subclause 6.4.18 of this Agreement.
- 1.5.20 “Partner” means a person who is a spouse or a de facto partner.
- 1.5.21 “Protected Day(s) Off” (PDO) means a guaranteed rostered day off on the Base Roster.
- 1.5.22 “Public Sector” means:
- a) all agencies, ministerial offices and non-SES organisations as defined in section 3 of the *Public Sector Management Act 1994*; and
 - b) employing authorities as defined in section 5 of the *Public Sector Management Act 1994*.
- 1.5.23 “Redeployment period” means the redeployment period as defined by regulation 28 of the *Public Sector Management (Redeployment and Redundancy) Regulations 2014*.
- 1.5.24 “Registered employee” means a registered employee as defined by section 94(1A) of the *Public Sector Management Act 1994*.
- 1.5.25 “Registrable employee” means a registrable employee as defined by section 94(1A) of the *Public Sector Management Act 1994*.

- 1.5.26 “Relief Line” means a line so designated on a Base Roster for the purpose of covering leave, other absences and training. These lines are also sometimes referred to as a “spare lines” “relief links”, "spare links" or spelt “linc”.
- 1.5.27 “Replacement employee” means an Employee specifically engaged to replace an Employee proceeding on maternity leave, adoption leave or other parent leave.
- 1.5.28 “Rostered Day(s) or Rostered Shift(s)” means the days or shifts that have been rostered to make up the roster cycle.
- 1.5.29 “Rostering Representative” means a person so nominated in accordance with subclause 3.3.20.
- 1.5.30 “RTO” means the Registered Training Organisation of the Public Transport Authority.
- 1.5.31 “Suitability” means Suitable office, post or position or Suitable employment as defined by section 94(6) of the *Public Sector Management Act 1994* as read with regulation 7 of the *Public Sector Management (Redeployment and Redundancy) Regulations 2014*.
- 1.5.32 “Suitable office, post or position”, and “Suitable employment” have the meaning given in section 94(6) of the *Public Sector Management Act 1994* as read with regulation 7 of the *Public Sector Management (Redeployment and Redundancy) Regulations 2014*.
- 1.5.33 “Surplus employee” means either a Registrable employee or a Registered employee.
- 1.5.34 “Suspend” means to suspend the continuance of an Employee’s Redeployment period in accordance with regulation 29 of the *Public Sector Management (Redeployment and Redundancy) Regulations 2014*.
- 1.5.35 “Union” means the Australian Rail, Tram and Bus Industry Union of Employees, Western Australia Branch.

1.6 Customer Service

- 1.6.1 The parties to this Agreement acknowledge that the Employer seeks to encourage greater use by the Western Australian community of the public transport system, and that this aim will be furthered by the provision of the highest standards of customer service.
- 1.6.2 The Employer operates under a performance agreement with Transperth and one of the key attributes of this is the maintenance of a safe and reliable service. Employees will make every reasonable endeavour to maintain and enhance the safe on-time running standard, reliability and integrity of the service.
- 1.6.3 On occasions Employees may be required to make personal public address announcements including informing passengers of delays, altered platform arrangements, line closures and other courtesy announcements.
- 1.6.4 Employees are to ensure that all customer facilities and equipment is in good operating order, open and available to customers. Faults and/or anomalies that cannot be rectified by Employees are to be reported promptly. For personal safety and security reasons, customer service Employees are not required to rectify faults which require internal

access to change machines and/or ticketing related equipment thereby publicly exposing cash containers from within the equipment.

1.7 No Further Claims

1.7.1 The parties to this Agreement shall not, for the duration of the Agreement, make any claim for further wage increases except where expressly provided for in a State Wage Case decision.

1.7.2 The wage increases provided in this Agreement are in full and final settlement of:

- a) productivity improvements up to the date of commencement of the Agreement; and
- b) any disputes and claims relating to the application of the Classification Definitions at subclause 4.11.1(a) of the Award to duties performed by the Employees engaged in classifications covered by this Agreement up to the date of commencement of the Agreement.
- c) A work value claim for a higher classification for a position under subclause 4.9 is not excluded by this sub-clause, and for the avoidance of doubt, the parties will not be prevented by subclause 1.7.2 from relying in such a work value claim on changes made to the work performed in a position prior to the commencement of the Agreement.

2 CONTRACT OF EMPLOYMENT

2.1 Public Sector Delivery of Services

2.1.1 The Government and Employers prefer the delivery of public services to be undertaken by Employees.

2.1.2 Only in exceptional circumstances, and following Government having considered the public interest, will work or functions currently undertaken by Employees be privatised or outsourced. Meaningful consultation will occur with the Union and affected Employees at the earliest possible opportunity.

2.1.3 If Government identifies work carried out by persons external to the Public Sector which can be returned to the Public Sector in line with its stated preference the Union will be consulted at the earliest opportunity.

2.2 Direct and Permanent Employment

Statements of Government Preference

2.2.1 The Western Australian Government recognises that:

- a) direct employment is the preferred form of engagement, noting this may not be practicable or financially achievable in all circumstances; and

- b) permanent employment is the preferred mode of employment for Employees covered by this Agreement.
- 2.2.2 The Employer recognises that casual employment, labour hire, and other contract for service arrangements are not the preferred methods for delivery of services, and the Employer will work towards minimising the use of casual employment, labour hire and other contract for service arrangements.

Customer Service Consultative Committee Access to Information

- 2.2.3 Within 60 days of a request being made in writing, the Employer will provide to the Customer Service Consultative Committee (CSCC):
- a) the names of the labour hire businesses used;
 - b) the functions undertaken;
 - c) the headcount number of labour hire employees performing the work; and
 - d) the amount of money paid to each labour hire business.

Surplus Employees

- 2.2.4 Prior to engaging, or extending the engagement of a labour hire employee, or otherwise entering into a new or extended labour hire arrangement, the Employer must first consider whether any permanent Surplus employees can undertake the role or duties required. All duties undertaken by labour hire employees will be assessed every three months for the possibility of a Surplus employee instead undertaking the role or duties. If a permanent Surplus employee can undertake the role or duties, they will be offered the employment.
- 2.2.5 Where more than one appropriate permanent Surplus employee exists, the following hierarchy shall apply for access to the role or duties:
- a) internal Surplus employees are considered first;
 - b) if no internal Surplus employees are suitable, Registered employees from other employing authorities are considered; and
 - c) if no Registered employees are suitable, Registrable employees from other employing authorities are considered.

2.3 Contract of Employment

Commencement

- 2.3.1 The Employer shall advise each Employee, prior to the time of engagement, if they are to be employed as a permanent full time, permanent part time, fixed term or casual Employee.
- 2.3.2 The Employer shall advise such Employee that employment will be subject to the provisions of statutory and Employer rules, regulations and policies, as amended from time to time.

Full Time Employee

- 2.3.3 A full time Employee is employed for the full ordinary hours nominated in subclause 3.2.1 of this Agreement.

Part Time Employee

- 2.3.4 Employees engaged in classifications covered by this Agreement may be employed on a part time basis. Part time Employees may be rostered to work in any classification covered by this Agreement, notwithstanding express provisions made under this Agreement for full time shift work hours applicable in each section.
- 2.3.5 Part time Employees shall be rostered for a minimum of 12 hours per week up to a maximum of 38 hours per week and shall have the number of guaranteed hours of work between 12 and 38 stipulated in their letter of appointment or later agreed between the Employer and the Employee in writing.
- 2.3.6 An Employee nominated in subclause 2.3.4 may request a temporary variation in the prescribed 12 hour minimum weekly part time hours for health or family reasons for a limited period of up to 18 months. On receipt of such a written request the Employer shall make all reasonable efforts to accommodate the Employee's request; any approval of which will be given in writing.
- 2.3.7 Part time Employees will be entitled, on a pro rata basis, to the same terms and conditions of employment as an equivalent full-time Employee unless otherwise specified in this Agreement.

Fixed Term Contract Employee

- 2.3.8 Subject to this clause Employees may be employed on contracts having fixed terms.
- 2.3.9 Before employing a person as a fixed term contract Employee or providing a new or extended fixed term contract to an Employee, the Employer must first consider whether any permanent Surplus employees can undertake the role or duties required. If a permanent Surplus employee can undertake the role or duties, they will be offered the employment.
- 2.3.10 Notwithstanding subclause 2.3.9, the Employer will have discretion to renew an existing fixed term contract if the Employee has been in the same or similar role for more than two years and the arrangements are being reviewed for possible conversion under a process referred to at subclause 2.3.16
- 2.3.11 Where more than one appropriate permanent Surplus employee exists, the following hierarchy shall apply for access to the role or duties:
- a) internal Surplus employees are considered first;
 - b) if no internal Surplus employees are suitable, Registered employees from other employing authorities are considered; and
 - c) if no Registered employees are suitable, Registrable employees from other employing authorities are considered.

2.3.12 In exercising their employing authority, Employers may only employ a person as a fixed term contract Employee in the following circumstances:

- a) covering one-off periods of relief;
- b) work on a project with a finite life;
- c) where a project is substantially externally funded including multiple external funding sources, the Employer must present a business case supporting the use of fixed term contract Employees in such positions to the Customer Service Consultative Committee;
- d) where external funding has been consistent on an historical basis and it can be reasonably expected to continue, the Employer shall assess the percentage of positions for which permanent appointment can be made;
- e) work that is seasonal in nature;
- f) where an Employee with specific skills is not readily available in the Public Sector is required for a finite period; or
- g) in any other situation as agree between the parties to this Agreement.

2.3.13 Employees appointed for a fixed term shall be advised in writing of the terms of the appointment, including the circumstances of the appointment as provided under subclause 2.3.12 and the dates of commencement and termination of employment.

2.3.14 The Employer will provide the Union the names and work locations of all Employees on fixed term contracts within 28 days of a request being made in writing.

2.3.15 For the purposes of this clause:

- a) an 'eligible fixed term employee' is a fixed term employee:
 - i) who has completed two or more years of service in the same or a similar role under one or more fixed term contracts with the Employer without a break in service; and
 - ii) has a documented record of satisfactory performance in their role; and
- b) a break in service is between contracts of more than two weeks, attributable to fluctuating demand or business need, or taken at the request of the employee.
- c) Any period between contracts for which payment in lieu of leave has been made by the Employer does not count towards calculating the two-week period.
- d) If a question arises in a dispute under this Agreement as to whether a break between contracts constitutes a break in service, it is the responsibility of the Employer to demonstrate the break was attributable to fluctuating demand or business need, or in response to the employee's request, and was not imposed to avoid an obligation to review or permanently appoint an employee.

- 2.3.16 The Employer must review the contract and the circumstances of the work being performed by the employee at the time of the review to determine whether the fixed term employment meets a circumstance listed in subclause 2.3.12.
- 2.3.17 The review at 2.3.16 must take place, no later than three months after:
- a) the date on which an employee became an eligible fixed term employee;
 - b) for an employee who is an eligible fixed term employee on the date of registration of this Agreement – that date; and
 - c) for an employee who continues to be employed on a fixed term contract in the same or a similar role without a break in service – each second anniversary of the date referred to in paragraph (a) or (b).
- 2.3.18 If, after carrying out a review referred to in subclause 2.3.16, the Employer determines the fixed term employment does not meet a circumstance listed in subclause 2.3.12, the Employer must appoint the employee permanently to the same position at their current FTE.
- 2.3.19 The requirement at 2.3.18 does not apply if the PTA's CEO (or CEO's delegate) certifies in writing that the role performed by the fixed term employee can no longer be funded from within the PTA's approved salary expense limits.
- 2.3.20 If, after carrying out a review referred to in subclause 2.3.16, the PTA determines the fixed term contract meets a circumstance listed in subclause 2.3.12, the PTA must give the employee in writing no later than two weeks after the date of completing the review:
- a) a statement of the review outcome and the reasons for it; and
 - b) a plain-language summary of the Employer's obligations under this clause to appoint eligible fixed term employees to permanent employment, and the actions the employee can take if they disagree with the review outcome.
- 2.3.21 For the purposes of 2.3.16, if an eligible fixed term employee is employed under multiple fixed term contracts with the Employer, each contract and the circumstances of the work being performed under it is to be reviewed individually.

Casual Employee

Wage

- 2.3.22 A casual Employee is engaged by the hour for less than one week continuously provided that this shall not include an Employee who, when work is available, leaves their employment before the expiry of one week.

Casual Loading

- 2.3.23 A casual Employee shall be paid the hourly Base Wage Rate prescribed for that classification under Schedule A – Wages Table of this Agreement (without annualised leave loading) with the addition of casual loading in lieu of annual leave, personal leave, family leave and payment for public holidays. The casual loading will be in accordance with subclause 2.3.24.

2.3.24 The casual loading payable is 25% on and from the date of registration of this Agreement.

Conditions of Employment

2.3.25 A casual Employee shall have no entitlement to paid leave except for bereavement leave, long service leave and family and domestic violence leave, and shall be informed of these conditions before starting work on these terms.

2.3.26 The minimum period of engagement of a casual Employee will be three hours on each engagement.

2.3.27 Nothing in this clause shall confer “permanent” or “fixed term contract” officer status within the meaning of section 64 of the *Public Sector Management Act 1994*.

2.3.28 The employment of a casual Employee may be terminated at any time by the casual Employee or the Employer giving to the other one hour’s prior notice. In the event of an Employer or casual Employee failing to give the required notice, one hour’s salary shall be paid or forfeited.

2.3.29 Subclauses 3.5.1 to 3.5.8 of this Agreement do not apply to casual Employees. Additional hours are paid at the normal casual rate.

Caring Responsibilities

2.3.30 Subject to the evidentiary and notice requirements in clause 6.5– Personal Leave of this Agreement, a casual Employee is entitled to not be available to attend work or to leave work if they need to care for members of their family or household who are ill or injured and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

2.3.31 The Employer and the casual Employee shall agree on the period for which the casual Employee will be entitled to not be available to attend work. In the absence of agreement, the Employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual Employee is not entitled to any payment for the period of non-attendance.

2.3.32 An Employer must not fail to re-engage a casual Employee because the casual Employee accessed the entitlements provided for in this clause. The rights of an Employer to engage or not engage a casual Employee are otherwise not affected.

2.4 Probation

New Employees

2.4.1 A new Employee’s appointment to a position with the Employer will be subject to a probationary period of six months. The probationary period may be extended by express agreement between the parties.

2.4.2 During the probationary period the Employee’s work performance will be monitored and advice on performance will be provided to the Employee as appropriate. Subject

to satisfactory performance an Employee's appointment will be confirmed at the conclusion of the probationary period.

- 2.4.3 During the probationary period, if the Employee's performance is considered by the Employer to be unsatisfactory, the Employer may terminate the contract of employment by giving the Employee one week's notice or payment in lieu of notice.

Current Employees

- 2.4.4 A current Employee's appointment or promotion to a position will be subject to a probationary period of three months. The probationary period may be extended by express agreement between the parties.
- 2.4.5 During the probationary period the Employee's work performance will be monitored and advice on performance will be provided to the Employee as appropriate. Subject to satisfactory performance, the Employee will be appointed to the position at the conclusion of the probationary period.
- 2.4.6 During the probationary period:
- a) if the Employee's performance is not satisfactory, the Employer may revert the Employee to their previous substantive level by giving the Employee one week's notice or payment in lieu of notice; or
 - b) the Employee may request a return to their previous substantive level.
- 2.4.7 Where an Employee returns to their previous level under this subclause, they will be given preference to transfer to their original position should a vacancy occur.

Preliminary Training

- 2.4.8 Where initial mandatory off the job training is necessary prior to commencing actual duties on the job at the designated classification level and pay rate, the relevant period of probation will include and will be automatically extended by the length of time required to be spent by the Employee in preliminary training courses provided by the Employer.

2.5 Ordinary Duties

- 2.5.1 The Employer may direct an Employee to carry out such duties as are within the limits of the Employee's skill, competency and training, including work which is incidental or peripheral to the Employee's main tasks or functions, provided that such duties are not designed to promote deskilling.
- 2.5.2 An Employer may direct an Employee to carry out such duties and use such tools and equipment as may be required provided that the Employee has been properly trained in the use of such tools and equipment.
- 2.5.3 Any direction issued by an Employer pursuant to subclauses 2.5.1 and 2.5.2 shall be consistent with the Employer's responsibilities to provide a safe and healthy working environment.

2.6 Job Share

- 2.6.1 The Employer may agree to two Employees entering into a job share arrangement where a full time job is shared between the two Employees. Applications to job share must be cost neutral to the Employer and will be assessed on an individual basis for suitability to operational requirements. Employees entering into a job share arrangement must be employed in the same classification and work on the same roster.
- 2.6.2 The Employer and the relevant Employees will enter into a written job share agreement covering operating conditions such as hours of employment, absence from employment due to annual leave, personal leave and any other relevant matters.
- 2.6.3 The Employer may terminate the job share arrangement by giving four weeks' notice to the relevant Employee/s if any of the following events occur:
 - a) The employment of one of the Employees involved in the job share arrangement is terminated by the Employer or the Employee;
 - b) The arrangement is no longer consistent with the operational requirements of the business.
- 2.6.4 In the circumstances of subclause 2.6.3 any ongoing employment with the Employer will require the resumption of full time duties at a location to be determined by the Employer following consultation with the affected Employee/s or unless an alternative arrangement is put in place.

2.7 Higher Duties

- 2.7.1 An Employee who is required by the Employer on a temporary basis to act in a higher classified position under this Agreement than the Employee's ordinary classification under this Agreement, shall be paid the higher rate of pay in the form of a higher duties allowance. Provided that if the period higher duties are performed is less than two hours, the higher rate of pay shall not be paid.
- 2.7.2 Where the rate of pay of the higher classified position is an aggregated rate, and the period of acting is two weeks or greater, the aggregated rate will be paid in lieu of all penalties and allowances other than overtime.
- 2.7.3 Where more than one Employee acts in the same higher classified position under this Agreement, at the same time, the percentage of work undertaken by each Employee in the higher classified position is to be agreed with the Employer prior to shift commencement; and
 - a) each Employee is to be paid the percentage of the applicable rate of pay of the higher classified position; and
 - b) the total percentage of the applicable rate of pay of the higher classified position divided between relevant Employees shall not exceed 100%.

2.8 Unsatisfactory performance

- 2.8.1 Where an Employee engages in an employment related act or omission so that it appears to the Employer that the Employee is unable or unwilling to utilise appropriate skills to carry out tasks associated with a particular job competently and in a manner that meets the reasonable expectations and service needs of the Employer, the matter may be dealt with by the Employer under its Performance Management Policy and Procedure as amended from time to time or, under any more specific procedure established by the Employer for unsatisfactory performance of that nature.
- 2.8.2 The outcome of a performance management process may include a transfer, a demotion or a dismissal. Where the Employer applies such an outcome for reasons of unsatisfactory performance, that outcome will not be a disciplinary penalty unless it is expressed to be so by the Employer and may be reviewed by means of clause 8.1 - Dispute Resolution Procedure, including by making an application to the Commission to deal with the matter.

2.9 Discipline

2.9.1 Definitions

- a) “Breach of Discipline” includes:
- i) an act of misconduct;
 - ii) negligence or carelessness of an Employee in the performance of their functions; or
 - iii) a conviction for an offence listed at subclause 2.9.19;
- b) “Chief Executive Officer” means the Chief Executive Officer or their nominated representative, and for the purpose of subclause 2.9.18 or 2.9.21, the Chief Executive Officer may only nominate the Managing Director of the Public Transport Authority or the General Manager.
- c) “First Notification” means a notification given under subclause 2.9.4.
- d) “General Manager” means the General Manager, Transperth Train Operations.
- e) “Investigator” will be the person given responsibility to investigate on behalf of the Employer an alleged breach or breaches of discipline by an Employee.
- f) “Misconduct” shall have its ordinary meaning.

- 2.9.2 This subclause describes the Employer’s disciplinary procedure for dealing with an Employee’s unacceptable behaviour. The procedure will enable appropriate disciplinary action to be taken to deal with and prevent further unacceptable behaviour. The principles of procedural fairness apply to the Employer’s disciplinary procedure.
- 2.9.3 Notwithstanding subclause 2.9.5, an Employee will, if called upon, provide any report or statement required by the Employer in relation to an investigation into any incident occurring in the course of the Employee’s duties. Such a report or statement may be

required and provided prior to the Employer determining that it reasonably suspects a breach of discipline and that further action is required.

2.9.4 *Step One: First Notification:* Where the Employer reasonably suspects that an Employee has committed a breach of discipline, and the Chief Executive Officer decides that further action is required; the Chief Executive Officer must notify the Employee of the nature of the suspicion. This first notification:

- a) will be in writing;
- b) will record the date on which the Employee's act came to the attention of the Employer, being the date on which a nominee of the Chief Executive Officer had first knowledge of the act or received a substantive complaint or report;
- c) will be issued to the Employee within 28 calendar days (exclusive of public holidays) of the date on which the act came to the attention of the Employer, failing which, subject to subclause 2.9.26 formal disciplinary action cannot be taken;
- d) will record the nature of the Employer's suspicion sufficiently to give the Employee a reasonable opportunity to submit a written statement of events, an explanation or otherwise respond but need not be a formal allegation and is not required to include or refer to all evidence upon which the suspicion is based;
- e) will nominate a date by which the Employee may provide any response which allows a reasonable opportunity to respond in all the circumstances, provided that a period of 14 calendar days will usually be sufficient. A longer time may be agreed by the Employer on the Employee's request provided that the Employer will not refuse a reasonable request;
- f) will nominate the date by which any disciplinary process must be completed, if formal disciplinary action is pursued, calculated by reference to this date of first notification in accordance with subclause 2.9.25; and
- g) may also be a formal allegation of breach of discipline, where the Chief Executive Officer considers there are already sufficient grounds to make such an allegation and where it complies with subclause 2.9.8.

2.9.5 After receiving a first notification, the Employee may either respond or advise the Employer that they do not propose to respond. Any response provided by the Employee will be treated as a preliminary response, taking into account the circumstances in which that response is given. An Employee's choice whether to respond to the notification and the nature of the response may be a relevant consideration in any later disciplinary decision.

2.9.6 The Chief Executive Officer will consider whether there are sufficient grounds to make a formal allegation of a breach of discipline against the Employee and whether the matter warrants being dealt with as a disciplinary matter, taking into account any first notification and any response, and will decide to:

- a) initiate formal disciplinary action;

- b) refer the matter to be managed by the Employer under its Performance Management Policy and Procedure as amended from time to time;
 - c) issue a warning to the Employee that certain conduct is not acceptable (which will not be a finding that such conduct has occurred);
 - d) refer the Employee for counselling or for training and development; or
 - e) take no further action.
- 2.9.7 The Employer will inform the Employee in writing of the Chief Executive Officer's decision, including where relevant any finding by the Chief Executive Officer that there had not been a breach of discipline.
- 2.9.8 *Step Two: Formal Allegation of Breach Of Discipline:* Where the Chief Executive Officer decides to initiate formal disciplinary action, the Employer will notify the Employee of the formal allegation of a breach of discipline against the Employee and the notification will:
- a) be in writing;
 - b) record the nature of the allegation against the Employee;
 - c) nominate the date by which any disciplinary process must be completed, recalculated in accordance with subclause 2.9.26; and either:
 - i) advise the Employee that the allegation will be the subject of further investigation; or
 - ii) where the Employee's response to the first notification was an admission, advise the Employee of any proposed adverse finding in relation to that allegation, which advice will comply with subclause 2.9.17.
- 2.9.9 *Step Three: Formal Disciplinary Investigation:* An Investigator conducting any disciplinary investigation may determine the procedure followed and will conduct the investigation with as little formality and technicality as the principles of procedural fairness, substantial compliance with the Employer's applicable policies and procedures and the circumstances of the matter permit.
- 2.9.10 An Employee will, if called upon, provide any report or statement and/or attend an interview with the Investigator in relation to an investigation into a breach of discipline and will follow any lawful and reasonable instructions given by the Chief Executive Officer for the purposes of investigating the suspected breach.
- 2.9.11 An Employee who is believed to be a witness to a suspected breach of discipline will, if called upon, follow any lawful and reasonable instructions given by the Chief Executive Officer for the purposes of investigating the suspected breach.
- 2.9.12 During a discipline process an Employee may have an independent support representative present at any meeting. However that representative is only to provide support and is not to engage in the discussion unless the person conducting the investigation deems it appropriate to do so. The representative must be reasonably available and cannot be a person involved in the matter under investigation.

- 2.9.13 If during the course of an investigation it comes to the attention of the Employer that the Employee may have committed other breaches of discipline which are not the subject of the investigation and which had not previously come to the attention of the Employer, then the Employer may investigate those matters. If the allegation or allegations are investigated as part of the investigation already being conducted, then the disciplinary process into the additional allegation or allegations will not be invalid for non-compliance with subclauses 2.9.4 to 2.9.8 but the Employer must inform the Employee of any additional allegation in writing, the Employee must be given a proper opportunity to respond to the allegation and procedural fairness must be accorded to the Employee in relation to any additional allegation. Where subclauses 2.9.4 to 2.9.8 are not complied with, the time for completion of the discipline process in relation to any additional allegation will be calculated from the date of the first notification of the initial allegation being investigated. Where subclauses 2.9.4 to 2.9.8 are complied with, the time for completion of the discipline process in relation to any additional allegation will be calculated from the date of the first notification of the additional allegation or allegations.
- 2.9.14 The Investigator will at the conclusion of the investigation report to the Chief Executive Officer on the investigation and on the findings open to the Chief Executive Officer.
- 2.9.15 At any time during or at the conclusion of the investigation, the Chief Executive Officer may decide to:
- a) refer the matter to be managed by the Employer under its Performance Management Policy and Procedure as amended from time to time;
 - b) issue a warning to the Employee that certain conduct is not acceptable (which will not be a finding that such conduct has occurred);
 - c) refer the Employee for counselling or for training and development; or
 - d) take no further action.
- 2.9.16 The Employer will inform the Employee in writing of any such decision and the reasons for the decision, including where relevant any finding by the Chief Executive Officer that there had not been a breach of discipline.
- 2.9.17 *Step Four: Opportunity to Respond to Proposed Adverse Finding and any Proposed Penalty:* The Chief Executive Officer will advise the Employee of:
- a) any proposed adverse finding in relation to the allegation of breach of discipline made against the Employee or any other breaches of discipline which came to the attention of the Employer in the course of the investigation;
 - b) the results of the investigation and the evidence relied upon by the Chief Executive Officer in support of the proposed finding;
 - c) the range of penalties the Chief Executive Officer is considering applying if the finding is confirmed;
 - d) the time within which the Employee is required to provide any written response as to the finding and as to the appropriate penalty, which will be not less than 14 days. A longer time may be agreed by the Employer on the

Employee's request provided that the Employer will not refuse a reasonable request; and

- e) the date by which any disciplinary process must be completed, recalculated in accordance with subclause 2.9.26.

