



LEAVE/SALARIES

COMPOSITE MANUAL

PUBLIC SERVICE

LEAVE MANUAL AND SALARIES MANUAL**TABLE OF CONTENTS****1. INTRODUCTION****LEAVE**

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INTRODUCTION

1.1**INTRODUCTION**

This Manual has been produced to complement the Public Service Personnel Handbook. It will contain further explanation, where necessary, of matters in the Handbook as well as policy determined by the Department and procedures to be followed in various situations.

A number of matters that are shown in the Handbook as being able to be approved by a Department Head have been delegated by the Director-General to various officers. Reference should be made to the Delegations Manual (especially Staff Delegations).

Reference should also be made to the Treasurer's Directions.

This Manual is separated into three parts "Leave", "Salaries" and for ease of reference "Salaries/Leave Part-Time Staff".

LEAVE - GENERAL

2.1

LEAVE – GENERAL

LEAVE RETURNS

LEAVE APPLICATIONS

LEAVE - GENERAL

2.2

LEAVE RETURNS

The following procedure that will operate from 1 November 2010 has been developed to streamline the administrative action associated with preparing and processing Leave Returns.

From 1 November 2010 only one Leave Return per Branch per three weekly period will be sent to the Salaries Section to process. This return will list all non-SES staff, by Unit, in the Branch including staff on secondment from other agencies or Area Health Services. The template for the three weekly leave return form can be downloaded from the Human Resource Operations web page on the Intranet.

The following is a guide for the preparation and completing of Leave Returns:

- From 1 November 2010 Human Resource Operations will only use the Leave Returns submitted on the attached pro forma as the authoritative basis for the payment of and adjustments to leave. SES staff will continue to submit separate leave returns.
- Each employee is to be identified by his or her name and employee number. The employee numbers can be obtained from KIOSK or the regular establishment report provided to Branches. NOTE some employee numbers currently used by Branches are out of date, please check the KIOSK or the regular establishment reports to obtain the current number.
- Staff that take part day leave should be indicated in fractions on the leave return ($\frac{1}{4}$ day = 1 hour 45 minutes, $\frac{1}{2}$ day = 3 hours 30 minutes, $\frac{3}{4}$ day = 5 hours 15 minutes).
- Use a cross (X) for all days that staff are in attendance.
- For part-time staff please shade the day/s that they do not normally work.
- For full time staff that have an approved LWOP arrangement, enter LWOP on the days that they are approved to be on LWOP.
- Only use the code for each form of leave that appears on the pro forma.
- All leave forms must be attached to the Leave Return
- Please **IMMEDIATELY** notify the Salaries Section each time a staff member takes any form of Leave Without Pay or Sick Leave Without Pay to avoid an overpayment situation. This includes any unplanned or long term absences or short term absences where there may be no available leave to cover the absence.
- Leave returns are to be reconciled to individual officers flex sheets on a three weekly basis to confirm attendance and correct reporting of leave taken.
- For enquiries regarding this procedure contact Salaries on telephone 9424 5886.

LEAVE APPLICATIONS

A decision regarding an application for leave should be conveyed to the staff member within five working days of the application being received by the Supervisor. If this is not possible in special circumstances, (e.g., where reference to Central Administration is required) the staff member should be informed of this within the five working day period.

The granting of leave should not in any circumstance be for a reason that circumvents set policy and procedures or accrues monetary advantage to the employee over and above that which accrues due to that leave, e.g LWOP being granted for two periods of 5½ months in the one year so that the employee is not required to contribute the employer's superannuation share.

LEAVE – RECREATION LEAVE

3.1

LEAVE – RECREATION LEAVE

LEAVE BALANCES

ANNUAL LEAVE LOADING

LEAVE – RECREATION LEAVE
3.2

LEAVE BALANCES
Checking

The Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006 was varied in February 2001 with the major variation involving the deletion of the forfeiture of recreation leave provision in instances where recreation leave is accrued in excess of 40 working days.

Listed hereunder are the new provisions of the award as they apply to the taking and accumulation of recreation leave.

- (a) Limits on Accumulation and Direction to Take Leave
- (1) **At least two (2) consecutive weeks of recreation leave shall be taken by a staff member every 12 months, except by agreement with the Department Head in special circumstances.**
 - (2) Where the operational requirements permit, the application for leave shall be dealt with by the Department Head according to the wishes of the staff member.
 - (3) The Department Head shall notify the staff member in writing when accrued recreation leave reaches 6 weeks or its hourly equivalent and at the same time may direct a staff member to take at least 2 weeks recreation leave within 3 months of the notification at a time convenient to the department.
 - (4) The Department Head shall notify the staff member in writing when accrued recreation leave reaches 8 weeks or its hourly equivalent and direct the staff member to take at least 2 weeks recreation leave within 6 weeks of the notification. Such leave is to be taken at a time convenient to the department.
- (b) Conservation of Leave - If the Department Head is satisfied that a staff member is prevented by operational or personal reasons from taking sufficient recreation leave to reduce the accrued leave below an acceptable level of between 4 and 6 weeks or its hourly equivalent, the Department Head shall:
- (1) specify in writing the period of time during which the excess shall be conserved; and
 - (2) on the expiration of the period during which conservation of leave applies, grant sufficient leave to the staff member at a mutually convenient time to enable the accrued leave to be reduced to an acceptable level below the 8 weeks' limit.
 - (3) A Department Head will inform a staff member in writing on a regular basis of the staff member's recreation leave accrual.

All staff pay advices specify individual recreation leave balances.

Approval to conserve recreation leave, in respect to non SES officers, requires the approval of either the Director Executive and Corporate Support or the Associate Director Corporate Personnel Services and will only be granted in exceptional circumstances.

Managers are responsible for ensuring that officers under their supervision take recreation leave on a regular basis and do not accrue excessive recreation days.

It should be noted that if a staff member has sufficient recreation leave available annual leave loading will only be paid if two (2) weeks recreation leave is taken. If insufficient recreation leave is available a combination of recreation and public holidays, flexleave, extended leave, LWOP, time-in-lieu can be used provided the absence is at least 2 weeks.

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LEAVE – RECREATION LEAVE

3.3

The Award also was varied to include a provision that stressed the importance of monitoring attendance recording viz.

“The staff member in charge of a division or branch of a department will be responsible to the Department Head for the proper observance of hours of work and for the proper recording of such attendance.”

Adjustment for Leave Without Pay

It is a requirement that deductions from recreation leave accruals for periods of leave without pay are to be made **once** each year and rounded off to the nearest **lowest** ¼ day.

ANNUAL LEAVE LOADING**CEP Employees**

Payment of the annual leave loading may be made to those Commonwealth Employment Program (CEP) employees who are employed for a fixed period of 52 weeks (i.e. 48 weeks of employment plus 4 weeks' recreation leave). Those employees who are employed to work the full 48 weeks but who for some reason do not complete the maximum period of employment (i.e. 48 weeks) will continue to be ineligible for the payment of the leave loading.

Check of Payments

At six monthly intervals, the Office Manager or equivalent should check to determine staff entitlements to annual leave loading payments are being paid.

LEAVE – SICK LEAVE

4.1

LEAVE – SICK LEAVE

ENTITLEMENT - CEP EMPLOYEES

COMMONWEALTH SICKNESS BENEFIT

COMPENSATION CLAIMS - OTHER THAN WORKERS COMPENSATION

SPORTING ACTIVITIES - COMPENSATION FOR INJURIES

NOTICE OF RESIGNATION

LEAVE – SICK LEAVE

4.2**ENTITLEMENT - COMMONWEALTH EMPLOYMENT PROGRAM EMPLOYEES**

The eligibility for sick leave for persons employed under CEP programs is as follows:

Period of Service	Eligibility
1 - 12 weeks	Nil
13 - 26 weeks	5 days
27 - 39 weeks	7½ days
40 - 48 weeks or longer	10 days

COMMONWEALTH SICKNESS BENEFIT

A person who is on sick leave without pay is entitled to apply for a Commonwealth sickness benefit. It is the person's responsibility to make enquiries about any such entitlement. However, to avoid any unnecessary delay in the commencement of sickness benefit payments, areas should:

- notify the person, whose return to work is not expected before paid sick leave is exhausted, of that fact at least 2 weeks prior, if possible;
- provide a statement to the person indicating the date on which all paid sick leave expires, and whether or not a workers' compensation claim has been lodged; and
- advise the person that he/she may apply for sickness benefits for the duration of the sick leave without pay unless there is an election to use another form of leave.

The person may then apply for the Commonwealth sickness benefit, in which instance the Department of Social Security will forward a form to State Health seeking information on the matter. To avoid hardship, areas should complete and return these forms as soon as possible.

COMPENSATION CLAIMS - OTHER THAN WORKERS' COMPENSATION**General**

Where the circumstances of an injury to or illness of a worker may give a right to claim for damages or compensation, otherwise than under WorkCover, sick leave may be granted upon the completion by the worker of an undertaking in an approved form.

Should a claim subsequently be refused normal sick leave provisions are to apply.

LEAVE – SICK LEAVE

4.3**Form of Undertaking**

The form of undertaking is as follows:

In the event of any damages or compensation being recovered by me either in a contested action or by way of settlement of any claim other than under the *Workers' Compensation Act*, made in respect of an injury which occurred on (date) involving myself and (defendant), I undertake, in consideration of the granting to me of sick leave to refund to the Department of the monetary value of sick leave granted to me as a result of the abovementioned injury or illness.

I understand that, should any damages or compensation received by me represent a reduction from those which would have been received but for my contributory negligence, the Industrial Authority may, in its discretion, reduce the amount of the monetary value of the sick leave required to be repaid as a result of this undertaking.

I further understand that this document is legally binding, and that, in claiming for compensation or damages, I must include a claim for the monetary value of sick leave granted as a result of the injury or illness. Further, the monetary value of sick leave granted is to be included in any assessment of damages or compensation. The monetary value of the sick leave granted must then be repaid to the Department when the claim for compensation or damages has been paid.

Dated this day of..... 19.....

(Signature)

(Witness)

Form of Authority

The member of staff who wants sick leave to be granted must also sign the following Authority either prior to sick leave being granted or as soon as practicable thereafter.

AUTHORITY

To.....(Insurer)

.....

LEAVE – SICK LEAVE**4.4**

In the event of my recovering any damages or compensation (either in a contested action, or by way of settlement of any claim) in respect of an injury sustained by me on the day of 19.., involving myself and I hereby authorise and direct you to pay to the Department of the amount equivalent to the paid sick leave granted to me by the said Department in respect of the abovementioned injury or illness, out of any monies that are or may subsequently become payable by you either as a verdict in or as settlement of the action or claim.

And I hereby declare that:

- (1) A Certificate signed by or on behalf of the Department Head of the said Department in respect of paid leave granted to me shall, for the purpose of any payment under this authority, be conclusive evidence of such paid leave granted;
- (2) I, or a Solicitor or Agent, acting on my behalf, will provide all information to the Department in relation to the claim under the *Workers' Compensation Act*, the injury or illness which gave rise to the claim, and the compensation payable by the Insurer;
- (3) I will immediately notify and furnish all particulars to the said Department if I, or a Solicitor or Agent, acting on my behalf, makes a claim being lodged under the *Workers' Compensation Act* for the same injury or illness;
- (4) In the event of the claim specified in (3) above being made, I will immediately sign the undertaking, in respect of repayment of sick leave granted, required for claim for compensation and damages made other than under the *Workers' Compensation Act*;
- (5) This authority is irrevocable.

Dated this day of, 19... .. Witness

.....

..... Address

Applicant

.....

Where it is impracticable to obtain promptly an undertaking in the above form from the staff member because of their state of health or for other exceptional reasons, sick leave available may be granted subject to the following being strictly observed, namely, the staff member is to be informed in writing at the time the sick leave is granted that the leave granted is conditional upon (i) their repaying the monetary value thereof in the event of recovering damages or compensation in respect of their injuries; (ii) the monetary value of the sick leave being claimed as part of the claim for compensation or damages and being included in any assessment of damages or compensation; and (iii) completing and returning to State Health the form of undertaking as soon as possible (attach copies).

If a person acting on a solicitor's advice or otherwise, refuses to sign an undertaking in the form required or fails to complete and return it within a reasonable time, they or their legal representative as the case may require, is to be informed that unless the undertaking is signed and returned, no sick leave or further sick leave on pay, as the case may be, will be granted and further that the value of sick leave already granted conditionally is to be repaid immediately and, in default, consideration will be given to the institution of legal proceedings for its recovery.

LEAVE – SICK LEAVE

4.5

As soon as the required form of undertaking has been duly completed and returned, the legal representative of the person concerned is to be informed that the client has given a legally binding undertaking that he/she will, if successful in a claim for damages, refund to State Health the monetary value of all sick leave granted to them as a result of the injury or illness the subject of the claim for damages and that loss of wages for the period of the leave is, accordingly, a matter to be taken into account in assessing damages.

Follow-up action is to be taken in each case to ensure that repayments due are made.

Information For Damages Claim

Where staff intend to claim for damages in a civil action and ask State Health for information either directly or through their representative, on loss of salary or wages as a result of their incapacity to work, the information so furnished must provide a complete and accurate statement of the total salary or wages that the person would have received had they been on duty, and should include any sick leave payments made during the period of incapacity.

Refund of Value of Sick Leave

The amount which the person is to be required to refund to State Health is to include all payments actually made in respect of public holidays occurring during the period in respect of which sick leave with pay was granted. Provided that where, in the case of a person who is in receipt of salary at an annual rate, the period of absence in respect of which sick leave with pay was granted is less than five (5) working days the amount to be refunded is to be based on the actual working days in such period.

A staff member may, if he/she so desires, refund to State Health the monetary value of any recreation and/or extended leave granted to him during the period of his absence, the amount of the refund to be calculated in the same manner as prescribed for sick leave with pay.

Where a staff member has refunded to the State Health monetary value of sick leave with pay granted the period of absence is to be regarded as special leave without pay and is to count as service for the accrual of recreation and/or extended leave and for incremental purposes.

In any case where the amount received by the person is in full settlement and covers future liability, the question of the nature of the leave to be granted in the event of absence from duty on any future occasion as a result of the injury or illness in respect of which the damages were awarded is to be referred for the Industrial Authority's consideration.

Where a staff member recovers a verdict in which damages have been reduced by a known percentage because of contributory negligence, then the amount of refund may be proportionately reduced.

Where a settlement is effected at what a staff member claims is a figure which does not cover sick leave, in whole or in part, full details of the settlement should be obtained from the person concerned and the matter referred to the Industrial Authority for determination.

SPORTING ACTIVITIES - COMPENSATION FOR INJURIES

Where a staff member is absent from duty owing to an injury sustained whilst engaged in sporting activities and as a result receives any compensation payment other than Workers' Compensation the question as to the nature of leave to be granted is to be referred for the Industrial Authority's consideration.

LEAVE – SICK LEAVE

4.6

Cases should be submitted on the usual sick leave form accompanied by a report of the circumstances, indicating whether or not the staff member contributed to the fund, etc. from which the compensation was paid.

NOTICE OF RESIGNATION

No sick leave will be paid after a resignation has been submitted unless the absence is supported by a medical certificate.

LEAVE – EXTENDED LEAVE

5.1

LEAVE – EXTENDED LEAVE

APPORTIONMENT ON TERMINATION OF EMPLOYMENT

PAYMENTS IN RESPECT OF EXTENDED LEAVE

APPORTIONMENT ON TERMINATION OF EMPLOYMENT

It may be possible for an employee to minimise the taxation payable on the value of extended leave on termination - the Taxation Office has advised that it has no objection to employees charging extended leave taken, against their entitlements in other than the order in which the entitlements accrued.

This is, extended leave accrued before 15 August 1978 may be retained until some future date, and extended leave taken, offset in the first place against leave accrued after 15 August 1978.

Reference should also be made to the formula and example in the Tax Office's "Group Employers Guide".

PAYMENTS IN RESPECT OF EXTENDED LEAVE

- (a) Where an officer or employee takes extended leave during their term of employment payment may be made as a lump sum in advance included with the periodic salary/wages payment in the last payday prior to proceeding on leave providing:
1. The terms of (b) are met; and
 2. Sufficient extended or recreation leave balance remains to cover the period from payment to the time leave commences; and
 3. The payroll system is computerised with adequate processing capabilities for making and controlling advance payments.

Where (b) and (c) are not met payment may be made on the last day of duty prior to commencing on leave. In either case this payment is to be made only if requested, and sufficient notice is given of the desire to receive payment in advance, but not as a gratuity.

- (b) Where an officer or employee takes extended leave during his/her service, any payment in advance shall be made only for leave accrued at the time of proceeding on leave.
- (c) Officers or employees may be paid increments falling due during a period of extended leave granted during their service provided that their services were satisfactory prior to entry on such leave.

LEAVE – FLEXTIME

6.1**LEAVE - FLEXTIME**

STANDARD WORKING HOURS

TIME RECORDING

FLEXTIME

CALCULATION OF LEAVE

OVERTIME/TEA MONEY

ABSENCES DUE TO INDUSTRIAL ACTION

STANDARD WORKING HOURS

Where it is inconvenient to State Health for persons to work flexible hours, standard hours may be introduced.

TIME RECORDING**General**

Attendance sheets (manual systems) and adjustment sheets (mechanical systems) must be kept and maintained by each staff member. No other person should make any entries. The staff member concerned will be held responsible for detail and correctness.

Manual recording of times or adjustments must be made on the day in question. This may require staff taking their flexitime records with them when travelling. In other words, adjustments and entries should not be made on the basis of notes from diaries or by recollection.

Manual System

Staff are required to accurately record particulars of attendance on attendance sheets.

The sheets must indicate actual time of commencement and cessation of duty each day. The time taken for luncheon breaks must also be recorded daily.

All leave and study time absences must be recorded. Any flexileave taken should be shown for control purposes.

Mechanical Equipment

Where mechanical recording equipment has been installed, each staff member is responsible for the insertion and withdrawal of the time recording key.

Manual adjustments must be made where staff fail to insert or remove their keys at appropriate times.

Keys must be completely removed from the equipment - they should not be left half-out or reversed.

Under no circumstances must keys be inserted or removed by any other persons, including supervisors.

For the recording of all leave and other adjustments an adjustment sheet should be completed. Any flexileave taken should be shown for control purposes.

The time recording equipment must operate continually through the day, staff will be required to key-out when commencing the lunch period and key-in when ready to resume duty, provided that the minimum 30 minute period is observed, i.e. all keys must be out at some time for at least 30 minutes.