2.9.18 *Step Five: Final Determination:* After receiving any response from the Employee to the advice of proposed adverse findings, or after the nominated date by which the Employee was required to provide any response, the Chief Executive Officer will review the evidence, including the Employee's response, and make a final determination on the allegation of breach of discipline and decide which if any penalty from the list of penalties in subclause 2.9.21 subject to subclause 2.9.22 should be applied.

2.9.19 *Criminal Conviction of an Employee:* The Chief Executive Officer is able to take disciplinary action against Employees who have been convicted of:

- a) offences which involve:
 - i) fraud or dishonesty;
 - ii) wilful damage to or destruction of the property of others;
- b) offences which are committed against the persons of others; or
- c) offences which are punishable on conviction by imprisonment for two years or more.

2.9.20 An Employee who has been convicted of such an offence shall notify the Employer and such a conviction may be taken as if a breach of discipline has been found to have been committed so that no further disciplinary investigation or finding is required. The Chief Executive Officer may choose to apply any of the penalties listed at subclause 2.9.21, subject to subclause 2.9.22. The Chief Executive Officer shall write to the Employee and advise if they proposes to apply any penalty and the Employee is to be provided with an opportunity to respond prior to a final determination as to penalty being made.

2.9.21 *Penalties:* Where a breach of discipline has been found to have been committed, the Chief Executive Officer may apply any of the following penalties:

- a) no penalty;
- b) a reprimand (which may include a final reprimand);
- c) a permanent or temporary transfer to another location within the Employer's business or to another employment position within the Employer's business, including to a position to which this Agreement does not apply;
- d) a permanent or temporary demotion or reduction to a lower increment or to a lower grade or position to which this Agreement applies;
- e) a permanent or temporary demotion to another position to which this Agreement does not apply; and/or
- f) dismissal.

- 2.9.22 The type of penalty applied must be proportionate to the conduct which gave rise to the breach of discipline or must be reasonably suitable in consideration of all of the circumstances of the case.
- 2.9.23 *Appeal:* Where a breach of discipline has been found to have been committed, the Employee found guilty of the breach of discipline, shall have a right to appeal the decision of the Chief Executive Officer and any associated penalty, by notification and direct referral of a dispute to the Commission by a party on the Employee's behalf under subclause 8.1.5 of this Agreement.
- 2.9.24 *Stand Down from Operational Duties:* During the course of an investigation, an Employee may be stood down from Operational duties. The Chief Executive Officer may provide alternative duties or allow the Employee not to attend the workplace. Where the Employee is a shift Employee, the Employee will be paid a wage equivalent to weekly base rate plus afternoon shift penalties until a final determination is made. If a finding of breach of discipline is not made against the Employee, the Employee will be paid the difference between the weekly base rate plus afternoon shift penalties and the average of the Employee's weekly pay in the three months prior to date the Employee was stood down from operational duties.
- 2.9.25 *Time Frames:* The discipline process shall be completed within six months from the date of the first notification, or within such other extended period of time as is provided for in this Agreement.
- 2.9.26 The minimum periods specified in this clause 2.9 in which a notification is to be given or a determination is to be made will be extended:
- a) by reason of a delay caused by the Employee or their representative, to the extent of the delay;
 - b) by reason of the absence from duty of the affected Employee through illness or injury or other authorised leave, to the extent of that absence;
 - c) by reason of the suspension of the Employer's disciplinary process during an investigation of the allegation by Police or by the Corruption and Crime Commission, or awaiting the outcome after being criminally charged to the extent of the duration of that investigation;
 - d) by reason of an extension granted under subclauses 2.9.4e) or 2.9.17d); or
 - e) by mutual agreement between the parties.

2.10 Stand Down

- 2.10.1 The Employer is entitled to stand down the Employee and not pay the Employee for the day or part of a day where the Employer is unable to provide useful work for the Employee on that day or for that part of the day as a result of:
- a) industrial action, whether or not on the part of the Employer's Employees; or
 - b) any cause outside of the Employer's control.

2.10.2 Subject to the Employer's approval the Employee may elect to have the day or part of a day paid as annual leave provided the Employee has such leave entitlement.

2.11 Termination

2.11.1 Subject to this clause, the employment of an Employee may be terminated by the Employer or Employee giving notice as provided in the following table:

Employee's period of continuous service with the Employer	Minimum Period of notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

2.11.2 Where the Employee is aged over 45 years and has more than two years continuous service, the period of notice shall be five weeks.

2.11.3 Where mutually agreed a shorter period of notice may be given without payment, or forfeiture of payment in lieu.

2.11.4 If the appropriate notice period is not given, payment or forfeiture of payment in lieu of the notice prescribed above shall be made. Employment may be terminated by part of the period of notice specified and providing part payment in lieu thereof. Wages so forfeited by the Employee may be deducted from any wages due to such Employee up to the time of the Employee leaving the service of the Employer.

2.11.5 In calculating any payment or forfeiture of payment in lieu of notice, the wages an Employee would have received in respect of the ordinary time they would have worked during the period of notice had their employment not been terminated shall be used.

2.11.6 **Summary Dismissal.** The Employer has the right to dismiss any Employee without notice for serious misconduct and in such cases any entitlements (including wages and any accrued leave) under this Agreement are to be paid up to the time of dismissal only.

2.11.7 Subclauses 2.11.1 and 2.11.2 do not apply to casual Employees, fixed term Employees, or trainees.

2.11.8 The employment of a casual Employee may be terminated in accordance with subclause 2.3.28.

2.12 Redeployment and Redundancy

- 2.12.1 The parties acknowledge that the *Public Sector Management Act 1994* (PSMA) and the Public Sector Management (Redeployment and Redundancy) Regulations 2014 (Regulations) provide the legislative framework for redeployment and redundancy for all Employees covered by this Agreement. If the provisions of this Agreement and the Regulations are inconsistent, the provision of the Regulations shall prevail.
- 2.12.2 The Employer and prospective Employer will assess the Suitability of a Surplus employee broadly which includes, but is not limited to:
- a) acknowledging that the Employee's classification level illustrates core competencies for that classification level;
 - b) providing sufficient weight to the Employee's knowledge, skills and experience; and
 - c) recognising the transferability of skills to roles where a direct fit may not exist.
- 2.12.3 The Employer and prospective Employer will seek to place Surplus employees in suitable positions in accordance with subclause 2.12.2.
- 2.12.4 The Employer will provide Surplus employees with direct access to priority vacancies through the online Recruitment Advertising Management System.
- 2.12.5 The Employer will provide Surplus employees with case management in line with the Public Sector Commission's Redeployment and Redundancy Guidelines and the Public Sector Commission's Redeployment and Redundancy Guidelines Appendix A – Case Management or any revised arrangement subsequent to the review of the redeployment and redundancy provisions. The Employer will ensure that Surplus employees are provided with an appropriately skilled case manager/s, a skills audit and continual support to find Suitable employment.

Upon notification of registration, the Employer shall provide an Employee who is notified of the Employer's intention to register them under regulation 18 of the Regulations with the written reason/s for the intended registration and the possible employment, placement and training options available to them.

- 2.12.6 Where the Employer is able to do so consistent with Commissioner's Instruction No. 12 – Redeployment and Redundancy, the Employer may Suspend the Redeployment period of a Registered employee for the duration that the Employee is participating in retraining, a secondment or other employment placement arrangement. Where suspension of the total duration would exceed the allowable duration under Commissioner's Instruction No. 12 – Redeployment and Redundancy, the Employer may Suspend the Redeployment period for the portion allowable.
- 2.12.7 The Employer will notify the Union prior to a Registered employee entering the last three months of their Redeployment period.

3 HOURS OF WORK

3.1 Relationship Between General and Special Provisions

- 3.1.1 The following general provisions of this clause shall apply in conjunction with special provisions for designated occupational groups under subclause 3.4 and to the extent of any inconsistency, the special provisions shall prevail.

3.2 Hours of Work: General

- 3.2.1 The ordinary hours of work for full time Employees shall be an average of 40 hours per week averaged across a fortnight from the beginning of the roster cycle.
- 3.2.2 The maximum spread of hours shall be 12 hours, but the Employer shall arrange so far as practicable that shifts not exceed 10 hours, except in cases of Emergency when relief cannot be provided. The minimum length of a rostered Ordinary Shift shall be six hours, but the minimum hours for an Additional Shift shall be in accordance with subclause 3.5.6.

3.3 Rostering Arrangements

General

- 3.3.1 Ordinary hours shall be worked as continuous shift work Sunday to Saturday so that Ordinary Shifts and Additional Shifts may be worked on any day of the roster cycle.
- 3.3.2 The period of the roster cycle will be at the Employer's discretion, and will be deemed to be two weeks, unless the Employer specifies otherwise in the Base Roster.
- 3.3.3 Where the period of the roster cycle is two weeks, Employees shall be rostered to work up to a maximum of 10 Ordinary Shifts per fortnight and will be rostered two Protected Days Off in each roster cycle. Where a different length of roster cycle is in place the maximum number of Ordinary Shifts per cycle and the number of Protected Days Off will be varied proportionately based on the prescription for two weeks.
- 3.3.4 When the Employer is intending to introduce a change to the roster cycle under subclause 3.3.2 or significant permanent changes to shift patterns under subclause 5.1.2 or 5.1.3, for a group of Employees, the Employer shall:
- a) give 21 days' notice of the start date to Employees who would be affected by the change;
 - b) consult with the Consultative Committee;
 - c) advise the Union in accordance with clause 7.2– Introduction to Change; and
 - d) take into consideration the views expressed by the Employees, the Consultative Committee and the Union prior to implementing the change.

Base Roster

3.3.5 The Employer shall construct a Base Roster for each Employee group following consultation with the elected Employee Rostering Representative for that group.

3.3.6 Base Rosters will:

- a) be readily available for perusal by Employees;
- b) show lines of work for all rostered Employees for a typical roster cycle;
- c) show work day and rostered day off patterns and show start and finish times for each line of work;
- d) comply with fatigue management principles;
- e) be balanced, to the extent that it is reasonably practicable, so that all Employees work a similar number of hours over the roster cycle;
- f) make all reasonable endeavours to maximize the number of weekends off in a roster cycle, to the extent that this is practicable taking into account the constraints and operational requirements for Employees working 24/7 shift work;
- g) provide for balanced weeks where the conditions of subclause 3.3.7 are satisfied; and
- h) only be modified to accommodate changes expected to persist for at least three months.

3.3.7 Where the majority of Employees to whom a Base Roster applies have notified the Employer prior to the implementation of a modification to that Base Roster that they would prefer their roster to provide for balanced weeks, then any modification to the Base Roster will provide for balanced weeks. A Base Roster will provide balanced weeks where an Employee is not rostered to work more than 43 ordinary hours in any week of the roster cycle. Where the Employer receives later notification from the majority of Employees to whom a Base Roster applies that they do not prefer their roster to provide for balanced weeks, then any modification to the Base Roster following that notification need not provide for balanced weeks.

3.3.8 Where the Employer proposes to implement a modified or new Base Roster, the Employer shall:

- a) give three weeks' notice to Employees who would be affected by the change;
- b) advise the Union, and consult with the Union regarding amendments which may be necessary to:
 - i) any Aggregated Wage Rate, under subclause 4.3; or
 - ii) annual leave loading calculations under subclause 6.4.16; and
- c) Advise the employee committee representatives on the Consultative Committee.

Operational Roster

3.3.9 The Employer shall post a draft of the Operational Roster at least two weeks prior to the day of its implementation.

3.3.10 The Employer shall post the final Operational Roster, incorporating approved “shift changes” and any other known operational contingencies, at least five days prior the day of its implementation.

3.3.11 The Operational Roster per subclause 3.3.10:

- a) is the actual roster that the Employer is requiring the Employees to work and will show all shifts to be worked for the period of the roster;
- b) shall be based on Employees working through each line of work on the Base Roster in sequence;
- c) shall take into account leave and other authorised absences and any other temporary customer, operational or organisational requirements including public holidays, special events and training;
- d) shall display shift start and finish times and locations;
- e) shall not roster an Employee to work an ordinary hours shift on a day shown on either the Base Roster, or for Relief Lines the draft Operational Roster, as a Protected Day Off or other rostered day off, unless:
 - i) the Employee has agreed to work that day;
 - ii) the Employee is shown as working a Relief Line on the Base or draft Operational Roster and is required to relieve another rostered Employee; or
 - iii) the Employee has been given at least four weeks’ written notice of the Employer’s intention to roster an ordinary shift on that day and the shift is required for Employee training, or during Perth Royal Show or for another reason agreed between the Parties.
- f) may at the time of posting include rostered overtime in accordance with subclause 3.5.3 for the purposes of a special event or other temporary operational requirements; and
- g) shall comply with fatigue management principles.

3.3.12 The Operational Roster may be altered by the Employer during the roster cycle provided the Employer consults the affected Employee or Employees and:

- a) the affected Employee agrees; or
- b) the alteration is due to operational requirements which were not reasonably foreseeable and the Employer makes reasonable efforts to accommodate the views of the affected Employee, where it is practicable to do so. Examples of such operational requirements include, but are not limited to, late notice of special event details or unplanned Employee absences.

Reduction of the length of a shift to avoid paying overtime for the extension of another shift within the roster cycle is not an alteration due to operational requirements for the purpose of this provision.

- 3.3.13 Where the Employer alters the Operational Roster during the roster cycle to extend the length of a shift and at least 48 hours' notice has been given of that alteration, then no overtime shall be payable by reason of that extension unless the extension causes the rostered hours worked in the fortnightly cycle to exceed or further exceed 80 hours, not including hours paid as additional hours.

Mutual Roster Changes

- 3.3.14 Employees rostered on the same roster may apply in accordance with this provision to exchange shifts.

- a) Employees on different rosters may apply in accordance with this provision to exchange shifts, if such a request facilitates both employees returning to their home line

- 3.3.15 Requests by Passenger Ticketing Assistants to exchange shifts between the Mandurah North and South Rosters and to exchange shifts between the Perth based rosters will be accepted subject to complying with;

- a) the provisions of subclause 3.3.18a), and
- b) for exchanges of shifts between Mandurah North and South Rosters and for exchanges of shifts between Perth based rosters, Other Line Allowance shall not apply.

- 3.3.16 Any application to exchange shifts shall:

- a) be made in writing and signed by both Employees in the form (if any) required by the Employer;
- b) nominate ordinary time shifts within the same roster cycle;
- c) nominate shifts, the exchange of which, will not breach fatigue management principles for either Employee;
- d) be provided to the rostering office at least seven days before the commencement of the relevant Operational Roster. Where there are unforeseen circumstances, and the application is received no later than 48 business hours (2 days) prior to the commencement of the first effected shift, a "late" shift exchange applications may be approved.

- 3.3.17 Applications will be considered on behalf of the Employer by the rostering office who will advise the applicant Employees in writing whether their application has been accepted. The decision whether or not to approve a shift exchange application is at the discretion of the Employer. Compliant applications will not be unreasonably refused.

- 3.3.18 Where a shift exchange application is accepted:

- a) implementation of the shift exchange will be cost neutral to the Employer;

- b) each applicant Employee will be paid for the ordinary hours and any shift allowances or weekend penalties applicable to the hours the Employee actually worked; and
- c) overtime penalties or make-up pay shall not be paid to applicant Employees where it is caused by the exchange of shifts.

3.3.19 The following procedures shall be applied to Employees rostered on duty and not required.

- a) Employees booked on duty but informed before the end of sign-on time that they are not required to commence duty: will be paid two hours pay at the hourly Base Wage Rate or, where applicable, the Aggregated Wage Rate; and may be called upon for further duty without any further prescribed period of rest.
- b) When Employees are rostered on duty and not required, the following provisions apply: Employees booked on duty will not be entitled to any allowance when at least two hours' notice that they are not required has been given to the Employee. The Employer may notify Employees by telephone, or by other such means as may be agreed between the Employer and the Employee.
- c) An Employee shall not unreasonably refuse to work any Rostered Shift. An Employee who fails to work a Rostered Shift shall not be paid for the shift and the absence may be investigated by the Employer. If the failure to work constitutes misconduct, the Employer may take disciplinary action against the Employee. If there are other reasons for the absence, the Employer shall discuss with the Employee any reasonable and appropriate means of addressing the issue, which may include but is not limited to: leave of absence, transfer, or regression, depending on all of the circumstances at the time.

3.3.20 Employee Rostering Representatives will be elected for each group of Employees on each roster. The Employee Rostering Representative positions as at the date of registration of this Agreement are listed at Schedule E – Employee Rostering Representatives. The parties may agree to change the positions to be elected to reflect changes in work organisation and any such agreement shall be recorded in writing. Any Employee permanently working on a roster at the time of the election shall be entitled to nominate and vote for the Employee Rostering Representative position for that roster. Elections shall be conducted in a manner agreed between the parties and failing agreement, shall be conducted by the WA Electoral Commission or another independent body. The elected Employee Rostering Representative will hold the position for the life of the Agreement. Where a position falls vacant before the expiry of the Agreement, the vacancy for the remainder of the term shall be filled in a manner agreed between the parties.

3.3.21 Where it is contended that Employees working a roster have been disadvantaged because the Employer has not complied with the requirements of this subclause 3.3, the Employer shall discuss these issues with the elected Employee Rostering Representative for that group and the Union, and will note the issue and any resolution on the agenda of the next meeting of the Consultative Committee. Where agreement or

resolution is not achieved, the Dispute Resolution Procedure will remain available to any affected Employee or the Union.

Future Rostering Arrangements

- 3.3.22 Should the provisions of this Agreement restrict or impact upon the terms of working arrangements for a particular workgroup, those provisions may be altered and/or alternatives trialled following consultation and by agreement in writing with the Union, without the need to formally vary this Agreement. Once finalised, the terms of altered working arrangements shall be confirmed in writing between the parties and be implied in the terms of this Agreement.

3.4 Special Provisions: Customer Service Branch

3.4.1 Rostering Work Instructions

It is acknowledged that

- a) For the purposes of this clause “Rostering Work Instruction” means the work instruction entitled Rostering of CSAs and PTAs Doc No. 4020-600-024, developed by the Employer in consultation with affected Customer Service Branch Employees, the Customer Service Consultative Committee, Rostering Representatives and representatives of the Union.
- b) The purpose of the Rostering Work Instruction is to provide guidance on the application of rostering processes in accordance with the parameters provided in this Agreement.
- c) The Employer may amend the Rostering Work Instruction. Where such amendments are likely to have a significant effect, appropriate consultation shall occur in accordance with clause 7– Consultation of this Agreement.
- d) The Employer shall provide the Customer Service Consultative Committee, Rostering Representatives and the Union a copy of the Rostering Work Instruction within 14 days of any amendment.
- e) Any questions, difficulties or disputes arising from the application of rostering processes shall be dealt with in accordance with clause 8 – Dispute Resolution.

- 3.4.2 Relief Lines on Customer Service Base Rosters will show "default" start/finish times and day on/day off patterns to be worked by the Employee working each Relief Line.

- 3.4.3 In the construction of an Operational Roster, and prior to posting a draft Operational Roster, start/finish times and day on/off patterns for relief lines may be altered/adjusted to cover leave, other absences, and temporary customer, operational or organisational requirements including public holidays, special events or training. After posting of the draft Operational Roster per subclause 3.3.9, subclause 3.3.12 applies.

- 3.4.4 There shall be a maximum of 12 ordinary rostered hours per shift.

- 3.4.5 Where a full time Customer Service Assistant /Passenger Ticketing Assistant works for more than 10 ordinary hours in a Rostered Shift ending from midnight Sunday to

midnight Friday, a long shift allowance shall be paid for time worked from the commencement of the eleventh rostered hour worked. The allowance will be paid as reflected in Schedule B.

- 3.4.6 Rostered Ordinary Shifts for Customer Service Assistants/Passenger Ticketing Assistants shall not be less than six ordinary hours, but the Employer shall not roster successive six hour shifts over a 12 hour period.
- 3.4.7 Unless directed otherwise, the timing of shift breaks shall be self-managed by Employees, avoiding breaks during peak customer and operational periods.
- 3.4.8 Unless directed otherwise, shift breaks shall be taken separately so as to leave a minimum of one customer service Employee on duty at all times. It is accepted that this does not apply to stations with only one rostered Employee.

3.5 Overtime and Penalty Rates

- 3.5.1 **Additional hours overtime:** Additional hours overtime is time worked by a full time or part time Employee at the request of the Employer in excess of the Employee's ordinary rostered hours for the cycle, including:
 - a) time worked in excess of the rostered hours for a shift; and
 - b) shifts worked in addition to those rostered.
- 3.5.2 The Employer shall endeavour to allocate Additional Shifts to Employees on a reasonable and equitable basis.
- 3.5.3 **Reasonable additional hours:** the Employer may require any Employee to work reasonable overtime and the Employee shall work overtime in accordance with such requirement. Where an Employee is requested or rostered to work:
 - a) additional hours immediately before or after the Employee's rostered ordinary hours the Employee shall not unreasonably refuse the request, provided that the Employee will not be required to remain on duty for more than two hours beyond the Employee's Rostered Shift except in cases of Emergency; and
 - b) up to one Additional Shift per fortnightly roster cycle or, more than one Additional Shift to meet operational requirements during exceptionally busy periods, including but not restricted to: Australia Day; Royal Show Week; Christmas Pageant; Major Sporting Events and New Year's Eve,

the Employee shall not unreasonably refuse the request.
- 3.5.4 Notwithstanding the provisions of subclause 3.3.11e) an Employee shall be under no obligation to work an Additional Shift on a day shown on the Base Roster, or for relief lines the draft Operational Roster, as a Protected Day Off. However should an Employee agree to work on their Protected Day Off, the Employee will be paid at usual additional hours overtime rates.
- 3.5.5 Neither the Union nor any Employee or Employees to whom this Agreement applies shall in any way, whether directly or indirectly, be a party to or concerned in any ban,

limitation or restriction upon the working of overtime in accordance with the requirements set out in subclause 3.5.3 hereof.

- 3.5.6 A full time shift work Employee required to come into work for an Additional Shift will be paid a minimum of five hours pay at the rate applicable to the day. A part time shift work Employee required to come into work for an Additional Shift will be paid a minimum of four hours pay at the rate applicable to the day.
- 3.5.7 Where an Employee wishes to refuse to work requested or rostered overtime, the Employee should notify the Employer at the time the overtime is requested or within 48 hours of the roster being posted. Where the Employer determines an Employee's refusal to be unreasonable and confirms the reasons for that determination to the Employee in writing, the Employee shall work the additional overtime as directed unless it is resolved otherwise under subclause 3.3.21 or under clause 8.1 - Dispute Resolution Procedure prior to the shift.

Overtime Penalties

- 3.5.8 Additional hours worked as overtime midnight Sunday to midnight Friday shall be paid at the following rates:
- a) 1.84 times the Base Wage Rate for Employees whose wages are not aggregated;
 - b) 1.5 times the Aggregated Wage Rate for full-time Employees whose wages are aggregated; and
 - c) 1.7 times the Aggregated Wage Rate for part time Employees whose wages are aggregated.
- 3.5.9 Additional hours worked on a Saturday or a Sunday shall be paid at:
- a) double the hourly Base Wage Rate for Employees whose wages are not aggregated;
 - b) double the Aggregated Wage Rate Employees whose wages are aggregated.
- 3.5.10 Where more than one penalty applies to time worked, the highest penalty only will be paid.

Penalties for Working on Weekends: The following rates shall apply:

- 3.5.11 ordinary time worked on Saturday by continuous 24/7 shift work Employees shall be paid at a rate of an additional 50% loading on the Ordinary Wage Rate;
- 3.5.12 ordinary time worked on Sunday shall be paid at the rate of double the Ordinary Wage Rate; and
- 3.5.13 where a shift commences on one day and concludes on the following day, hours will be paid at the rate applicable to the day on which they were worked.

Penalties for Working on Public Holidays.

- 3.5.14 Employees required to work on a Public Holiday shall, subject to subclause 6.1.5, be paid at the rate of double time and a half, calculated on the ordinary rate, for all time worked on that day, in lieu of all other penalties which may be payable for work on that day under this Agreement, including as provided by subclauses 3.5.8 and 3.5.9.
- 3.5.15 Where an Employee works into a day which is a Public Holiday but does not work later than 0400 hours on the Public Holiday, the Employee will be deemed not to have worked on a Public Holiday for the purposes of subclause 3.5.14.

3.6 Shift Breaks

- 3.6.1 An Employee who works a shift which is greater than five hours in duration shall be entitled to a paid shift break of 20 minutes, with five minutes allowed either side of that break.
- 3.6.2 The Employer may stagger the time of shift breaks to meet operational requirements. Shift breaks shall not be rostered to commence before the third or after the fifth hour of duty.
- 3.6.3 An Employee shall not be required to work longer than five hours without a shift break, other than for special operational requirements such as delayed train services or an Emergency.
- 3.6.4 Reasonable alternative shift break arrangements may be agreed between the parties to this Agreement after consultation with the Employees affected and, where entered into, written records kept of any such alternative agreed arrangements including the period over which they would apply.
- 3.6.5 An Employee shall be allowed a second shift break of 20 minutes without loss of pay where it is expected that the Employee will work beyond 10 hours in any one shift or has worked such hours extending beyond 10. The Employer shall make suitable arrangements for the Employee to take the second shift break.

3.7 Minimum Time Off Duty

- 3.7.1 Subject to this clause, an Employee shall be allowed off duty for a minimum of 10 hours.
- 3.7.2 No Employee shall be called or booked on for duty without having been allowed the minimum period off duty while there is another qualified Employee available who has had the minimum period off duty.
- 3.7.3 When an Employee is brought back on duty without having been allowed the minimum period off duty, such Employee shall:
 - a) be paid at double time rates for all time worked from the commencement of their previous shift until released from duty, and

- b) then be entitled to be absent until the Employee has had the minimum period off duty without loss of pay for any time the Employee had been rostered to work during such absence.

3.8 Guaranteed Week's Work

3.8.1 Full Time Employees: The Employer shall guarantee each full time Employee a full week's work of no less than the ordinary hours nominated in subclause 3.2.1 or any applicable special provision averaged across the Employee's roster. If the ordinary hours vary across a roster, but remain an average of the nominated ordinary hours, then those hours constitute the guaranteed full week's work and there is no obligation on the Employer to add extra "make up time" to the weekly wage rate for the purposes of bringing one week's total up to the nominated ordinary hours.

3.8.2 Part Time Employees: The Employer shall guarantee each part time Employee a week's work of:

- a) 12 ordinary hours; or
- b) the higher number of hours per week expressly agreed in writing from time to time with the Employee or the hours rostered for that Employee, whichever is greater.

3.8.3 Exceptions: The guaranteed week may be reduced as follows:

- a) any period where the Employer is wholly or partially unable to carry on the running of the trains by reason of any actions on the part of any Employee or group of Employees or for any other cause which is beyond the Employer's control;
- b) any period that an Employee's hours are varied or not worked due to workers compensation, other authorised leave of absence for disciplinary reasons.

4 WAGES

4.1 Wage Rates

4.1.1 The Base Wage Rates (rounded to two decimal points for hourly rates and one decimal point for weekly rates) applying to positions covered by this Agreement are shown in Schedule A - Wages Tables of this Agreement.

4.1.2 The Ordinary Wage Rates are the Base Wage Rates plus any applicable annualised leave loading, calculated by multiplying the flat rate by 1.013 or 1.019 as the case may be. The product then forms the Ordinary Wage Rates under this Agreement.

4.1.3 **Casual Wage Rates:** The ordinary hourly wage rates for casual Employees do not include annualised leave loading, penalties or other allowances, but do include a loading on the hourly Base Wage Rates listed in Schedule A – Wage Tables as referred to in subclause 2.3.23.

- 4.1.4 **Trainees:** The wage rate applicable to Trainees shall be 85% of the Base Wage Rate applicable to the base classification of the calling for which the Employee is being trained. This rate will apply to a Trainee for the duration of the training period. Where a Trainee is required to work such hours and/or shifts that ordinarily would attract penalty payments, the Trainee shall be paid the penalty rates calculated on the Trainee rate in this subclause.
- 4.1.5 **Workers Compensation:** An Employee, who in the course of performing their duties sustains a compensable injury under the *Workers Compensation Act 1981*, shall receive workers compensation payments in accordance with the *Workers Compensation and Injury Management Act 1981* or its replacement.

4.2 Wage Increases

- 4.2.1 An Employee who is employed by the Employer on the date of registration of this Agreement will, on registration of the Agreement, receive a payment equivalent to the additional wage that would have been paid had the wages in Schedule A – Wage Tables of this Agreement been paid on and from 22 May 2022.
- 4.2.2 The second wage increase of shall operate on and from 22 May 2023.
- 4.2.3 The wage increases provided in this Agreement are in full and final settlement of productivity improvements up to the date of commencement of the Agreement.
- 4.2.4 An Employee who resigns or retires or whose employment is otherwise terminated prior to the registration of this Agreement is not entitled to the retrospective payment provided in subclause 4.2.4.

4.3 Aggregation Of Wages

- 4.3.1 Where agreed between the parties, shift penalties and other allowances may be aggregated and added to the Base Wage Rate to establish an Aggregated Wage Rate. On registration of this Agreement, Aggregated Wage Rates are in place for Customer Service Assistants. Where an Aggregated Wage Rate is established, disaggregation may occur where there is agreement between the parties to do so.
- 4.3.2 Aggregated shift and weekend penalties are the total allowances and penalties for a shift work roster, averaged across Employees working over a full roster cycle, with annual leave discounted to enable Aggregated Wage Rates to be paid to Employees on annual leave.
- 4.3.3 The methodology relating to the Aggregated Wage Rate calculations is described in detail in Schedule C - Aggregation Methodology of this Agreement.
- 4.3.4 While this Agreement is in force, notwithstanding subclause 4.3.3, the Aggregated Wage Rate for Customer Service Assistants rostered to work on the Airport, Armadale, Fremantle, Joondalup, Mandurah and Midland line rosters will be calculated as if those Base Rosters were a single roster, unless the parties agree to Aggregated Wage Rate being calculated upon separate Base Rosters.

4.3.5 Where shift penalties and other allowances are not aggregated, penalties and allowances for Ordinary Shifts will be calculated and paid for individual Employees based on the shifts actually worked by those Employees.

4.3.6 Changes to Aggregated Wage Rates:

a) This subclause applies where

- i) the Employer modifies the Base Roster for a group of Employees who are paid an Aggregated Wage Rate; and
- ii) the roster modification will result in a difference of greater than 5% between the Discounted Average Weekly Aggregate Component and the sum a non-aggregated Employee would be paid for the same period averaged over the modified Base Roster.

b) Where this subclause applies, the Employer will:

- i) determine a new Aggregated Wage Rate in consultation with the Union using the methodology described in Schedule C - Aggregation Methodology;
- ii) document any amendments to Aggregate Wage Rates in an Industrial Circular, a copy of which will be supplied to the Union;
- iii) provide two weeks' notice of any reduction in Aggregated Wage Rates; and
- iv) pay the amended Aggregated Wage Rate from the first pay period commencing on or after the implementation of the modified Base Roster.

4.4 Payment Of Wages

4.4.1 Wages shall be paid fortnightly.

4.4.2 All wages shall be paid into accounts nominated by the Employee with a bank, building society or credit union.

Recovery of Overpayments

4.4.3 The Employer has an obligation under the *Financial Management Act 2006* to account for public monies. This requires the Employer to recover overpayments made to an Employee.

4.4.4 Any overpayment identified and proven and made to an Employee will be repaid to the Employer within a reasonable period of time.

4.4.5 Where an overpayment is identified and proven, the Employer will provide the Employee with the written details of the overpayment and notify the Employee of their intent to recover the overpayment.

4.4.6 Where the Employee accepts that there has been an overpayment, arrangements for the recovery of the overpayment will be negotiated between the Employer and Employee.

- 4.4.7 Any negotiated agreement between the Employer and the Employee will be evidenced in writing stating the amount to be deducted and the time period for the deductions to occur with a signed copy provided to both Employer and Employee for their records.
- 4.4.8 If an amount of repayment cannot be agreed to between the Employer and Employee as per subclause 4.4.7, the Employer may not deduct or require an Employee to repay an amount exceeding 10% of the Employee's net pay in anyone pay period without the Employee's agreement. This will be confirmed in writing with the Employee.
- 4.4.9 If the Employee disputes the existence of an overpayment and the matter is not resolved within a reasonable period of time, the matter should be dealt with in accordance to clause 8.1– Dispute Resolution Procedure. No deductions relating to the overpayment shall be made from the Employee's pay while the matter is being dealt with in accordance with the Dispute Settlement procedure.
- 4.4.10 Nothing in this provision shall be taken as precluding the Employer's legal right to pursue recovery of overpayments.
- 4.4.11 Where the Employer alters the pay cycle or pay day, any consequential variations to an Employee's fortnightly wages and/or payments to compensate shall not be considered an overpayment for the purposes of this subclause.

Underpayments

- 4.4.12 Where the Employer is informed by an Employee that the Employee has not been paid the full amount of remuneration due to the Employee in a fortnightly pay the Employer shall quickly investigate the matter. Where an underpayment is confirmed and determined to be the fault of the Employer, the Employer shall pay the shortfall to the Employee in the next fortnightly pay.
- 4.4.13 Where an Employee can demonstrate that the Employee has incurred a financial penalty due to the non-remittance of remuneration by the day provided for in subclause 4.4.1 to the nominated financial institution as provided for in subclause 4.4.2 the Employee may recoup the penalty from the Employer unless the late remittance was:
- a) due to actions (or inactions) of the Employee such as the late or non-submission of banking information or of applicable timekeeping or other information evidencing the Employee's entitlement to the remuneration; or
 - b) due to no fault of or events outside the control of the Employer, such as bank funds transfer errors.
- 4.4.14 For the purpose of this clause, the Employer will not be responsible for any penalty incurred by an Employee for non-remittance of funds into a Trust Account operated by the administrator, where the Employee has entered into remuneration packaging arrangement.

4.5 Remuneration Packaging

- 4.5.1 An Employee may, by agreement with the Employer, enter into a remuneration packaging arrangement in accordance with the Employer's Salary Packaging

Guidelines and Agreement or any similar remuneration packaging arrangement offered by the Employer.

- 4.5.2 Remuneration packaging is an arrangement whereby the entitlements under this Agreement, contributing toward the Total Employment Cost (as defined) of an Employee, can be reduced by and substituted with another, or other benefits.
- 4.5.3 For the purposes of this clause, Total Employment Cost (TEC) is defined as the cost of salary and other benefits aggregated to a total figure or TEC, less the cost of Compulsory Employer Superannuation Guarantee Contributions.
- 4.5.4 The TEC for the purpose of remuneration packaging, is calculated by adding:
 - a) the base salary;
 - b) other cash allowances, e.g. Annual leave loading
 - c) non-cash benefits, e.g. Superannuation, motor vehicle etc.
 - d) any Fringe Benefit tax liabilities currently paid; and
 - e) any variable components, where commuted or annualised.
- 4.5.5 Where an Employee enters into a remuneration packaging arrangement the Employee will be required to enter into a separate written agreement with the Employer that sets out the terms and conditions of the arrangement, including an irrevocable signed agreement to allow the Employer to deduct from the Employee's wages any outstanding liabilities to be paid.
- 4.5.6 Notwithstanding any remuneration packaging arrangement, the wage rates specified in Schedule A – Wage Tables are the basis for calculating related entitlements specified in this Agreement.
- 4.5.7 The remuneration packaging arrangement must be cost neutral in relation to the total cost to the Employer.
- 4.5.8 The remuneration packaging arrangement must also comply with relevant taxation laws and the Employer will not be liable for any additional tax, penalties or other costs payable or which may become payable by the Employee.
- 4.5.9 In the event of any increase or additional payments of tax or penalties associated with the employment of the Employee or the provision of Employer benefits under the remuneration packaging arrangement, such tax, penalties and any other costs shall be borne by the Employee.
- 4.5.10 In the event of significant increases in Fringe Benefit Tax liability or administrative costs relating to arrangements under this clause, the Employee may vary or cancel a remuneration packaging arrangement.
- 4.5.11 The cancellation of a remuneration packaging arrangement will not cancel or otherwise affect the operation of this Agreement.
- 4.5.12 The Employer shall not unreasonably withhold agreement to remuneration packaging on request from an Employee.

- 4.5.13 The Dispute Resolution Procedure contained in this Agreement shall be used to resolve any dispute arising from the operations of this clause.

4.6 Deferred Wages Arrangement

- 4.6.1 With the written agreement of the Employer, an Employee may elect to receive, over a four-year period, 80% of the wage the Employee would otherwise be entitled to receive in accordance with the relevant Agreement.
- 4.6.2 The Employer will assess each application for deferred salary on its merits and give consideration to the personal circumstances of the Employee seeking the leave.
- 4.6.3 On completion of the fourth year, an Employee will be entitled to 12 months leave and will receive an amount equal to 80% of the wage they were otherwise entitled to in the fourth year of deferment.
- 4.6.4 Where an Employee completes four years of deferred wage service and is not required to attend duty in the following year, the period of non-attendance shall not constitute a break in service and shall count as service on a pro-rata basis for all purposes.
- 4.6.5 An Employee may withdraw from this arrangement prior to completing a four year period by written notice. An Employee will receive a lump sum payment of wages forgone to that time but will not be entitled to equivalent absence from duty.
- 4.6.6 The Employer will ensure that superannuation arrangements and taxation effects are fully explained to the Employee by the relevant authority. The Employer will put any necessary arrangements into place.

4.7 Classification Structure

- 4.7.1 The classifications of Employees covered by this Agreement are based on the following criteria:
- a) job requirements defined by the role, responsibilities, indicative tasks and qualifications;
 - b) AQF training and Competency Levels which are essential to perform the position, and
 - c) relativities with Metal Trades Award classifications.
- 4.7.2 The Wages Table at Schedule A – Wages Tables lists the classifications covered by this Agreement.

4.8 Relationship Between Job Description Forms and Classification Definitions

- 4.8.1 The role, responsibilities, duties and qualifications required in a position shall be defined by the Job Description Form for the position, which, for the life of this Agreement, will prevail over the Award Classification Definitions to the extent of any inconsistency in relation to the position's role, responsibilities, duties and qualifications.

- 4.8.2 The title of a position nominated in its Job Description Form may vary slightly from the job titles used in the Classification Definitions, for purposes such as marketing and advertising, but shall refer to the relevant job title in the Classification Definitions.
- 4.8.3 The parties agree that a review of the drafting of the Award's Classification Definitions can be conducted during the life of the Agreement.

4.9 Reclassification And Review

- 4.9.1 An existing position classified under this Agreement may be reclassified to a different level if there is a significant change in the work value after considering the role, skills and knowledge required in the position as would warrant a change in classification level. Any application for reclassification will be determined consistent with the State Wage Fixing Principles and having regard to the Classification Definitions.
- 4.9.2 To be eligible to be reclassified into a position, an Employee must be the substantive occupant of the position and satisfy training and assessment requirements for the reclassified position.
- 4.9.3 Upward Reclassification – temporary allowance. If positions are reclassified upwards, the substantive incumbents of those positions shall be reclassified with the position if, for at least 12 months prior to the date the position was reclassified, they have performed the higher level duties of the reclassified position, and RTO assessments verify that the Employees have already acquired the higher level skills and competencies the Employer stipulates as necessary for the reclassified job. If an Employee is not competent to perform the reclassified position, or is not eligible for reclassification, then the reclassified position will be declared vacant and filled by advertising and selection on merit. The substantive occupant need not be assigned acting opportunities in the position.
- 4.9.4 Downward Reclassification – wage maintenance. If competency profiles and tasks indicate the position should be classified at a lower level, the substantive incumbents shall continue to be paid the wage rate for their original level for the purpose of income maintenance, consistent with the arrangements applied to redeployees. This will continue until such time as the Employee can be transferred into an alternative position equivalent in classification level. Income maintenance allowance will be adjusted in line with movements to the Agreement rates.

5 ALLOWANCES AND FACILITIES

- 5.1 Shift Work Configurations and Allowances.
 - 5.1.1 Shift Allowance rates and methodologies are contained in Schedule B. They are applicable on or after 22 May 2022 and will be updated administratively each year from 01 July.
 - 5.1.2 **Seven Day Shift Work (24/7)**

The Employer may, if the Employer so desires, work any part of its business on shifts in accordance with the following provisions;

- a) Afternoon shift: an afternoon shift, which commences before 1800 hours and the ordinary time of which concludes at or after 1830 hours will be paid an allowance of \$3.58 as per Schedule B, on all time paid at the ordinary rate.
- b) Night shift: a night shift, which commences at or between 1800 hours and 0359 hours, will be paid an allowance of \$4.26 per hour on all time paid at ordinary rate.
- c) Early morning shift: an early morning shift, which commences at or between 0400 hours and 0530 hours, will be paid an allowance of \$3.58 an hour for all time paid at ordinary rate.
- d) Early/Late shift: in addition to the hourly shift work allowance an Employee will be paid an allowance of \$4.26 for any shift where the ordinary time commences or finishes at or between 0101 hours and 0359 hours.
- e) Continuous night shift: the allowances in subclauses 5.1.2 (a) to (d) shall not apply to Employees continuously on night shifts which start and finish between 1800 and 0600 hours. Instead, these Employees will be paid a shift work allowance on ordinary time worked between 1800 and 0600 at the rate of \$8.08 per hour.
- f) Employees paid under this subclause and working an average 40 hour week on continuous night shift or continuous shift work across a 24 hour/7 day roster are entitled to five weeks of annual leave with 1.9% annualised leave loading unless wages are disaggregated.
- g) provided that shift penalties specified above do not apply to ordinary shift work hours on Saturday and Sunday, midnight to midnight, which is paid as follows: ordinary hours on Saturday are paid with a 50% loading and ordinary hours on Sunday are paid with a 100% loading, calculated on Ordinary Wage Rates.
- h) in calculating the allowance under this clause, broken parts of an hour less than 30 minutes on any shift shall be disregarded and 30 minutes to 59 minutes paid as one hour.

5.1.3 Five Day Shift work (Monday to Friday)

- a) The Employer may, if the Employer so desires, work any part of the establishment on shift work as part of the ordinary hours per week, Monday to Friday. The Employer shall consult affected Employees beforehand and, notify the Union of the intention to introduce shift work. The Employer shall post the new shift work roster at least 21 days in advance of the start date and thereafter post the roster with 14 days' notice.
- b) An Employee shall be rostered to work no less than five consecutive afternoon or night shifts, for the roster to constitute shift work for the purposes of this subclause.
- c) An Employee who is not rostered to work five consecutive afternoon or night shifts, is not considered to be working shifts pursuant to this subclause. In which case, all time worked outside the ordinary spread of hours between

0600 to 1800 Monday to Friday, shall be paid at overtime rates of time and a half for the first two hours, and double time thereafter, with each day to stand alone. Providing that the five consecutive night shifts per roster cycle may be varied by agreement between the parties, in accordance with fatigue management principles.

- d) For the purposes of this subclause, day shift means an ordinary working shift commencing after 0600 hours and ending at or before 1800 hours, Mondays to Fridays; and night shift means a shift where ordinary time commences at or between 1800 hours and 0359 hours.
- e) Other than day shift: All time worked on shifts except the day shift shall be paid at the rate of time and a quarter (1.25) times the hourly Ordinary Wage Rate, for the first eight hours of the shift, and at the rate of time and a half thereafter.
- f) Unless prescribed otherwise elsewhere in this Agreement, when working additional hours outside rostered ordinary hours after (weekday) afternoon or night shifts, overtime rates are calculated on the ordinary hourly shift work rate inclusive of the 25% loading for afternoon or night shift, provided that in no circumstances shall the maximum payment exceed double time.
- g) Any time worked on Saturday and Sunday is considered additional hours for the purposes of this subclause and is paid at weekend overtime rates of double the hourly Ordinary Wage Rate from midnight Friday to midnight Sunday.
- h) Employees working Monday to Friday on day or afternoon shifts are entitled to four weeks annual leave with 1.3% annualised leave loading.

5.2 Travelling Time

- 5.2.1 Work Location: Employees are required to work at any designated location on the suburban rail system or otherwise within the suburban area and travel to and from such locations as rostered or otherwise directed, and this may include the Employee driving in a motor vehicle or travelling as a passenger at any time during a shift.
- 5.2.2 Changes to Work Location: Full-time Employees will be appointed to a home line or base on the suburban rail system. The Employer reserves the right to:
 - a) permanently transfer an Employee to another home line or base within the suburban area, including any location on the suburban rail system after reasonable consultation with the Employee; or to
 - b) temporarily require an Employee to start or finish work at a work location on the suburban rail system or otherwise within the suburban area other than the Employee's home line or base.
- 5.2.3 Travelling between home to work and return shall be in the Employee's own time and at the Employee's own expense unless expressly provided otherwise under this Agreement.

- 5.2.4 **Temporary Changes in Usual Travel Requirements:** Where an Employee is required to commence and finish their shift on a line or at a location other than their home line or base, the Employer shall return the Employee at the end of the shift to the location of shift commencement except where otherwise agreed between the Employer and the Employee.
- 5.2.5 **Other Line Allowance:** On any day where the shift of a Passenger Ticketing Assistant or Customer Service Assistant is required to and does commence on a line or at a location other than the Employee's home line or base, the Employee shall receive an additional payment of one hour's pay at the Aggregated Wage Rate (where applicable) or the Base Wage Rate.
- 5.2.6 Where a Passenger Ticketing Assistant or Customer Service Assistant is required to commence work on a line or at a location other than their home line or base but the travelling time can be incorporated within the shift, no additional payment will apply.
- 5.2.7 For the purposes of subclause 5.2.5, "line" and "location" will be treated as other than the Employee's home line or base where the work required to be done on that line or at that location is not rostered on the Employee's usual roster.
- 5.2.8 **Travelling Time and Expenses:** Where an Employee other than a Passenger Ticketing Assistant or Customer Service Assistant is temporarily required to start or finish work at a work location other than the Employee's home line or base within the suburban area, and the distance is further than ordinarily required from the Employee's usual residence to the Employee's home line or base, the following provisions may apply:
- a) if the time taken in travelling between the Employee's usual place of residence and the temporary work place exceeds the time normally taken in travelling between the usual place of residence and the Employee's home line or base, the Employee is entitled to be paid for such excess travelling time at the Ordinary Wage Rate, calculated on the basis of the mode of transport used on the day concerned. Travelling Time shall not be construed as overtime worked and is not payable at overtime rates.
 - b) if the fares actually and reasonably incurred in such travelling exceed the fares normally paid by the Employee in travelling between the Employee's usual place of residence and the Employee's home line or base, the Employer will be reimburse the difference.
 - c) subject to the prior approval of the General Manager, where an Employee uses the Employee's own means of transport to travel from the Employee's usual place of residence to the temporary work place and the distance the Employee is required to travel is greater than the distance the Employee travels from the usual place of residence to the Employee's home line or base, the Employee will be paid the rate per kilometre as prescribed by the *Public Service Award 1992* Schedule F and G for any additional distance travelled. The rates payable in this subclause shall be adjusted in accordance with adjustments to *Public Service Award 1992* Schedule F and G as notified by Department of Commerce Award Circular.
- 5.2.9 The provisions of subclause 5.2.8 do not apply to an Employee whose Base Roster includes shifts that start or finish at locations other than the home line or base. Provided

that if such an Employee is not working in their usual job, the only applicable payment for which the Employee is eligible for travelling would be any applicable payment due under this subclause.

5.3 Fire Panel Allowance

5.3.1 Where Customer Service Assistants are designated Fire Wardens on shift and are required as part of that designation to;

- a) respond to an emergency alarm and attend the “Fire panel” within three minutes of its activation in order to avoid the initiation of an automatic evacuation and automated public announcements.
- b) operate the fire panel and liaise with other internal stakeholders in accordance with the emergency management manual; and
- c) liaise with external emergency services in accordance with the emergency management manual.

5.3.2 An allowance of \$6.75 per shift will be paid to the designated “Fire Warden” when the Employee is rostered as being required to, and actually does, undertake the above responsibility. It is acknowledged that due to ongoing changes in technology this critical responsibility may become redundant, in which case so will this allowance.

6 LEAVE

6.1 Public Holidays

6.1.1 The following days shall be observed as public holidays: New Year’s Day, Australia Day, Labour Day, Good Friday, Easter Sunday, Easter Monday, Anzac Day, Western Australia Day, Queen’s Birthday, Christmas Day, Boxing Day, and any other day proclaimed as a general public holiday.

6.1.2 When any of the above mentioned days fall on a Saturday or Sunday, excluding Easter Sunday, the holiday shall be observed on the next succeeding Monday.

Easter Sunday shall be observed as a holiday only on the proclaimed Sunday.

When Boxing Day falls on a Sunday or a Monday the holiday shall be observed on the next succeeding Tuesday.

6.1.3 In each case the substituted day shall be a holiday without deduction of pay and the day for which it is substituted shall not be a holiday.

6.1.4 Any hours worked on a public holiday from midnight to midnight, shall be paid at double time and a half unless the Rostered Shift commenced before midnight and finished prior to 0300 hours, in which case time after midnight shall not be counted as time worked on a public holiday.

6.1.5 Employees may elect to accrue a portion of the time worked on a public holiday and take this as time off in lieu of payment prescribed at subclause 6.1.4 where this

arrangement is requested and agreed by the Employer before working that public holiday. Where a request is outside of the parameters of this subclause, approval is at the sole discretion of the Employer.