Certification Of Flexitime Sheets

At the end of the settlement period the staff member is required to sign and certify the attendance sheet as a true record. Supervisors should ensure that all entries have been completed correctly, leave applications submitted and that the carried forward debit or credit does not exceed 10 hours.

FLEXTIME**Contract Hours**

Contract hours are the hours which normally would have been required to be worked if a person was not working flexible working hours (e.g. 35 hours per week, or 7 hours per day).

Lunch Period

Staff are entitled to a lunch break of 1 hour, but may elect to take a minimum of ½ hour or a maximum of 2½ hours, subject to Departmental convenience between the hours of 12.00 p.m. and 2.30 p.m.

In any case, a break must be taken after 5 hours work has been performed.

Accumulation

The maximum credit or debit that may be carried over at the end of each 4 week settlement period is 10 hours. Credits in excess of 10 hours at the conclusion of the settlement period are to be forfeited. Debits in excess of 10 hours are to be made up from either recreation leave credits or leave without pay.

Manual Recording

Staff are required to accurately record particulars of attendance on the attendance sheets provided by Departments. These sheets must indicate:

- i) the actual time of commencement and cessation of work each day;
- ii) the time taken for a lunch break;
- ii) all forms of leave, including flexileave and study time.

Mechanical Recording

Staff are responsible for the insertion and withdrawal of their own time-recording key. Under no circumstances must a key be inserted or removed by any other person, including supervisors. Any adjustments to this recording arising from the insertion or improper insertion of the time recording key should be corrected by the making of appropriate adjustments on an adjustment sheet. As for manual recording, all forms of leave are to be indicated.

Standard Hours

The standards hours for the Department of Health are 9.00 a.m. to 5.00 p.m. with the flexitime bandwidth 7.30 a.m. to 6.00 p.m. and coretime 9.30 a.m. to 3.30 p.m.

Punctuality

Attendance between the hours of 9.30 a.m. to 12.00 p.m. and 2.30 p.m. to 3.30 p.m. is required. Attending work after 9.30 a.m. and 2.30 p.m. or leaving prior to 12.00 midday or 3.30 p.m. requires the submission of a leave form.

LEAVE – FLEXTIME

6.4**CALCULATION OF LEAVE**

A full day's leave is to be 7 hours for staff working a 35 hour week.

Where leave for part of a day is involved, the amount of leave to be applied for is to be determined by subtracting the hours worked on that day from 7 hours. The leave is to be taken to the next highest quarter day.

OVERTIME/TEA MONEY

Additional hours worked within band width time are automatically part of flexitime credit. Overtime is not payable except in respect of hours worked outside the band width period.

Approval will not be given for staff to vary between a flexible working hours scheme and standard hours to suit their own convenience or for financial gain.

In the case of staff whose commencing time is 8.30 a.m. or earlier, tea money will continue to be payable if they are required to work beyond 6.00 p.m. In the case of staff whose commencing time is after 8.30 a.m., tea money will be payable when at least 9½ hours have elapsed since commencement of duty, including a maximum lunch break of 1 hour, and all such duty was required.

ABSENCES DUE TO INDUSTRIAL ACTION

Where a strike is held for part of a day, any absence during core time is to be regarded as an unauthorised absence. Where a strike is held for a full day, an absence for a full day is to be regarded as an unauthorised absence for that day. For staff on a mechanical recording system, keys are to be removed for the full duration of the absence.

All unauthorised absences are to be recorded on staff members flexible working hours records with the words "unauthorised absence" together with the actual times of the absence e.g. "unauthorised absence 9.30 am to 2.00 pm" or "unauthorised absence all day". A credit for the unauthorised absence is to be entered which is to correspond to the amount of deduction from salary. All entries are to be initialled by the supervisor.

SALARIES - APPOINTMENTS/CONDITIONS OF SERVICE

7.1**SALARIES – APPOINTMENTS/CONDITIONS OF SERVICE**

APPOINTEES UNDER 21 YEARS OF AGE

STAFF ON LOAN

SALARY PAYMENT ON COMMENCEMENT

REDUCED PAY - WHEN TO TAKE EFFECT

STAFF TRANSFERS AND APPOINTMENTS - NOTIFICATION OF

AWARDS AND AGREEMENTS

APPOINTMENTS

HEALTH EXECUTIVE SERVICE – NOTIONAL SALARY

MANAGING MISCONDUCT

RESTRUCTURING POLICY AND PROCEDURES – NSW MINISTRY OF HEALTH

SALARY SACRIFICE FOR SUPERANNUATION – NSW HEALTH – CENTRAL OFFICE

FRINGE BENEFITS TAX

MOBILITY OF SUPERANNUATION

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SALARIES - APPOINTMENTS/CONDITIONS OF SERVICE

7.2

APPOINTEES UNDER 21 YEARS OF AGE

Unless otherwise indicated, salary rates in awards/agreements refer only to persons aged 21 and over.

STAFF ON LOAN**Public Service Association/Professional Officers Association**

State Health has been delegated authority to approve the loan of officers to the above organisations for up to 6 months.

Recoupment of salaries and on-costs should be arranged in accordance with Treasurer's Direction 542.03.

PSA Provident Fund

As a general rule duties that need to be performed by the Fund's Trustees should be carried out in other than core time for those staff working under flexible working hours or out of working hours for all other staff. On those occasions when this is not possible, any time when would otherwise have been at work should be charged against the Association.

During such periods, the trustees should be placed on loan to the Association - where such periods are of a short duration (i.e. less than day) the absences may be aggregated and debited at, say, monthly intervals.

Recoupment of salaries should be arranged as under the previous heading.

SALARY PAYMENT ON COMMENCEMENT

Staff paid at an annual salary rate who commence duty on the Monday of a pay week and work each day up to and including the pay day are paid 4/5 of their weekly salary.

REDUCED PAY - WHEN TO TAKE EFFECT

Where leave is granted with reduced pay, such reduced pay is to take effect from the next working day after that upon which leave with pay at the higher rate expires. If pay at the higher rate ceases on a half day or a quarter day, pay at the reduced rate takes effect immediately for the balance of the day.

STAFF TRANSFERS AND APPOINTMENTS - NOTIFICATION OF

It is essential that all salaries clerks receive official notification from an authorised delegate before attempting to effect any entries to the computer payroll system.

Where the strict compliance with these instructions may cause hardship to individual staff members on appointment or transfer, direct contact should be made with Human Resources to resolve the difficulties.

AWARDS AND AGREEMENTS**Display**

An employer shall exhibit awards made under the Act which apply to those classifications of staff which he/she employs.

SALARIES - APPOINTMENTS/CONDITIONS OF SERVICE

7.3

Each area shall make available for perusal at the pay office, a folder containing copies of those industrial awards, agreements and determination which are applicable.

Payment

Where a variation in salary, allowances or conditions of employment arises from a new or varied Award, no action is to be taken by areas to effect the variation until State Health has been authorised to do so.

APPOINTMENTS**Initial Payment**

The supervising officer is to note on the application for employment forms the date on which the staff member commenced duty.

The Salaries Section is to make payment from the commencement date to the first pay day either by manual or computer means. No days are to be held in hand.

Appointment Schedules

One copy of an appointment schedule will be prepared in the general office/Personnel Branch by the Salaries Clerk or Personnel Unit Clerk.

The Office Manager will check the schedule and certify that the salary rates, deductions etc. are correct.

The Office Manager will draw a line under the last entry on the schedule, initial the line and then submit the schedule to the appropriate delegate.

The schedule will then be approved by the delegate in respect of staff employed under his/her delegation. Staff not covered by this delegation should be covered by the necessary approval (refer Delegations Manual) which must be attached to the schedule.

Approved schedules are to be retained for inspection by Auditor-General and State Health Inspectors. Schedules are to be destroyed 12 months after the inspection.

Appointment schedules must be prepared fortnightly.

Salary Cards/Leave Cards

When salary cards are prepared for new appointees (or when additional cards are created) the name of the administrative area etc. should be written or stamped on the card. This will assist future Leave/Salary clerks in constructing a leave history on cessation/resignation etc, if that person works in other areas during their employment and salary cards are transferred to different offices.

Where an employee moves to another **Department** the leave card should be balanced before it is forwarded.

SALARIES - APPOINTMENTS/CONDITIONS OF SERVICE
7.4**Hospay**

The Staff Action Report includes a list of all new employees appointed in the pay period. This should be checked back to the Appointment Schedule and signed. Employee Details Record (EDR) should be checked back to the Employee Base Data form to ensure that employee details have been correctly up-dated. The EDR should be initialled.

Micropay

The Appointment Schedule should be checked against the Micropay output data for each new employee with the checking officer noting the Appointment Schedule.

HEALTH EXECUTIVE SERVICE – NOTIONAL SALARY (PD2010_051)

PD2010_051 rescinds PD2009_075.

PURPOSE

This policy advises that the calculation of notional salary for the Senior Executive Service (SES) and Health Executive Service (HES) has been updated.

The policy also directs Health Services to refer to the Department of Premier and Cabinet's website for the annual update of the notional salary.

MANDATORY REQUIREMENTS

In order to comply with this policy Chief Executives must ensure that line managers and payroll/HR personnel implement the contents of this policy directive and note the new notional salary applies from 1 July 2010.

The notional salary calculation is set by the Department of Premier and Cabinet annually in June/July. The updated calculation is issued by circular and can be accessed from the Department of Premier and Cabinet web site <http://www.dpc.nsw.gov.au/announcements>

Chief Executives must ensure the annual notional salary circular is obtained from the Department of Premier and Cabinet and disseminated to appropriate managers, payroll/HR personnel.

IMPLEMENTATION

The notional salary for the SES and HES is used for three purposes:

- for calculation of payments of accrued leave for SES/HES officers on separation;
- for non-SES/HES officers relieving in SES/HES positions (Higher Duties Allowance); and
- the cashing out of leave for SES/HES officers.

In accordance with Department of Premier and Cabinet Circular - [C2010-24 Senior Executive Service – Notional Salary](#), notional salary has been reviewed. As of 1 July 2010, notional salary is defined as 'the total remuneration package less the employers required superannuation contribution under the *Superannuation Guarantee (Administration) Act 1992* (Cth)'.

As a result of the updated calculation formula to notional salary, rates will vary between salary packages. Please refer to the Department of Premier and Cabinet circular for guidelines on calculating notional salary for individual salary packages.

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SALARIES - APPOINTMENTS/CONDITIONS OF SERVICE

7.5

Higher Duties Allowances for non-SES/HES officers relieving in SES/HES positions should normally be set at the minimum of the range for the position. Only in exceptional circumstances are Higher Duties Allowances to be paid above the minimum of the SES/HES remuneration range (see below for further detail).

The Director-General, Department of Health exercises the employer functions on behalf of the Government of New South Wales in respect of executives in the Senior Executive Service and the Health Executive Service.

Health Executive Service – Delegation S213 (15.16.10 of the Combined Delegations Manual), Health Executive Service – Approval of the Director-General or Deputy Director-General, Health System Support is required for payment of higher duties remuneration above .3 of the remuneration range for the level.

Senior Executive Service - Delegation S176 (16.7 of the Combined Delegations Manual), Salaries Higher Duties Allowances and Acting Arrangement SES Arrangements – Approval of the Deputy Director-General, Health System Support is required for the payment of higher duties remuneration above 0.3 of the remuneration range for the level.

Visit Department of Premier and Cabinet circular web site:

<http://www.dpc.nsw.gov.au/announcements>

MANAGING MISCONDUCT (PD2014_042)

PD2014_042 rescinds PD2005_095.

PURPOSE

This Policy Directive sets out the requirements for managing potential and/or substantiated misconduct by staff of the NSW Health Service and by visiting practitioners. Further guidance and support in managing misconduct are provided by non-mandatory Information Sheets, including flowcharts, checklists and templates, which are available online on the NSW Health intranet site.

MANDATORY REQUIREMENTS

- The protection of an organisation's patients and clients, including the children for whom it is responsible, is to be the primary consideration when managing and making decisions related to potential and substantiated misconduct.
- Potential misconduct must be treated seriously and an initial review of any apparent or potential misconduct must take place without delay.
- Where an initial review indicates there is a credible allegation or possibility of misconduct, or that the matter involves a child-related allegation, charge or conviction, further action to pursue the matter in accordance with this policy should take place in a timely manner consistent with the requirements of procedural fairness.
- Any ongoing risks related to potential or substantiated misconduct must be identified, assessed, managed, and regularly reviewed throughout the management process, including any requirements arising from the Service Check Register policy.
- Those involved in a potential misconduct process have both the right to confidentiality and the responsibility for maintaining confidentiality, subject always to the overriding need to be able properly to undertake any inquiries or investigation that may be necessary, and to take the action required by this Policy Directive.

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- A person who is subject of a misconduct process must be given adequate opportunity to respond to any allegations, adverse findings, and proposed disciplinary action, prior to any final decision being made.
- A person who is subject of a misconduct process must be afforded the right to a support person being present at any meetings. Other support may also need to be offered to all affected persons, where appropriate.
- Any findings made must be based on relevant available information that is established ‘on the balance of probabilities’.
- Any action to be taken as a response to a misconduct finding must be proportionate to the nature of the misconduct, after consideration of any extenuating circumstances, previous work performance and history, and any identified ongoing risks.
- A termination of employment in NSW Health Service following a finding of misconduct will apply to all roles or multiple assignments undertaken as an employee in the NSW Health Service unless the person can show cause as to why this should not occur. NSW Health organisations must provide dismissed staff access to the show cause mechanism outlined in Section 9.3 of the following Procedures.
- Where the appointment of a visiting practitioner is terminated following a finding of misconduct, the relevant Health organisation must notify any other Health organisation(s) where the visiting practitioner also holds an appointment contract to allow them to assess and manage any local risks.
- Any required internal or external notifications concerning potential or substantiated misconduct (such as to registration authorities) must be made without delay in accordance with the relevant statutory and/or policy provisions.
- Appropriate records of all stages of the process (including the initial review and any investigation) and outcomes must be kept and stored securely.

IMPLEMENTATION

This Policy Directive applies to all staff of the NSW Health Service and to visiting practitioners. It does not apply to staff employed in the NSW Health Executive Service, contractors who are not visiting practitioners, or to agency staff, students, volunteers or researchers who are not staff employed in the NSW Health Service. However, where it is decided to conduct an investigation into alleged misconduct by any person in these categories, this Policy Directive may nevertheless be used to guide the process.

Any complaints or concerns related to the clinical performance, practice or outcomes of a health practitioner or other health service provider (as defined under the *Health Practitioner Regulation National Law (NSW)*) must be managed in line with the NSW Health policy on managing a complaint or concern about a clinician.

The following staff have key responsibilities in relation to this Policy Directive:

Chief Executives are required to:

- Ensure that this Policy Directive is communicated to, and complied with by staff involved in managing potential or substantiated misconduct.

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Workforce Directorates/Human Resources Departments/Internal Audit Units/Governance or Professional Conduct and Standards units are required to:

- Ensure provision of information and advice as necessary to support effective implementation of this policy.

Supervisors/Managers are required to:

- Comply with this Policy Directive in dealing with all cases of potential and substantiated misconduct.

1. BACKGROUND

3.1 About this document

These Procedures outline the requirements for managing potential or substantiated misconduct of staff of the NSW Health Service. Information Sheets have also been developed to provide guidance and support in meeting the requirements of this Policy Directive. Links to Information Sheets have been provided throughout the Procedures, and a complete list is available on the Ministry of Health's intranet site at <http://internal.health.nsw.gov.au/jobs/conduct/index-conduct.html>.

A summary flowchart of the overall process for managing potential misconduct is provided at [Information Sheet 1](#). Suggested timelines are at [Information Sheet 2](#). The rights and responsibilities of all parties involved in managing misconduct (including the need to maintain appropriate confidentiality throughout the process) are outlined in [Information Sheet 3](#).

1.2 Key definitions

Misconduct – includes:

- Behaviour or conduct which seriously or repeatedly breaches expected standards, as identified in relevant legislation (such as the [Health Services Act 1997](#) or the [Health Practitioner Regulation National Law \(NSW\)](#)), registration standards or codes/guidelines approved by a National Health Practitioner Board or NSW Health policies (such as the Code of Conduct).¹
- Refusal to carry out a lawful and reasonable direction given by a line manager or another member of staff authorised to give the direction.
- Reportable (ie child-related) conduct as defined under the [Ombudsman Act 1974](#) (including allegations relating to conduct outside the workplace).
- Corrupt conduct as defined under the [Independent Commission Against Corruption Act 1988](#)
- Serious wrongdoing that could be the subject of a public interest disclosure under the [Public Interest Disclosures Act 1994](#), ie relating to corrupt conduct, maladministration, serious and substantial waste, or failure to deal appropriately with Government Information.
- Criminal charges or convictions that have an adverse impact on the workplace or the role or performance of the staff member (including such offences committed outside the workplace and/or work hours, or prior to appointment to NSW Health).
- For staff of the Ambulance Service of NSW, misconduct as defined under Part 4 of the [Health Services Regulation 2013](#)
- Making vexatious allegations, or knowingly making false or misleading public interest disclosures.

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¹ Note: Complaints or concerns about the clinical performance, practice or outcomes of a health practitioner or other health service provider must be managed under the current NSW Health policy on [managing a complaint or concern about a clinician](#).

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- A failure to comply or cooperate with the processes for investigating or managing misconduct set out in this Policy Directive.

NSW Health organisation - *For the purposes of this policy directive*, any public health organisation as defined under the *Health Services Act 1997*, the Ambulance Service of NSW, Health Infrastructure, HealthShare NSW, NSW Health Pathology, any other administrative unit of the Health Administration Corporation, and Albury-Wodonga Health in respect of staff who are employed in the NSW Health Service.

NSW Health Service - All persons employed under Chapter 9, Part 1 of the [Health Services Act 1997](#).

Staff member - *For the purposes of this policy directive*, any person who is employed in the NSW Health Service, or engaged in the NSW public health system as a visiting practitioner.

2. INITIAL REVIEW AND RESPONSE

3.2 Purpose of an initial review

A staff misconduct issue may arise or be identified from a number of sources, such as: internally or externally raised allegations; complaints or concerns; managers' or colleagues' observations; notifications including self-disclosure by a staff member; inquiries or investigations; or other workplace processes.