- 6.1.6 Where this arrangement applies, payment for hours worked on the public holiday will exclude payment for time nominated for accrual.
- 6.1.7 An Employee who would have been rostered but is not required to work an ordinary shift because that shift falls on a public holiday, will be paid at the rate of ordinary time for the time the Employee would have worked on that day had it not been a holiday.
- 6.1.8 If a public holiday falls on a day on which an Employee is not rostered for work, the Employee will be paid an additional eight hours pay at the Employee's Ordinary Wage Rate.
- 6.1.9 All time worked in excess of or outside of the usual working hours in any one day on a public holiday shall be paid at the rate of 'double time and one half' and it shall be the maximum penalty payable.
- 6.1.10 When a public holiday falls within a period of approved paid leave, except long service leave and parental leave, such day shall be paid as a public holiday consistent with the above provisions of this clause. All holidays to be computed at eight hours per day on hourly Ordinary Wage Rates.
- 6.1.11 An Employee who finishes a shift no later than 0400 hours on any holiday and is not again booked for duty for that day shall be treated as having had a paid holiday pursuant to subclause 6.1.7.
- 6.1.12 When an Employee is off duty owing to leave without pay, illness, or injury, including accidents on or off duty except time for which the Employee is entitled to claim personal leave, any holiday falling during such absence shall not be treated as a paid holiday.
- 6.1.13 Where the Employee, however, is on or is available for duty on the working day immediately preceding a paid holiday or resumes or is available for duty on the working day immediately following a holiday, the Employee shall be entitled to a paid holiday on such holiday.
- 6.1.14 In accordance with the long service leave conditions for State Government wages employees any holiday occurring during the period in which an Employee is on long service leave shall be calculated as portion of the long service leave and extra days in lieu shall not be granted.
- 6.1.15 A part-time employee is entitled to the provisions of this clause provided that such holidays occur on a day which the employee is ordinarily contracted to work.

6.2 Additional Day for Easter Sunday

- 6.2.1 Permanent and fixed term contract Employees will be provided an additional day of paid leave for Easter Sunday.
- 6.2.2 The day of paid leave will be made available to the Employee regardless of whether the Employee would normally be expected to work on that date.

6.2.3 The day of paid leave accrues on the date that Easter Sunday falls each calendar year.

6.2.4 The day of leave:

- a) is not available to an Employee who is on any period of leave without pay;
- b) is paid at the Ordinary Wage Rate for those employees whose wages are not aggregated and the Aggregated Wage rate for those whose wages are aggregated;
- c) can be added to annual leave or taken individually;
- d) must be included in the Employee's nominated preferences for clearance of leave in accordance with subclause 6.3.3;
- e) must be taken in the calendar year in which it occurs;
- f) will be forfeited if not taken in the year in which it occurs; and
- g) is not to be paid out on termination of employment.

6.3 Rostering of Leave

6.3.1 Unless otherwise agreed between the parties, every year, the Employer shall post a roster showing the planned dates for clearance of leave by Employees over the following financial year. The leave roosting arrangements shall provide for Employees to share equitably the opportunity for clearance of leave at particular seasons and periods of demand.

6.3.2 During the Royal Show period, leave clearance will be minimised to meet increased service requirements.

6.3.3 For purposes of constructing this roster, each Employee will be required to nominate a preferred commencement date or dates for the clearance of the accrued leave, taking into account that:

- a) Long Service Leave is to be taken at a mutually convenient time but the Employer may direct an Employee to take a long service entitlement in accordance with subclause 6.8.12.
- b) Unless otherwise agreed between the Employer and the Employee, annual leave is to be taken within 12 months from the date at which the annual leave became due.
- c) Notwithstanding subclause b) above, annual leave may be cleared in more than one part, consistent with the following conditions:
 - i) an Employee may, with the consent of the Employer, take short-term annual leave, not exceeding five days in any leave year.
 - ii) with the consent of the Employer, annual leave may be deferred and accrue beyond one year's entitlement.

- iii) the decision to grant or refuse the application will be at the Employer's discretion. At the time of the application, an Employee seeking deferment must nominate specific provisional dates in the following year when the deferred leave can be taken and the Employer's decision to grant the application will constitute an agreement that the leave will be taken on those dates. The Employee may later submit a further leave request for the deferred leave seeking to vary the provisionally agreed dates, which will be treated no less favourably than a new leave request.
- iv) the provisions of this subclause are subject to section 25 of the *Minimum Conditions of Employment Act 1993* which provides that an Employee may give the Employer two weeks' notice of the Employee's intention to take annual leave, the entitlement to which accrued more than 12 months before that time, where the Employer and the Employee have not agreed when the Employee is to take their annual leave.
- v) Employees shall be consulted prior to the Employer changing annual leave arrangements and the Employer should make reasonable efforts to accommodate Employee views prior to implementing changes, where practicable to do so.
- vi) Where an Employee does not nominate dates for the clearance of annual leave the Employer may designate a date for clearance of the leave within 12 months of that leave falling due. The Employer shall give 30 days' notice to Employees of the day on which the annual leave is to commence.
- d) Employees seeking to cash out accrued annual leave or long service leave may request to do so as part of the leave rostering process in accordance with subclause 6.9.
- e) Employees seeking a purchased leave arrangement must request to take that leave in the next financial year in accordance with subclause 6.21.

6.4 Annual Leave

- 6.4.1 Employees, other than those required to work over the seven days of the week or the 24 hours of the day, shall be entitled to 160 hours (40 hour week Employees) of annual leave per year after 12 months of continuous service.
- 6.4.2 Continuity of service and the accrual of leave will not be affected by an Employee taking annual leave.

Additional Week of Annual Leave

- 6.4.3 Employees working 24 hour/7 day continuous shift work rosters, or continuously rostered on consecutive night shifts, shall be allowed an additional week's annual leave each year on full pay in addition to the leave prescribed under subclause 6.4.1 above (i.e. 200 hours of annual leave per year).

- 6.4.4 This provision of this subclause shall also apply to any other Employee whose ordinary hours of work can be extended over Saturdays and holidays and whose hours of duty vary throughout the 24 hours of the day and also work on Sundays.
- 6.4.5 Notwithstanding anything elsewhere contained in this Agreement, this subclause shall not apply to any Employee whose ordinary hours of work must be completed between Monday to Friday inclusive, except where expressly provided for in a term of this Agreement.
- 6.4.6 Annual leave entitlements shall accrue pro rata on a weekly basis as hours, as prescribed under the *Minimum Conditions of Employment Act 1993*.
- 6.4.7 Employees shall be paid for annual leave at their graded rates of pay when such annual leave is taken.
- 6.4.8 No deduction shall be made from annual leave for the period any Employee is off duty on paid personal leave. In the case of personal leave without pay for which a medical certificate has been provided only that period in excess of three months shall be deducted from qualifying service for annual leave.

Part Time Employees

- 6.4.9 Part time Employees will be granted annual leave in the proportion that the number of ordinary hours worked bear to full time Employees, and:
- a) for Employees who consistently worked a regular number of ordinary hours during the whole of their qualifying service, they will continue to be paid on that basis during their leave;
 - b) for Employees who worked a varying number of weekly hours during their qualifying service, they will be paid on the basis of the average ordinary hours worked during their qualifying service;
 - c) For the purposes of this subclause ‘qualifying service’ means:
 - i) the 52 weeks immediately prior to the taking of the annual leave; or
 - ii) where the Employee has been employed in a part time capacity for less than 52 weeks, the period of part time employment.

Annual Leave Loading

- 6.4.10 Annual leave loading shall be paid to Employees on the taking of annual leave and shall be paid in lieu of any other allowances and penalties paid in addition to the Base Wage Rate. Wage rates during periods of annual leave exclude Additional Shift, weekend, and overtime penalties.
- 6.4.11 During annual leave, those shift work Employees whose wage rates are not aggregated may receive an annual leave loading calculated on the Employee’s applicable Base Wage Rate.
- 6.4.12 Shift work Employees whose wages are aggregated are paid an annualised leave loading as part of the Aggregated Wage Rate and are not entitled to any additional loading on the taking of annual leave.

6.4.13 Where wages are not aggregated, annual leave loading will be paid as follows:

- a) day workers – Employees who would have worked on day work only had they not been on leave – will be paid a loading of 17.5%.
- b) shift workers – Employees working over seven days of the week or 24 hours of the day had they not been on leave – will be paid whichever is the greater of a loading of 20% or, the average shift loading (including relevant weekend penalty rates) as agreed between the parties under subclause 6.4.16.

6.4.14 The amount of annual leave loading for Employees entitled to four weeks' annual leave for each completed year of service shall not exceed a rate equivalent to 17.5% of four weeks' salary of a General Division Level 8.1 employee as per Schedule 2 – General Division Salaries under the Public Sector CSA Agreement 2022 (or its replacement Agreement) as at 1 January in the calendar year in which the leave commences. The rates applicable until the end of calendar year 2023 are shown in the following table.

Maximum Leave Loading for annual leave:	Maximum
Commencing on or after 1 January 2022	\$1,828.90
Commencing on or after 1 January 2023	\$1,883.76

6.4.15 The amount of annual leave loading for Employees entitled to five weeks' annual leave for each completed year of service shall not exceed an amount of 5/4th of a rate equivalent to 17.5% of four weeks' salary of a General Division Level 8.1 employee as per Schedule 2 – General Division Salaries under the Public Sector CSA Agreement 2022 (or its replacement Agreement) as at 1 January in the calendar year in which the leave commences. The rates applicable until the end of calendar year 2023 are shown in the following table.

Maximum Leave Loading for annual leave:	Maximum
Commencing on or after 1 January 2022	\$2,286.13
Commencing on or after 1 January 2023	\$2,354.70

6.4.16 At the time of registration, the annual leave loading agreed between the parties to be payable for Passenger Ticketing Assistants was as set out in Schedule D to this Agreement. As part of the consultation about any change to Base Rosters covering disaggregated Employees, there shall be an exchange of letters between the Employer and the Union agreeing the annual leave loading payable for the duration of the Agreement (or until any further change to the roster) to Employees whose substantive position is covered by that roster, based on the average of penalties earned under that roster and acknowledging that the annual leave loading cap figure from time to time (as referred to in subclause 6.4.15) will prevail where applicable.

6.4.17 Where an Employee whose substantive position is not aggregated receives annualised leave loading as part of a higher duties allowance, this will not affect their entitlement to annual leave loading for the purposes of subclause 6.4.13 of this provision.

Annualised Leave Loading

6.4.18 For the purpose of annualising leave loading, a value of 1.3% is added to the Base Wage Rate and factored into the Ordinary Wage Rates for Employees on four weeks annual leave and 1.9% is added to the Base Wage Rate and factored into the Ordinary Wage rate for Employees required to work over the seven days and/or 24 hours of the day.

6.5 Personal Leave

6.5.1 There is no entitlement to authorised personal leave other than in accordance with this clause.

6.5.2 Personal leave, in relation to an employee, means leave taken by the employee

- a) because of personal circumstances affecting the employee; or
- b) to provide care or support to a member of the employee's family or household because of personal circumstances affecting the member.

6.5.3 Personal circumstances, in relation to an employee, means –

- a) personal illness or injury affecting —
 - i) the employee; or
 - ii) a member of the employee's family or household;
- b) an unexpected emergency affecting a member of the employee's family or household.

6.5.4 "Member of the employee's family or household" means any of the following persons:

- a) the employee's spouse or de facto partner;
- b) a child, step child or grandchild of the employee (including an adult child, step child or grandchild);
- c) a parent, step parent or grandparent of the employee;
- d) a sibling of the employee;
- e) any other person who, at or immediately before the relevant time for assessing the employee's eligibility to take leave, lived with the employee as a member of the employee's household.

6.5.5 Personal leave is not to be used for circumstances normally met by other forms of leave.

Entitlement

6.5.6 An employee shall be entitled to 80 hours of paid personal leave for each completed year of service.

6.5.7 Personal leave shall be paid for at the employee's classified rate of pay (including any applicable shift penalties) or established aggregation.

- 6.5.8 Paid personal leave will be debited for the actual number of rostered hours lost due to personal circumstances that the employee would have otherwise worked had the employee not been absent.
- 6.5.9 Provided that if the employee was engaged on duties carrying a higher rate and was entitled to payment at that higher rate for the whole of the day or shift immediately prior to the employee ceasing duty the employee shall be paid for personal leave at that higher rate for the period the employee would have continued to work in the higher position had the employee not ceased duty because of personal circumstances.
- 6.5.10 Personal leave entitlements due under this subclause will accrue pro rata on a weekly basis. In subclause 6.5.6 “year” does not include any period of unpaid leave.
- 6.5.11 Part Time Employees accrue personal leave pro rata according to ordinary hours worked.
- 6.5.12 Unused personal leave entitlements will accumulate from year to year and may be availed of the next or succeeding years.
- 6.5.13 Leave of absence due to personal circumstances is not authorised personal leave unless taken as entitlement under the terms and provisions of this subclause. Unauthorised absence shall be unpaid time. Unauthorised absence shall be discussed between an Employer and employee and where no reasonable explanation is provided to the Employer, the absence may be construed as misconduct warranting institution of disciplinary procedures.
- 6.5.14 The Employee is not entitled to be paid for any period of absence from work resulting from personal circumstances involving personal illness or injury affecting the employee if the circumstances are attributable to either of the following in the course of the employee’s employment –
- a) The Employee’s serious and wilful misconduct; or
 - b) The Employee’s gross and wilful neglect.
- 6.5.15 Continuity of service and the accrual of leave will not be affected by an Employee taking paid personal leave.

Duty to Notify

- 6.5.16 An employee unable to attend work as required due to personal circumstances, must notify the Employer at least three hours, or as soon as is practicable, before the required start time. Where there is no such notification, or where there are no reasonable grounds for not providing the notice, the Employee may not be paid for the absence.
- 6.5.17 An Employee who is absent from duty and whose next rostered working shift commences prior to 1200 hours must inform the Employer of the Employee’s availability for duty by no later than 1500 hours the previous day. Where the Employee’s next Rostered Shift commences at or after 1200 hours, the Employee must inform the Employer of the Employee’s availability for duty by 0900 hours on the same day.

Evidence

6.5.18 An Employee who claims to be entitled to paid or unpaid personal leave must provide the Employer evidence that would satisfy a reasonable person of the entitlement for any absence due to personal circumstances:

- a) which occurs after four separate absences without evidence in any one financial year;
- b) which exceeds two consecutive days.

6.5.19 The following provides guidance as to the minimum requirement under 6.5.18 to constitute evidence that would satisfy a reasonable person:

- a) a medical certificate from a medical practitioner confirming the Employee is unfit for work; or
- b) certificate from a pharmacist or registered health care provider; or
- c) other evidence of the personal circumstances that would satisfy a reasonable person.

6.5.20 An Employee who claims to be entitled to paid or unpaid personal leave under subclause 6.5.2b) for the provision of care or support to a member of the employee's family or household because of personal circumstances affecting the member must:

- a) provide evidence that would satisfy a reasonable person to the Employer of the personal circumstances of the family member if requested by the Employer to do so; and
- b) provide evidence of the Employee's relationship and the nature of the support required to be provided to the member of the Employee's family or household acceptable to a reasonable person if requested by the Employer to do so.

6.5.21 The following provides guidance as to the minimum requirement under 6.5.20 to constitute evidence that would satisfy a reasonable person;

- a) a medical certificate which refers to the illness or injury of the member of the employee's family or household;
- b) certificate from a pharmacist or registered health care provider; or
- c) a carer's certificate from a hospital, health care service or registered health care provider; and
- d) evidence of the employee's relationship and the nature of support required to be provided to the member of the employee's family or household that would satisfy a reasonable person (e.g. a signed statement).

6.5.22 Where an Employee is ill or injured during a period of annual leave and produces at the time, or as soon as practicable thereafter, satisfactory medical evidence that the Employee was confined to their place of residence or a hospital for a period of at least seven consecutive calendar days, the Employer may grant, at a time convenient to the

Employer, additional leave equivalent to the period of illness or injury falling within the rostered period of annual leave.

- 6.5.23 Where an Employee is ill or injured during a period of long service leave and produces at the time, or as soon as practicable thereafter, satisfactory medical evidence that the Employee was confined to their place of residence or a hospital for a period of at least 14 consecutive calendar days, the Employer may grant, at a time convenient to the Employer, additional leave equivalent to the period of illness or injury falling within the rostered period of long service leave.

Personal Leave Without Pay Whilst Ill or Injured

- 6.5.24 Employees who have exhausted all of their personal leave entitlements and are ill or injured may apply for personal leave without pay. Employees are required to complete the necessary application and provide evidence to satisfy a reasonable person. The Employer shall not unreasonably withhold this leave.
- 6.5.25 Personal leave without pay not exceeding a period of three months in a continuous absence does not affect salary increment dates, anniversary date of personal leave credits, long service leave entitlements or annual leave entitlements. Where a period of personal leave without pay exceeds three months in a continuous absence, the period in excess of three months is excised from qualifying service.
- 6.5.26 Personal leave without pay is not available to employees who have exhausted all of their paid personal leave entitlements and are seeking leave for circumstances outlined in subclause 6.5.2b). However, other forms of leave, including unpaid carer's leave and leave without pay, may be available.

Worker's Compensation

- 6.5.27 Where an Employee suffers an "injury" within the meaning of section 5 of the Workers' Compensation and Injury Management Act 1981, which necessitates that Employee being absent from duty, personal leave with pay must be granted to the extent of personal leave credits. In accordance with section 80 (2) of the *Workers' Compensation and Injury Management Act 1981* where the claim for workers' compensation is decided in favour of the Employee, personal leave credit is to be reinstated and the period of absence shall be granted as personal leave without pay.
- 6.5.28 Since January 1, 1953, a period of personal leave without pay granted to an employee on account of an illness compensable under the provisions of the Workers' Compensation Act, does not affect the anniversary date of personal leave credits, long service leave entitlements or annual leave entitlements provided the period of leave granted does not exceed six months in a continuous absence. Where the period of personal leave granted does not exceed six months in a continuous absence, only the period in excess of six months is excised from qualifying service.

Unpaid Carer's leave

- 6.5.29 Subject to the provisions of paragraph (b) of this subclause, an Employee is entitled to unpaid carer's leave of up to two days for each occasion (a "permissible occasion") on which a member of the Employee's family or household requires care or support because of:

- a) Personal Circumstances affecting the member; or
- b) the birth of a child of the member.

6.5.30 An Employee is entitled to unpaid carer's leave for a particular permissible occasion only if the Employee cannot take paid personal leave during the period.

6.5.31 The definition of family or household is the same as provided in subclause 6.5.4.

6.5.32 The Employer may grant an Employee unpaid carer's leave in excess of two days.

6.5.33 Unpaid carer's leave may be taken on an hourly basis.

6.6 War Caused Illnesses

6.6.1 An Employee who produces evidence from the Department of Veterans' Affairs stating that the Employee has a war-caused illness will be credited special paid leave of 15 working days per annum.

6.6.2 Paid leave under this clause:

- a) may accumulate up to a maximum of 45 working days;
- b) is to be recorded separately to the Employee's normal personal leave entitlement;
- c) is only to be accessed for sickness related to the war-caused illness; and
- d) may be accessed despite normal personal leave credits being available.

6.6.3 An application for paid leave under this clause is to be supported by evidence that would satisfy a reasonable person of the entitlement.

6.7 Bereavement Leave

6.7.1 Employees, shall on the death of

- a) the spouse or de facto partner of the Employee;
- b) a former spouse or former de facto partner of the Employee;
- c) a child, step child, foster child or grandchild of the Employee (including an adult child, step child or grandchild);
- d) a parent, step parent, foster parent or grandparent of the Employee;
- e) a parent in law or former parent in law of the Employee;
- f) a brother, sister, step brother or step sister of the Employee;
- g) any other person who, immediately before that person's death, lived with the Employee as a member of the Employee's household;

be eligible for up to three days' paid bereavement leave.

- 6.7.2 On request of the Employee, the Employer will not unreasonably withhold approval to grant bereavement leave to an Employee in respect of some other person with whom the Employee had a special relationship.
- 6.7.3 The three days need not be consecutive.
- 6.7.4 Bereavement leave is not to be taken during any other period of leave, including periods of unpaid leave, workers compensation or in any case where the Employee concerned would have been off duty in accordance with the roster.
- 6.7.5 Payment of such leave may be subject to the Employee providing evidence, if so requested by the Employer, of the death or relationship to the deceased that would satisfy a reasonable person.
- 6.7.6 An Employee requiring more than three days' bereavement leave in order to travel interstate or overseas in the event of a death of a person referred to in subclause 6.7.1 or 6.7.2 may, upon providing adequate proof, in addition to any bereavement leave to which the Employee is eligible, have immediate access to annual leave and/or accrued long service leave or leave without pay provided all accrued leave is exhausted.

Travelling time for Regional Employees

- 6.7.7 Subject to prior approval from the Employer, an Employee entitled to bereavement leave and who as a result of such bereavement travels to a location within Western Australia that is more than 240 km from their workplace will be granted paid time off for the travel period undertaken in the Employee's ordinary working hours up to a maximum of 15 hours per bereavement. The Employer will not unreasonably withhold approval.
- 6.7.8 The Employer may approve additional paid travel time within Western Australia where the Employee can demonstrate to the satisfaction of the Employer that more than two days travel time is warranted.
- 6.7.9 The provisions of subclauses 6.7.7 and 6.7.8 apply as follows.
 - a) An Employee employed on a fixed term contract for a period greater than 12 months, shall be credited with the same entitlement as a permanent Employee for each full year of service and pro-rata for any residual portion of employment.
 - b) An Employee employed on a fixed term contract for a period less than 12 months shall be credited with the same entitlement on a pro-rata basis for the period of employment.
 - c) A part time Employee shall be entitled to the same entitlement as a full time Employee for the period of employment, but on a pro-rata basis according to the number of Ordinary Hours worked each fortnight.

6.8 Long Service Leave

- 6.8.1 An Employee shall be entitled to 13 weeks paid long service leave on the completion of 10 years continuous service and an additional 13 weeks paid long service leave for each subsequent period of seven years of continuous service completed by the Employee.
- 6.8.2 Where a public holiday falls within an Employee's period of long service leave such day shall be deemed to be a portion of the long service leave and no other payment or benefit shall apply.
- 6.8.3 Long service leave may be taken in periods of four weeks or more, at a mutually agreed time. The Employer may in its discretion approve a request from an Employee to take long service leave in periods of less than four weeks.
- 6.8.4 By agreement with the Employer, the entitlement can be taken as follows:
 - a) 13 weeks on full pay;
 - b) 26 weeks on half pay; or
 - c) 6.5 weeks on double pay.
- 6.8.5 Subject to subclause 6.8.4, an Employee can take their long service leave entitlement in any combination of full, half, and double pay.
- 6.8.6 Long service leave shall be paid at the Employee's rate of pay as prescribed in the wages clause or as specified for rostered Employees.
- 6.8.7 Employees within seven years of their preservation age under the Western Australian Government superannuation arrangements may, by agreement with the Employer, choose to access pro rata long service leave at the rate of 9.28 days per completed 12 month period of continuous service.
- 6.8.8 An Employee will only be entitled to pro rata long service leave if their employment is terminated:
 - a) by the Employer for other than disciplinary reasons;
 - b) due to the retirement of the Employee on the grounds of ill health;
 - c) due to the death of the Employee, in which case the payment would be made to the Employee's estate;
 - d) due to Employee's retirement at the age of 55 years or over, provided 12 months continuous service has been completed prior to the day from which the retirement takes effect;
 - e) for the purpose of entering an Invitro Fertilisation Programme, provided the Employee has completed three years' service and produces written confirmation from an appropriate medical authority of the dates of involvement in the programme; or

- f) due to Employee's resignation for pregnancy, provided the Employee has completed more than three years and produces certification of such pregnancy and the expected date of birth from a legally qualified medical practitioner.
- 6.8.9 For the purposes of determining long service leave entitlement, the expression "continuous service" includes any period during which the Employee is absent on paid leave but does not include any period exceeding two continuous weeks during which the Employee is absent on unpaid leave.
- 6.8.10 Absence on long service leave does not affect continuity of service or the accrual of leave. Continuity of service shall not be broken by the absence of the Employee on any form of approved paid leave or by the standing down of an Employee under the terms of this Agreement.
- 6.8.11 If the ordinary hours of employment of an Employee have varied during the qualifying period, the Employee shall be paid a rate based on the average number of ordinary hours worked over the Employee's full qualifying period, consistent with clause 15 of the *State Government Wages Employees Long Service Leave General Order* made on 16 December 1985 [66 WAIG 319].
- 6.8.12 The Employer may direct an Employee to take a long service entitlement that has been accrued for more than three years.
- 6.8.13 Where an Employee is directed to take long service leave entitlement, it will be taken within 12 months of the direction, at a time agreed between the Employer and the Employee.
- 6.8.14 Where a time cannot be agreed within the 12 month period, the Employer will determine the date on which the Employee will be required to start long service leave. Provided that the Employer shall give at least 30 days' notice to the Employee of the day on which the long service leave is to commence.