There must be an initial review of any allegation or concern about potential misconduct which is raised without delay ([Information Sheet 4](#)). An initial review seeks to gather all readily available information that may assist in clarifying an allegation or concern in order to:

- Identify any immediate risks to the safety and welfare of patients and/or staff (including any complainant) that need to be managed immediately.
- Determine, as far as practical, the credibility, nature and seriousness of the matter.
- Determine whether the matter should be managed under this policy or another policy (eg grievance etc) ([Information Sheet 5](#)).
- Identify and consult all relevant policy directives and their process requirements ([Information Sheet 5](#)).
- Identify any immediate internal and external notification requirements ([Information Sheet 6](#)), including the NSW Health [Service Check Register](#). All allegations that involve possible criminal conduct must be reported to the NSW Police.

2.2 Determining further action

Where an initial review indicates that the matter does not involve a misconduct issue (eg is assessed as a low level, low risk grievance or Code of Conduct issue, a performance issue etc), this outcome is to be clearly documented and the provisions of this Policy Directive are no longer applicable. Any further action appropriate to the circumstances should be taken in accordance with any other relevant policies ([Information Sheet 5](#)).

Where an initial review indicates that an allegation is credible or there is an indication of apparent misconduct, or that the matter involves a child-related allegation, charge or conviction, appropriate action must be taken to address the matter in accordance with this Policy Directive (and, as appropriate, the current NSW Health policy on [child-related allegations, charges and convictions](#)).

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Such action must be taken irrespective of whether the matter is being investigated by an external regulatory or investigative body (such as the Police and/or Community Services), and irrespective of the outcome of any such external proceeding. However, consultation with any external regulatory or investigative bodies must take place to ensure that any external investigations are not compromised.

In circumstances involving serious criminal allegations or child-related allegations, discussions should occur with NSW Police and/or Community Services at an early stage, which may result in a decision to defer any investigation by the NSW Health organisation pending the resolution of the criminal or child protection proceedings. Where this occurs the organisation must still undertake a risk assessment (see Section 3) to determine whether any immediate action is required to manage risks. This will normally involve a consideration of suspension of the staff member from duty or other available strategies in accordance with Section 3 and 4 of this document.

Where a matter relates to the clinical performance, practice or outcomes of a health practitioner or other health service provider, it must be assessed and managed in accordance with the current NSW Health policy on [managing a complaint or concern about a clinician](#).

Where a matter relates to conduct outside the workplace, its relevance to the workplace must be assessed to determine if any action is required. (However, specific requirements apply to child-related matters outside the workplace - see the current NSW Health policy on [child-related allegations, charges and convictions](#).)

An investigation into an allegation or apparent incident of misconduct should only occur where there is uncertainty about the relevant facts ([Information Sheet 4](#)). Where the facts are clear and uncontested, findings arising from the initial review can at that stage be provided to the decision-maker, who must either accept or reject them, and then decide what action should be taken in response to the findings. A staff member subject to an adverse finding in such circumstances must be provided with an opportunity to respond to such a finding, as well as to any proposed disciplinary action (refer to 7.5.2 for further information).

Appropriate documentation about an allegation or incident of potential misconduct, the initial review, and any recommendations for further action, or a decision not to proceed further, must be kept.

2.3 Advising the staff member

A staff member who is the subject of an initial review regarding potential misconduct should be informed that an issue has been raised about him or her as soon as credible details indicating potential misconduct have been identified, and it is deemed safe and appropriate to do so ([Information Sheet 7](#)). Any verbal advice should be confirmed in writing.

3. MANAGING RISKS

3.3 General

Where managing potential misconduct needs to involve more than just an initial review, a risk assessment must be conducted and a risk management strategy put in place as soon as possible. The purpose of a risk assessment is not to determine whether misconduct took place, but purely to assess whether there are any significant ongoing risks in the workplace that require managing ([Information Sheet 8](#)). The need to continue with any immediate risk response put in place at the time of the initial review should also be assessed as part of the risk assessment.

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A suggested risk assessment template is available at [Information Sheet 9](#).

Any action to manage the identified risks must be communicated to the staff member who is to be subject to that action in writing ([Information Sheet 7](#)) and include advice of any creation of a record in the NSW Health [Service Check Register](#). It may also be necessary to manage communications to other affected staff, patients or others.

Appropriate support should be offered to a staff member who is subject to risk management action, and may also need to be provided to other affected staff/patients/other parties.

Any notification requirements must be attended to without delay.

The position of a staff member must not be permanently filled while that staff member is suspended or on interim work arrangements as a risk management measure.

3.2 Options to manage risks

Action to manage risks arising from a risk assessment must be specific and proportionate to the circumstances. Where risk management action is necessary, consideration must be given to appropriate and available administrative action by way of alternative interim work arrangements.

Suspension from duty is a last resort risk management strategy (see Section 4).

See also Section 4.3 regarding payment of shift-penalties and other allowances while undertaking alternative duties or during suspension on pay.

3.3 Ongoing review

While a potential misconduct matter is ongoing, any risk management measures must be reviewed and any risks reassessed, at a minimum every 30 days, or when new information, relevant to the risk management strategy in place, comes to light. Where the review results in a change in risk management measures, any relevant NSW Health [Service Check Register](#) record must also be reviewed and amended as appropriate.

3.4 Requests for review of risk management measures

A staff member subject to risk management action may request a review of the risk management measures by application in writing to the relevant manager or person who conducted the risk assessment, on the grounds that:

- The risks have not been identified or assessed appropriately or
- The risks have changed or no longer exist.

4. SUSPENSION OF STAFF

4.1 General

Suspension of a staff member from duty can only occur as a risk management strategy where:

- A risk assessment has been conducted.
- A potential risk is posed by the staff member remaining at his or her current work; and
- The potential risk cannot be appropriately managed in any other way.

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In addition, Section 120A(1) of the *Health Services Act 1997* outlines specific circumstances in which a staff member who is subject to actions taken by an external body can be suspended. Whether suspension is appropriate in these circumstances will depend on:

- 1) Whether the staff member can continue to perform the role for which he or she was employed, having regard to the following circumstances:
 - (a) Suspension of the registration of a staff member as a registered health practitioner by a health professional council under s150 of the *Health Practitioner Regulation National Law (NSW)* - the staff member cannot practise as a health practitioner.
 - (b) Conditions imposed on the registration of a staff member as a registered health practitioner imposed by a health professional council under s 150 of the *Health Practitioner Regulation National Law (NSW)* – the staff member may not provide some or all of the services which he or she was employed to provide, or cannot do so without adjustment to working arrangements.
 - (c) An interim prohibition order by the Health Care Complaints Commission during an investigation into a staff member as an unregistered health practitioner prohibiting the provision of health services or specified health services by that staff member – the staff member may not provide some or all of the services which he or she was employed to provide.
 - (d) An interim prohibition order by the Health Care Complaints Commission during an investigation into a staff member as an unregistered health practitioner that places conditions on the provision of health services – the staff member may not be able to provide all the services he or she was employed to provide, or cannot do so without adjustment to working arrangements.
 - (e) Charged with a serious criminal offence and is remanded in custody or has bail conditions imposed that prevent or restrict the ability to present for work – the staff member cannot fulfil the terms of his or her employment.
 - (f) Charge of a serious criminal offence (other than in the circumstances in (e) above) – a risk assessment must be conducted to determine whether it is appropriate for the staff member to continue to provide the services he or she was employed to provide.
- 2) Whether alternative interim work arrangements are appropriate, available and can be safely provided without adverse impact on the operational efficiency and budgetary constraints of the NSW Health organisation.

4.2 Whether suspension under s120A of the Health Services Act 1997 should be with or without pay

Where a staff member is suspended, the payment of salary at the applicable ordinary time rate (ie without shift penalties and other allowances, but refer to 4.3 regarding reimbursement in certain circumstances) should usually continue. Suspension may be without pay in the circumstances set out in Section 120A(1) of the *Health Services Act 1997* if the Secretary of the Ministry of Health, or the Chief Executive of the relevant NSW Health organisation (acting under his or her delegated employer function), so directs.

A staff member who is suspended without pay must be allowed to access any paid annual or long service leave entitlements accrued prior to the suspension. While accessing such leave entitlements, his or her employment will remain suspended.

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4.3 Final decisions regarding salary which has been withheld during suspension without pay

Where a staff member is suspended due to action taken against the staff member by an external body under s120A(1) of the *Health Services Act 1997*, and the staff member's salary has been withheld during that action (under s120A(2)), and the outcome of the external body action is one of the following:

- (a) The staff member's registration is suspended or cancelled by the Civil and Administrative Tribunal under Section 149C of the [Health Practitioner Regulation National Law \(NSW\)](#).
- (b) Conditions are imposed by the Tribunal on the registration of the staff member as a registered health practitioner under Section 149A (1) (b) of the *Health Practitioner Regulation National Law* that, in the opinion of the Secretary of the Ministry of Health, or the Chief Executive of the relevant NSW Health organisation (acting under his or her delegated employer function), are inconsistent with any of the inherent requirements of the terms of employment of the staff member.
- (c) A prohibition order is made by the Health Care Complaints Commission in respect of the staff member as an unregistered health practitioner under Section 41A of the [Health Care Complaints Act 1993](#) that prohibits the staff member from providing health services or specified health services.
- (d) A prohibition order is made by the Health Care Complaints Commission in respect of the member of staff under Section 41A of that Act that places conditions on the provision of health services or specified health services by the staff member that, in the opinion of the Secretary of the Ministry of Health, or the Chief Executive of the relevant NSW Health organisation (acting under his or her delegated employer function), are inconsistent with any of the inherent requirements of the terms of employment of the staff member, or
- (e) The person is convicted of a serious criminal offence.

the Act provides that the staff member's salary is to be forfeited to the State, unless the Secretary of the NSW Ministry of Health, or the Chief Executive of the relevant NSW Health organisation (acting under his or her delegated employer function), directs otherwise (s120A(3)).

Conversely, where the action against the staff member by the external body does not result in any of the final actions in (a)-(d) above being taken against the staff member, the Act provides that any salary withheld is to be paid to the staff member, unless the Secretary of the NSW Ministry of Health, or the Chief Executive of the relevant NSW Health organisation (acting under his or her delegated employer function), directs that the salary is to be forfeited to the State (s120A(4)).

Where withheld salary is paid to the staff member, it should include any relevant allowances and shift penalties (calculated as outlined in Section 4.3 of these Procedures). If the staff member had accessed any paid annual or long service leave while suspended without pay, this leave should be re-credited to him or her.

There may be circumstances where it is not appropriate to provide public money to a staff member for a job that he or she did not, and could not, perform, particularly where the Health organisation has incurred an additional expense to provide the services during the staff member's period of suspension. In these circumstances the Secretary of the NSW Ministry of Health, or the Chief Executive of the relevant NSW Health organisation (acting under his or her delegated employer function), may, in accordance with the Act, direct that the withheld salary is to be forfeited to the State. Relevant considerations may include:

- The extent to which the conduct of the staff member contributed to the issue in the first place.
- Whether the staff member has complied with statutory duties to report certain criminal conduct and disciplinary matters.

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- Where a risk assessment suggests that the continued employment of the staff member poses an unacceptable risk to the Health organisation.
- The length of the period the staff member was unable to meet the inherent requirements of his or her employment.

4.4 Reimbursement of shift penalties and other allowances following suspension on pay or alternative duties

Where a staff member is engaged as a shift worker on a permanent or regular basis, or has undertaken shift work regularly in the previous 3 months, and where

- The staff member is suspended or allocated alternative duties as a risk management strategy pending the outcome of an investigation and/or decision-making process in relation to a misconduct allegation against him or her, and
- The suspension or alternative duties result in a loss of shift penalties and/or other work related allowances, and
- No adverse finding is subsequently made against the staff member,

the staff member is to be reimbursed for the loss of shift penalties and/or work related other allowances. The reimbursement is based on the average of any shift penalties and/or other work related allowances for the preceding 6 months or, if the period of shift work is less than 6 months, the average for the period worked.

4.5 Suspension of visiting practitioners

The [Visiting Medical Officer Determinations](#) provide that an organisation may suspend the appointment of a visiting medical officer where it is considered necessary in the interests of the hospital to which the visiting medical officer is appointed. The suspension of any visiting practitioner is without pay. Note that the [Health Services Act 1997](#) provides for an appeal mechanism for visiting practitioners whose appointment is suspended.

As visiting practitioner appointments are made under statutory powers and with statutory powers of appeal against suspension, it is important to be able to demonstrate procedural fairness in reaching any decision to suspend (which would usually involve providing notice to the visiting medical officer of the possibility of suspension and of reasons, and an opportunity to respond).

Further advice can be sought from each NSW Health organisation's medical administration.

5. INVESTIGATION

5.1 The purpose of an investigation

An investigation is a formal process of collecting and analysing all available relevant information to ascertain facts in order to make findings. An investigation precedes, and is separate from, any final decision by a decision-maker about whether to accept or not accept findings, and about whether and what further action (disciplinary or other) is required.

The purpose of an investigation is to determine whether:

- The alleged or suspected misconduct has occurred and, if so, to put forward findings to that effect.
- The substantiated conduct breached expected standards, or relevant policies or legislation.
- There are any extenuating circumstances or other contributing factors that may need to be considered.

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An investigation need only occur into potential misconduct where there is uncertainty about the relevant facts. Even where no investigation is necessary, the decision-making process set out in Sections 7 and 8 of these Procedures should be followed. The requirements of any additional relevant policies identified during the initial review must also be complied with ([Information Sheet 5](#)).

Any investigation must be completed as expeditiously as possible without compromising procedural fairness.

If a matter has been referred to an external regulatory or investigative body, ongoing liaison with that body must occur to coordinate, as appropriate, the timing and conduct of any internal investigation with any action being undertaken by the external body (see also Section 2.2 re serious criminal allegations and child-related allegations).

A flowchart of the investigation process is provided at [Information Sheet 10](#). The following publications also provide guidance on conducting internal investigations:

- NSW Ombudsman: [Investigating Complaints - A manual for Investigators](#)
- ICAC's Fact-Finder: A Guide to Conducting Internal Investigations - search for 'Fact finder' at <http://www.icac.nsw.gov.au/publications-and-resources/publications-search>.

5.2 Selecting investigators

Investigators must have suitable skills and experience, an understanding of the investigation process, and, if an external investigator, no direct involvement with or interest in the matter under investigation.

In most cases, an investigation can be conducted by someone internal to the NSW Health organisation, supported by local HR, internal audit, governance, or professional conduct and standards units, as necessary.

External investigators may be used, for example, where a Health organisation considers that there is no one available within the organisation or elsewhere in NSW Health with the appropriate skills, or where very senior executive staff are involved. A government-wide panel of pre-qualified service providers is available and can be accessed through NSW Government ProcurePoint at <https://www.procurepoint.nsw.gov.au/performance-and-management-services-scheme>, although [persons not on this panel can also be used](#).

External investigators must sign a contract (a standard services/consultancy contract is available at <http://internal.health.nsw.gov.au/legal/goods.html>), as well as a declaration that they understand the expectations for the investigation and have received information about any relevant NSW Health policies. Appropriate checks must also be conducted to confirm the capacity of an external investigator to carry out the investigation appropriately.

The decision-maker should not be involved in any investigation.

5.3 Advice to a staff member who is subject to a misconduct process

Written advice must be provided to the staff member about the allegations against him or her and about the investigation process. The advice must contain sufficient information about the allegations to allow the staff member to provide a considered response ([Information Sheet 7](#)).

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7.15**5.4 Interviews**

The investigator must put the substance of the allegations and any key relevant evidence to the staff member subject to the allegations as part of the interview process. In order to do this, it is usually best to interview any complainants and/or witnesses first to gain as much detail about the alleged misconduct as possible.

An investigator may decide to accept receipt of information in a written statement instead of, or in addition to, an interview, although an interview is usually preferable, particularly where additional detail is required or to explore issues in greater detail.

Reasonable notice of an interview must be given in writing (usually 48 hours). All persons to be interviewed must be advised that they may have a support person of their choosing present, and that the reasons for the interview and its content must remain confidential.

The support person does not represent the staff member nor advocate or make representations on behalf of that person.

Records of interviews should be taken and kept. (Note that under the [Surveillance Devices Act 2007](#), electronic/tape recordings can only be made with the agreement of all parties to the interview). Persons interviewed should be provided with a copy of a summary or record of interview for review and signature as soon as possible. See also Section 6.8 regarding disputes over interview records.

6. ISSUES ARISING DURING INITIAL REVIEW, INVESTIGATION OR DECISION-MAKING PROCESSES**6.1 Unreasonable conduct by complainants**

Complainants may demonstrate unreasonable persistence, demands or arguments, lack of cooperation, aggression etc.

- Refer to the NSW Ombudsman publication [Managing Unreasonable Complainant Conduct](#) for guidance in managing complainants.
- Any aggression or threats of violence by staff are to be managed as a breach of the NSW Health [Code of Conduct](#).

6.2 Frivolous, vexatious or misconceived allegations/concerns

If at any point in the process it becomes apparent that an allegation of, or concern about, misconduct is frivolous, vexatious, misconceived or otherwise lacking in substance:

- The process must stop.
- This must be communicated to the decision-maker for assessment.
- The decision to conclude the process must be recorded with reasons.
- If the staff member subject to the allegation or enquiry has already been notified, he or she must be advised as soon as possible that allegations or concerns were not supported (it may also be appropriate to provide an apology).
- Vexatious allegations amount to misconduct. If a complainant is a staff member, such an allegation must be separately managed in line with this policy directive.

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6.3 When a staff member does not cooperate

All staff members are expected to cooperate in any process to manage potential misconduct.

- If a staff member fails or refuses to attend an interview or provide a written statement within the timeframe advised, any reasons for the failure put forward or otherwise identified must be considered, any reasonable accommodation made as required, and the staff member advised of a final date for the interview/written statement.
- If the staff member continues to refuse to attend an interview/provide a written statement without reasonable grounds, he or she is to be directed in writing to attend an interview or provide a written statement by a specific date and advised in writing that a refusal may constitute a breach of the NSW Health [Code of Conduct](#) with potential disciplinary consequences, and that the investigation will continue in any case and a decision will be made based on available information.
- If the staff member attends an interview but refuses to engage or to provide relevant information sought by the interviewer, he or she must be advised that the content of the interview will nevertheless be recorded, and that the investigation will continue and a decision will be made based on available information. This advice is to be confirmed in writing following the interview.

6.4 When a staff member is on approved leave during an investigation

It may be appropriate to recall the person from leave to be interviewed or seek a written statement from him or her where a timely completion of the investigation is necessary.

6.5 When a staff member is on sick leave/workers compensation leave during an investigation

Consideration must be given to whether the medical condition of a staff member reasonably prevents him or her from taking part in an interview or providing a written statement.

If the staff member is on workers compensation leave, any return-to-work restrictions in place must be considered.

If the staff member is on sick leave due to a non-work related injury or illness, the Health organisation should rely on the available medical advice from the employee's treating doctor in the first instance to determine the staff member's ability to participate in the investigation. Where there are ongoing concerns or a lack of clarity over the staff member's prognosis, action may include seeking the staff member's consent to discuss their prognosis with their treating doctor, or, if the staff member does not consent to this, referring them for a further medical assessment (the process is set out in the current NSW public sector [procedures for managing non-work related injuries and health conditions](#)).

If the staff member is not able to attend an interview, but is able to provide, or arrange for the provision of, a written statement, this should be formally sought on the basis that a timely completion of the investigation is necessary. In these circumstances, the staff member should be advised of the deadline for the provision of the written statement, and that the investigation will continue in any case, and a decision will be made based on available information.

6.6 Where the staff member resigns prior to completion of a misconduct management process

The process must still be completed, including making findings and decisions about any action that would have been taken against the staff member had he or she still been in the position, and all relevant notifications.

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The management process must be fair to the former staff member (including the timely completion of any investigation and providing the former staff member with an opportunity to respond to any allegations or adverse findings).

An entry into the Service Check Register may have to be made or amended – see the current NSW Health policy on [Service Check Register](#).

6.7 Delays in completing the management process

If the completion of the process is delayed beyond the recommended 12 weeks ([Information Sheet 2](#)) or any timeframe previously advised, all key parties must be advised of this in writing.

6.8 Disputes over interview records

Any issues about the content of the record of interview are to be discussed and resolved if possible, and the record altered to reflect any agreed changes.

If the issues cannot be resolved, the interviewee is to be asked to submit a statement giving reasons for not signing the record, the investigator must record reasons for not agreeing to the requested changes, and both statements must be appended to the interview record.

6.9 Complaints about the investigation/investigator

Complaints about the investigation or the investigator are to be referred for review to the manager responsible for the process and assessed without delay to ensure continued integrity of the process.

7. MAKING FINDINGS

7.1 Options for findings

Generally, the findings arising from an investigation or, in appropriate circumstances, an initial review, fall into one of the following:

- Misconduct is substantiated
- Misconduct is partially substantiated (eg part of an allegation is substantiated)
- Misconduct is not substantiated (no evidence that misconduct has occurred, or evidence that it did not)
- Misconduct is not substantiated due to insufficient or inconclusive information (ie not able to make a finding).

Note: Specific requirements apply to findings that can be made for child-related allegations that are notifiable to the Ombudsman (refer to current NSW Health policy on [child related allegations, charges and convictions](#)).

The strength, sufficiency, relevance and reliability of any information must be carefully assessed to determine whether it can support a finding, and where clarification is required, more information should be gathered.

7.2 Standard of proof

Findings of misconduct must be proved to the civil standard, that is, “on the balance of probabilities”. In other words, based on available evidence, it must be more probable that misconduct has occurred than that it has not.

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In addition, consistent with the “Briginshaw v Briginshaw principle”, the more serious the potential misconduct, and therefore the more serious the consequences for the staff member, the stronger the evidence must be to support an adverse finding.

7.3 Investigation findings and investigation report

Where an investigation has been conducted, the person conducting the investigation should provide a report setting out findings arising from the investigation and the facts supporting those findings to the decision-maker ([Information Sheet 11](#)).

The investigation report should not contain information that is not relevant to the conduct under investigation. Where new allegations arise during an investigation, these must be assessed: allegations or concerns not closely related to the investigation, or any counter-allegations, must be managed separately in line with this Policy Directive. Where appropriate, an investigator should include in a report any material which may set out mitigating factors or be otherwise exculpatory in respect of the staff member subject to the investigation.

All supporting documentation should be available to be examined by the decision-maker.

7.4 Findings where no investigation has taken place

As set out in Section 2.2, an investigation is only necessary where there is uncertainty about the facts. Where an initial review determines that the facts are clear and/or uncontested, findings arising out the initial review should be set out together with the supporting facts in a report which should be provided to the decision-maker.

7.5 Final decisions about findings**7.5.1 The role of the decision-maker**

The decision-maker should not have any direct conflict of interest involving the complaint. He or she must act in an objective and impartial manner, and have regard to procedural fairness requirements and risk management.

It is the role of the decision-maker to:

- Accept or reject findings arising from the investigation, or the initial review. The decision-maker may accept some but not all of the findings. Any decision to reject a finding, and the reason for it, must be documented.
It is also open to the decision-maker to ask that the person or persons who conducted the investigation make further enquiries, or otherwise to initiate or undertake further enquiries, where he or she is concerned that more information is needed to support findings.
- Make decisions about any action to be taken by the Health organisation as a response to the findings (see Section 8).

7.5.2 Seeking a response to adverse findings

An adverse finding is a finding that is unfavourable to the staff member subject to a misconduct process, ie supports the allegation or apparent incident of misconduct. Adverse findings do not include inconclusive findings.

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Where the decision-maker is proposing to support an adverse finding against a staff member, the staff member must be so advised and given an opportunity to provide any additional information, or raise any concerns about an investigation process or the proposed findings to the attention of the decision-maker.

In order to be able to provide a considered response, the staff member has a right to access relevant information that has been taken into consideration by the decision-maker in making an adverse finding. The material should be sufficient to enable the staff member to understand fully any alleged misconduct, but need not include all information in the possession of the decision-maker, particularly where the interests of other members of staff may need to be protected or the material is not relevant to the findings.

In certain circumstances (eg [public interest disclosures](#), in respect of confidential information about third parties, or where there may be a potential risk to the wellbeing of the staff member or others) it may be appropriate to withhold some information. What information is withheld and for what reason should be appropriately recorded.

A response from the staff member should be required within a reasonable time period (usually two calendar weeks unless otherwise agreed).

Where the staff member's response provides additional information that has not been raised before and may materially affect the findings, the findings should be reviewed accordingly. In some instances further investigative action may need to take place.

The staff member must also be provided with an opportunity to make submissions about any proposed disciplinary action. The response to proposed disciplinary action may be sought at the same time as the response to proposed adverse findings (after considering what may be appropriate action in line with Section 8). However, where the staff member's response affects the findings, the proposed action will need to be reviewed accordingly, and the staff member must be given an opportunity to respond to any revised proposed disciplinary action.

8. MAKING DECISIONS ABOUT ACTION TO BE TAKEN

8.1 Considering an appropriate response to findings

The decision-maker must form a view of the appropriate outcome of the process based on the material available. In deciding what action is appropriate the following must be considered:

- As the paramount consideration, the protection of a NSW Health organisation's patients and clients and of children for whom it is responsible. In particular, Section 119 of the [Health Services Act 1997](#) specifies this as the paramount consideration in relation to determining whether to take disciplinary action against a member of staff in respect of serious sex or violence offences.
- The health, safety and well-being of the organisation's staff.
- The seriousness of the misconduct, and the extent to which it constitutes a breach of any relevant legislation, registration standard or the Code of Conduct or any other NSW Health or Health organisation policies.
- Any penalties prescribed by legislation or other relevant policy directives (eg the [hand hygiene policy](#), the policy on [misuse of NSW Health communication systems](#)).
- Any action taken by external regulatory bodies in relation to the staff member (eg deregistration etc).

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- Whether the misconduct involved a pattern of behaviour or was an isolated incident.
- The staff member's length of service and previous work history, including the period of time since any previous conduct issues (this may involve a review of the [Service Check Register](#)).

Where a NSW Health organisation becomes aware of similar substantiated misconduct by the staff member elsewhere in the NSW Health Service, further information is to be sought from the relevant Health organisation and considered by the decision-maker in determining the appropriate action to be taken (eg a pattern of behaviour may be shown). The information should only be used in determining the appropriate response to the current substantiated misconduct, not to weigh the balance of probability during an investigation.

- Any factors affecting the staff member's behaviour. Where information obtained during the initial review or investigation suggests an underlying health issue may have caused or contributed to the conduct, it may be appropriate to refer the staff member to a medical assessment. For further information, refer to the current NSW public sector [procedures for managing non-work related injuries and health conditions](#). Note also that employers have statutory notification requirements in relation to potential impairment of a health practitioner under the [Health Practitioner Regulation National Law \(NSW\)](#).
- Any matters raised by the staff member about the findings or about the penalty or action that should be taken in response to the misconduct (see Section 8.3 following).
- The impact of the conduct on the organisation and other staff.
- The potential impact that any action may have on the staff member's personal circumstances and professional reputation.

8.2 Options for action in response to findings of misconduct

The following options exist for a decision-maker (refer also to [Information Sheet 12](#)):

- No further action – relevant where conduct did not seriously breach expected standards, or misconduct occurred but no further action is warranted because of mitigating circumstances.
- Remedial (ie non-disciplinary corrective) managerial action – may be relevant where findings of misconduct were made but not considered to warrant disciplinary action, or in conjunction with disciplinary action, or can be appropriate where allegations have not been substantiated as misconduct but the staff member's conduct nevertheless needs to be addressed (eg low level breach of the Code of Conduct, performance issue, other policy requirements – refer to [Information Sheet 5](#)).
- Disciplinary action, which can take the following form:
 - A formal warning, clearly stating the improved standard of conduct that is required within a given timeframe and the possible consequences of failing to reach that standard, and indicating any assistance available to help the staff member meet the expectations.
 - An annulment of appointment, where a staff member is on probation.
 - For staff of the Ambulance Service of NSW only, reduction of the staff member's classification or position.
 - Dismissal from the NSW Health Service, or termination of a visiting practitioner's appointment. Termination of employment must be approved by the Chief Executive, who must be independently satisfied that this action is warranted. (See also Section 9.3 regarding other action arising from a termination of employment).

Note that some other NSW Health policy directives (such as those dealing with [hand hygiene](#), and [misuse of NSW Health communication systems](#)) also contain provisions for disciplinary action.

Note also that specific provisions exist under the [Health Services Act 1997](#) in relation to a member of staff (Section 118) or a visiting practitioner (Section 100) who has been convicted of a serious sex or violence offence.

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- Addressing systems/organisational issues – these may be appropriate even where allegations have not been substantiated or findings are inconclusive.

Any action proposed must be proportionate to the seriousness of the conduct and any identified ongoing risks, after consideration of any mitigating circumstances. In some instances, more than one of the above responses may be appropriate.

8.3 Seeking a response from a staff member regarding proposed disciplinary action

Any disciplinary action proposed by a decision-maker in response to a staff member's misconduct must be communicated to the staff member in writing. The staff member must be given an opportunity to make submissions to the decision-maker in relation to the proposed disciplinary action before a final decision about it is taken.

The decision-maker can seek a response to proposed adverse findings and proposed action at the same time (see also Section 7.5.2).

A reasonable period of time (usually two calendar weeks, unless otherwise agreed) must be allowed for a response. Any such response must be considered by the decision-maker before a final decision is made about the action to be taken.

9. IMPLEMENTING DECISIONS AND FINALISING THE PROCESS

9.1 Advice about the outcome

At the completion of the process a final risk assessment must be conducted regardless of the outcome to identify any issues requiring ongoing management.

All persons involved must be advised of the outcome of the process in so far as it relates to them, having regard to the confidentiality rights of other people involved in the matter. (Further guidance is provided by the NSW Ombudsman publication [Managing information arising out of an investigation.](#)) It may also be necessary to offer appropriate support (such as the employee assistance program) to affected persons.

The person subject to the misconduct process must be advised of any disciplinary or remedial action the NSW Health organisation will take (including its effective date), or any other outcome of the process (including any issues that will be referred to the relevant line manager for local management). He or she must also be advised of any final notifications made (including the NSW Health [Service Check Register](#)). (See also Section 9.3 regarding action arising from termination of employment or appointment.)

Where allegations or concerns were not substantiated, there should be a discussion with the staff member involved about any support he or she may require to continue with or resume his or her role in the organisation.

9.2 Visiting practitioner appeals

Visiting practitioners have a right of appeal regarding certain decisions against them. These are detailed in Part 4 of the [Health Services Act 1997](#). Further advice can be sought from each NSW Health organisation's medical administration.

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9.3 Action arising from termination of employment or appointment

Where a staff member's appointment is terminated in one part of the NSW Health Service following a finding of misconduct, the termination will apply to any other employment across the NSW Health Service. All other NSW Health organisations where the staff member holds employment must be notified of the termination.

However, a process is available to staff members to 'show cause' as to why the termination should not apply to their other employment in the NSW Health Service. The process is outlined in [Information Sheet 13](#) (flow chart) and [Information Sheet 14](#) (checklist), including advice to be provided to the staff member. Any decision made by a Health organisation about a show cause application must be endorsed by the Ministry of Health's Director, Workplace Relations before implementation.

Where the contract of a visiting practitioner with one Health organisation is terminated following a finding of misconduct, any other Health organisation(s) where the visiting practitioner holds a contract must be advised of the termination to allow them to assess and manage any risks arising from the finding(s) for the other organisation. (See also current NSW Health policy on the [Service Check Register](#).)

9.4 Finalising the process

Once any investigation and all decisions about findings and further action are finalised, any relevant final internal and external notification requirements as outlined in legislation and relevant policies must be attended to, including the NSW Health [Service Check Register](#) ([Information Sheet 6](#)).

Appropriate records of all stages of the process (including the initial review and any interviews) and outcomes must be kept. All documentation must be managed in line with State Records NSW requirements for keeping personnel records ([General Retention and Disposal Authority GA28](#)) and kept on a dedicated and confidential file, separate to a staff member's personnel file ([Information Sheet 15](#)).

SALARIES - APPOINTMENTS/CONDITIONS OF SERVICE**7.23****RESTRUCTURING POLICY AND PROCEDURES – NSW MINISTRY OF HEALTH**
(PD2013_042)**PD2013_042 rescinds PD2011_050.****PURPOSE**

This policy sets out the procedures that apply in a restructure of a Division, Branch or Unit in the Ministry of Health and defines the responsibilities of managers and employees involved in the restructure.

The Ministry of Health is committed to an ongoing process of quality improvement to achieve best practice in all of the Ministry's functional areas. Organisational restructuring is a necessary component of this commitment.

MANDATORY REQUIREMENTS

When it is necessary to implement a new structure in a Division, Branch or Unit, the procedures attached to this policy apply.

The restructuring procedures include the following principles:

- Restructuring proposals should reflect the broad objectives of Government policy to maximise the Ministry's effectiveness.
- Employees will be consulted early in the restructuring process and before finalising a restructuring proposal.
- Union representatives may participate in consultations on behalf of individuals or groups of members.
- Principles of merit, equal opportunity, transparency and fairness will apply in developing and implementing restructures.
- Managers, employees and their representative organisations will work cooperatively to minimise disruption to individuals and the work of the area affected, as far as possible.
- Consultation and implementation should take place within appropriate timeframes, depending on the context and extent of the restructure.
- Directors and Managers are responsible for developing and implementing structures.
- The Human Resources Unit of Workplace Relations Branch is responsible for processing approved structural proposals, providing management and employees with advice on grading and structures and the administrative action associated with training, transfer, redeployment and voluntary redundancies.

IMPLEMENTATION**MANAGERIAL RESPONSIBILITIES**

In any restructure, managers have the following responsibilities:

- To develop restructuring proposals objectively.
- To comply with these restructuring procedures.
- To actively consult employees on options and proposals and to be flexible and receptive to suggestions, wherever possible.
- Respect the confidentiality of information that employees provide regarding their personal or employment circumstances.

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7.24**EMPLOYEE RESPONSIBILITIES**

In any restructure, employees have the following responsibilities:

- To attend and actively participate in consultative meetings or discussions held by managers regarding the restructure.
- To comply with these restructuring procedures.
- To actively pursue development or redeployment opportunities.
- When declared excess, to actively participate in identifying appropriate positions for priority interviews.

1. BACKGROUND**1.1 About this document**

This document sets out the procedures that apply to restructures in the Ministry of Health. They apply to a restructure of a Division, Branch or Unit.

1.2 Key definitions

The following definitions apply in this document:

<i>Restructure</i>	Organisational change that affects a Division, Branch or Unit and results in changes to staffing. These changes may include the creation and deletion of positions, changes to the duties or grading of several positions, or employees becoming excess.
<i>Major Restructure</i>	Where a significant number of staff in a Division or Branch are affected or which is expected to result in Excess Employees.
<i>Minor Restructure</i>	Where only a few positions within the Division, Branch or Unit are affected and which will not result in excess employees.
<i>Affected Employee</i>	A permanent employee, whose position has been deleted, altered or moved as a result of the organisational change and who will become excess if not placed in a position in the new structure.
<i>Excess Employee</i>	A permanent employee who has been declared excess when they no longer have a substantive position as defined in the Department of Premier and Cabinet Memorandum M2011-11 Managing Excess Employees. http://www.dpc.nsw.gov.au/announcements/ministerial_memoranda/2011/m2011-11_changes_to_the_management_of_excess_employees
<i>Priority Assessment</i>	The process by which excess or affected employees are assessed for suitability for redeployment to a position before it is advertised and independent of applicants who otherwise apply. See Section 6.4 of Department of Premier and Cabinet Case Management and Redeployment Guidelines http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0020/125381/Case_Management_and_Redeployment_Guidelines-D2011_009_v1.0.pdf
<i>Redeployment</i>	Means permanent placement in a funded position.

1.3 Legal and legislative framework

- *Department of Premier and Cabinet, Managing Excess Employees in the NSW Government Service*, Memorandum M2011-11 Managing Excess Employees
http://www.dpc.nsw.gov.au/announcements/ministerial_memoranda/2011/m2011-11_changes_to_the_management_of_excess_employees
- *Public Sector Employment and Management Act 2002*
- *Public Sector Employment and Management Regulation, 2009*
- *Grievance - Effective Workplace Resolution, PD2010_007*
http://www.health.nsw.gov.au/policies/pd/2010/PD2010_007.html
- *Department of Premier & Cabinet, Personnel Handbook.*

2. GENERAL MATTERS

2.1 Principles

In a major restructure the Director or Manager is required to liaise with the Associate Director, Human Resources (HR) so that implementation processes will be coordinated. This is particularly important where there are complex or multiple restructures occurring across the Ministry.

In a minor restructure the Director or Manager, should advise HR about the nature of consultation with employees and the union(s), including any areas of concern that have not been resolved prior to implementation proceeding. HR will manage the HR administration and policy process requirements to implement the restructure.

If the restructure is complex, implementation may need to be staged. Positions are generally filled by a top down approach.