6.9 Employee Initiated Cash Out Of Accrued Annual Leave or Long Service Leave

- 6.9.1 The parties agree on the importance of Employees taking annual leave and long service leave for the purposes of rest and recreation.
- 6.9.2 This clause however recognises that, notwithstanding the importance of leave referred to in subclause 6.9.1, some Employees may have excess annual leave or long service leave. This clause at the initiative of the Employee provides for Employees to receive payment in lieu of some of their unutilised accrued annual leave and long service leave.
- 6.9.3 Subject to subclause 6.9.4 the Employer and Employee may agree that the Employee forego part of the Employee's entitlement to accrued annual leave in exchange for equivalent payment at the rate which would have applied had the leave been taken at the time the agreement is made. The payment includes any applicable annual leave loading in accordance with subclauses 6.4.10 to 6.4.17 of this Agreement, where the leave loading has not been annualised.
- 6.9.4 The following criteria shall apply to the cashing out of accrued annual leave:

- a) the Employee initiates a written request, to their Employer, to cash out accrued annual leave;
 - b) the Employer agrees in writing to the request by the Employee;
 - c) there is an annual leave entitlement that has accrued in previous years;
 - d) no more than 50% of the Employee's total accrued annual leave entitlement can be cashed out;
 - e) the remaining entitlements are not less than two weeks accrued annual leave, which the Employee agrees to take in that year;
 - f) each instance of cashing out of annual leave must be a separate written agreement between the Employer and Employee; and
 - g) annual leave accruing in the year the request for cashing out is made cannot be cashed out in that year.
- 6.9.5 Subject to subclause 6.9.6, the Employer and Employee may agree that the Employee forego part or all of the Employee's entitlement to accrued long service leave in exchange for equivalent payment at the rate which would have applied had the leave been taken at the time the agreement is made.
- 6.9.6 The following criteria shall apply to the cashing out of accrued long service leave:
- a) there is an existing accrued long service leave entitlement;
 - b) the Employee initiates a written request to their Employer to cash out any portion of accrued long service leave;
 - c) the Employer agrees in writing to the request by the Employee; and
 - d) each instance of cashing out of long service leave must be a separate written agreement between the Employer and Employee.
- 6.9.7 It is the Employee's responsibility to seek information on any taxation implications arising from the payout of annual leave or long service leave.

6.10 Cultural and Ceremonial Leave

- 6.10.1 Cultural and or ceremonial leave shall be available to all Employees.
- 6.10.2 Such leave shall include leave to meet the Employee's customs, traditional law and to participate in cultural and ceremonial activities.
- 6.10.3 Employees are entitled to time off without loss of pay for cultural or ceremonial purposes, subject to agreement between the Employer and Employee and sufficient leave credits being available.
- 6.10.4 The Employer will assess each application for ceremonial or cultural leave on its merits and give consideration to the personal circumstances of the Employee seeking the leave.

- 6.10.5 The Employer may request reasonable evidence of the legitimate need for the Employee to be allowed time off.
- 6.10.6 Cultural or ceremonial leave may be taken as whole or part days off. Each day, or part thereof, shall be deducted from:
- a) the Employee's annual leave entitlements (where applicable);
 - b) the officer's accrued long service leave entitlements, but in full days only; or
 - c) accrued days off.
- 6.10.7 Time off without pay may be granted by arrangement between the Employer and the Employee for cultural or ceremonial purposes.

6.11 Cultural Leave for Aboriginal and Torres Strait Islanders

- 6.11.1 Employees who identify as Aboriginal or Torres Strait Islanders (ATSI) are entitled to paid cultural leave which can be accessed to participate in any of the following:
- a) cultural and ceremonial obligations under ATSI lore, customs or traditional law; and
 - b) community cultural events such as NAIDOC Week activities, Reconciliation Week or Coming of the Light festivals.
- 6.11.2 Up to five days of paid cultural leave per calendar year will be available under this clause. The leave need not be taken in one continuous period. Paid cultural leave will not accrue from year to year and will not be paid out on termination.
- 6.11.3 The Employer will assess each application for cultural leave on its merits and give consideration to the personal circumstances of the Employee seeking the leave.
- 6.11.4 The Employer may request reasonable evidence of the legitimate need for the Employee to be allowed time off.
- 6.11.5 If an Employer requires an Employee to attend to business associated with an ATSI organisation, or an organisation that works to facilitate ATSI interests, the attendance is considered to be a part of the Employee's normal duties and the Employee need not access leave under this or any other clause to enable it.
- 6.11.6 Cultural leave granted under this clause is in addition to the leave provided by clause 6.7 – Bereavement Leave of this Agreement and clause 6.10 – Cultural and Ceremonial Leave.

6.12 Blood and/or Plasma Donors Leave

- 6.12.1 Subject to operational requirements, Employees shall be entitled to absent themselves from the workplace in order to donate blood and or plasma in accordance with the following general conditions:
- a) prior arrangements with the supervisor has been made and at least two days' notice has been provided; or

- b) the Employee is called upon by the Red Cross Blood Centre.
- 6.12.2 The notification period shall be waived or reduced where the line manager is satisfied that operations would not be unduly affected by an Employee's absence.
- 6.12.3 Employees shall be required to provide proof of attendance at the Red Cross Blood Centre upon return to work.
- 6.12.4 Employees shall be entitled to two hours of paid leave per donation for the purpose of donating blood or plasma to the Red Cross Blood Centre.

6.13 Witness And Jury Service

Witness Service

- 6.13.1 An Employee subpoenaed or called as a witness to give evidence in any proceeding shall:
 - a) notify the Employer as soon as practicable; and
 - b) Provide to the Employer on request evidence that would satisfy a reasonable person of any entitlement claimed in relation to giving that evidence under this provision.
- 6.13.2 Where an Employee is subpoenaed or called as a witness to give evidence in an official capacity, that Employee shall be granted by the Employer leave of absence with pay, but only for such period as is required to enable the Employee to carry out duties related to being a witness. If the Employee is on any form of paid leave, the leave involved in being a witness will be reinstated. If the Employee is on a rostered day off and has complied with subclause 6.13.1, the Employer shall on request roster an alternative rostered day off. The Employee is not entitled to accept any witness fee.
- 6.13.3 An Employee subpoenaed or called as a witness to give evidence in an official capacity shall, in the event of non-payment of the proper witness fee or travelling expenses as soon as practicable after the default, notify the Employer.
- 6.13.4 An Employee subpoenaed or called, as a witness on behalf of the Crown and/or the State, not in an official capacity shall be granted leave with full pay entitlements. If the Employee is on any form of paid leave, this leave shall not be reinstated as such witness service is deemed to be part of the Employee's civic duty. The Employee is not entitled to accept any witness fees.
- 6.13.5 An Employee subpoenaed or called as a witness under any other circumstances, other than specified in subclauses 6.13.2 and 6.13.4 of this provision, shall be granted leave of absence without pay except when the Employee makes an application to clear accrued leave in accordance with the provisions of this Agreement.

Jury Service

- 6.13.6 An Employee required to serve on a jury shall as soon as practicable after being summoned to serve, notify the supervisor/manager who shall notify the Employer.

6.13.7 An Employee required to serve on a jury shall be granted paid leave of absence by the Employer, but only for such period as is required to enable the Employee to carry out duties as a juror.

6.13.8 The parties acknowledge that as at the date of registration of this Agreement the Employer is required under the *Juries Act 1975* to pay an Employee the earnings that the Employee could reasonably expect to have been paid while doing jury service. Where an Employee would otherwise have been allocated to relief work while doing jury service, payment of the base rate plus a 20% loading will reflect the Employee's reasonable expectation of payment during that period.

6.13.9 An Employee granted leave of absence as prescribed in subclause 6.13.6 of this provision is not entitled to retain any juror's fees.

6.14 Maternity Leave

6.14.1 Eligibility

- a)
 - i) A pregnant permanent Employee, fixed term contract Employee or eligible casual Employee is entitled to unpaid maternity leave on the birth of a child.
 - ii) The period of leave for a fixed term contract Employee shall not extend beyond the term of that contract.
 - iii) An Employee is eligible, without concluding their maternity leave and resuming duty, for subsequent periods of maternity leave, including paid maternity leave, in accordance with the provisions of this clause.
- b) A pregnant permanent or fixed term Employee must have completed 12 months' continuous service in the Public Sector immediately preceding the maternity leave in order to receive the forms of paid leave as provided for by this clause.
- c) An Employee on a period of leave without pay unrelated to maternity leave, adoption leave or other parent leave must resume duties prior to being entitled to paid maternity leave in accordance with the eligibility requirements.

6.14.2

- a) A pregnant eligible casual Employee is entitled to unpaid maternity leave only.
- b) For the purposes of this clause an "eligible casual Employee" means a casual Employee employed by the Employer:
 - i) on a regular and systematic basis for several periods of employment with a break of no more than three months between each period of employment and where the combined length of the periods of employment are at least 12 months and the breaks of employment were the result of the Employer's initiative; or

- ii) on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months; and, but for the birth or adoption of a child the Employee has a reasonable expectation of continuing engagement on a regular and systematic basis.
- c) Service performed by an eligible casual Employee for a Public Sector Employer shall count as service for the purposes of determining 12 months' continuous service as per subclause 6.14.1 and 6.14.2 where:
 - i) the eligible casual Employee has become a permanent or fixed term contract Employee with the same Employer; and
 - ii) the break between the period of eligible casual employment and permanent or fixed term contract employment is no more than three months.

6.14.3 Notice Requirements

- a) An eligible Employee shall give at least eight weeks' written notice of:
 - i) their intention to proceed on paid or unpaid maternity leave;
 - ii) the date the Employee proposes to commence paid or unpaid maternity leave; and
 - iii) the period of leave to be taken.
- b) An Employee who has given their Employer notice of their intention to take maternity leave shall provide the Employer with a medical certificate from a registered medical practitioner naming the Employee, confirming the pregnancy and the estimated date of birth.
- c) An Employee is not in breach of 6.14.3a) by failing to give the required period of notice if such failure is due to the birth of the child taking place prior to the date the Employee had intended to proceed on maternity leave.
- d) An Employee proceeding on maternity leave may elect to take a shorter period of maternity leave to that provided by this clause and may at any time during that period elect to reduce or seek to extend the period stated in the original application, provided four weeks' written notice is provided.

6.14.4 General Entitlement To Maternity Leave

- a) Subject to the requirements of this clause an eligible Employee is entitled to 52 weeks' unpaid maternity leave.
- b)
 - i) Subject to the requirements of this clause an eligible Employee is entitled to 14 weeks' paid maternity leave that will form part of the 52 week unpaid entitlement.
 - ii) The 14 week period of paid maternity leave is inclusive of any public holidays falling within that time.

- iii) The period of paid maternity leave can be extended by the Employee taking double the leave on a half-pay basis and its effect is in accordance with subclause 6.14.15.
- c) An Employee must take maternity leave in one continuous period with the exception of:
 - i) special temporary employment or special casual employment pursuant to subclause 6.14.13 – Employment During Unpaid Maternity Leave; and
 - ii) subclause 6.14.8 – Unpaid Special Maternity Leave.
- d) Except for leave provided under subclause 6.16.3f) and clause 6.17 - Partner Leave of this Agreement, only one parent can proceed on maternity, adoption or other parent leave at any one time.
- e) Where less than the 52 weeks' maternity leave is taken paid or unpaid, the unused portion of the leave cannot be banked or preserved in any way.
- f)
 - i) Notwithstanding 6.14.4c) above, paid maternity leave may be taken in more than one period by an Employee who meets the requirements of subclause 6.14.5d).
 - ii) Unpaid maternity leave may be taken in more than one continuous period where the Employee undertakes special temporary employment or special casual employment in accordance with subclause 6.14.3 – Employment During Unpaid Maternity Leave. In these circumstances, the provisions of subclause 6.14.13 – Employment During Unpaid Maternity Leave, shall apply.
- g)
 - i) Where both parents are employed in the Public Sector an entitlement to paid or unpaid maternity, adoption or other parent leave or parental leave provided for by another industrial agreement can be shared.
 - ii) The entitlement provided to the Employees shall not exceed the paid maternity, adoption or other parent leave quantum for one Employee or its half pay equivalent.
 - iii) Employees may only proceed on paid and/or unpaid maternity, adoption or other parent leave at the same time in exceptional circumstances with the approval of the Employer or as provided for under subclause 6.14.5d). This does not prevent an Employee from taking paid or unpaid Partner leave as prescribed by clause 6.17 – Partner Leave of this Agreement.

6.14.5 Payment for Paid Maternity Leave

- a)
 - i) Subject to 6.14.5c), a full time Employee proceeding on paid maternity leave is to be paid according to their ordinary working hours at the time of commencement of maternity leave. Shift and weekend penalty payments are not payable during paid maternity leave.
 - ii) Subject to 6.14.5c), payment for a part time Employee is to be determined according to an average of the hours worked by the Employee over the preceding 12 months; or their ordinary working hours at the time of commencement of maternity leave, exclusive of shift and weekend penalties, whichever is greater.
- b) An Employee may elect to receive pay in advance for the period of paid maternity leave at the time the maternity leave commences or, may elect to be paid the entitlement on a fortnightly basis over the period of the paid maternity leave.
- c)
 - i) An Employee in receipt of a higher duties allowance for a continuous period of 12 months immediately prior to commencing paid maternity leave is to continue to receive the higher duties allowance for the first four weeks of paid maternity leave.
 - ii) An Employee who is entitled to be paid higher duties allowance in accordance with 6.14.5c)i) and elects to take paid maternity leave at half pay will be paid the higher duties allowance at the full rate for the first four weeks only.
- d) An Employee is entitled to remain on paid maternity leave if the pregnancy results in other than a live child; or the Employee is incapacitated following the birth of the child; or the child dies or is hospitalised such that the Employee or the Employee's Partner is not providing principal care to the child.
- e) Where an Employee is on a period of half pay maternity leave and their employment is terminated through no fault of the Employee, the Employee shall be paid out any period of unused paid maternity leave equivalent to the period of leave the Employee would have accessed had they been on full pay maternity leave when their termination occurred.
- f) An Employee eligible for a subsequent period of paid maternity leave as provided for under subclause 6.14.1a)iii) shall be paid the maternity leave as follows:
 - i) according to the Employee's status, classification and ordinary working hours at the time of commencing the original period of paid maternity leave; and

- ii) not affected by any period of special temporary employment or special casual employment undertaken in accordance with subclause 6.14.13.

6.14.6 Commencement of Maternity Leave

- a) The period of paid leave can commence up to six weeks prior to the expected date of birth of the child.
- b) The period of unpaid leave can commence up to six weeks prior to the expected date of birth of the child or earlier if the Employer and the Employee so agree, but must not start later than the birth of the child.
- c)
 - i) If the Employer has reason to believe that the continued performance of duties by a pregnant Employee renders danger to herself, fellow Employees or the public, the Employee may be required to obtain and provide a medical certificate stating that the Employee is fit to work in her present position for a stated period.
 - ii) The Employer shall pay the fee for any such examination.
 - iii) Where an Employee is deemed to be unfit to work in her present position, the provisions of subclause 6.14.7 - Modification of Duties and Transfer to a Safe Job, may apply.
- d)
 - i) Where the pregnancy of an Employee terminates other than by the birth of a living child, not earlier than 20 weeks before the expected date of the birth, the entitlement to paid maternity leave remains intact and subject to the eligibility requirements of this clause.
 - ii) Such paid maternity leave cannot be taken concurrently with any paid personal leave taken in this circumstance.
- e) The period of paid maternity leave must be concluded within 12 months of the birth of the child.
- f)
 - i) The Employer may, in exceptional circumstances, allow an Employee to take paid maternity leave that will result in the Employee being on paid maternity leave more than 12 months after the birth of the child.
 - ii) An Employer may require evidence that would satisfy a reasonable person that the circumstances warrant allowing the Employee to take their period of paid maternity leave such that it would result in the Employee being on paid maternity leave more than 12 months after the birth of the child.

6.14.7 Modification of Duties and Transfer to a Safe Job

- a)
 - i) A pregnant Employee may work part time in one or more periods whilst she is pregnant where she provides her Employer with a medical certificate from a medical practitioner advising that part time employment is, because of her pregnancy, necessary or preferable.
 - ii) The terms of part time employment undertaken in accordance with subclause 6.14.7a)i) shall be in writing.
 - iii) Such employment shall be in accordance with subclause 2.3.4 to 2.3.7 of this Agreement.
- b) In the absence of an alternative requirement, and unless otherwise agreed between an Employer and Employee, an Employee shall provide their Employer with four weeks' written notice of an intention to:
 - i) vary part time work arrangements made under subclause 6.14.7a); or
 - ii) revert to full time employment during the Employee's pregnancy.
- c) An Employee reverting to full time employment in accordance with subclause 6.14.7a)ii) will be entitled to the same position or a position equivalent in pay, conditions and status and commensurate with the Employee's skill and abilities as the substantive position held immediately prior to undertaking part time employment.
- d) If an Employee gives her Employer a medical certificate from a medical practitioner, or some other form of evidence that would satisfy a reasonable person, and it contains a statement to the effect that the Employee is fit to work, but that it is inadvisable for her to continue in her present position for a stated period because of:
 - i) illness, or risks, arising out of her pregnancy; or
 - ii) hazards connected with that position;then the Employer must modify the duties of the position or alternatively transfer the Employee to a safe job at the same classification level for the period during which she is unable to continue in her present position.
- e) If an Employee's Employer does not think it to be reasonably practicable to modify the duties of the position or transfer the Employee to a safe job:
 - i) the Employee is entitled to be absent from the workplace on full pay for the period during which she is unable to continue in her present position;
 - ii) An entitlement to be absent from the workplace on full pay as at subclause 6.14.7e)i) applies to an eligible casual Employee; and

- iii) An Employee who is absent from work pursuant to this subclause shall be paid the amount she would reasonably have expected to be paid if she had worked during that period.
- f) An entitlement to be absent from the workplace on full pay is in addition to any leave entitlement the Employee has.
- g) An entitlement to be absent from the workplace on full pay ends at the earliest of whichever of the following times is applicable:
 - i) the end of the period stated in the medical certificate;
 - ii) if the Employee's pregnancy results in the birth of a living child – the end of the day before the date of birth; or
 - iii) if the Employee's pregnancy ends otherwise than with the birth of a living child – the end of the day before the end of the pregnancy.

6.14.8 Unpaid Special Maternity Leave

- a) A pregnant Employee is entitled to a period of unpaid special maternity leave if the Employee is not fit for work during that period because the Employee:
 - i) has a pregnancy related illness; or
 - ii) has been pregnant and the pregnancy ends within 28 weeks of the expected date of birth of the child otherwise than by a living child; and
 - iii) has not utilised personal leave for the period.
- b) An Employee must give the Employer notice of the taking of unpaid special maternity leave.
- c) The notice must:
 - i) be given to the Employer as soon as practicable (which may be a time after the leave has started); and
 - ii) advise the Employer of the period, or expected period, of the leave.
- d) An Employee who has given notice of the taking of unpaid special maternity leave must, if required by the Employer, give the Employer evidence that would satisfy a reasonable person that the leave is taken for a reason specified in 6.14.8a).
- e) Without limiting 6.14.8d), the Employer may require the evidence referred to in that subclause to be a medical certificate.
- f) An Employee's entitlement to 52 weeks' of unpaid maternity leave provided at 6.14.4 is not reduced by the amount of any unpaid special maternity leave taken by the Employee while the Employee was pregnant.

6.14.9 Interaction with Other Leave Entitlements

- a) An Employee proceeding on unpaid maternity leave may elect to substitute any part of that leave with accrued annual and/or accrued long service leave.
- b) Where annual and/or long service leave is substituted that leave shall form part of the 52 weeks' maternity leave entitlement.
- c) Personal leave is not payable on a period of paid or unpaid maternity leave.

6.14.10 Extended Unpaid Maternity Leave

- a) An Employee is entitled to apply for leave without pay following maternity leave ("extended unpaid maternity leave") to extend their leave by up to two years.
- b) Approval for an extension to unpaid maternity leave will be subject to all other available leave entitlements being exhausted.
- c) Where both parents work for the Public Sector the total combined period of extended unpaid maternity, adoption or other parent leave shall not exceed two years.
- d) The Employer is to agree to a request for extended unpaid maternity leave unless:
 - i) the Employer is not satisfied that the request is genuinely based on the Employee's parental responsibilities; or
 - ii) agreeing to the request would have an adverse impact on the conduct of operations or business of the Employer and those grounds would satisfy a reasonable person.
- e) The Employer is to give the Employee written notice of the Employer's decision on a request for extended unpaid maternity leave under subclause 6.14.10a). If the request is refused, the notice is to set out the reasons for the refusal.
- f) An Employee who believes their request for extended unpaid maternity leave under subclause 6.14.10 has been unreasonably refused may seek to enforce it as a minimum condition of employment and the onus will be on the Employer to demonstrate that the refusal was justified in the circumstances.

6.14.11 Communication during Maternity Leave

- a) If the Employer makes a decision that will have a significant effect on the status, responsibility level, pay or location of an Employee's position whilst on maternity leave, the Employer must take all reasonable steps to give the Employee information about, and an opportunity to discuss, the effect of the decision on that position.
- b) An Employee shall also notify the Employer of changes of address or other contact details that might affect the Employer's capacity to comply with subclause 6.14.11a).

6.14.12 Replacement Employee

- a) Should a Replacement employee be engaged, the Replacement employee is to be informed prior to engagement of the fixed-term nature of the employment and of the rights of the Employee, who is being replaced, including that the engagement may be subject to variation according to 6.14.3d) and ability to extend unpaid Maternity Leave as provided for under subclause 6.14.10.

6.14.13 Employment during Unpaid Maternity Leave

a) Special Temporary Employment

- i) For the purposes of this subclause, “temporary” means employment of an intermittent nature; for a limited, specified period; and undertaken during unpaid maternity leave or extended unpaid maternity leave.
- ii) Notwithstanding any other provision of the maternity leave clause, an Employee may be employed by their Employer on a temporary basis provided that:
 - both parties agree in writing to the special temporary employment;
 - Employees are only employed on a temporary basis in connection with their substantive office, post or position;
 - any such period of service shall not change the Employee’s employment status in regard to their substantive employment; and
 - any period of special temporary employment shall count as qualifying service for all purposes under this Agreement.

b) Special Casual Employment

- i) For the purposes of subclause 6.14.13 ‘casual’ means employment on an hourly basis for a period not exceeding four weeks in any period of engagement for which a casual loading is paid. It excludes employment undertaken in accordance with 6.14.13a) – Special Temporary Employment.
- ii) An Employee can be engaged on special casual employment provided that:
 - both parties agree in writing to the special casual employment;
 - Employees are employed at the level commensurate to the level of the available position under this Agreement;
 - in the case of a fixed term contract Employee, the period of the casual employment is within the period of the current fixed term contract;
 - any such period of service shall not break the Employee’s continuity of service nor change the Employee’s employment status in regard to their substantive employment; and

- any period of special casual employment shall not count as qualifying service other than with respect to entitlements a casual Employee would ordinarily be entitled to for any other purpose under any relevant award, agreement or industrial instrument.
- c) The provisions of this clause only apply to employment during unpaid maternity leave, and extended unpaid maternity leave taken in conjunction with maternity leave as provided for in subclause 6.14.10– Extended Unpaid Maternity Leave.
- d) An Employer cannot engage an Employee in special temporary employment or special casual employment whilst the Employee is on a period of paid maternity leave, annual leave or long service leave taken concurrently with a period of unpaid maternity leave.
- e) Effect of special temporary employment and special casual employment on unpaid maternity leave:
 - i) Subject to subclause 6.14.13e)ii) a period of special temporary employment or special casual employment shall be deemed to be part of the Employee’s period of unpaid maternity leave or extended unpaid maternity leave as originally agreed to by the parties.
 - ii) An Employee who immediately resumes unpaid maternity leave or extended unpaid maternity leave following the conclusion of a period of special temporary employment or special casual employment:
 - is entitled, on written notice, to extend their period of unpaid maternity leave or extended unpaid maternity leave by the period of time in which they were engaged in special temporary employment or special casual employment; and
 - shall give not less than four weeks’ notice in writing to their Employer of the new date they intend to return to work and so conclude their period of maternity leave or extended unpaid maternity leave.
 - iii) An Employee who does not immediately resume their period of unpaid maternity leave or extended unpaid maternity leave at the conclusion of a period of special temporary employment or special casual employment cannot preserve the unused portion of leave for use at a later date.

6.14.14 Return to Work on Conclusion of Maternity Leave

- a)
 - i) An Employee shall confirm their intention in writing to conclude their maternity leave not less than four weeks prior to the expiration of maternity leave or extended unpaid maternity leave.
 - ii) An Employee who intends to return to work on a modified basis in accordance with subclause 6.14.4d) shall advise their Employer of this

intention by notice in writing not less than four weeks prior to the expiration of maternity leave or extended unpaid maternity leave.

- b) An Employee on return to work following the conclusion of maternity leave or extended unpaid maternity leave will be entitled to the same position or a position equivalent in pay, conditions and status and commensurate with the Employee's skill and abilities as the substantive position held immediately prior to proceeding on maternity leave.
- c) Where an Employee was transferred to a safe job or was absent from the workplace on full pay as provided for in subclause 0 – Modification of Duties and Transfer to a Safe Job, the Employee is entitled to return to the position occupied immediately prior to the transfer or their absence from the workplace on full pay.
- d) Right to Return to Work on a Modified Basis
 - i) An Employee may return on a part time or job-share basis to the substantive position occupied prior to the commencement of leave or to a different position as determined by the Employer at the same classification level in accordance with the part time employment provisions this Agreement.
 - ii) An Employee may return on a modified basis that involves the Employee working on different days or at different times, or both; or on fewer days or for fewer hours or both, than the Employee worked immediately before starting maternity leave.
- e) Right to Revert
 - i) An Employee who has returned on a part time or modified basis in accordance with subclause 6.14.14d) may subsequently request permission from the Employer to resume working on the same basis as the Employee worked immediately before starting maternity leave or full time work at the same classification level.
 - ii) A request made under subclause 6.14.14e)i) must be in writing and must be made at least four weeks before the day on which the Employee wishes to resume working on the same basis as the Employee worked immediately before starting maternity leave or full time work at the same classification level.
 - iii) An Employer is to agree to a request to revert made under subclause 6.14.14e)i) unless there are grounds to refuse the request relating to the adverse effect that agreeing to the request would have on the conduct of operations or business of the Employer and those grounds would satisfy a reasonable person.
 - iv) An Employer is to give the Employee written notice of the Employer's decision on a request to revert under subclause 6.14.14e)i). If the request is refused, the notice is to set out the reasons for the refusal.