Employees who are declared excess will be managed according to Memorandum *M2011-11 Managing Excess Employees*.

2.2 Approval and Position Descriptions

The Associate Director, HR will endorse and the Director General (or delegate) will approve the new structure. Approval will only be granted following consultation with relevant employees and unions.

Where a new position is proposed or a position is substantially changed, the Director/Manager must have a new position description prepared and evaluated using the Mercer job evaluation methodology. The position description should then be submitted to Associate Director HR for consideration and endorsement.

2.3 Temporary Employees

Special arrangements apply to Ministry Temporary Employees in restructures.

Temporary employees (up to max clerk grade 12) with more than 2 years continuous service may be considered for permanent appointment to a vacant position at grade (provided the interests of permanent employees are given priority).

Temporary employees (up to max clerk grade 12) with 12 months continuous service may apply for internal temporary positions at grade (provided the interests of permanent employees are given priority).

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All temporary employees may apply for positions advertised externally.

2.4 Consultation and Advice to Employees

Consultation between management and employees and the relevant union(s) must occur before structures are varied and approved.

In a major restructure, a Consultation Committee may be established.

Consultation must be genuine, transparent and consider any issues raised.

3. PROCEDURES FOR FILLING POSITIONS

Every effort should be made to place current employees in the new structure through the procedures below.

3.1 Stage One – Direct Appointments

Where there are none, or only minor changes to a position and no change in the classification or grading, the substantive incumbent of the position may be directly appointed to the new position, subject to satisfactory performance.

A position will not be considered to have changed simply because it has moved to another Division, Branch or Unit, has been renamed, or has moved to another geographical location. The significance of a change to the position will be determined by assessing the specific capabilities (knowledge, skill and ability) needed to do the job.

If there are more vacant suitable positions than affected employees within a grade or level, affected employees who meet the specific capabilities of a vacant position in the new structure may be directly appointed.

Such appointments can be made where there is differential between current salary and the position of (as a guide) 5% or one grade.

The Director/Manager of the Division or Branch will determine direct appointments, in consultation with HR.

3.2 Stage Two – Lateral Transfers (Appointments on Grade)

Where there are more affected employees than vacant positions within a grade in the new structure, an internal priority assessment process will occur.

Affected employees at the same grade and classification as the vacant position and who have the required specific capabilities for the vacant position must be considered for permanent appointment.

The priority assessment process is different from merit selection. Where more than one affected employee is seeking redeployment to the same vacancy, selection is by competitive merit selection between those employees.

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The Director or their delegate will convene a panel to consider the affected employees against vacant positions at their grade and classification. The panel should include a minimum of two members whose grade must be higher than the level of the vacant position. The panel will decide on the merit process to be consistently applied to all affected employees. (See section 5, *Public Sector Employment and Management Regulation 2009*).

<http://www.legislation.nsw.gov.au/viewtop/inforce/subordleg+428+2009+cd+0+N/?dq=Regulations%20under%20Public%20Sector%20Employment%20and%20Management%20Act%202002%20No%2043>.

A Human Resources representative will have access to all the documentation associated with the assessment process and be present during the assessment process to provide advice in relation to meeting the particular requirements of priority assessments.

The Convenor must provide feedback to the unsuccessful employees within five working days of the assessment.

3.3 Stage Three – Internal and External Recruitment Action

Vacant positions not filled through the procedures set in Stage One or Stage Two may be opened as promotional opportunities through internal merit selection, provided that the Director General (or delegate) is satisfied that excess or affected employees suitable for the vacant positions have been considered. The Director/Manager and Human Resources must consider the potential to employ excess/affected staff, given that a number of restructures may be occurring at the same time.

If there are no suitable internal applicants, vacant positions will be externally advertised on JobsNSW at <http://www.jobs.nsw.gov.au/> and, if appropriate, other internet job sites. Approval to advertise externally must be endorsed by the Associate Director HR.

Employees wishing to apply for positions advertised in JobsNSW and other Internet job sites will be required to submit an application in the usual manner.

3.4 Stage Four – Excess Employees

Employees will be declared ‘excess’ when all the positions they can reasonably expect to be appointed to within the new structure are filled. The Associate Director, HR will determine the date an employee is declared ‘excess’ and the employee will receive a letter notifying them of their status and options.

Excess employees may be matched to and have access to and priority assessments for positions that appear on the Mobility Candidate Report issued by the Public Service Commission in accordance with Section 6.3 of the *Case Management and Redeployment Guidelines*.

http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0020/125381/Case_Management_and_Redeployment_Guidelines-D2011_009_v1.0.pdf

Employees who are declared excess remain the responsibility of their former Division or Branch for meeting salary and training costs, allocating temporary work and identifying redeployment opportunities during the retention period.

For further details on excess employees, refer to Department of Premier and Cabinet *M2011-11, Excess Employees*. http://www.dpc.nsw.gov.au/announcements/ministerial_memoranda/2011/m2011-11_changes_to_the_management_of_excess_employees

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3.5 Appeals

Where there is any departure from the above procedures, the matter may be referred to the Associate Director HR for consideration and any further action if appropriate.

If resolution is not initiated by the Associate Director HR within five working days of receipt of the appeal, employees may lodge a grievance in accordance with the Grievance - Effective Workplace Resolution, PD2010_007 http://www.health.nsw.gov.au/policies/pd/2010/PD2010_007.html.

Current Government policy on redeployment and voluntary redundancy is available using the following link
http://www.dpc.nsw.gov.au/publications/memos_and_circulars/ministerial_memoranda/2011/m2011-11_changes_to_the_management_of_excess_employees

SALARY SACRIFICE FOR SUPERANNUATION - NSW HEALTH - CENTRAL OFFICE (GL2005_021)

Following agreement between the Public Sector Management Office and the Public Service Association the following awards were varied by consent on 25 August 1998 to allow for salary sacrifice for superannuation:

- Crown Employees (Public Sector - Salaries June 1997) Award;
- Crown Employees (Senior Officers) Award; and
- Crown Employees (Wages Staff) Rates of Pay Award.

The Premier's Department issued Circular 98-70 "Salary Sacrifice for Superannuation" which advised that the NSW Government had now approved of optional salary sacrifice for superannuation for all non-SES staff throughout the NSW public sector **subject** to agreement between the employee and the employee's Department or agency.

This Circular outlines the guidelines that will apply regarding the implementation and administration of salary sacrifice for superannuation for Department of Health personnel.

Management must ensure that all employees are informed of the new provisions for salary sacrifice. To assist an Information Sheet has been prepared (Appendix A). **Arrangements will be made for the Information Sheet to be attached to each employee's pay advice as soon as possible.**

Employees are strongly advised to seek independent professional financial advice before entering into salary sacrifice for superannuation arrangements.

Enquiries in regard to this circular should be directed to telephone number (02) 9391 9803.

<i>Salary Sacrifice for Superannuation - Information for Employees</i>
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What is salary sacrifice for superannuation?

It is the option of making additional superannuation contributions in gross or pre-tax dollars to approved complying superannuation funds.

Am I eligible?

Following variation of the relevant award, salary sacrifice arrangements will be available to all non-Senior Executive staff whose employment contract will be for periods in excess of six months. Salary sacrifice is at the election of the employee, but is subject to the agreement of the Department.

Why would anyone choose to salary sacrifice?

Depending upon your personal circumstances, there may be taxation benefits. For example, salary sacrifice reduces PAYE tax and the superannuation contributions are taxed concessionally - that is, the tax on superannuation may be less than your marginal tax rate. This may change over time if the taxation rules change.

It is expected that people who are thinking about retirement, who have entered the workforce later in life, or who have had career breaks or leave without pay will find salary sacrifice for superannuation attractive. *However, you are strongly advised to seek independent professional financial advice before entering into salary sacrifice arrangements.*

What fund do I choose?

You can have salary sacrifice contributions made to First State Superannuation Scheme (FSSS) or any complying superannuation scheme that the Department **agrees to, excluding State Superannuation Scheme (SSS) or State Authorities Super Scheme (SASS) as these are preserved benefit funds.** Salary Sacrifices for superannuation may only be made to one complying fund. If your superannuation guarantee contribution is currently directed to FSSS you can have salary sacrifice contributions made to either FSSS or any one complying superannuation scheme. However, if you have directed your superannuation guarantee contributions to a non-FSSS fund and you wish to salary sacrifice for superannuation you are obliged to have the salary sacrifice for superannuation contributions paid into the same fund.

Two lists of complying funds have been developed, ie the "A" list which currently comprises FSSS Health Employees Superannuation Trust Australia (HESTA) and Private Healthcare Employee Superannuation Fund (PHESF) and a "B" list which will comprise of all other complying funds to which employees wish to contribute.

But there are costs?

Yes. The superannuation funds charge administration and management fees, independent professional financial advisers may impose a fee and in some circumstances employers will impose administrative charges (currently \$50) for example, where employees wish to make repeated changes to their arrangements or sacrifice to a "B" list fund.

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7.30**How much of my salary may I sacrifice for superannuation?**

Up to 50% (IB2004/45) of the salary on which your after-tax contributions to SSS or SASS are based ie “superannuable salary”, or your current award salary, whichever is the lesser.

Will this affect my SSS or SASS contributions or other entitlements?

No! Salary sacrifice has been deemed an “approved employment benefit” for these superannuation schemes so that your after-tax contributions to SSS or SASS and your benefits are not reduced.

What happens to my other employment benefits?

They are not affected. Overtime, shift penalties or other allowances including annual leave loading, will be paid on the same basis as before you sacrificed salary for superannuation.

Does my employer still need to make superannuation guarantee contributions?

Yes! All employers must comply with the superannuation guarantee requirements, which require employer contributions of 9% of salary as from 1 July 2003. Your salary sacrifice will not reduce those contributions by employers.

Are there any rules or restrictions?

Yes. Any salary sacrifice for superannuation arrangements can only be made with the agreement of the Corporation.

And don't forget that.....

Apart from special circumstances as prescribed by your fund (Refer to Clause 7.2 of GL2005_021, as varied from time to time) additional contributions, once made, will generally be preserved (locked away) until your retirement. Thus salary sacrifice for superannuation is a significant decision. ***You are encouraged to treat it as seriously as other significant financial matters.***

Can I stop my salary sacrifice or transfer it if I move to another agency?

Cancellation is always available following one month's notice. Each public sector agency will have local arrangements regarding salary sacrifice for superannuation. If employees are intending to transfer to another agency they should ascertain whether salary sacrifice for superannuation is available at your new agency and what administrative arrangements apply.

Further Information:

For further information/clarification on salary sacrifice for superannuation, refer to Department of Health GL2005_021 or contact Juliette Sharman, telephone number (02) 9391 9803.

SALARY SACRIFICE FOR SUPERANNUATION - ISSUES TO CONSIDER

The Department of Health has asked me in my capacity as an independent superannuation consultant and a licensed securities dealer to highlight issues for Health employees to consider in deciding whether to utilise salary sacrifice superannuation.

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You can have salary sacrifice contributions made to First State Superannuation Scheme (FSSS) or any complying superannuation scheme that the Corporation **agrees to, excluding State Superannuation Scheme (SSS) or State Authorities Super Scheme (SASS) as these are preserved benefit funds. Despite the cost involved, it is desirable always to seek independent financial advice to confirm the wisdom of any action you may take.** The following issues are relevant to making that decision:

1. TAXABLE INCOME

Salary sacrifice for super can be very advantageous for all staff including relatively low income earners wanting to save more money for retirement. Indeed, for all full time wage earners, superannuation tax rates are more advantageous than normal personal PAYE tax rates.

The biggest tax savings emanate from taxable income in excess of \$38,000 per year where the PAYE income tax rates of either 44.5 per cent or 48.5 per cent apply. These compare with the superannuation tax rate of 15 per cent (or up to 30 per cent for high income earners where the surcharge applies).

When seeking advice, make sure that any salary sacrifice superannuation proposed offers substantial tax advantages, allowing for any lump sum tax that may be payable on the benefits.

2. EXISTING SUPERANNUATION BENEFITS

Salary sacrifice superannuation is particularly attractive for taxpayers needing to build up their assets for retirement. Any money directed to additional superannuation will be tied up until retirement after the designated preservation ages. The minimum preservation age is 55. For younger employees, this minimum age is now 60.

For those with large superannuation benefits already, it is essential to check that any additional salary sacrifice superannuation will not result in benefits in excess of their Reasonable Benefit Limit (RBL) above which penalty tax rates apply.

3. FIRST STATE SUPER (FSSS) MEMBERS

FSSS does not require members to make any contributions out of post-tax dollars to their fund. Additional salary sacrifice superannuation contributions thus pose no special problems for FSSS members. They are particularly attractive to FSSS members already making voluntary contributions out of after-tax income.

4. STATE AUTHORITIES SUPERANNUATION SCHEME (SASS) MEMBERS

SASS allows members to vary their contribution rate between 1 and 9 per cent of their superannuation salary. However, to gain the maximum employer subsidy from the scheme, SASS requires an average member contribution rate of 6 per cent (6 basic points) per year.

Even though the member contributions must be paid out of after-tax income, SASS members need to ensure that they have gained the maximum employer benefit available to them from SASS before considering salary sacrifice contributions to another fund.

Except for SASS members who have already accumulated benefits equal to or close to the maximum employer benefit of 180 basic points or who have already contributed at a higher average rate than 6 per cent, it will rarely be advantageous to reduce member contribution to SASS in order to fund pre-tax salary sacrifice contributions to another fund.

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5. STATE SUPERANNUATION SCHEME (SSS) MEMBERS

Unlike SASS members, SSS members can not vary the level of their post-tax member contributions other than when they have the opportunity to abandon additional units. The important issue for SSS members to consider is whether it may be advantageous to abandon additional units when the opportunity arises in order to fund pre-tax salary sacrifice super contributions to another fund.

This can be an attractive option, especially for employees wanting to work until their normal SSS retirement age (60 except for females who opted for age 55). Any units abandoned can be purchased with a lump sum cash payment at or after these normal retirement ages.

Daryl Dixon
Writer and Consultant
March 1999

Disclaimer: This paper provides a summary of issues only and should not be relied as substitute for professional or other advice.

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APPENDIX B

**NEW SOUTH WALES
DEPARTMENT OF HEALTH**

**SALARY PACKAGING OF
SUPERANNUATION**

EMPLOYER GUIDELINES

SALARY SACRIFICE FOR SUPERANNUATION

1. KEY FEATURES

The key features of the salary sacrifice arrangements can be summarised as follows:

- In the NSW Health System, irrespective of the employee's current superannuation scheme and following variation of the relevant award, salary sacrifice arrangements will be available to all non-SES staff whose employment contract will be in excess of 6 months. Salary sacrifice is at the election of the employee, but subject to the agreement of the Department (the employer).
- Salary sacrifice arrangements must be formalised by an agreement between the employee and the employee's organisation.
- Employees who elect to enter into salary sacrifice arrangements may direct superannuation contributions to be made to either the First State Superannuation Scheme (FSSS), Health Employees Superannuation Trust Australia (HESTA), Private Healthcare Employee Superannuation Fund (PHESF) or a private sector complying superannuation fund, with the agreement of the Department. It should be noted that the aforementioned funds have been agreed between the Department and the relevant union.
- The majority of employers (including the NSW Health) to whom salary sacrifice arrangements may apply will not be subject to federal income tax or a State tax equivalent regime. For such employers, the cost of remunerating an employee by way of salary and by way of superannuation contribution is the same.
- Whilst the amount of salary to be sacrificed for superannuation is at the option of the employee, an employee who does elect to sacrifice will be restricted to sacrificing a maximum of 50% (IB 2004/45) of his or her currently applicable superannuable salary or award salary whichever is the lesser.
- Salary sacrifice for superannuation may give rise to certain immediate taxation benefits for employees. However, superannuation benefits may be subject to tax when paid from the fund, the result of which may be to reduce or eliminate the ultimate taxation benefits to be derived from salary sacrifice. In addition, the superannuation benefits generated through such sacrifice will be subject to "preservation" (refer 7.2). Accordingly, the individual employee concerned can only assess the relative merits of sacrificing current salary for superannuation contributions in light of their own circumstances.

Employees are strongly encouraged but not compelled to obtain advice from a licensed financial planner prior to making a decision to sacrifice salary for superannuation contributions. (See Employee's Declaration at Appendix C)

- Salary sacrifice for superannuation will not affect the calculation of allowances, penalty rates, overtime, payment for unused leave entitlements or an employee's leave loading. Further, the salary sacrifice arrangements cannot be used to satisfy the requirement for compulsory employer contributions required to the First State Superannuation Fund (or any other scheme if the employee has directed that the Service pay superannuation guarantee contributions to that other scheme) pursuant to the superannuation guarantee legislation requirements.
- Member benefits and contributions in the defined benefit schemes (State Superannuation Scheme, State Authorities Superannuation Scheme and State Authorities Non-contributory Superannuation Scheme) are based on the "salary" of members. Salary sacrificed for superannuation has no effect on benefits or member contributions, because it is designated an "approved employment benefit" and included in the definition of "salary" for those schemes. For this reason, member contributions required under those schemes cannot be satisfied by salary sacrificed superannuation contributions.

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2. ELIGIBILITY

Following consultation with the PSA it has been agreed that salary sacrifice will be available to the following classifications of employees:

- permanent full-time;
- part-time ie those employees who will be employed on an ongoing basis; and
- temporary or casual employees employed for periods in excess of 6 months.

Salary sacrifice **is not available** to casual employees or temporary employees employed for periods of 6 months or less.

3. QUANTUM OF SACRIFICE/CONTRIBUTION**3.1 Maximum Salary Sacrifice**

It has been determined that the level of non-SES staff salary sacrifice for superannuation should be limited to 50% (IB2004/45) of award salary or “superannuable salary”, whichever is the lesser. For example, a part time employee working 50% of standard award hours can sacrifice up to 50% (IB2004/45) of the salary actually paid. “Superannuable” salary is the salary as last notified to State Super. Because salary sacrifice for superannuation is classified as an “approved employment benefit” it will not reduce the superannuable salary.

Any change in an employee’s salary would not result in a change to superannuable salary until that change is notified to State Super and has taken effect. Thus, even though an increase in salary may make it financially more feasible for an employee to sacrifice a greater amount of salary, the amount of the sacrifice will continue to be limited to 50% (IB2004/45) of the superannuable salary that applied before the increase in salary. If the salary becomes less than the superannuable salary, the award variation provides that the employee will only be able to sacrifice 50% of that lesser salary.