- v) An Employee who believes their request to revert under subclause 6.14.14e)i) has been unreasonably refused may seek to enforce it as a minimum condition of employment and the onus will be on the Employer to demonstrate that the refusal was justified in the circumstances.

f) Employer Requirement to Revert

- i) If, on finishing maternity leave, an Employee has returned to work on a modified basis in accordance with 6.14.14d), the Employer may subsequently require the Employee to resume working on the same basis as the Employee worked immediately before starting maternity leave.
- ii) A requirement can be made under subclause 6.14.14f)i) only if:
 - (aa) the requirement is made on grounds relating to the adverse effect that the Employee continuing to work on a modified basis would have on the conduct of the operations or business of the Employer and those grounds would satisfy a reasonable person; or
 - (bb) the Employee no longer has a child who has not reached the compulsory education period as defined in section 6 of the School Education Act 1999.

6.14.15 Effect of Maternity Leave on the Contract of Employment

a)

- i) Paid maternity leave will count as qualifying service for all purposes under this Agreement.
- ii) Qualifying service for any purpose under this Agreement is to be calculated according to the number of weeks of paid maternity leave that were taken at full pay or would have been had the Employee not taken paid maternity leave at half pay. Employees who take paid maternity leave on half pay do not accrue agreement or other entitlements beyond those that would have accrued had they taken the leave at full pay.

b)

- i) Absence on unpaid maternity leave or extended unpaid maternity leave shall not break the continuity of service of Employees.
- ii) Where an Employee takes a period of unpaid maternity leave or extended unpaid maternity leave exceeding 14 calendar days in one continuous period, the entire period of such leave shall not be taken into account in calculating the period of service for any purpose under any relevant award, agreement or industrial instrument. Periods of unpaid leave of 14 days or less shall, however, count for service.

- c) An Employee on maternity leave may terminate employment at any time during the period of leave by written notice in accordance with clause 2.11 – Termination of this Agreement.
- d) An Employer shall not terminate the employment of an Employee on the grounds of the Employee's application for maternity leave or absence on maternity leave but otherwise the rights of the Employer in respect of termination of employment are not affected.

6.15 Adoption Leave

6.15.1 Eligibility

- a)
 - i) A permanent Employee, fixed term contract Employee or eligible casual Employee is entitled to 52 weeks unpaid adoption leave on the placement of a child for adoption as provided for under this clause.
 - ii) The period of leave granted to a fixed term contract Employee shall not extend beyond the term of that contract.
 - iii) An Employee is eligible, without concluding their adoption leave and resuming duty, for subsequent periods of adoption leave, including paid adoption leave, in accordance with the provisions of this clause.
- b) A permanent or fixed term contract Employee must have completed 12 months continuous service in the Public Sector immediately preceding the adoption leave in order to receive the forms of paid leave as provided for by this clause.
- c) An Employee on a period of leave without pay unrelated to maternity leave, adoption leave or other parent leave must resume duties prior to being entitled to paid adoption leave in accordance with the eligibility requirements.
- d) An eligible casual Employee as defined under subclause 6.14.2 of this Agreement is entitled to unpaid adoption leave as provided by this clause.

6.15.2 General entitlement to Adoption Leave

- a) Subject to the requirements of this clause an eligible Employee is entitled to 52 weeks unpaid adoption leave.
- b)
 - i) Subject to the requirements of this clause an eligible Employee is entitled to 14 weeks paid adoption leave that will form part of the 52 week unpaid entitlement.
 - ii) The 14 week period of paid adoption leave is inclusive of any public holidays falling within that time.

- iii) The period of paid adoption leave can be extended by the Employee taking double the leave on a half-pay basis and its effect is in accordance with subclause 6.14.15– Effect on Maternity Leave on Contract of Employment.
- c) An Employee must take adoption leave in one continuous period with the exception of special temporary employment or special casual employment pursuant to subclause 6.14.13 – Employment during Unpaid Maternity Leave.
- d) Except for leave provided under subclause 6.16.3f) and clause 6.17 – Partner Leave of this Agreement only one parent can proceed on maternity, adoption or other parent leave at any one time.
- e) Where less than the 52 weeks’ adoption leave is taken paid or unpaid, the unused portion of the leave cannot be banked or preserved in any way.
- f) Unpaid adoption leave may be taken in more than one continuous period where the Employee undertakes special temporary employment or special casual employment in accordance with the provisions at subclause 6.14.13 – Employment During Unpaid Maternity Leave. In these circumstances, the provisions of subclause 6.14.13– Employment During Unpaid Maternity Leave of shall apply.
- g)
 - i) Where both parents are employed in the Public Sector an entitlement to paid or unpaid maternity leave, adoption leave or other parent leave or parental leave provided for by another industrial agreement can be shared;
 - ii) The entitlement provided to the Employees shall not exceed the paid maternity, adoption or other parent leave quantum for one Employee or its half pay equivalent; and
 - iii) The Employees may only proceed on paid and/or unpaid maternity, adoption or other parent leave at the same time in exceptional circumstances with the approval of the Employer or as provided for under subclause 6.14.5d) of this Agreement. This does not prevent an Employee from taking paid or unpaid Partner Leave as prescribed by clause 6.17 of this Agreement.

6.15.3 Payment for Paid Adoption Leave

- a)
 - i) Subject to subclause 6.15.3c) a full time Employee proceeding on paid adoption leave is to be paid according to their ordinary working hours at the time of commencement of adoption Leave. Shift and weekend penalty payments are not payable during paid adoption leave.

- ii) Subject to subclause 6.15.3c) Payment for a part time Employee is to be determined according to an average of the hours worked by the Employee over the preceding 12 months; or their ordinary working hours at the time of commencement of adoption leave, exclusive of shift and weekend penalties, whichever is greater.
- b) An Employee may elect to receive pay in advance for the period of paid adoption leave at the time the adoption leave commences or may elect to be paid the entitlement on a fortnightly basis over the period of the paid adoption leave.
- c)
 - i) An Employee in receipt of a higher duties allowance for a continuous period of 12 months immediately prior to commencing paid adoption leave is to continue to receive the higher duties allowance for the first four weeks of paid adoption leave.
 - ii) An Employee who is entitled to be paid higher duties allowance in accordance with subclause 6.15.3c)i) and elects to take paid adoption leave at half pay will be paid the higher duties allowance at the full rate for the first four weeks only.
- d) Where an Employee is on a period of half pay adoption leave and their employment is terminated through no fault of the Employee, the Employee shall be paid out any period of unused paid adoption leave equivalent to the period of leave the Employee would have accessed had they been on full pay adoption leave when their termination occurred.
- e) An Employee eligible for a subsequent period of paid adoption leave as provided for under subclause 6.15.1a)iii) shall be paid the adoption leave as follows:
 - i) According to the Employee's status, classification and ordinary working hours at the time of commencing the original period of paid adoption leave; and
 - ii) Not affected by any period of special temporary employment or special casual employment undertaken in accordance with subclause 6.14.13 – Employment during Unpaid Maternity Leave.
- f) Where less than the 52 weeks' adoption leave is taken paid or unpaid, the unused portion of the leave cannot be banked or preserved in any way.
- g) An eligible casual Employee provided for under subclause 6.15.1d) is not entitled to paid adoption leave.
- h) The 'day of placement', in relation to the adoption of a child by an Employee, means the earlier of the following days:
 - i) the day on which the Employee first takes custody of the child for the adoption; or

- ii) the day on which the Employee starts any travel that is reasonably necessary to take custody of the child for the adoption.
- i) An Employee is not entitled to adoption-related leave unless the child that is, or is to be, placed with the Employee for adoption
 - i) is, or will be, under 16 years old as at the day of placement, or the expected day of placement, of the child;
 - ii) has not, or will not have, lived continuously with the Employee for a period of six months or more as at the day of placement, or the expected day of placement, of the child; and
 - iii) is not (otherwise than because of the adoption) a child or stepchild of the Employee or the Employee's Partner.
- j)
 - i) An Employee seeking to adopt a child is entitled to two days' unpaid leave to attend interviews or examinations required for the adoption procedure.
 - ii) An Employee working or residing outside of the Perth metropolitan area is entitled to an additional days' unpaid leave.
 - iii) The Employee may take any paid leave entitlement to which the Employee is entitled to in lieu of this leave.
- k)
 - i) If an application for adoption leave has been granted for the adoption of a child, which does not eventuate, then the period of paid or unpaid adoption leave is terminated.
 - ii) Employees may take any other paid leave entitlement to which they are entitled in lieu of the terminated adoption leave or return to work.

6.15.4 Commencement of Adoption Leave

- a) An eligible Employee can commence adoption leave from the day of placement of the child.
- b) The period of paid adoption leave must conclude within 12 months of the day of placement except under exceptional circumstances as provided under subclause 6.14.6f) but as it relates to adoption leave.

6.15.5 Notice and Variation Requirements

- a) An Employee shall give no less than eight weeks' written notice to the Employer of:
 - i) the date the Employee proposes to commence paid or unpaid adoption leave; and

- ii) the period of leave to be taken.
- b) An Employee is not in breach of subclause by failing to give the required period of notice if such failure is due to the requirement of the adoption agency to accept earlier or later placement of a child, or other compelling circumstances.
- c) An Employee proceeding on adoption leave may elect to take a shorter period of adoption leave to that provided by this clause and may at any time during that period elect to reduce or seek to extend the period stated in the original application, provided four weeks' written notice is provided.

6.15.6 Other Provisions

The following provisions, as provided under clause – 6.14 Maternity Leave of this Agreement have application to Adoption Leave:

- 6.14.9 – Interaction with Other Leave Entitlements;
- 6.14.10 – Extended Unpaid Maternity Leave;
- 6.14.11 – Communication during Maternity Leave;
- 6.14.12 – Replacement Employee;
- 6.14.13– Employment During Unpaid Maternity Leave;
- 6.14.14 – Return to Work on Conclusion of Maternity Leave; and
- 6.14.15 – Effect of Maternity Leave on the Contract of Employment.

6.16 Other Parent Leave

6.16.1 For the purposes of this clause:

- a) The “*Other Parent*” may or may not be the biological parent, and does not necessarily have to be the Partner of the birth parent and has a responsibility for the care of the child.
- b) The “*primary care giver*” means the Employee will assume the principal role for the care and attention of a child aged under 12 months or a newly adopted child.
- c) Only one person can be the primary care giver of the child at any one time.

6.16.2 Eligibility

- a)
 - i) Where an eligible Employee, other than an Employee entitled to paid maternity leave under subclause 6.14.2 or adoption leave under subclause 6.15.1 in this Agreement, is the other parent and has a responsibility for the care of a child under the age of 12 months or newly adopted child the provisions of this clause will apply.
 - ii) An Employee must be the primary care giver of the child to access paid other parent leave.

- iii) An Employer may require an Employee to provide confirmation of their primary carer status with evidence that would satisfy a reasonable person.
- b) An eligible casual Employee as defined under subclause 6.14.1 - Maternity Leave is entitled to unpaid other parent leave as provided by this clause.
- c)
 - i) A permanent Employee, fixed term contract Employee or eligible casual Employee is entitled to 52 weeks unpaid other parent leave in accordance with this clause.
 - ii) An eligible permanent or fixed term contract Employee is entitled to 14 weeks' paid other parent leave in accordance with this clause if they are the primary care giver of the child.
 - iii) An Employee employed on a fixed term contract shall have the same entitlement to other parent leave; however, the period of leave granted shall not extend beyond the term of that contract.
 - iv) An Employee is eligible, without concluding their other parent leave and resuming duty, for subsequent periods of other parent leave, including paid other parent leave, in accordance with the provisions of this clause.
- d) A permanent or fixed term contract Employee must have completed 12 months continuous service in the Public Sector immediately preceding the other parent leave in order to receive the forms of paid leave as provided for by this clause.
- e) An Employee on a period of leave without pay unrelated to maternity leave, adoption leave or other parent leave must resume duties prior to being entitled to paid other parent leave in accordance with the eligibility requirements.

6.16.3 General Entitlement to Other Parent Leave

- a) Subject to the requirements of this clause an eligible Employee is entitled to 52 weeks' unpaid other parent leave.
- b)
 - i) Subject to the requirements of this clause an eligible Employee is entitled to 14 weeks' paid other parent leave that will form part of the 52 week unpaid entitlement if they are the primary care giver of the child.
 - ii) The 14 week period of paid other parent leave is inclusive of any public holidays falling within that time.
 - iii) The period of paid other parent leave can be extended by the Employee taking double the leave on a half-pay basis and its effect is in

accordance with subclause 6.14.15 – Effect of Maternity Leave on the Contract of Employment.

- c) An Employee must take other parent leave in one continuous period with the exception of special temporary employment or special casual employment pursuant to subclause 6.14.13 – Employment during Unpaid Maternity Leave.
- d) Except for leave provided under subclause 6.16.3f) and clause 6.17 - Partner Leave of this Agreement only one parent can proceed on maternity, adoption or other parent leave at any one time.
- e) Where less than the 52 weeks other parent leave is taken paid or unpaid, the unused portion of the leave cannot be banked or preserved in any way.
- f)
 - i) An Employee, whose Partner is not employed, or is employed and does not intend to take unpaid parental related leave for a child under the age of 12 months or placement of a newly adopted child as provided for in clause 6.15 – Adoption Leave of this Agreement, may access unpaid other parent leave where:
 - the Employee will have a responsibility for the care of a child; and
 - the Partner has responsibility for the care of the child for the period between the date of birth or placement of the child and the start date of the Employee's leave.
 - ii) The leave application must ensure that the leave commences within 12 months of the date of birth or placement of the child.
 - iii) This entitlement forms part of an Employee's 52 week unpaid other parent leave entitlement and may not be extended beyond 24 months after the date of birth or date of placement of a newly adopted child as provided for in clause 6.15– Adoption Leave of this Agreement.
- g) Unpaid other parent leave may be taken in more than one continuous period where the Employee undertakes special temporary employment or special casual employment in accordance with the provisions at subclause 6.14.13 – Employment During Unpaid Maternity Leave in this Agreement. In these circumstances, the provisions of subclause 6.14.13 – Employment During Unpaid Maternity Leave, shall apply.
- h)
 - i) where both parents are employed in the Public Sector an entitlement to paid or unpaid maternity leave, adoption leave or other parent leave or parental leave provided for by another industrial agreement can be shared;
 - ii) the entitlement provided to the Employees shall not exceed the paid maternity, adoption or other parent leave quantum for one Employee or its half pay equivalent; and

- iii) the Employees may only proceed on paid and/or unpaid maternity, adoption or other parent leave at the same time in exceptional circumstances with the approval of the Employer or as provided for under subclause 6.16.3j). This does not prevent an Employee from taking paid or unpaid partner leave as prescribed by clause 6.17 – Partner Leave of this Agreement.
- i) An eligible casual Employee provided for under subclause 6.16.2b) is entitled to unpaid other parent leave only.
- j) If both parents work in the Public Sector and the mother is able to remain on paid maternity leave despite her incapacity to be her child's primary care giver, the Employees may choose which parent will access the paid leave.
 - i) If the mother chooses to remain on paid maternity leave, the other parent may access unpaid other parent leave for the period they are their child's primary care giver.
 - ii) If the other parent chooses to be the primary care giver of the child and accesses paid other parent leave the mother may access unpaid maternity leave.
 - iii) Where the other parent accesses paid leave in accordance with this subclause, the mother is entitled to resume paid maternity leave if/when she becomes her child's primary care giver, subject to the provisions of subclause 6.16.3j).

6.16.4 Payment for Paid Other Parent Leave

- a)
 - i) Subject to subclause 6.16.4c) a full time Employee proceeding on paid other parent leave is to be paid according to their ordinary working hours at the time of commencement of other parent leave. Shift and weekend penalty payments are not payable during paid other parent leave.
 - ii) Subject to subclause 6.16.4c) payment for a part time Employee is to be determined according to an average of the hours worked by the Employee over the preceding 12 months; or their ordinary working hours at the time of commencement of other parent leave, exclusive of shift and weekend penalties, whichever is greater.
- b) An Employee may elect to receive pay in advance for the period of paid other parent leave at the time the other parent leave commences, or may elect to be paid the entitlement on a fortnightly basis over the period of the paid other parent leave.
- c)
 - i) An Employee in receipt of a higher duties allowance for a continuous period of 12 months immediately prior to commencing paid other

parent leave, is to continue to receive the higher duties allowance for the first four weeks of paid other parent leave.

- ii) An Employee who is entitled to be paid higher duties allowance in accordance with subclause 6.16.4c)i) and elects to take paid other parent leave at half pay will be paid the higher duties allowance at the full rate for the first four weeks only.
- d) An Employee is entitled to remain on paid other parent leave where the mother is incapacitated following the birth of the child; or the child dies or is hospitalised such that the Employee or the Employee's Partner is not providing principal care to the child.
- e) Where an Employee is on a period of half pay other parent leave and their employment is terminated through no fault of the Employee, the Employee shall be paid out any period of unused paid other parent leave equivalent to the period of leave the Employee would have accessed had they been on full pay other parent leave when their termination occurred.
- f) An Employee eligible for a subsequent period of paid other parent leave as provided for under subclause 6.16.2c)iv) shall be paid the other parent leave as follows:
 - i) According to the Employee's status, classification and ordinary working hours at the time of commencing the original period of paid other parent leave; and
 - ii) Not affected by any period of special temporary employment or special casual employment undertaken in accordance with subclause 6.14.3–Employment during Unpaid Maternity Leave.
- g) Where less than the 52 weeks' other parent leave is taken paid or unpaid, the unused portion of the leave cannot be banked or preserved in any way.
- h) An eligible casual Employee provided for under subclause 6.16.2b) is not entitled to paid other parent leave.

6.16.5 Commencement of Other Parent Leave

- a) An eligible Employee who has a responsibility for the care of the child can commence other parent leave from the child's birth date or placement, or a later date nominated by the Employee.
- b) The period of paid other parent leave must conclude within 12 months of the birth or placement of the child except under exceptional circumstances as per subclause 6.14.6e) and subclause 6.14.8f) of the Maternity Leave clause, but as it relates to other parent leave.

6.16.6 Notice and Variation Requirements

- a) An Employee shall give no less than four weeks' written notice to the Employer of:

- i) the date the Employee proposes to commence paid or unpaid other parent leave; and
 - ii) the period of leave to be taken.
- b)
 - i) An Employee is not in breach of subclause 6.16.6a) by failing to give the required period of notice if such failure is due to the requirement of the Employee to take on the role of primary care giver due to the birth parent or other adoptive parent being incapacitated to take on the principal caring role.
 - ii) In such circumstances the Employee shall give notice as soon as reasonably possible.
- c) The granting of leave under this clause is subject to the Employee providing the Employer with evidence that would satisfy a reasonable person detailing the reasons for and the circumstances under which the leave application is made and the relationship the Employee has with the child.
- d) An Employee proceeding on other parent leave may elect to take a shorter period of other parent leave to that provided by this clause and may at any time during that period elect to reduce or seek to extend the period stated in the original application, provided four weeks' written notice is provided.

6.16.7 Other Provisions

The following provisions, as provided under clause – 6.14 Maternity Leave have application to other parent leave:

- 6.14.9 - Interaction with Other Leave Entitlements;
- 6.14.10– Extended unpaid Maternity Leave;
- 6.14.11– Communication during Maternity Leave;
- 6.14.12 – Replacement Employee;
- 6.14.13– Employment During Unpaid Maternity Leave;
- 6.14.14– Return to Work on Conclusion of Maternity Leave; and
- 6.14.15 – Effect of Maternity Leave on the Contract of Employment

6.17 Partner Leave

6.17.1 An Employee who is not taking maternity leave, adoption leave or other parent leave is entitled to one week's partner leave as prescribed by this clause in respect of the:

- a) birth of a child to the Employee's Partner; or
- b) adoption of a child who is not the child or the stepchild of the Employee and/or the Employee's Partner; is under the age of 16; and has not lived continuously with the Employee for six months or longer.

6.17.2 Subject to available credits, the entitlement to one week's partner leave may be taken as:

- a) paid personal leave, subject to clause 6.5;
- b) paid annual and/or long service leave; or
- c) unpaid partner leave.

6.17.3 Partner leave must be taken immediately following the birth or, in the case of adoption, the placement of the child.

6.17.4

- a) Subject to subclause 6.17.4b), the taking of partner leave by an Employee shall have no effect on their or their Partner's entitlement, where applicable, to access paid maternity leave as provided by clause 6.14 – Maternity Leave, paid adoption leave as provided by clause 6.15 – Adoption Leave and paid other parent leave as provided by clause 6.16 – Other Parent Leave of this Agreement.
- b) Where applicable, unpaid partner leave taken by an Employee shall be counted as part of the Employee's other parent leave entitlement.

6.17.5 Any public holidays that fall during partner leave shall be counted as part of the partner leave and do not extend the period of partner leave.

Personal Leave

6.17.6 An Employee may access their accrued personal leave entitlements for partner leave purposes, subject to the requirements of the *Minimum Conditions of Employment Act 1993* being met. That is, a minimum of 80 hours personal leave must be kept available for an Employee to access for the purposes of an Employee's entitlement to paid leave for illness or injury; or family leave.

6.17.7 The right to access personal leave credits for partner leave purposes does not affect an Employee's right to take more than five days personal leave for the purposes provided for in clause 6.5– Personal Leave of this Agreement.

6.17.8 Right to Request Additional Unpaid Partner Leave

- a) The total period of partner leave provided by this clause shall not exceed eight weeks.
- b) An Employee is entitled to request an extension to the period of partner leave up to a maximum of eight weeks. The additional weeks' leave shall be unpaid and the eight week maximum is inclusive of any period of partner leave already taken in accordance with 6.17.2.

6.17.9

- a) The extended unpaid partner leave may be taken in separate periods. Unless the Employer agrees, each period must not be shorter than two weeks.

- b) The period of extended unpaid partner leave must be concluded within 12 months of the birth or placement of the child.
- 6.17.10 The Employer is to agree to an Employee's request to extend their unpaid partner leave made under subclause 6.17.8b) unless:
 - a) having considered the Employee's circumstances, the Employer is not satisfied that the request is genuinely based on the Employee's parental responsibilities; or
 - b) there are grounds to refuse the request relating to the adverse effect that agreeing to the request would have on the conduct of operations or business of the Employer and those grounds would satisfy a reasonable person. These grounds include, but are not limited to:
 - i) cost;
 - ii) lack of adequate replacement staff;
 - iii) loss of efficiency; and
 - iv) impact on the production or delivery of products or services by the Employer.
- 6.17.11 The Employer is to give the Employee written notice of the Employer's decision on a request to extend their unpaid partner leave. If the Employee's request is refused, the notice is to set out the reasons for the refusal.
- 6.17.12 An Employee who believes their request to extend unpaid partner leave has been unreasonably refused may seek to enforce it as a minimum condition of employment and the onus will be on the Employer to demonstrate that the refusal was justified in the circumstances.
- 6.17.13 Where an Employer agrees to an Employee's request to extend their period of unpaid partner leave under subclause 6.17.8, the Employer must allow an Employee to elect to substitute any part of that period of unpaid partner leave with accrued annual leave or long service leave.
- 6.17.14 An Employee on unpaid partner leave is not entitled to paid personal leave.
- 6.17.15 Notice
 - a) The Employee shall give not less than four weeks' notice in writing to the Employer of the date the Employee proposes to commence partner leave, stating the period of leave to be taken.
 - b) An Employee who has given their Employer notice of their intention to take partner leave shall provide the Employer with a medical certificate from a registered medical practitioner naming the Employee, or the Employee's Partner, confirming the pregnancy and the estimated date of birth.

6.17.16 Effect of Partner Leave on the Contract of Employment

The provisions of clause 6.14– Maternity Leave of this Agreement concerning the effect of maternity leave on the contract of employment shall apply to Employees accessing partner leave, with such amendment as necessary.

6.17.17 Eligible Casual Employees

An eligible casual Employee, as defined in clause 6.14– Maternity Leave of this Agreement, is only entitled to unpaid partner leave.

6.18 Superannuation of Unpaid Parental Leave

6.18.1 In this clause, “unpaid parental leave” means:

- a) unpaid maternity leave, which includes unpaid maternity leave, unpaid special maternity leave and extended unpaid maternity leave under clause 6.14.
- b) unpaid adoption leave under clause 6.15; and
- c) unpaid other parent leave under 6.16 of this Agreement.

6.18.2 An Employee or eligible Casual Employee who is entitled to unpaid parental leave is entitled to have superannuation contributions made in respect of the period of unpaid parental leave taken to a maximum of 12 weeks.

6.18.3 Superannuation contributions made under this clause will be calculated:

- a) in respect of the period of unpaid maternity leave, unpaid adoption leave or unpaid other parent leave taken or 12 weeks; whichever is lesser;
- b) based on the amount that would have been paid to the Employee had they taken paid maternity leave, paid adoption leave or paid other parent leave for that period, in accordance with the following:
 - i) for full time Employees – the ordinary working hours at the time of commencement of parental leave;
 - ii) for part time Employees – an average of the hours worked by the Employee over the preceding 12 months; or their ordinary working hours at the time of commencement of parental leave, whichever is greater; or
 - iii) for eligible Casual Employees – an average of the hours worked by the eligible Casual Employee over the preceding 12 months;

exclusive of shift and weekend penalties.

6.18.4 Superannuation contributions will be paid:

- a) to the Employee’s superannuation fund in respect of which superannuation contributions for that Employee are made; and

- b) at the time that the period of unpaid parental leave in respect of which the contributions are payable concludes.

6.18.5 Superannuation contributions will be made in accordance with the *State Superannuation Act 2000* and the *State Superannuation Regulations 2001*.