In the case of officers employed under the Crown Employees (Senior Officers) Award, the 50% limit includes any existing salary packaging arrangements.

Although salary sacrifice for superannuation reduces the base salary received by the employee, it has no effect on allowances, penalty rates, overtime, leave loading, etc. All calculations are based on the salary that would apply in the absence of salary sacrifice arrangements.

3.2 Determining the Amount of Employer Contributions Relative to Salary Sacrificed

As a general proposition, the contributions made by the Service should equal the amount of salary elected to be sacrificed by the employee. Thus, if an employee were to elect to sacrifice \$1,000 per annum of salary to superannuation, contributions of \$1,000 per annum would be made by the Service on behalf of that employee. These contributions would be additional to the contributions normally made by the Service before the salary sacrifice occurred.

As the majority of public sector employers, including NSW Health, making superannuation contributions pursuant to the salary sacrifice arrangements are exempt from Federal income tax, they are not affected by the Commonwealth’s age-based limits on the amount of tax deductible superannuation contributions.

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4. FUNDS TO WHICH CONTRIBUTIONS MAY BE MADE

Employees who wish to make contributions to a fund other than FSSS, HESTA or PHESF may do so. However, evidence must be provided that the fund is a complying fund in terms of the superannuation legislation.

Employees who are eligible for full membership of FSSS (ie. for whom their Service would have to make compulsory contributions pursuant to the superannuation guarantee provisions) are currently able to direct their Service to make superannuation guarantee contributions referable to them to any complying superannuation scheme other than FSSS. Employees who have elected to have their superannuation guarantee contributions paid to a non-FSSS fund **will be obliged** to have any salary sacrifice contributions paid into the same fund. If full members have not directed their Service to make compulsory superannuation contributions to another complying superannuation fund, then they would be bound by this policy regarding available funds for salary sacrifice contributions.

Contributions to multiple funds are not permitted pursuant to the salary sacrifice for superannuation arrangements. Therefore, an employee may only direct salary sacrifice superannuation contributions to one fund.

It has been agreed that an “A” and “B” list of funds would be developed. The “A” list comprises of those funds agreed between the HAC and the relevant unions. Whilst the list currently includes FSS, HESTA and PHESF it may be varied in future but it is agreed that it will be limited to no more than 5-6 funds.

An employee who elects to salary sacrifice for superannuation has the option, subject to the following, of contributing to one of the following funds:

“A” list funds

- First State Superannuation Scheme (FSSS) (HAC nominated fund); and
- Health Employees Superannuation Trustee Australia (HESTA) union nominated fund
- Private Health Care Employees Superannuation Trustee (PHESF) union nominated fund or

“B” list funds

- Any other private sector complying superannuation fund.

5. ADMINISTRATIVE ARRANGEMENTS

It is the primary responsibility of the employee, in determining whether to salary sacrifice for superannuation, to assess the implications of such a decision on his or her financial circumstances. Therefore, **employees** should seek independent financial advice.

Employers should ensure that employees wishing to salary sacrifice for superannuation or wishing to vary their existing arrangements complete the employee declaration (Appendix B) which also incorporates the payroll deduction form authorising the service to deduct any administrative charge due where necessary.

For a valid salary sacrifice for superannuation to exist, the salary sacrifice agreement between the Service and the employee must be made before the services to which the income relates are performed. **Therefore, an election made by an employee will only have effect in relation to income derived by the employee after the election has been made.**

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Accordingly, a salary sacrifice election should only be implemented from the period of service commencing after the election has been received in the human resources/payroll section. For example, if an employee is paid fortnightly in arrears (eg on each alternate Wednesday), an election received by a Service on the Tuesday of the first week of that cycle should not be given effect to in relation to salary payments for that fortnight, but rather should only be given effect for salary payments made in respect of the next commencing fortnightly cycle.

Any election made by an employee is valid only in relation to the current employer (ie Service). Within the NSW Health System employees may transfer their salary sacrifice for superannuation arrangements in accordance with normal mobility arrangements to another health service or to the Department of Health.

Employees transferring to other State Government Departments may not necessarily be allowed to transfer their salary sacrifice for superannuation arrangements. The decision as to whether such transfer arrangements will be accepted rests with each employing Department.

Employees are responsible:

- for completing the variation/election form and certifying that they have obtained independent financial advice or opted **not to** obtain such advice (refer Appendix C). The variation/election to sacrifice salary for superannuation must not exceed fifty (50) percent of the salary paid under the salaries/wages clause in the relevant award or fifty (50) percent of the currently applicable “superannuable salary” whichever is the lesser. “Superannuable salary” means the employee’s salary as notified from time to time to the New South Wales public sector superannuation trustee corporations.
- for forwarding that form and where necessary providing evidence that the fund (if other than an “A” list fund) is a complying fund in terms of the superannuation legislation to the Human Resources or Payroll section of their organisation.
- for forwarding any cancellation advice to the Human Resources or Payroll section of their organisation (refer Appendix D).
- for ensuring that if they are below the **superannuation contribution** surcharge (currently a maximum of \$92,111) threshold that they have notified the scheme trustees of their tax file number so as to avoid or reduce their surcharge liability.

Employers are responsible:

- for ensuring that the quantum of salary elected to be sacrificed as superannuation contributions is not more than 50% of the employee’s “superannuable salary” or award salary, whichever is the lesser. For example, if the employee’s “superannuable salary” is \$40,000, and this is less than the employee’s award salary, the Service should ensure that the amount elected to be sacrificed does not exceed \$12,000 (ie. 50% of \$40,000). However, if the employee’s award salary in this instance was \$35,000, the Service should ensure that the sacrifice amount does not exceed \$10,500 (i.e. 50% of \$35,000), being the lesser of superannuable salary and award salary.

for ensuring that, if the employee has stipulated a fund other than FSSS/HESTA/PHESEF for his or her salary sacrifice contributions, evidence is provided stating that the fund is a complying fund in accordance with the superannuation legislation.

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- for making salary payments and superannuation contributions in a timely manner in accordance with the election received. The Department has determined that deductions for salary sacrifice for superannuation must commence within one month from the date the employee submits the completed application form and any other required documentation.
- for ensuring superannuation contributions pursuant to salary sacrifice arrangements are forwarded at the same time that routine superannuation deductions are forwarded.
- for ensuring the election notice is based upon yearly salary or wages and the amount elected to be sacrificed as superannuation by the employee represents a yearly sum ie in dollars (\$). In determining the employee's cash salary after the election, the Service should simply deduct the yearly salary sacrifice amount from the employee's yearly base salary or wage. The amount remaining after this deduction will be the yearly base salary reported on the employee's pay slip. To determine the employee's cash salary per pay period, the Service should simply apply the formula below to the yearly base salary or wages.

For example, an employee with a base salary of \$40,000 per annum elects to sacrifice a yearly sum of \$4,000 to superannuation. The employee's annual cash salary after election will be \$36,000, and would be paid as follows:

1. For an employee paid fortnightly - fortnightly salary and superannuation contributions would be calculated as follows:

Gross Cash Salary	=	<u>\$36,000</u> 52.17857 x 2
	=	\$1,379.88 per fortnight
Superannuation Contribution	=	<u>\$4,000</u> 52.17857 x 2
	=	\$153.32 per fortnight
	=	\$153.32 per fortnight

- for ensuring that the reduction in fortnightly salary does not affect the calculation of penalty rates, overtime, leave loading, unused leave entitlements and other awards entitlements.
- for ensuring that any salary sacrifice contributions which are forwarded to a superannuation fund are correctly identified. For example, salary sacrifice contributions forwarded to FSSS should be identified as "optional employer" or "pre-tax" contributions. If contributions are forwarded to a private sector complying superannuation fund, they should simply be identified as "employer" contributions.
- for ensuring that employees are informed of their superannuation contributions made pursuant to salary sacrifice arrangements. Accordingly, the employee's payslip must include notification of the employer's (ie Employer) superannuation contribution pursuant to salary sacrifice arrangements under the heading "additional employer superannuation contributions". As such, the employee's payslip would include the employee's gross cash salary (after sacrifice), tax deducted and remitted in relation to that gross cash salary, and net cash salary, and would also include the additional employer superannuation contributions as a separate component which is "non-taxable" to the employee. Both Workforce and Micropay have the capacity for fortnightly reporting of the employee's contributions. It should be noted that such reporting is unrelated to the Employer group certificate obligations.

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- for ensuring that employees are aware that any taxation benefits in relation to salary sacrifice for superannuation are based upon existing taxation legislation, continuation of such taxation benefits may be impacted by any future legislative changes.
- for ensuring that employees are aware that whilst the salary sacrifice for superannuation contribution arrangements may result in certain taxation benefits for employees, such taxation benefits are obtained at the expense of immediate access to the benefit accumulating as a result of those contributions ie *the preservation implications of any salary sacrifice decision they may make.*

6. ADMINISTRATIVE CHARGES

No administrative charge is to be levied on employees who commence salary sacrifice to an “A” list fund or on an employee who, after the date of varying the award, cancels his or her “B” list post tax contributions and elects to salary sacrifice to an “A” list fund.

No administrative charge is to be levied on employees who, as at the date of varying the award, pay post-tax dollars to a “B” list fund and wish to transfer to pre tax contributions to the same “B” list fund. An administrative charge of \$50.00 is to be levied on employees who after the date of varying the award, elect to salary sacrifice to a “B” list funds.

Employees will be permitted to vary an existing salary sacrifice for superannuation election once per year (the 12 month period being the anniversary of the payday the deductions commenced) without incurring an administrative charge. Requests to further vary the election during the 12 month period will incur an administrative charge of \$50.00 per variation.

No administrative charge will be levied where an employee transfers from full-time to part-time or vice versa and elects to vary his/her election.

Cancellation of salary sacrifice contributions may be made at any time, provided one month’s notice is given, without an administrative charge being applied. In cases of pressing personal circumstances and where practicable, the notice period may be waived. Whilst the first commencement/cancellation of a salary sacrifice arrangement will be free of the administrative charge, if the salary sacrifice arrangement is resumed and again cancelled in the same year, an administrative charge of \$50.00 will apply for each variation.

Employers should ensure that requests for elections to be cancelled are processed within one month from the date the cessation notice (Appendix C) is received by the pay office.

When an employee tenders his/her resignation **they may** request the salary sacrifice contribution not be deducted from their final salary and/or termination payment. No administrative charge will be levied in this circumstance.

7. TAXATION AND REGULATORY ISSUES**7.1 Taxation Benefits of Salary Sacrifice for Superannuation**

Salary sacrifice for superannuation may result in certain taxation benefits to an employee arising as a result of the current concessional taxation treatment afforded to superannuation. Specifically, remuneration taken in the form of salary is fully taxable to the employee, the quantum of tax being dependent on the employee’s marginal rate of tax. Salary sacrificing will reduce the employee’s taxable income, and accordingly will reduce the employee’s liability to income tax. Any amount of salary sacrificed to superannuation is subject to tax as follows:

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- a) Taxation upon entry to the superannuation fund - a superannuation contribution resulting from a salary sacrifice arrangement is treated for taxation purposes as an “employer contribution”. Accordingly, the contribution will be subject to tax in the hands of the superannuation fund at the rate of 15%. The contribution tax paid by the superannuation fund would, as a matter of course, be charged to the relevant member’s accumulation account within the superannuation fund. In other words, ignoring administration charges, which would be charged to the account, the superannuation contribution resulting from salary sacrifice will, after deduction of tax, be 85% of the amount contributed. This amount will then earn interest in the fund, with the interest also being taxed at 15%, rather than at the employee’s marginal rate of tax, as would happen if the employee invested the money after it had been paid as salary.

It is important to recognise that superannuation benefits may also be subject to tax when they are paid out from the superannuation fund. This tax upon exit from the fund could reduce (and in some cases eliminate) the ultimate tax advantage of salary sacrifice. ***In some cases where the total benefits are in excess of the members Reasonable Benefit Limit (RBL), penalty tax rates can apply.*** For this reason, **employees should be strongly encouraged to seek financial planning advice prior to entering into the salary sacrifice arrangements.**

As the taxation benefits noted above in relation to salary sacrifice for superannuation are based upon existing taxation legislation, continuation of such taxation benefits may be impacted by any future legislative changes. *Employers should clearly indicate this fact to employees.*

- b) Superannuation contributions surcharge - certain superannuation contributions, including contributions made pursuant to salary sacrifice arrangements, will be subject to an extra tax in addition to the 15% tax noted in (a) above. The imposition of this additional tax, known as the “superannuation contribution surcharge”, is dependent upon the salary of the individual in respect of whom the contributions are made.

The surcharge is payable if the individual’s ‘adjusted taxable income’ for the financial year is greater than the ‘surcharge threshold’ for that year. An individual’s ‘adjusted taxable income’ is the sum of that individual’s taxable income for the financial year plus the individual’s employer superannuation contributions for the year, including any salary sacrifice contributions. Certain eligible termination payments and lump sum leave payments on termination of employment are not included in the ‘adjusted taxable income’.

Liability to the surcharge will not arise if the individual’s adjusted taxable income is less than the threshold amount (being \$75,856 for the 1998/99 financial year, indexed annually in accordance with movements in Average Weekly Ordinary Time Earnings). The rate of surcharge is 15% if the individual’s adjusted taxable income exceeds an upper threshold amount (being \$92,111 for the 1998/99 financial year, indexed annually as above). The rate of surcharge will be between 0% and 15% if the individual’s adjusted taxable income is between the threshold amount and the upper threshold amount.

Note: To avoid the surcharge, individuals below the surcharge threshold must also have notified the scheme trustees of their tax file number.

7.2 Preservation of Salary Sacrifice Contributions

Superannuation benefits arising from contributions made pursuant to the salary sacrifice arrangements will be “preserved” benefits. Preserved benefits can generally only be accessed by an individual upon

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attaining 55 years of age and retiring from gainful employment. Other circumstances under which preserved benefits may be accessed include death, permanent incapacity, financial hardship, and permanent departure from Australia. Whilst preserved benefits generally cannot be accessed by the individual, they can be transferred to another complying superannuation fund or a roll over institution such as an approved deposit fund, if the employee resigns.

Whilst preserved benefits can currently be accessed upon retirement having attained the age of 55 years, that position is to change from 1 July 1999. From that date, the age at which an individual can access preserved benefits upon retirement is to be increased for people born after 1 July 1960. For persons born between 1 July 1960 and 30 June 1964, the relevant age will be between 55 and 60 depending on the individual's birthdate. For persons born after 1 July 1964, the relevant age at which preserved benefits can be accessed will be 60.

Accordingly, whilst the salary sacrifice for superannuation contribution arrangements may result in certain taxation benefits for employees, as mentioned above, such taxation benefits are obtained at the expense of immediate access to the benefit accumulating as a result of those contributions. *Employers should take steps to ensure that employees are aware of the preservation implications of any salary sacrifice decision they may make.*

7.3 Tax Collection Responsibilities/Other Taxes and Imposts

The following matters should be noted in relation to Employers' tax collection responsibilities and in relation to other taxes and imposts applicable to Employers due to their status as employers:

- a) *Pay as You Earn (PAYE) deduction and remittance* - following an election by an employee to sacrifice salary for superannuation contributions, the PAYE amount deducted from an employee's salary and remitted to the ATO **should be based upon the employee's post-sacrifice salary**. As mentioned above, the employee's elected salary is recalculated having regard to that employee's elected salary sacrifice. The employee's annual salary per pay period is determined by reference to that recalculated annual salary. It is that recalculated annual salary per pay period upon which PAYE deductions and remittances should thereafter be based. There should be no taxation deductions or remittances from superannuation contributions pursuant to the salary sacrifice arrangements.
- b) *Payroll Tax* - employer contributions to a superannuation fund have been subject to payroll tax in NSW from 1 July 1996. As contributions made to superannuation funds pursuant to the salary sacrifice arrangements will constitute employer contributions, those contributions will be subject to NSW payroll tax.
- c) *Workers Compensation premiums* - workers compensation entitlements of non-SES staff should not be reduced by any salary sacrifice to superannuation that they may make. Accordingly, workers compensation premiums payable by employers should be based upon the employees' pre-sacrifice remuneration.

7.4 Other Superannuation Entitlements of Employees - Entitlements Under the Superannuation Guarantee Provisions

Employer contributions to satisfy superannuation guarantee requirements are, in general terms, a function of the cash salary of relevant employees. Prima facie, then, a reduction in cash salary resulting from an employee's salary sacrifice election will reduce the employer contributions required to be made to satisfy the superannuation guarantee provisions.

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Further, salary sacrifice contributions constitute ‘employer contributions’. In assessing an employer’s satisfaction of its superannuation guarantee requirements, regard is only had to the amount of employer contributions made by the relevant employer. In other words, no distinction is drawn between contributions made pursuant to salary sacrifice arrangements and contributions made otherwise. Prima facie then, contributions made pursuant to salary sacrifice arrangements may reduce or eliminate the requirements for other employer contributions to be made to satisfy superannuation guarantee requirements.

In order to ensure that non-SES staff are not disadvantaged by any salary sacrifice election through a reduction in employer contributions which would otherwise have been required to satisfy superannuation guarantee requirements, awards have been varied specifically to ensure that there is no impact on an employer’s compulsory contributions in respect of an employee, notwithstanding the fact that the employee may salary sacrifice for superannuation. This means that where salary sacrifice reduces an employer’s superannuation guarantee requirements in respect of a particular employee, the employer will make additional employer contributions over and above superannuation guarantee requirements, quite apart from the contributions which the employer would make as a result of the salary sacrifice agreement. However, if an employer were obliged to calculate and pay a superannuation guarantee shortfall, that calculation and payment should be based upon the post-sacrifice salary.

7.5 Other Superannuation Entitlements of Employees - Entitlements Under Defined Benefit Schemes

The defined benefits of members of the State Superannuation Scheme (SSS), State Authorities Superannuation Scheme (SASS) and State Authorities Non-Contributory Superannuation Scheme (SANCS) are based upon the “salary” of those members. ‘Salary’ for this purpose is defined in the relevant Acts of Parliament which govern the defined benefit schemes to include ‘approved employment benefits’. Salary sacrifice for superannuation of up to 50% of superannuable salary or 50% of award salary whichever is the lesser has been designated by the Premier and the Treasurer as an ‘approved employment benefit’ and will therefore continue to be included in the employee’s superannuable salary. Accordingly, the defined benefits of members of these schemes will not be affected by any decision of the member to sacrifice salary for superannuation contributions.

The following additional matters in relation to members in the defined benefits schemes should also be noted:

- a) required member contributions to the defined benefits schemes are calculated by reference to ‘salary’ as defined in the relevant Act, which is inclusive of ‘approved employment benefits’. By virtue of the designation of salary sacrifice for superannuation as an ‘approved employment benefit’, required member contributions to the defined benefits schemes should be calculated on the pre-sacrifice remuneration of the member.

In addition, salary sacrifice arrangements cannot be applied in satisfaction of the required member contributions for members of the defined benefits schemes. Contributions pursuant to salary sacrifice arrangements constitute ‘employer contributions’ and as such will not satisfy the requirements under the relevant Acts for member contributions to be made to the relevant defined benefits schemes. Such member contributions must continue to be made from post tax salary of the member.

- b) In providing salary information to State Super in relation to employees who are members of the defined benefit schemes, employers should ensure that salary sacrifice contributions are included in ‘salary’. It is therefore important for employers to have regard to the limitations that apply to salary sacrifice for superannuation so that they do not inadvertently increase the superannuable salary above what it would have been without salary sacrifice, as such an increase would result in increased costs for them.

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- c) Employees who receive compulsory contributions in FSSS will continue to receive the same amount of employer contributions after salary sacrifice as before. The definition of 'salary or wages' in the FSSS legislation is considered broad enough to allow salary sacrifice contributions to superannuation to be included in that definition.

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APPENDIX C

SALARY SACRIFICE FOR SUPERANNUATION ELECTION AND VARIATION FORM

Employee Name: _____

Payroll Number: _____

Current Super Scheme: _____

Super No: _____

<p>1. Base (Annual) Salary \$</p> <p>2. Superannuable Salary \$</p> <p>3. Salary Sacrifice for Superannuation \$ (The amount sacrificed for superannuation contributions must not exceed 50% of "superannuable salary" or award salary whichever is the lesser.)</p> <p>2. Adjusted Base (Annual) Salary (1 - 3) \$</p> <p>3. Superannuation fund to which contributions are to be made:</p> <p>_____</p> <p>PART A - DECLARATION BY EMPLOYEE:</p> <p>I,....., hereby certify that I have obtained independent financial advice in relation to this salary sacrifice election or I have not obtained financial advice but I fully understand the implications of my election.</p> <p>I understand that superannuation benefits derived from salary sacrifice contributions will constitute "preserved" benefits. As such, the benefits generally will not be able to be accessed by me until retirement from the workforce after having attained the requisite age (currently 55).</p> <p>Further, I understand that any benefit that may be generated in the nominated superannuation fund by my salary sacrifice contributions is dependent on factors (eg. Fund earnings rates, changes to taxation legislation and charges) beyond the control of my employer and my employer can in no way guarantee the benefit to be derived from my salary sacrifice superannuation contributions.</p> <p>I also understand that this election will remain in force until I cancel it or make a new election. It will not automatically be amended for changes to my salary, nor will it be amended automatically should there be any changes to the tax regime as it applies to superannuation or salary sacrifice arrangements generally.</p> <p>Signed (signature of employee)</p> <p>Witness Date</p> <p>Part B - AUTHORITY TO DEDUCT ADMINISTRATIVE CHARGE (WHERE APPLICABLE)</p> <p>In addition, I hereby authorise the Payroll Officer to deduct the \$50.00 Administrative Charge from my salary from the next available payday.</p> <p>Signed (signature of employee)</p> <p>Witness..... Date</p>	<p><i>Employer Use Only</i></p>
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APPENDIX D

CANCELLATION OF ELECTION FOR SALARY SACRIFICE FOR SUPERANNUATION

PART A B REQUEST FOR CANCELLATION

To the Payroll Manager:

I request you to cancel my election for salary sacrifice for superannuation from the next available payday (or within one month from the date of this authority being received).

In addition (and where applicable), I hereby authorise the Payroll Officer to deduct the \$50.00 Administrative Charge from my salary from the next available payday.

Signed (signature of employer).....

WitnessedDate:

PART B - AUTHORITY TO DEDUCT ADMINISTRATIVE CHARGE (where applicable)

Signed (signature of employer)

WitnessedDate:

Received by Pay Office

Pay Office Action Completed

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7.46**FRINGE BENEFITS TAX (99/62)**

This circular applies to all employees of the NSW Health system, including the Department of Health, the Ambulance Service of NSW and Independent 2nd, 3rd and 4th Schedule Organisations under the *Health Services Act 1997*.

Premier's Department has issued Circular 99-29, the purpose of which was to alert employees to the changes to fringe benefits tax (FBT) arrangements. To assist agencies **that have not already alerted employees to the implication of the changes**, the Premier's Department has provided an information sheet for distribution to employees (Attachment 1). Premier's Department has indicated that where appropriate, translation into relevant ethnic languages should be arranged.

Where necessary, the Health Service will need to copy the information sheet for distribution to employees.

Enquiries in regard to this Circular should be directed to the Human Resources Department of the Hospital/Health Service. Only Human Resources staff should contact the Department directly.

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Premier's Department
New South Wales

Public Sector Management Office

Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000
GPO Box 5341
Sydney NSW 2001

Telephone: (02) 9228 5555
Facsimile: (02) 9228 4421
File: PSM/1086

CIRCULAR NO. 99- 29

FRINGE BENEFITS TAX
(Circular to all Chief Executives)

The purpose of this Circular is to alert employees to changes to fringe benefits tax (FBT) arrangements.

Recent changes to FBT require employers to collate and distribute certain fringe benefits on a per employee basis. Where the taxable value of the benefits for an employee exceeds \$1,000 for the fringe benefits year (1 April to 31 March) the "grossed up" value is to be shown on the employee's next Group Certificate. The "grossed up" value is currently the taxable value of the benefits times 1.94175. This factor allows for the income tax that would have been paid had the employee received cash salary.

The Australian Taxation Office has advised that these changes improve the equity of the tax and social security systems. Previously, employees with access to salary packaging could avoid certain surcharges, levies and other obligations and/or gain access to Government benefits provided for low income earners.

Employers are still liable for payment of FBT. No additional income tax is payable by employees. However, the amount shown on the Group Certificate, known as the "Reportable Fringe Benefits Amount", will be used to determine an employee's:

- deductions and rebates for personal superannuation contributions;
- liability to superannuation, medicare levy and termination payment surcharges;
- entitlement to income tested government benefits and concessions; and
- obligations under the child support and higher education contribution schemes.

The changes are effective from 1 April 1999. Therefore, Group Certificates for the 1999/2000 income year will be affected.

SALARIES - APPOINTMENTS/CONDITIONS OF SERVICE

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To assist those Departments and agencies that have not already alerted employees to the implications of the changes, an information sheet for distribution to employees is attached. Where appropriate, translation into relevant ethnic languages should be arranged.

To facilitate the management of these changed procedures, the Treasury has provided training and information sessions to FBT and payroll personnel within agencies forming part of the State employer under the legislation. Further technical details concerning FBT will be the subject of future Treasury Circulars.

Any enquiries on the employee relations aspects of these changes to FBT can be directed to your Public Sector Management Office, Employee Relations Division, Client Contact Officer.



C. Gellatly
Director-General

31 MAY 1999

Issued: May 1999
Contact: Doug Cowell
Telephone: (02) 9228 3575
Email: cowelld@premiers.nsw.gov.au

29(24/10/14)



Attachment 1

FRINGE BENEFITS TAX

What are the recent changes to FBT and how do they affect employees ?

Effective from 1 April 1999, employers are required to distribute certain fringe benefits on an individual employee basis and record the "grossed up" value on employee's Group Certificates where the aggregate taxable value exceeds \$1,000. The amount on Group Certificates is known as the "Reportable Fringe Benefits Amount".

Are these benefits mainly related to salary packaging arrangements ?

While they apply to salary packaging arrangements they also apply to various other employment related benefits received by those without a "package".

Any benefits provided to an employee's spouse or child must also be allocated to the employee.

What is the purpose of these changes ?

It is said that the changes improve the equity of the tax and social security systems for everyone. Previously, employees with access to salary packaging could avoid surcharges, levies and other obligations and/or gain access to Government benefits provided for low income earners.

What particular benefits are "reportable fringe benefits" ?

Reportable fringe benefits include: private use of vehicles, housing, HECS and some training fees, relocation costs on transfer, telephone rental, home security systems, salary packaging arrangements, concessional travel and other expenses.

Some items are excluded from group certificate reporting, such as, meal entertainment and hire of entertainment facilities, car parking where the car space is leased or owned by the employer, remote area housing expenses, freight costs for food in remote areas and occasional remote area travel.

How will my employer apportion each employee's share of a shared benefit, such as a pooled car ?

Log books and other records will need to be maintained to ensure an equitable distribution of fringe benefits. Agencies will develop mechanisms and systems for tracking fringe benefits on a per employee basis.

What is the "grossed up" value ?

The total fringe benefits received will be multiplied by a factor (currently 1.94175) to allow for the income tax that would have been paid had the employee received cash salary.

Do I have to pay more income tax as a result of these changes ?

No - employers are still liable for FBT.

Then how am I affected ?

The Reportable Fringe Benefits Amount will be used for determining your:

- deductions and rebates for personal superannuation contributions;
- liability to superannuation, medicare levy and termination payment surcharges;
- entitlement to income tested government benefits and concessions; and
- obligations under the child support and higher education contribution schemes.

Are Group Certificates for the 1998/99 income year affected ?

No - the Reportable Fringe Benefits Amount will be shown for the first time on 1999/2000 Group Certificates.

How do I find out more about these changes ?

You should contact the Australian Taxation Office or consult your tax advisor for advice on your personal circumstances.

SALARIES - APPOINTMENTS/CONDITIONS OF SERVICE

7.50**MOBILITY OF SUPERANNUATION (99/93)**

On 1 October 1999 a new system of mobility of superannuation entitlements came into effect for employees who have transferred or will transfer employment between the NSW State public sector, local government sector, and electricity distribution sector.

A copy of Premier's Circular 99-59, outlining the provisions is attached for your information and distribution to Health Service personnel.

Enquiries should be directed to Health Service Human Resource personnel in the first instance. Only Health Service Human Resources personnel should contact the Department directly.

CIRCULAR NO. 99-59

(Circular to all Chief Executives)

Mobility of superannuation for employees transferring employment between the NSW public sector, local government sector and electricity distribution sector

On 1 October 1999 a new system of mobility of superannuation entitlements came into effect for employees who have transferred or will transfer employment between the NSW State public sector, local government sector, and electricity distribution sector.

Employer and employee associations in the local government and electricity distribution sectors established by Trust Deed the Local Government Superannuation Scheme (LGSS) and Energy Industries Superannuation Scheme (EISS) respectively in mid 1997. To date, employees who were transferred from the public sector superannuation schemes to LGSS or EISS in the period from 1 July 1997 have not been able to recommence their membership entitlements in the State public sector defined benefit superannuation schemes (SSS, SASS, SANCS) upon securing new employment with a public sector employer.

Such employees have only had the option of deferring accrued benefits in LGSS or EISS, and entering the First State Superannuation Scheme or another accumulation-style scheme as applicable schemes for new employees in the public sector.

By contrast, the new arrangements that took effect on 1 October 1999 will allow for mobility of accrued benefits and contributory rights between LGSS, EISS and the State public sector schemes for any employees who have or will transfer employment directly between the three employment sectors. An information paper is attached outlining the changes in more detail.

For further information or to make an application to exercise a transfer option, the following contacts are available:

- Staff transferring employment into the public sector should call the State Superannuation Corporation's Advisory Service on Freecall 1300 130 095 for (SASS members) or Freecall 1300 130 096 (for SSS members).
- Staff transferring employment into the local government or electricity distribution sectors should call Future-Plus Member Services on Freecall 1300 369 901.

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Please bring this matter to the attention of appropriate agencies and staff in your administration.

C. Gellatly
Director-General

Issued: Public Sector Management Office, on behalf of The Treasury

Contact: Con Papas, The Treasury

Telephone: (02) 9228 3136 E-Mail: papasc@mail.treasury.nsw.gov.au

Date: 1/10/99

INFORMATION PAPER**Mobility of superannuation for employees transferring employment between the NSW public sector, local government sector and electricity distribution sector****Statutory and trust deed superannuation scheme changes which have occurred**

On 1 October 1999 a new system of mobility of accrued benefits in Local Government Superannuation Scheme, the Energy Industries Superannuation Scheme, and the State public sector defined benefit superannuation schemes (SSS, SASS and SANCS) came into effect for employees who have transferred or will transfer employment between the NSW public sector, NSW local government sector, and/or the NSW electricity distribution sector.

The new arrangements are provided for under:

- the Superannuation Administration (Electricity Superannuation Scheme Transitional Provisions) Amendment Regulation 1999,
- the Superannuation Administration (Local Government Superannuation Scheme Transitional Provisions) Amendment Regulation 1999, and
- associated amendments to the Trust Deeds of the Local Government Superannuation Scheme (LGSS) and the Energy Industries Superannuation Scheme (EISS), which have been approved by the Trustees of those Schemes and consented to by the Treasurer.

How mobility will operate for employees transferring into the State public sector

Local government and electricity distribution sector employees who were members of SSS, SASS or SANCS up to 1 July 1997, and who have been transferred by instruments under the *Superannuation Administration Act 1996* to LGSS or EISS on or after that date, will have some form of accrued benefits in the equivalent divisions of LGSS or EISS.

- Employees who remain employed in these sectors will have ongoing entitlements to accrue benefits in LGSS or EISS, as specified by the Trust Deeds for those schemes.
- On taking up new employment in the NSW public sector, these employees are able to transfer their accrued benefit and contributory entitlements to the equivalent membership in SSS, SASS, or SANCS (**the transferee scheme**).

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SALARIES - APPOINTMENTS/CONDITIONS OF SERVICE

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- **The process of mobility may be initiated by the employee by making an application to exercise a transfer option.** The application must be made in an approved manner to the trustee of the transferee scheme (in this case the SAS Trustee Corporation as trustee of SSS, SASS and SANCS) when the employee takes up their new public sector position.
- **Such an application to exercise a transfer option is required to be made within 3 months of the person's transfer of employment to the public sector** (i.e. within 3 months of commencing in their new position in the State public sector). This requirement is consistent with the normal defined benefit scheme membership continuity rules applying to employees who move between positions in the public sector.

Please note that hard copies of this Circular which have been distributed to public employers on 1 October 1999 contained an error: the correct requirement, as stated here, is for employees who are eligible to transfer to make their application within 3 months of commencing their new employment in the State public sector, NOT within 3 months of ceasing their previous employment in the local government or electricity sector as was erroneously stated in the hard copies distributed to public employers.

- **Upon receipt of the application, the trustee of the transferor scheme will be required to determine the employee's accrued benefit in the transferor scheme** (in this case the relevant division of LGSS or EISS) based on an actuarial assessment of that employee's rights under the rules of the transferor scheme. Cash equivalent to the value of the employee's accrued benefit in the transferor scheme will then be transferred to the trustee of the transferee scheme.
- **Upon transfer of the cash amount, the trustee of the transferee scheme must establish the employee as a member of the transferee scheme** (in this case SSS, SASS or SANCS), and determine their contributory and accrual rights in accordance with actuarial advice on their entitlements under the rules of the transferee scheme with the assumption, inter alia, that no break in service in relation to that scheme has occurred.

Subsequent transfers of employment between the three sectors

- **A subsequent transfer of employment in the reverse direction will be treated in the same manner** (i.e. from a State public sector employer to a local government employer or electricity distribution sector employer) as an earlier transfer into the public sector.
- In this case SSS, SASS or SANCS will be treated as the transferor scheme, and LGSS or EISS will be treated as the transferee scheme, as appropriate.
- **Reciprocal arrangements between the Trust Deeds of LGSS and EISS will similarly allow transfers of scheme entitlements directly between LGSS and EISS** when employees transfer employment directly between the local government and electricity distribution sectors, or vice versa.
- **Employees who have been employed in any combination of the State public sector, local government sector, or electricity distribution sector will be able to transfer** their accrued benefits and contributory entitlements with each transfer of employment between the sectors. Provided there is no break in employment in any of the three sectors greater than the maximum periods provided for under the rules of the relevant superannuation schemes, the transfer of employee superannuation entitlements will be possible irrespective of the order of employment with each employer in these sectors.

SALARIES - APPOINTMENTS/CONDITIONS OF SERVICE

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Treatment of employees who have transferred employment prior to 1 October 1999

A number of employees have already transferred their employment from the local government or electricity distribution sectors to the State public sector prior to these new arrangements taking effect. Such employees will have similar rights to re-establish their membership in the public sector defined benefit superannuation schemes.

- Such employees will have deferred their accrued benefits in LGSS or EISS upon terminating their employment in those sectors, and will currently be members of the First State Superannuation Scheme or another accumulation scheme where their new State public sector employer will be contributing at the SGC rate (along with any employee contributions made into that account).
- **Such members may make an application to the trustee of the transferee scheme to exercise a transfer option** (in this case SAS Trustee Corporation as trustee of SSS, SASS and SANCS) effecting their transfer from Divisions B, C or D of LGSS or EISS directly into the equivalent public sector scheme.
- **The application in this case is required to be made within 12 months from 1 October 1999** if the employee wishes to take advantage of these new mobility arrangements.
- As with employees who may exercise transfer options with changes of employment to occur in the future, **employees who have already transferred employment prior to 1 October will be established by SAS Trustee Corporation in the transferee scheme** according to actuarial advice, with entitlements and contribution options based on the assumption, inter alia, that no break in service has occurred in relation to that scheme.
- **The employee may also be permitted to pay cash amounts into and/or transfer into the defined benefit scheme any voluntary employee contributions which they have made into an accumulation-style scheme in respect of their employment by a public sector employer during the interim period to the date of their election to transfer.** These employee payments will be credited as employee contributions in the particular defined benefit scheme. Such transfers of assets will only be possible to the extent permitted under existing legislation and Trust Deed provisions for the respective defined benefit schemes.
- **The trustee of the transferee scheme has discretion to extend the period allowed for exercise of a transfer option for a further 12 months beyond the expiry of the initial period of 12 months from 1 October 1999.** It is envisaged that such extension may be considered by the trustee in specific cases where it is evident that the member has not been provided with adequate notice of their transfer options or of the fixed exercise period for those options which they are entitled to under these arrangements.

Upon the SAS Trustee Corporation establishing the employee as a member in a public sector defined benefit scheme, and the payment of any employee contributions into that scheme, **the new employer will be required to pay into the scheme the appropriate employer contribution, if any.** Where appropriate, SGC payments made by the employer into an accumulation-style scheme in regard to the interim period where that employee was not re-established in the public sector defined benefit schemes can be transferred and credited into the defined benefit scheme employer account for that employee for the purpose of making compulsory employer contributions.