6.19 Leave Without Pay

6.19.1 Subject to the provisions of subclause 6.19.2 of this clause, the Employer may grant an Employee leave without pay for any period and is responsible for that Employee on their return. There is no obligation to offer leave without pay unless otherwise provided for by agreement or policy provisions.

6.19.2 Every application for leave without pay will be considered on its merits and may be granted provided that the following conditions are met:

- a) the work of the Employer is not inconvenienced;
- b) all other leave credits of the Employee are exhausted; and
- c) a reasonable period of notice has been provided in advance of the date the leave of absence is requested to start.

6.19.3 The proposed reason for absence shall be considered before any decision is made in relation to approval or refusal of the Employee's application.

6.19.4 An Employee on a fixed term appointment may not be granted leave without pay for any period beyond that Employee's approved period of engagement.

6.19.5 **Leave Without Pay For Full Time Study:** The Employer may grant an Employee leave without pay to undertake full time study, subject to a yearly review of satisfactory performance. Leave without pay for this purpose shall not count as qualifying service for leave purposes. If the employee undertakes the study as a form of award or scholarship which has been competed for consideration may be given to the absence counting as qualifying service for all purposes except annual leave.

6.19.6 **Leave Without Pay For Australian Institute of Sport Scholarships:** Subject to the provisions of subclause 6.19.2 of this clause, the Employer may grant an Employee who has been awarded a sporting scholarship by the Australian Institute of Sport, leave without pay.

6.19.7 An employee who is granted Leave Without Pay to accept a scholarship from the Australian Institute of Sport shall have that absence count as qualifying service for all purposes except annual leave.

6.19.8 Unless otherwise specified in this Agreement, any continuous period of Leave Without Pay which exceeds 14 days will not count as qualifying service for any purpose.

6.20 Study Leave

Conditions for Granting Time Off

- 6.20.1 An Employee may be granted time off with pay for part time study purposes at the discretion of the Employer.
- 6.20.2 Part time Employees are entitled to study leave on the same basis as full time Employees. Employees working shift work or on fixed term contracts also have the same access to study leave as all other Employees.
- 6.20.3 Time off with pay may be granted up to a maximum of five hours per week, including travelling time, where subjects of approved courses are conducted during normal working hours. The equivalent applies if studying by correspondence.
- 6.20.4 Employees who are obliged to attend educational institutions for compulsory block sessions may be granted time off with pay, including travelling time, up to the maximum annual amount allowed to an Employee in subclause 6.20.12.
- 6.20.5 Employees shall be granted sufficient time off with pay to travel to and sit for the examinations of any approved course of study or for the mature age entrance examination for tertiary admission conducted by the Tertiary Institution Service Centre.
- 6.20.6 In every case the approval of time off to attend lectures and tutorials will be subject to:
- a) the Employer's convenience;
 - b) the course being undertaken on a part time basis;
 - c) Employees undertaking an acceptable form of study load in their own time;
 - d) Employees making satisfactory progress with their studies; and
 - e) the course being relevant to the Employee's career in the Public Sector and being of value to the State.
 - f) A service agreement or bond will not be required.

6.20.7 Payment of Fees and Other Costs

Cadets and Trainees

- 6.20.8 Employers are to meet the payment of higher education administrative charges for cadets and trainees who, as a condition of their employment, are required to undertake studies at a post-secondary institution. Employees who, of their own volition, attend such institutions to gain higher qualifications will be responsible for the payment of fees.
- 6.20.9 This assistance does not include the cost of textbooks or Guild and Society fees.
- 6.20.10 An Employee who is required to repeat a full academic year of the course will be responsible for payment of the higher education fees for that particular year.

All Employees

6.20.11 Notwithstanding subclause 6.20.22, the Employer has the discretion to reimburse an Employee for the full or part of any reasonable costs of enrolment fees, Higher Education Contribution Surcharge, compulsory textbooks, compulsory computer software, and other necessary study materials. Half of the value of the agreed costs shall be reimbursed immediately following production of written evidence of successful completion of the subject for which reimbursement has been claimed. The Employer and Employee may agree to alternative reimbursement arrangements.

6.20.12 Approved Courses

- a) First degree or Associate Diploma courses at a post-secondary institution.
- b) Diploma courses and two year full time certificate courses at Technical and Further Education (TAFE).
- c) Secondary courses leading to the Tertiary Entrance Examination (see subclause 6.20.16i) or courses preparing students for the mature age entrance conducted by the Tertiary Institutions Service Centre.
- d) Courses recognised by the National Authority for the Accreditation of Translators and Interpreters (NAATI) in a language relevant to the needs of the Public Sector.

6.20.13 Except as outlined in subclause 6.20.15 Employees are not eligible for study assistance if they already possess one of the qualifications specified in subclause 6.20.12a).

6.20.14 An Employee who has completed a Diploma through TAFE is eligible for study assistance to undertake a degree course at any of the tertiary institutions in subclause 6.20.12a). An Employee who has completed a two year full-time Certificate through TAFE is eligible for study assistance to undertake a Diploma course specified in subclause 6.20.12b) of this clause, or a degree or Associate Diploma course specified in subclause 6.20.12a) of this clause.

6.20.15 Assistance towards additional qualifications including second or higher degrees may be granted in special cases in a specialist area of benefit to the Public Sector as well as the Employee.

6.20.16 For the Purposes of this clause:

- a) in determining the Employer's convenience, Employers should give due emphasis to the Employee's career aspirations.
- b) an acceptable part time study load should be regarded as not less than five hours per week of formal tuition or the equivalent if studying by correspondence with at least half of the total formal study commitment being undertaken in the Employee's own time, except in special cases such as where the Employee is in the final year of study and requires less time to complete the course, or the Employee is undertaking the recommended part time year or stage and this does not entail five hours formal study.
- c) the relevance of a course should be determined from a Public Sector rather than an Employer perspective. For instance, an Employee may be undertaking

a course of study which is of no special relevance to the Employee's work or Employer but which may well be particularly significant in some other section of the Public Sector.

- d) a first degree or Associate Diploma course does not include the continuation of a degree or Associate Diploma towards a higher postgraduate qualification.
- e) in cases where Employees are studying subjects that require fortnightly classes, the weekly study load should be calculated by averaging over two weeks the total fortnightly commitment.
- f) travelling time returning home after lectures or tutorials is to be calculated as the excess time taken to travel home from such classes, compared with the time usually taken to travel home from the Employee's normal place of work.
- g) an Employee shall not be granted more than five hours' time off with pay per week except in exceptional circumstances where the Employer may decide otherwise.
- h) time off with pay for those who have failed a unit or units may be considered for one repeat year only.
- i) study leave for attendance at courses leading to the Tertiary Entrance Examination will generally only be granted if the Employee has already unsuccessfully attempted to enter tertiary studies through the mature age entrance examination conducted by the Tertiary Institutions Service Centre. However, this condition will not apply if a pass in certain subjects is a prerequisite for entry into an intended course of non-tertiary study or training that meets the requirements specified in this clause.

6.20.17 Subject to the provisions of subclause 6.20.18, the Employer may grant an Employee full time study leave with pay to undertake:

- a) post graduate degree studies at Australian or overseas tertiary education institutions;
- b) study tours involving observations and/or investigations; or
- c) a combination of postgraduate studies and study tours.

6.20.18 Applications for full time study leave with pay are to be considered on their merits and may be granted provided that the following conditions are met:

- a) the course or a similar course is not available locally. Where the course of study is available locally, applications are to be considered in accordance with the provisions of subclauses 6.20.1 to 6.20.17 of this clause and clause 6.20.19 Leave Without Pay provisions of this Agreement.
- b) it must be a highly specialised course with direct relevance to the Employee's profession.
- c) it must be highly relevant to the Employer's corporate strategies and goals.

- d) the expertise or specialisation offered by the course of study should not already be available through other Employees employed within the organisation.
- e) if the applicant was previously granted study leave, studies must have been successfully completed at that time. Where an Employee is still under a bond, this does not preclude approval being granted to take further study leave if all the necessary criteria are met.
- f) a fixed term contract Employee may not be granted study leave with pay for any period beyond that Employee's approved period of engagement.

6.20.19 Full time study leave with pay may be approved more than 12 months subject to a yearly review of satisfactory performance.

6.20.20 Where an outside award is granted and the studies to be undertaken are considered highly desirable by an Employer, financial assistance to the extent of the difference between the Employee's normal wage and the value of the award may be considered. Where no outside award is granted and where a request meets all the necessary criteria, then part or full payment of wages may be approved at the discretion of the Employer.

6.20.21 The Employer supports recipients of coveted awards and fellowships by providing study leave with pay. Recipients normally receive as part of the award or fellowship; return airfares, payment of fees, allowance for books, accommodation or a contribution towards accommodation.

6.20.22 Where recipients are in receipt of a living allowance, this amount should be deducted from the Employee's wages for that period.

6.20.23 Where the Employer approves full time study leave with pay, the actual wage contribution forms part of the Employer's approved average staffing level funding allocation. Employers should bear this in mind if considering temporary relief.

6.20.24 Where study leave with pay is approved and the Employer also supports the payment of transit costs and/or an accommodation allowance, the Employer will gain approval for the transit and accommodation costs as required.

6.20.25 Where Employees travelling overseas at their own expense wish to participate in a study tour or convention whilst on tour, study leave with pay may be approved by the Employer together with some local transit and accommodation expenses providing it meets the requirements of subclause 6.20.18 of this clause. Each case is to be considered on its merits.

6.20.26 The period of full time study leave with pay is accepted as qualifying service for leave entitlements and other privileges and conditions of service prescribed for Employees under this Agreement.

6.21 Purchased Leave

6.21.1 The Employer and an Employee may agree to enter into an arrangement whereby the Employee can purchase up to four weeks additional leave.

6.21.2 The Employer will assess each application for 48/52 wage arrangement on its merits and give consideration to the personal circumstances of the Employee seeking the arrangement and to the Employers' operational requirements.

6.21.3 Access to purchased leave will be subject to subclauses 6.21.1-6.21.2 and to:

- a) the Employee having satisfied the Employer's accrued leave management policy;
- b) the Employee having not more than in excess of 10 weeks accrued Annual Leave, Long Service Leave and/or days in lieu balance at the time the Employee requests access to purchased leave;
- c) the Employee not qualifying for a period of Long Service Leave during the financial year for which the purchased leave is requested; and
- d) the Employee having nominated when the purchased leave will be taken as part of clause 6.3 – Rostering of Leave process, which can only be altered by approval of the Employer.

6.21.4 The Employer reserves the right to withdraw from the purchased leave arrangement where the Employee:

- a) is internally transferred or promoted; or
- b) where there are operational requirements warranting such action

6.21.5 Purchased leave arrangements run over a financial year concluding on 30 June. Employees participating in a purchased leave arrangement who wish to continue in the arrangement in the following year must apply to do so annually as part of the leave rostering process in accordance with clause 6.3 – Rostering of Leave.

6.21.6 The Employee can agree to take a reduced wage spread over the 52 weeks of the year and receive the following amounts of additional purchased leave:

Number of weeks wages spread over 52 weeks	Number of weeks purchased leave
48 weeks	4 weeks
49 weeks	3 weeks
50 weeks	2 weeks
51 weeks	1 week

6.21.7 The purchased leave will not be able to be accrued. The Employee is to be entitled to payment in lieu of the additional leave not taken. In the event that the Employee is unable to take such purchased leave, their wage will be adjusted on the last pay period in July to take account of the fact that time worked during the year was not included in the wage. Untaken purchased leave will be paid out at the rate at which it was purchased.

- 6.21.8 Where an Employee who is in receipt of a higher duties allowance proceeds on any period of additional purchased leave, the Employee shall not be entitled to receive payment of the allowance for any period of purchased leave.
- 6.21.9 In the event that a Part time Employee's ordinary working hours are varied during the year, the wage paid for such leave taken will be adjusted on the last pay in July to take into account any variations to the Employee's ordinary working hours during the previous year.
- 6.21.10 An Employee may withdraw from this arrangement prior to completing the 52 week period by four weeks written notice. The Employee will be entitled to payment in lieu of wages forgone to that time but will not be entitled to equivalent absence from duty.
- 6.21.11 Where an Employee or the Employer withdraws from a purchased leave arrangement, payment in lieu of wages forgone will be paid out at the rate at which it was purchased.

6.22 Emergency Services Leave

- 6.22.1 Subject to operational requirements, paid leave of absence shall be granted by the Employer to an Employee who is an active volunteer member of State Emergency Service, St John Ambulance Brigade, Volunteer Fire and Rescue Service, Bush Fire Brigades, Volunteer Marine Rescue Services Groups or FESA Units, in order to allow for attendances at emergencies as declared by the recognised authority.
- 6.22.2 The Employer shall be advised as soon as possible by an Employee, the emergency service, or other person as to the absence and, where possible, the expected duration of leave.
- 6.22.3 The Employee must complete a leave of absence form immediately upon return to work.
- 6.22.4 The application form must be accompanied by a certificate from the emergency organisation certifying that the Employee was required for the specified period.
- 6.22.5 An Employee who, during the course of an emergency, volunteers their services to an emergency organisation shall comply with all provisions of this clause.

6.23 Defence Force Reserves Leave

- 6.23.1 The Employer must grant leave of absence for the purpose of Defence service to an Employee who is a volunteer member of the Defence Force Reserves or the Cadet Force. Defence service means service, including training, in a part of the Reserves or Cadet Force.
- 6.23.2 Leave of absence may be paid or unpaid in accordance with the provisions of this clause and the Public Sector Labour Relations' Defence Force Reserves Policy Statement (the Policy Statement) as replaced from time to time.
- 6.23.3 Application for leave of absence for Defence service shall, in all cases, be accompanied by at least six weeks' notice and evidence of the necessity for attendance. At the expiration of the leave of absence granted, the Employee shall provide a certificate of attendance to the Employer.

6.23.4 Leave granted under this clause will not affect continuity of service or the accrual of leave.

Paid leave

6.23.5 An Employee who is a volunteer member of the Defence Force Reserves or the Cadet Force is entitled to paid leave of absence for Defence service, subject to the conditions set out hereunder.

6.23.6 Part Time Employees shall receive the same paid leave entitlement as Full Time Employees but payment shall only be made for those hours that would normally have been worked but for the leave.

6.23.7 On written application, an Employee shall be paid salary in advance when proceeding on such leave.

6.23.8 An Employee is entitled to paid leave for a period not exceeding 105 hours on full pay in any period of 12 months commencing on 1 July in each year.

6.23.9 An Employee is entitled to a further period of leave, not exceeding 16 calendar days, in any period of 12 months commencing on 1 July. Pay for this leave shall be at the rate of the difference between the normal remuneration of the Employee and the Defence Force payments to which the Employee is entitled if such payments do not exceed normal salary. In calculating the pay differential, pay for Saturdays, Sundays, Public Holidays and rostered days off is to be excluded, and no account is to be taken of the value of any board or lodging provided for the Employee.

Unpaid leave

6.23.10 Leave of absence for the purpose of Defence service shall be unpaid where:

- a) the absence exceeds the paid entitlement prescribed in subclause 6.23.5 - 6.23.9 of this Agreement; or
- b) the Employee fails to provide the Employer with at least six weeks' notice and evidence of the necessity for attendance as required by subclause 6.23.3 of this Agreement.

Use of other leave

6.23.11 An Employee may elect to use Annual or Long Service Leave credits for some or all of their absence on Defence service, in which case they will be treated in all respects as if on normal paid leave.

6.23.12 The Employer cannot compel an Employee to use Annual Leave or Long Service Leave for the purpose of Defence service.

6.24 Paid Leave For English Language Training

6.24.1 Leave during normal working hours without loss of pay shall be granted to Employees from non-English speaking backgrounds who are unable to meet standards of communication to advance career prospects, or who constitute a safety hazard or risk to themselves and/or fellow Employees or, are not able to meet the accepted production

requirements of that particular occupation or industry to attend English training conducted by an approved and authorised authority. The selection of Employees for training will be determined by consultation between the Employer and the Union.

- 6.24.2 Leave will be granted to enable the Employees selected to achieve an acceptable level of vocational English proficiency. In this respect the tuition content with specific aims and objectives incorporating the pertinent factors at subclause 6.24.3 and 6.24.4 of this clause, shall be agreed between the Employer, the Union, and the Adult Migrant Education Service or other approved authority conducting the training.
- 6.24.3 Subject to appropriate needs assessment participation in training will be on the basis of minimum of 100 hours per Employee per year.
- 6.24.4 The agreed desired proficiency level will take account of the vocational needs of an Employee in respect of communication, safety and welfare, and productivity within the Employee's current position, as well as those positions to which the Employee may be considered for promotion or redeployment. It will also take account of issues in relation to training, retraining and multi-skilling, award restructuring, industrial relations and safety provisions, and equal opportunity employment legislation.

6.25 Leave To Attend Union Business

- 6.25.1 The Employer shall grant paid leave during ordinary working hours to an Employee:
 - a) who is required to give evidence before any Industrial Tribunal;
 - b) who is a union nominated representative of the Employees is required to attend negotiations and/or conferences between the Union and Employer;
 - c) when prior agreement between the Union and Employer has been reached, for the Employee to attend official union meetings preliminary to negotiations or industrial hearings; or
 - d) who as a union nominated representative of the Employees and is required to attend joint union/management consultative committees or working parties.
- 6.25.2 The granting of leave pursuant to this clause shall only be approved:
 - a) where an application for leave has been submitted by an Employee a reasonable time in advance.
 - b) for the minimum period necessary to enable the union business to be conducted or evidence to be given.
 - c) for those Employees whose attendance is essential; or.
 - d) when the operation of the organisation is not unduly affected and the convenience of the Employer is not impaired.
- 6.25.3 Leave of absence will be granted at the Ordinary Wage Rate, or where the Employee works part of a shift, at the rate the Employee would have earned had the Employee not been absent from their Rostered Shift.

- 6.25.4 The Employer shall not be liable for any expenses associated with an Employee attending to union business. Leave of absence granted under this clause shall include any necessary travelling time in normal working hours.
- 6.25.5 Nothing in this clause shall diminish the existing arrangements relating to the granting of paid leave for Union business. An Employee shall not be entitled to paid leave to attend Union business other than as prescribed by this clause.
- 6.25.6 The provisions of this clause shall not apply to special arrangements made between the parties which provide for unpaid leave for Employees to conduct Union business.
- 6.25.7 The provisions of this clause shall not apply when an Employee is absent from work without the approval of the Employer.
- 6.25.8 The Employer shall grant leave without pay for a continuous period to the secretary of each applicant union (should such secretary be employed by the Employer) to enable the secretary to attend exclusively to Union work.

6.26 Family and Domestic Violence Leave

- 6.26.1 In recognition that Employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work the Employer has agreed to the leave which is the subject of this clause. The Employer is committed to providing support to Employees that experience family and domestic violence.
- 6.26.2 An Employee will not be discriminated against or have adverse action taken against them because of their disclosure of, experience of, or perceived experience of, family and domestic violence.
- 6.26.3 The Employer does not tolerate Employees perpetrating family and domestic violence in or from the workplace. Employees must not use work facilities to perpetrate family and domestic violence. Any such conduct is a breach of employment obligations and any Employees who do so will face disciplinary action.

Definition of Family and Domestic Violence

- 6.26.4 The meaning of family and domestic violence is in accordance with the definition of “family violence” at section 5A in of the *Restraining Orders Act 1997* (WA). (Section 5A). To avoid doubt, this definition includes, but is not limited to behaviour that:
- a) is physically or sexually abusive;
 - b) is emotionally or psychologically abusive;
 - c) is economically abusive;
 - d) is threatening;
 - e) is coercive;
 - f) in any other way controls or dominates the family or household member and causes that person to feel fear for their safety or wellbeing or that of another person; or

- g) causes a child to hear or witness, or otherwise be exposed to the effects of, such behaviour.

Access to Family and Domestic Violence Leave

- 6.26.5 In accordance with the following subclauses, an Employee, including a casual Employee, may make application for leave to deal with activities related to family and domestic violence. The Employer will assess each application and give consideration to the personal circumstances of the Employee seeking the leave.
- 6.26.6 Such activities related to family and domestic violence may include attendance at medical appointments, legal proceedings; counselling; appointments with a medical or legal practitioner; relocation or making other safety arrangements; and other matters of a compassionate or pressing nature related to the family and domestic violence which arise without notice and require immediate attention.
- 6.26.7 Subject to subclauses 6.26.5 and 6.26.6, an Employee experiencing family and domestic violence will have access to 10 non-cumulative days per year of paid family and domestic violence leave, in addition to their existing leave entitlements.
- 6.26.8 Upon exhaustion of the leave entitlement in subclause 6.26.7, Employees will be entitled to up to two days unpaid family and domestic violence leave on each occasion.
- 6.26.9 Family and domestic violence leave does not affect salary increment dates, or the calculation of long service leave entitlements or annual leave entitlements.
- 6.26.10 Subject to the Employer's approval of the application, family and domestic violence leave may be taken as whole or part days off.
- 6.26.11 Application of the leave entitlement for casual Employees will apply to the extent of their agreed working hours.

Notice and Evidentiary Requirements

- 6.26.12 The Employee shall give their Employer notice as soon as reasonably practicable of their request to take leave under this clause.
- 6.26.13 Supporting evidence of family and domestic violence may be required to access paid leave entitlements however this should not be onerous on the Employee. Leave can be granted without supporting documentation when the manager/ supervisor is satisfied that it is not required.
- 6.26.14 Evidence may include a document issued by the police, a court, a legal service, a health professional, a counsellor, a financial institution, a family violence support service or a refuge service. A statutory declaration may also be provided.
- 6.26.15 Such evidence will be dealt with in accordance with the confidentiality provisions in this clause.

Access to Other Forms of Leave

- 6.26.16 Subject to the leave provisions of this Agreement, an Employee experiencing family and domestic violence may use other leave entitlements.

6.26.17 Subject to the Employer's approval of the application, and sufficient leave entitlements being available, leave may be taken as whole or part days off.

6.26.18 Forms of other paid accrued leave include:

- a) personal leave;
- b) annual leave;
- c) long service leave; and/or
- d) purchased leave.

6.26.19 Approval of leave without pay is subject to the provisions of this Agreement.

Confidentiality

6.26.20 The Employer will take all reasonable steps to ensure any information disclosed by Employees regarding family and domestic violence is kept strictly confidential. Disclosure will be on a need-to-know basis only and only to maintain safety. Where possible, disclosure will only occur with the express consent of the Employee.

6.26.21 Employers will take reasonable steps to ensure any information or documentation provided by an Employee regarding family and domestic violence is kept confidential.

6.26.22 Subsequent disclosure within an organisation should be on a need-to-know basis, for example if there is a potential for workplace safety to be impacted and generally with the consent of the Employee.

6.26.23 This clause does not override any legal obligations to disclose information.

Contact Person

6.26.24 The Employer will identify contact/s within the workplace who will be trained in family and domestic violence and associated privacy issues. The Employer will advertise the name of any family and domestic violence contacts within the workplace.

Individual Support

6.26.25 Where there is a risk to the personal health or safety of an Employee who is experiencing or has experienced family and domestic violence, the Employer, where appropriate, may:

- a) facilitate flexible working arrangements, such as changes to hours/days worked, working different days or length of days, changed shift/rostering arrangements, in accordance with the provisions of this Agreement; and/or
- b) make workplace modifications including changes to the Employee's telephone number and email address and, where appropriate/practicable, the Employee's work location.

6.26.26 An Employee who is experiencing or has experienced family and domestic violence may access confidential counselling support via the Employer's EAP.

Workplace Safety

6.26.27 Where an Employee raises issues of family and domestic violence the Employer should establish with the Employee the level of risk and seek advice from their human resource/safety specialist to review and implement specific safety and emergency management systems and plans.

6.26.28 With the exception of access to the Employer's EAP which is available to all Employees, the provisions of this clause are only applicable to Employees who are victims of family and domestic violence.

7 CONSULTATION

7.1 Consultation

7.1.1 The parties recognise the need for effective communication to improve the business and operational performance and working environment in the Public Transport Authority.

7.1.2 The parties commit to adopt a constructive approach to communication and to maintain an appropriate level of professionalism, integrity and standard of personal behaviour at all times.

7.1.3 Consultation is an information exchange for the purposes of genuine consideration and is not merely perfunctory. Consultation involves information sharing between the parties.

7.1.4 Consultation allows the decision making process to be informed. Consultation is not joint decision making or a barrier to the prerogative of management.

7.1.5 The parties acknowledge that decisions will continue to be made by the Employer who is responsible and accountable to Government for the effective and efficient operation of the Public Transport Authority.

7.2 Introduction Of Change

7.2.1 This term applies if:

- a) the Employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and
- b) the change is likely to have a significant effect on Employees of the enterprise.

7.2.2 The Employer must notify the relevant Employees and the Union of the decision to introduce the major change.

7.2.3 As soon as practicable after making its decision, the Employer must:

- a) discuss with the relevant Employees and the Union:

- i) the introduction of the change;
 - ii) the effect the change is likely to have on the Employees; and
 - iii) measures the Employer is taking to avert or mitigate the adverse effect of the change on the Employees; and
 - b) for the purposes of the discussion — provide, in writing, to the relevant Employees and the Union:
 - i) all relevant information about the change including the nature of the change proposed;
 - ii) information about the expected effects of the change on the Employees; and
 - iii) any other matters likely to affect the Employees.
- 7.2.4 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 7.2.5 The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.
- 7.2.6 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in subclauses 7.2.2, 7.2.3 and 7.2.5 are taken not to apply.
- 7.2.7 In this provision, a major change is “likely to have a significant effect on Employees” if it results in:
- a) the termination of the employment of Employees;
 - b) major change to the composition, operation or size of the Employer’s workforce or to the skills required of Employees;
 - c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure);
 - d) the alteration of hours of work;
 - e) the need to retrain Employees;
 - f) the need to relocate Employees to another workplace; or
 - g) the restructuring of jobs.
- 7.2.8 In this provision, “relevant Employees” means the Employees’ who may be affected by the major change.

7.3 Consultative Committee

- 7.3.1 The Parties acknowledge that decisions will continue to be made by the Employer who is responsible and accountable to Government for the effective and efficient operation of Transperth Train Operations.

- 7.3.2 The Parties recognise that effective communication and consultation can assist to improve the working environment and operational performance within Transperth Train Operations.
- 7.3.3 Transperth Train Operations will have a Customer Service Consultative Committee, which will be a forum for consultation on collective employment issues including but not limited to:
- a) helping to identify and implement continuous improvements to the standards of customer service levels delivered by Transperth Train Operations to our passengers;
 - b) general rostering issues, including balancing the quality, safety and cost-effectiveness of the customer service offered to our passengers with the attractiveness of the roster to Employees;
 - c) specific rostering issues, including tabling any changes to Base Rosters and noting, in accordance with subclause 3.3.21 any disputes or complaints arising about rostering;
 - d) changes to work organisation and/or work practices occurring in the workplace; and
 - e) industrial issues.
- 7.3.4 Matters not resolved through the Consultative Committee can be dealt with in accordance with clause 8 – Dispute Resolution Procedure.
- 7.3.5 The Consultative Committee will comprise up to seven Employer-nominated representatives, up to two Union nominated representatives, up to six elected Employee Committee Representatives and a suitably resourced Committee Coordinator.
- 7.3.6 The six Employee Committee Representatives and proxies will be elected on a line by line basis in accordance with the nominated positions listed in at subclause 7.3.8. Any Employee holding a substantive position as a Customer Service Assistant or a Passenger Ticketing Assistant shall be entitled to nominate and vote for the Committee Representative positions. Where more than two Employees on the same line nominate, an election shall be conducted on that line initially to determine who should be the nominee for election to the Committee. The second placed nominee will be recognised as the proxy for the line. The employer and the union may nominate proxies for their respective committee member positions.
- 7.3.7 Employee elected representatives will represent the combined views of the Customer Service Assistants and the Passenger Ticketing Assistants on the line/roster group/s for which they were elected.
- 7.3.8 Line/roster groups are as follows:
- a) Armadale;
 - b) Fremantle/Midland (treated as one line for this purpose);
 - c) Joondalup;

d) Mandurah

e) Perth.

f) Airport

7.3.9 Proxies will be eligible to attend committee meetings in place of the elected Employee Committee Representative who is unavailable to attend.

7.3.10 The Elections shall be conducted in a manner agreed between the parties and failing agreement shall be conducted by the WA Electoral Commission or another independent body. The elected Employee Committee Representatives will hold the position for a two year term.

7.3.11 Where, due to a change in an Employee Committee Representative's classification or roster placement, the six elected representatives do not satisfy the qualifications required by subclause 7.3.6, then the position held by that Employee shall be deemed vacant.

7.3.12 Where a position falls vacant before the expiry of a term, the vacancy will be filled by recounting the votes cast in the original election, so that the unelected nominee with the highest votes who qualifies for the position will be declared elected. If the position is unable to be filled by recount, the vacancy for the remainder of the term shall be filled in a manner agreed between the parties.

7.3.13 The chairing of the Consultative Committee will alternate between the Parties to the Agreement.

7.3.14 Any Employee to whom this Agreement applies may attend a Consultative Committee meeting in their own time as an observer.

7.3.15 The Consultative Committee will convene within 28 days of a written request being received from either party to discuss matters specified in that request. The Parties shall not be required to participate in more than one meeting of the Consultative Committee in any three month period but may agree to meet more frequently.

7.3.16 The Consultative Committee will otherwise determine its own operating procedures.

7.4 Consultation Arrangements for Parking Attendants

7.4.1 Informal arrangements will be established for ongoing consultation for Parking Attendants while the Agreement is in force.

8 DISPUTE RESOLUTION

8.1 Dispute Resolution Procedure

8.1.1 Any questions, disputes or difficulties arising under this Agreement or in the course of the employment of Employees covered by this Agreement shall be dealt with in accordance with this clause.

- 8.1.2 The Employee(s) and the manager with whom the dispute has arisen shall discuss the matter and attempt to find a satisfactory solution, within three working days. An Employee may be accompanied by a Union representative.
- 8.1.3 If the dispute cannot be resolved at this level, the matter shall be referred to and be discussed with the relevant manager's superior and an attempt made to find a satisfactory solution, within a further three working days. An Employee may be accompanied by a Union representative.
- 8.1.4 If the dispute is still not resolved, it may be referred by the Employee/s or union representative to the Employer or their nominee.
- 8.1.5 Where the dispute cannot be resolved within five working days of the union representatives' referral of the dispute to the Employer or their nominee, either party may refer the matter to the Commission.
- 8.1.6 The period for resolving a dispute may be extended by agreement between the parties.
- 8.1.7 At all stages of the procedure the Employee may be accompanied by a Union representative.
- 8.1.8 Notwithstanding the above the Union may raise matters directly with representatives of the Employer. In each case the Union and the Employer shall endeavour to reach agreement. If no agreement is reached either party may refer the dispute to the Commission for conciliation and/or arbitration.
- 8.1.9 The parties covered by this Agreement will maintain and will not disrupt the provision of services to the public while disputes are being dealt with under this procedure.

Nothing in this clause constitutes a referral agreement within the meaning of section 12 of the *Employment Dispute Resolution Act 2008*.

9 REGISTERED ORGANISATION MATTERS

9.1 Facilities For Workplace Delegates

- 9.1.1 The Employer recognises the rights of the Union to organise and represent its members. Union representatives (delegates) in the organisation have a legitimate role and function in assisting the Union in the tasks of recruitment, organising, communication and representing members' interests in the workplace and the organisation.
- 9.1.2 The Employer will recognise union representatives in the organisation and will allow them to carry out their role and functions.
- 9.1.3 The Union will advise the Employer in writing of the names of the Union representatives in the organisation and their role and authorities.
- 9.1.4 Subject to prior approval, the Employer shall recognise the authorisation of each Union representative in the organisation and shall provide them with the following:
- a) reasonable paid time off from normal duties:

- i) to perform their functions as a union representative such as organising, recruiting, individual grievance handling, and collective bargaining; and
 - ii) to attend Union business in accordance with subclause 6.25.1 of this Agreement.
 - b) access to facilities required for the purpose of carrying out their duties. Facilities may include but not be limited to, the use of lockable filing cabinets, meeting rooms, telephones, fax, email, Internet, photocopiers and stationery. Such access to facilities shall not unreasonably affect the operation of the organisation and shall be in accordance with normal Employer protocols.
 - c) a notice board for the display of union materials including broadcast email facilities. Broadcast email facilities will need to be in accordance with the established policies, procedures and guidelines of the Employer. This means prior approval for emailed materials must be issued by executive management.
 - d) paid access to periods of leave for the purpose of attending union training courses in accordance with clause 9.2– Trade Union Training Leave of this Agreement.
 - e) notification of the commencement of new Employees and, as part of their induction, time to discuss the benefits of Union membership with them.
 - f) access to a sheltered area for meetings of members.
 - g) access to work locations, names, and rostered hours of work of Employees. This information and access will also be provided to Union officials upon request.
 - h) access to awards, agreements, policies and procedures.
 - i) access to information on matters affecting Employees in accordance with the consultation provisions under this Agreement.
 - j) the names of any Equal Employment Opportunity and Occupational Health, Safety and Welfare representatives.
- 9.1.5 The Employer agrees, upon receiving written authorisation from an Employee, to provide to the Union with five working days the Employee's bank account details and subsequent changes from time to time for the purpose of enabling the Employee to establish direct debit facility for the payment of union dues. Employers must be indemnified against financial accountability related to these transactions.
- 9.1.6 Group inductions: Where the Employer conducts a group induction, which may be on or off site, the Union shall be given at least 14 days' notice of the time and place of the induction. The Union will be entitled to at least 30 minutes to address new Employees without Employer representatives being present.
- 9.1.7 The Employer recognises that it is paramount that union representatives in the workplace are not threatened or disadvantaged in any way as a result of their role as a Union representative.

9.2 Trade Union Training Leave

9.2.1 Subject to the convenience of the Employer and the provisions of this clause:

- a) The Employer shall grant paid leave of absence to Employees who are nominated by the Union to attend short courses relevant to the Public Sector or the role of union workplace representative, conducted by the Union party to this Agreement or its nominated provider.
- b) The Employer shall grant paid leave of absence to attend similar courses or seminars as from time to time approved by agreement between the Employer and the relevant Union.

9.2.2 An Employee shall be granted up to a maximum of five days paid leave per calendar year for trade union training or similar courses or seminars as approved. However, leave of absence in excess of five days and up to 10 days may be granted in any one calendar year provided that the total leave being granted in that year and in the subsequent year does not exceed 10 days.

9.2.3 Leave of absence will be granted at the Ordinary Wage Rate and shall not include shift allowances, penalty rates or overtime.

9.2.4 Where a public holiday or rostered day off (including a rostered day off as a result of working a 38 hour week) falls during the duration of a course, a day off in lieu of that day will not be granted.

9.2.5 Part time Employees shall receive the same entitlement as full time Employees, but payment shall only be made for those hours that would normally have been worked but for the leave.

9.2.6 The granting of leave pursuant to the provisions of this clause is subject to the operation of the organisation not being unduly affected and to the convenience of the Employer.

9.2.7 Any application by an Employee shall be submitted to the Employer for approval at least four weeks before the commencement of the course, provided that the Employer may agree to a lesser period of notice.

9.2.8 All applications for leave shall be accompanied by a statement from the Union indicating that the Employee has been nominated for the course. The application shall provide details as to the subject, commencement date, length of course, venue and the organisation that is conducting the course.

9.2.9 A qualifying period of 12 months service shall be served before an Employee is eligible to attend courses or seminars of more than one half-day duration. An Employer may, where special circumstances exist, approve an application to attend a course or seminar where an Employee has less than 12 months service.

9.2.10 The Employer shall not be liable for any expenses associated with an Employee's attendance at trade union training courses.

9.2.11 Leave of absence granted under this clause shall include any necessary travelling time in normal working hours immediately before or after the course.

9.3 Right Of Entry

The parties acknowledge that the *Industrial Relations Act 1979* (the Act) empowers authorised representatives of the Union to exercise a right to enter the Employer's premises in the circumstances and for the purposes specified in Part 11, Division 2G of the Act.

10 MISCELLANEOUS PROVISIONS

10.1 Training

10.1.1 Training may be delivered on or off the job. Wherever possible, the Employer will ensure that the training is Competency based and nationally recognised training with clearly defined programs and agreed performance standards. Provided the Employer determines the training to be required, the Employer will meet all reasonable costs associated with the training. Provided that training time may be allowed for in Relief Lines within a drop down roster. An Employer shall not unreasonably withhold paid training leave.

10.1.2 No trainee shall be permanently appointed at full base classification rates unless prescribed training requirements are assessed and satisfactorily completed within the stipulated time period. Provided such time periods may be extended by written agreements between the parties.

10.1.3 Overtime and shift work shall not be worked by trainees except to enable the requirements of training to be effected. When overtime and shift work are worked, the relevant allowances and penalties based on the training wage nominated at subclause 4.1.4 shall apply. No trainee shall work overtime or shift work on their own.

Training of Existing Employees

10.1.4 Each Employee must be prepared to undertake training, refresher training, and maintain the qualifications necessary to carry out the Employee's role to the required standard.

10.1.5 **Assessment** – The level of skills possessed by each Employee shall be determined by the assessment conducted by the Registered Training Organisation or such other independent and accredited assessor as agreed between the parties, based on; relevant training packages and competency profiles, certification requirements for specific tasks, and the work experience necessary to perform a stipulated role.

a) **Competency Standards** – Where training packages have been developed by the industry, those training packages shall be adopted in respect of matters relating to training in the industry and callings covered by this Agreement. Training standards shall include but not be limited to the following:

- i) standards and competencies for skills required for each calling;
- ii) curricula development;
- iii) training courses;

- iv) articulation and accreditation requirements for both on and off the job training; and
- v) on the job training guidelines.

10.1.6 Where it is agreed by the Employer that additional training should be undertaken by any Employee, training may be undertaken either on or off the job. All time involved with training shall be paid at the actual time displayed on the roster on the day.

10.1.7 No Employee will be forced to retrain, although a refusal to retrain may have adverse consequences on the Employee's contract of employment, should the Employee fail to meet the required competencies for a classified position under this Agreement.

10.2 Uniforms, Clothing and Protective Equipment

10.2.1 Employees as required will wear specialised clothing for particular operations. The Employer will establish a uniform committee in consultation with the Union.

10.2.2 The Employer shall supply uniforms and protective clothing; as agreed from time to time between the Employer and the Union.

10.2.3 An Employee shall sign an acknowledgement on receipt of uniforms and/or protective clothing thereof, and on leaving employment shall return the same to the Employer.

10.2.4 An Employee shall be responsible for any loss or damage thereto, with fair wear and tear attributable to ordinary use excepted.

10.3 Fitness For Duty

10.3.1 To ensure that an Employee is medically fit to carry out duties in a satisfactory and safe manner the Employee will, if required, undergo a medical examination or health assessment with the Employer's occupational physician. The level of examination or assessment undertaken will be take into consideration the activities the Employee is required to undertake and be in accordance with the requirements of the National Health Assessment for the Rail Industry.

10.3.2 The Employer will pay the costs of any medical examination or assessment conducted by the Employer's occupational physician. However, subject to any policy to the contrary, the Employee is responsible for any costs associated with any treatment of a condition identified by the Employer's occupational physician.

10.3.3 The Employee will, as required, undergo drug and alcohol testing in accordance with the Employer's policies on the safety of personnel working on or about the railway system.

10.3.4 The Employee will not be required to undergo a medical examination for the purposes of the National Health Assessment for the Rail Industry while such Employee is on workers compensation, except and only when an Employee returns from workers compensation and is medically cleared to recommence paid remuneration or a circumstance where a health assessment is required for the purpose of alternative duties.

10.4 Workplace Health and Safety Representatives Records

10.4.1 The Employer shall maintain a Workplace Health and Safety (WHS) Representative Register (Register).


10.4.2 The Register is to record the following information for each WHS representative in the Organisation:

- a) name;
- b) work branch/division (as appropriate);
- c) work location;
- d) job title/occupation;
- e) date of election as an WHS representative; and
- f) training details on completion of relevant WHS training courses, including initial and refresher training dates.

10.4.3 The Employer shall provide a copy of the Register to the Union every six months.


10.4.4 The Register is to be submitted to Department of Mines, Industry Regulation and Safety - Government Sector Labour Relations division by 31 January each year, for the previous year.

11 SIGNATURES OF PARTIES BOUND

Signed:  Date: 28/3/23

Joshua Dekuyer

WA Branch Secretary, Australian Rail, Tram and Bus Industry Union of Employees, Western Australia Branch

Signed:  Date: 27/3/23

Peter Woronzow

Chief Executive Officer, The Public Transport Authority of Western Australia

12 SCHEDULE A – WAGES TABLE

Base Wage Rates						
Classification	Current from 22 May 2021		From 22 May 2022		From 22 May 2023	
	Weekly Base Rate	Hourly Base Rate	Weekly Base Rate	Hourly Base Rate	Weekly Base Rate	Hourly Base Rate
REA 1	\$984.00	\$24.60	\$1,044.00	\$26.10	\$1,104.00	\$27.60
REA 2	\$1,035.00	\$25.88	\$1,095.00	\$27.38	\$1,155.00	\$28.88
REA 3 – Parking Attendant	\$1,081.20	\$27.03	\$1,141.20	\$28.53	\$1,201.20	\$30.03
REA 4 – Passenger Ticketing Assistant	\$1,145.10	\$28.63	\$1,205.10	\$30.13	\$1,265.10	\$31.63
REA 5 – Customer Service Assistant	\$1,211.60	\$30.29	\$1,271.60	\$31.79	\$1,331.60	\$33.29
REA 6	\$1,239.70	\$30.99	\$1,299.70	\$32.49	\$1,359.70	\$33.99

(Application of subclause 6.4.8)

Ordinary Wage Rates					
Classification	Applicable annualised leave loading rate	From 22 May 2022		From 22 May 2023	
		Ordinary 40 Hour Weekly Rate	Ordinary Hourly Rate	Ordinary 40 Hour Weekly Rate	Ordinary Hourly Rate
REA 3 - Parking Attendant	1.30%	\$ 1,156.04	\$ 28.90	\$ 1,216.82	\$ 30.42
REA 4 - Passenger Ticketing Assistant	N/A	\$ 1,205.10	\$ 30.13	\$ 1,265.10	\$ 31.63
REA 5 - Customer Service Assistant	1.90%	\$ 1,295.76	\$ 32.39	\$ 1,356.90	\$ 33.92
REA 6	1.90%	\$ 1,324.39	\$ 33.11	\$ 1,385.53	\$ 34.64

13 SCHEDULE B – ALLOWANCES

2022 Clause	Allowance/Penalty	Payment	Methodology for adjustment	Rate
5.1.2a)	Afternoon Shift	Per hour rounded to nearest 1c	Adjusted Annually consistent with the agreed methodology for shift work allowances the Employer has adopted in previous agreements.	\$3.58
5.1.2b)	Night Shift		Adjusted Annually consistent with the agreed methodology for shift work allowances the Employer has adopted in previous agreements.	\$4.26
5.1.2c)	Early Morning Shift		Adjusted Annually consistent with the agreed methodology for shift work allowances the Employer has adopted in previous agreements.	\$3.58
5.1.2d)	Early/Late (0101 – 0359 hours)		Adjusted Annually consistent with the agreed methodology for shift work allowances the Employer has adopted in previous agreements.	\$4.26
5.1.2e)	Continuous Night Shift (1800 – 0600 hours)		Adjusted Annually consistent with the agreed methodology for shift work allowances the Employer has adopted in previous agreements.	\$8.08
5.1.3e)	Shifts other than Mon – Fri day shift or consecutive night shift		Adjusts with Wage Rate	Time and a quarter on the hourly Ordinary Wage Rate for the first eight hours and at the rate of time and a half thereafter
3.4.4	Long Shift – Ordinary shift greater than 10 hours	For time worked from the commencement of the eleventh rostered hour	Adjusts with Wage Rate	0.84 times the Base Wage Rate

		worked in a shift		
	Travel Time and Expenses	Rate per km for additional distance travelled	Adjusted in line with variations to Schedule F and G of the <i>Public Service Award 1992</i>	Refer table below
5.3	Fire Panel Allowance		Adjusted Annually in accordance with principle 6 of the Wage Fixing Principles.	\$6.75 per shift to designated Fire Warden

5.2.8 – Travelling Time and Expenses	Metropolitan Area Rate (cents) per kilometre Motor vehicle Engine Displacement (in cubic centimetres)		
	Over 2600cc	Over 1600cc to 2600cc	1600cc and under
	89.5	64.5	53.2
	Metropolitan Area Rate (cents) per kilometre Motor cycle allowance		
	31.0		

14 SCHEDULE C - AGGREGATION METHODOLOGY

WAGE AGGREGATION

Where shift penalties and other allowances usually paid to shift work Employees are aggregated, the allowances and penalties payable under their Base Roster are totalled and averaged across the full roster and discounted for annual leave.

Establishing an Aggregated Wage Rate allows an Employee working shift work to receive the same weekly wage rate (before additional hours overtime) for each pay period regardless of the shift penalties and allowances that would otherwise actually be earned by an individual Employee when working any particular line of the roster, and to continue to be paid that same rate while on annual leave.

The Aggregated Wage Rate paid to an Employee under the following methodology is intended by the parties to be a reasonable approximation of the sum the Employee would otherwise be paid averaged over the Base Roster.

METHODOLOGY

1. Aggregate Component Calculation

- a. Start with the relevant Hourly Base Wage Rate for the rostered Employees as shown in the Wages Table at Schedule A.
- b. Determine the hourly Ordinary Wage Rate by multiplying the Hourly Base Wage Rate by the Annualised Leave Loading factor applicable to the Employee group (see subclause 6.4.18 of this Agreement) and round to 2 decimal points.
- c. Determine the Ordinary Weekly Wage Rate by multiplying that hourly Ordinary Wage Rate by the average number of ordinary hours per week for the rostered Employees (see subclause 3.2.1 of the Agreement and any relevant Special Provisions in clause 3.4).
- d. Using the Base Roster, establish for the rostered Employees:
 - the overall number of hours for early Morning, Afternoon or Night shifts – refer clause 5.1 – Shift Work and Configuration of Allowances;
 - the number of Late Shifts – refer to subclause 5.1.2d);
 - For Passenger Ticketing Assistants and Customer Service Assistants, the total time rostered to be worked greater than 10 hours in any shift;
 - the number of rostered hours on a Saturday shift up to the maximum number of daily ordinary hours applicable to the rostered Employees – refer to subclauses 3.2.2 or 3.4;
 - the number of rostered hours on a Sunday shift up to the maximum number of daily ordinary hours applicable to the rostered Employees – refer to subclauses – refer to subclauses 3.2.2 or 3.4; and (where the parties agree).
- e. the number of rostered hours, if any, in excess of the weekly ordinary hours (i.e. the number of hours rostered over the entire Base Roster less the product of the number of weeks covered by the roster and the nominated ordinary weekly hours applicable to the rostered Employees) - refer to subclause 3.2.1. Calculate the Aggregate Component by calculating the following items and then summing all the values to give the Aggregate Overall Roster Component for that Base Roster:

- the Early Morning, Afternoon & Night Shift hours multiplied by the applicable shift penalty hourly rates;
- the number of Late Shifts multiplied by the applicable shift penalty rate per shift;
- For Passenger Ticketing Assistants and Customer Service Assistants, the total time rostered to be worked greater than 10 hours in any shift multiplied by 0.84 time the applicable Base Wage Rate;
- the number of shift hours on a Saturday up to the maximum number of daily ordinary hours multiplied by half the applicable hourly Ordinary Wage Rate;
- the number of shift hours on a Sunday up to the maximum number of daily ordinary hours multiplied by the applicable hourly Ordinary Wage Rate; and (where the parties agree);
- the number of rostered hours, if any, in excess of the weekly ordinary hours multiplied by twice the applicable hourly Ordinary Wage Rate.

2. Average Weekly Aggregate Component Calculation

Determine the Average Weekly Aggregate Component by dividing the Aggregate Overall Roster Component by the number weeks covered by the Working Lines in the Base Roster.

3. Discounting the Averaged Aggregate Component

The Average Aggregate Component is then ‘discounted’ to allow the Aggregated Wage Rate to be paid during periods of annual leave, by multiplying by:

- 47/52 (in the case of Employees working 24 hour/7 Day continuous shift rosters - Refer subclause 6.4.3 to 6.4.5); or
- 48/52 (in the case of other Employees – Refer subclause 6.4.1).

4. Aggregated Wage Rate Calculation

The Aggregated Weekly Wage Rate for the rostered Employees is established by adding the Discounted Average Weekly Aggregate Component to the Ordinary Weekly Wage Rate.

15 SCHEDULE D – AGREED ANNUAL LEAVE LOADING FOR PASSENGER TICKETING ASSISTANTS AS AT OPERATIVE DATE

In accordance with subclause 6.4.16 , the annual leave loading agreed between the parties to be payable to Passenger Ticketing Assistants at the date of registration of the Agreement will be:

	Passenger Ticketing Assistant Base rate per week	Annual leave loading expressed as % of base rate based on <u>current</u> average penalties per fortnight (across all 8 <u>current</u> Passenger Ticketing Assistant Base Rosters) 6.4.13b)	Estimated Annual leave loading amount per week based on <u>current</u> average shift penalties (equivalent \$ amount of % of average shift penalties)	Estimated Annual leave loading amount for 5 weeks A/L (equivalent \$ amount of % of average shift penalties)	Annual Leave Loading Cap 6.4.15
From 22 May 2022	\$1,205.10	32.91%	\$396.64	\$1983.19	\$2,286.13
From 22 May 2023	\$1,265.10	32.90%	\$416.17	\$2080.85	\$2354.70

Subclause 6.4.13 provides that shift workers – Employees working over seven days of the week or 24 hours of the day had they not been on leave – will be paid whichever is the greater of a loading of 20%; or the average shift loading (including relevant weekend penalty rates) as agreed between the parties under subclause 6.4.16.

Subclause 6.4.16 provides that where there is any change to Base Rosters (as per Rostering Arrangements –General clause 3.3.6h)) covering Passenger Ticketing Assistants, there shall be an exchange of letters between the Employer and the Union agreeing the annual leave loading payable for the duration of the Agreement (or until any further change to the roster), based on the average of penalties earned under that roster and acknowledging that the annual leave loading cap figure from time to time (as referred to subclause 6.4.10) will prevail where applicable.

16 SCHEDULE E – EMPLOYEE ROSTERING REPRESENTATIVES

Roster	No. of Reps
Airport Passenger Ticketing Assistants	1
Airport Customer Service Assistants	1
Armadale Passenger Ticketing Assistants	1
Armadale Customer Service Assistants	1
Fremantle Passenger Ticketing Assistants	1
Fremantle Customer Service Assistants	1
Joondalup Passenger Ticketing Assistants	1
Joondalup Customer Service Assistants	1
Mandurah Passenger Ticketing Assistants	1
Mandurah Customer Service Assistants	1
Midland Passenger Ticketing Assistants	1
Midland Customer Service Assistants	1
Perth Passenger Ticketing Assistants	2
Perth Customer Service Assistants	1
Car Park Attendants	1