- The normal superannuation benefit funding requirements for Budget sector and non-Budget sector public agencies participating in SSS, SASS and SANCS, as determined in the regular actuarial reviews by the Treasury, will apply to public sector employers involved in these transfers of member entitlements.

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SALARIES - APPOINTMENTS/CONDITIONS OF SERVICE

7.54**For further information or to make an application to exercise a transfer option:**

Staff transferring employment into the NSW State public sector should call the State Superannuation Corporation's Advisory Service on Freecall 1300 130 095 (for SASS members) or Freecall 1300 130 096 (for SSS members).

Staff transferring employment into the local government or electricity distribution sectors should call Future-Plus Member Services on Freecall 1300 369 901.

SALARIES – ALLOWANCES

8.1

SALARIES - ALLOWANCES

HIGHER DUTIES ALLOWANCES

COMMUNITY LANGUAGES ALLOWANCE SCHEME

LICENCES

HIGHER DUTIES ALLOWANCE - FLEX LEAVE

Flex leave days taken during a higher duties allowance period should be paid at the higher duties allowance rate if it could be reasonably shown that the hours accrued, for the taking of the flex leave day, were accrued during the higher duties allowance period.

HIGHER DUTIES ALLOWANCES - FORENSIC MEDICINE

An Assistant called upon to act as Second Assistant shall:

- (a) be paid by allowance at the rate for Second Assistant for the whole day where the period of relief is for four (4) hours or more;
- (b) be paid by allowance at the rate for Second Assistant for the actual period of relief where such period exceeds (1) hour but is less than (4) hours;
- (c) not be paid any allowance where the period of relief is for (1) hour or less.

HIGHER DUTIES ALLOWANCE - SES

As provided in the Regulations to the PSM Act, payment of higher duties for staff acting in SES positions is calculated on the basis of the notional salary for the positions (72.5% of total remuneration). For example, where an SES officer acts in a higher SES position, the rate of allowance is calculated on the difference between the relieving officer's notional salary and the notional salary of the higher position. However, to make the same calculation where a non-SES officer acts in a SES position it is necessary that:

- (i) the total value of the relieving officer's remuneration benefits be estimated. For persons appointed before 16 August 1992, it has been calculated that the employer's contribution to superannuation and leave loading add approximately 15% to the annual salary of an employee. The estimate should therefore be done by calculating 15% of the relieving officer's salary and adding it to his/her annual income.

For staff appointed after 16 August 1992, the component for superannuation and annual leave loading is 5.35 per cent. Therefore, the formula should be changed by adding 5.35% to the relieving officer's annual salary to reflect the new superannuation arrangements.

- (ii) the notional SES salary percentage (72.5%) should then be calculated over that estimated total; and
- (iii) the rate of allowance should then be calculated on the difference between the relieving officer's notional salary and the notional salary of the higher position, i.e. in the same manner as it is calculated when an SES officer acts in a higher position.

If it is decided that a person will act in an SES position for 12 months or longer then it would be sensible to enter into a formal 12-month contract to enable the executive to have full opportunity to select benefits and to be subject to performance reviews.

Which level of remuneration should be used for the calculation of higher duties - the remuneration of the executive who is being relieved or the minimum level of remuneration for the position which is being relieved?

It is up to the CEO, however, as a general rule it is recommended that the minimum level of remuneration for the position which is being relieved, be used.

COMMUNITY LANGUAGES ALLOWANCE SCHEME**General**

The Community Languages Allowance Scheme (CLAS) is designed to encourage better communication with non-English speaking clients of the public service by utilising the skills of staff who speak community languages. It is not intended that CLAS overlap with existing professional interpreter/translator structures but rather it should fill a gap evident in routine work where such professional staff are not required. Staff currently employed as interpreters/translators (either full or part-time) or who otherwise have their linguistic skills recognised by way of remuneration are ineligible for a CLAS allowance.

Staff identified and selected by management to use their skills, whether in community languages or the Deaf Visual/Manual language, as an adjunct to their normal duties, will receive an annual allowance as notified from time to time. Implementation of the scheme is a matter for Departmental management who should determine the extent to which such staff can be best used.

Eligibility

Staff who are eligible for selection for CLAS include counter staff, clerical staff conducting interviews, receptionists, social workers, or field officers who are involved in significant contact with non-English speakers or people with a hearing impairment. Staff who are not in such positions but are nevertheless required by management to use linguistic skills may also be considered. In such circumstances due regard must be made to the extent to which such activities might affect their routine responsibilities.

It must be stressed that the scheme does not apply automatically to all multilingual staff. Nor does it apply to all the approximately 70 languages spoken in New South Wales. There are a number of languages for which there is normally a great demand and the scheme should apply to these most used community languages. However, it may also be that an area has a strong justification to apply the CLAS to other languages.

Testing

Levels of interpreting/translation activities are well defined and determined by a body called the National Accreditation Authority for Translators and Interpreters (NAATI). There are five levels of linguistic competence. The CLAS operates only at the basic level called Level 1. Staff who receive CLAS allowance must be viewed as language aides and not qualified “interpreters” or “translators”.

In order to ensure a minimum level of linguistic competence all staff selected by Departmental management under the CLAS scheme must pass an examination.

In respect of community languages the testing is carried out by the NSW State Assessment Panel for Translators and Interpreters (a sub-organisation of the National Authority). The test is brief and at a level commensurate with routine and simple counter-work communication and activity. Staff who satisfy the test will be accredited at Level 1.

The Department of Technical and Further Education is also recognised as a testing authority.

To qualify for the allowance using Deaf Manual/Visual language staff members must be accredited at a standard equivalent to level 1 of NAATI. Such accreditation can currently be obtained through the Adult Deaf Society of NSW.

SALARIES – ALLOWANCES
8.4

The operative date for payment of a CLAS allowance is the date on which an area receives oral advice of a successful result in the language test.

Staff nominated who have already been accredited by the National Accreditation Authority for Translators and Interpreters (NAATI) at levels two, three or four in a particular language are not required to undertake testing to qualify under CLAS for that particular language. They must, however, produce proof of accreditation.

The amount of the allowance does not vary according to the number of languages spoken - staff should nominate only one language for testing. Staff already in receipt of the Community Language Allowance need not be nominated again.

The Community Language Allowance:

- may be paid during recreation and sick leave for periods up to and including four weeks;
- is to be included in the calculation of leave loading;
- is not to be included in salary for superannuation purposes;
- is not to be paid during periods of extended leave;

LICENCES**Motor Vehicle Drivers**

The following is to be observed in regard to refunding the cost of licences for drivers of State Health vehicles:

- Where the officer or employee is employed as a Driver, the licence fee is NOT to be refunded.
- Where the officer or employee has a licence for private purposes and this is used in the course of departmental duties, the licence fee is NOT to be refunded.
- Where the officer or employee does not hold a licence for private purposes and is directed to obtain a licence for use primarily on official business, the cost of the driving test and licence is to be refunded. The cost of renewal of the licence is also to be refunded whilst the officer/employee is required to hold such a licence in order to perform the duties which originally required possession of a licence.
- Where the officer or employee holds a licence for private purposes but is required to obtain a class of licence other than that already held, such officer/employee is to be refunded the cost of the driving test and licence. The cost of renewal of the class of licence obtained is also to be refunded whilst the officer/employee is required to hold such a licence.
- When advertising positions which require possession of a driver's licence, possession of an appropriate class of driver's licence is to be included in the advertisement as an **ESSENTIAL** requirement for the position and the licence fee is not to be refunded.

Security Officers

The *Security (Protection) Industry Act 1985* became operative on 1 January 1987 - staff whose usual duties substantially involve "security activities" need to be licensed under the Act.

Where an employee is required to hold a licence pursuant to the provisions of the *Security (Protection) Industry Act 1985*, such employee shall have the cost of such licence reimbursed by the employer on completion of each twelve month's service.

SALARIES – DEDUCTIONS FROM SALARIES

9.1

SALARIES – DEDUCTIONS FROM SALARIES

MISCELLANEOUS DEDUCTIONS

ABSENCES WITHOUT LEAVE/LEAVE WITHOUT PAY

TAXATION

STOP-WORK MEETINGS/STRIKES

CREDIT UNION LOANS

JUDGEMENT DEBTS

GARNISHEE ORDERS

MISCELLANEOUS DEDUCTIONS**General**

Each four weeks, (or two weeks) it is necessary to despatch to the various associations, assurance companies etc. cheques representing the total of deductions, less commission where applicable, made from the salaries of staff members.

The total payments, prior to making deductions for commission, to the various individual organisations must equal the total amount shown for miscellaneous deductions on the summary sheet. The cheques, with supporting information, should be sent no later than the second Friday after the balance pay to which the deductions refer.

NB The total payments for miscellaneous deductions should at no time be greater than the actual amount contained in the Drawing Account (i.e. allowances should be made for any adjustments).

Credit Union Remittances - Remittances are to be forwarded so as to reach the Credit Union Office by no later than the midday of the pay-day. A copy of the ALLOWANCE DEDUCTION DISSECTION IS TO ACCOMPANY ALL REMITTANCES.

DEDUCTIONS FROM SALARIES AND WAGES (T/D 520)**General**

No deduction shall be made from salaries or wages without the prior approval of the Treasurer unless prescribed by statute.

Deductions, which fall within the undermentioned broad categories, shall be made only in respect of approved organisations and after the employees concerned sign authorities for the deductions to be made:

Category

- (1) Assurance Premiums.
- (2) Contributions to Hospital and Medical Funds.
- (3) Subscriptions to Employee Unions or Associations.
- (4) Repayments of Personal Loans.
- (5) Subscriptions to Commonwealth Loans.
- (6) Payments to Building Societies and Credit Unions where the organisations are constituted for the benefit of Public Servants.
- (7) Repayments to War Service Loans.
- (8) Payments to Savings Schemes.
- (9) Child Maintenance payable to Child Support Agency.
- (10) Donations to Charities.
- (11) Miscellaneous

A list of approved organisations will be advised from time to time.

Approval for deductions being made in respect of subscriptions to employee unions or associations and donations to charities may be given by Department Heads or delegates subject to the following conditions:

SALARIES – DEDUCTIONS FROM SALARIES

9.3

- (a) The union or association is a registered Trade Union of employees or the organisation is a registered charity;
- (b) deductions are made on a regular basis;
- (c) general increases are applied at the Department's or Statutory Authority's convenience;
- (d) the processing of the deductions can be accomplished within existing administrative resources; and
- (e) the employees complete the approved form of deduction authority.

New authorities given by officers and employees for deductions in respect of subscriptions to group schemes, such as hospital and medical benefit funds, shall be accepted only where the subscriptions are made for the benefit of the contributor or his dependants.

Where deductions from salaries and wages are already being made for the benefit of persons other than officers or employees or their dependants, such deductions shall be allowed to continue provided that the officer or employee concerned is, and continues to be, a contributor to the same organisation.

Notifications showing new variations from the base list shall be forwarded to the organisations concerned with departmental cheques covering deductions from salaries and wages.

Commission shall be charged on amounts deducted except where exempted by the Treasurer. Exemptions have been granted on deductions in respect of categories (3) to (9) listed above and certain miscellaneous items.

Commission at the rate of 2.5% shall be charged in respect of category (2) above. A minimum rate of 2.5% commission is chargeable in respect of categories (1), (10) and (11) above (except where exempted).

Commission is to be deducted for all categories of staff including Chief Executive Service and Senior Executive Service Officers.

Judgement Orders - Commission (see page 34 for procedures)

In accordance with the relevant provisions of the *Public Sector Management Act 1988*, *Transport Act 1930*, *Government Railways Act 1912*, *Police Regulations Act 1899*, *Main Roads Act 1924*, or the *Attachment of Wages Limitation Act 1957*, sums shall be retained from amounts deducted from salaries and wages in satisfaction of judgment orders against officers and employees.

The percentage retained will be an amount equal to 5 per cent of amounts deducted or such other percentage as the Governor may, by order, notify in the Government Gazette.

At present the Governor has ordered that a deduction of 10 per cent will apply in respect of the departments and authorities governed by these Acts.

As regards employees of statutory authorities not covered by the abovementioned Acts, 10 per cent of sums collected may be retained in accordance with the provisions of the *Courts of Petty Sessions (Civil Claims) Act 1970*, or the *District Court Act 1973*.

The form of authority for deductions shall be approved by the Treasurer and generally shall conform with the following specimen:

AUTHORITY FOR DEDUCTIONS FROM SALARY AND WAGES

The Accountant,
Department

I,.....hereby authorise you to deduct from my salary or wages payable to me in respect of my employment with you, the sum of \$..... from every fortnightly salary or wage, and to remit the amount so deducted to

All amounts remitted on my behalf, pursuant to this Authority shall be deemed to be payments to me personally.

This Authority is to continue until such time as it is withdrawn by me in writing.

In consideration to your consenting to make such deduction and payment as above, I agree for myself, my executors, administrators and assigns to hold Her Majesty, the Department of and every employee thereof, harmless and indemnified against any claim arising out of any act or omission to act in pursuance of this Authority or any failure to make deductions and remittances as authorised herein.

Signature.....

Serial No.....

Departmental address
.....
.....
.....

Date.....

DEDUCTIONS IN RESPECT OF NATIONAL SAVINGS GROUPS

Unless otherwise approved, deductions in respect of National Savings Groups shall be paid to trustees, appointed by departments or authorities from among contributors, whose duty shall include the opening and operation of a group bank account in accordance with procedures advised by the Commonwealth Loans and National Savings Organisation.

The fidelity of trustees will be covered free of charge by the Treasury Guarantee Fund up to the limits of cover provided by that Fund.

In view of this cover, authorities shall appoint a senior officer (not necessarily a contributor) to be auditor or supervisor of the group and the officer's duty will include retaining custody of the cheque book and supervising and checking all operations to the extent necessary.

National Savings

It will be necessary for an account designated “..... (name of Area) National Savings Group Account” to be opened by each area. It is suggested that the account be opened at the bank at which official accounts are kept providing, of course, the bank is also a savings bank. This account will not be classified as an official Treasury account but nevertheless strict control over its workings must be maintained. In this regard it would be appropriate for the authorised signatories to be similar to those for the official accounts.

Deposits to the account should be made each four weeks, and four times a year a distribution should be made to the various accounts of the officers involved. This disbursement should be made at intervals of twelve, twelve, sixteen and twelve weeks from the commencement of the financial year.

It will be necessary to record deposits and withdrawals from the account in a simple hand ruled cash book. The balances in the book should be reconciled quarterly with the bank pass sheets.

Unless other arrangements have been approved, members of National Savings Groups shall sign an authority for interest earned on the Group's bank account to be dealt with in accordance with a decision of the majority of members in the Group at the time the decision is made. The decision should be made as soon as practicable after interest is credited to the Group's bank account.

ABSENCES WITHOUT LEAVE/LEAVE WITHOUT PAY**Centralised Payroll System**

It is appreciated that it is more convenient for adjustments in respect of leave without pay or absences without leave to be made by means of the computer on the second pay day after these absences, rather than by making a manual refund on the pay day immediately following the absence/s. State Health has no objection to making appropriate adjustments by means of the computer in such instances, provided the staff member has sufficient recreation leave to cover the absence/s involved.

It will be realised that when adjustments are made by the computer, taxation adjustments will automatically be made, irrespective of the length of the period without pay. It is the Office Manager's responsibility to ensure that no over-payments of salary occur. Should a person, in respect of whom such an adjustment is to be made, unexpectedly resign, an appropriate deduction from the recreation leave monetary balance would have to be made prior to payment on resignation.

SALARIES – DEDUCTIONS FROM SALARIES

9.6**TAXATION**

All staff whose duties involve the calculation of salary payments are reminded that the *Taxation Assessment Act* imposes on all employers a legal obligation to deduct income tax from all payments in the nature of salary in accordance with schedules of deductions issued from time to time by the Taxation Department.

The Manual of Procedures for the Treasury Centralised Payroll System sets out the method of calculating Taxation Deductions in respect of payments in excess of a staff member's normal fortnightly salary and these rates apply automatically to payments made through the computerised payroll.

All overtime and miscellaneous payments are to be effected through the computer except in cases of retirement or resignation and in emergent circumstances approved by the authorised officer. It is mandatory, however, that taxation deductions on all such additional payments made by way of supplementary vouchers are in accordance with the rates specified in Section 6 of the Manual of Procedures. Overtime and miscellaneous payments if not paid due to clerical error or misprocessing may be paid locally if the employee insists.

Officers whose duties include the preparation of such vouchers are to be warned that any failure to comply with these instructions may lead to disciplinary action.

STOP-WORK MEETINGS/STRIKES

Payment is not to be made to staff for any unauthorised absence.

Deductions are to be made for any unauthorised absence as soon as possible irrespective of whether the staff work flexible hours or standard hours.

In respect of part of a day's absence, a deduction, based on the hourly equivalent of either an annual salary or weekly wage, is to be made for the number of hours and minutes involved in the absence.

In respect of a full day's absence, a deduction of 1/5 of the weekly equivalent of annual salary is to be made.

CREDIT UNION LOANS

For staff paid via the Centralised Payroll System the notation CUL (Credit Union Loan) is to be made on salary cards against Credit Union deductions. For staff paid through Hospay, salary cards are to be noted to record that a loan is involved.

Upon resignation or termination of service of any staff member, the Office Manager is to check the salary card (re CUL) and contact the Credit Union office to ascertain the current balance of any outstanding loan. The Salaries Clerk is to remind the staff member of his/her written undertaking with the Statehealth Credit Union that salary, recreation leave or long service leave are to be used to liquidate any outstanding loan balance to the Credit Union, and to request the staff member concerned to contact the Credit Union office and make arrangements to finalise the loan.

No leave payments, etc. are to be made to any staff member whose loan has not been finalised, or other arrangements made satisfactory to the Credit Union.

Employees will be notified by the Credit Union directly when loans have been finalised.

Note that these procedures only apply to the State Health Staff Credit Union. The State Government Employees Credit Union has indicated that it desires that **all** details of loans remain confidential.

JUDGEMENT DEBTS

The *Public Sector Management Act 1988* imposes certain duties on the Department Head in relation to Judgement Orders (Schedule 6). These duties have been delegated to various officers (S52).

Where a certified copy of judgement is served it must be supported by a statutory declaration stating that the judgement has not been satisfied by the judgement debtor and setting out the amount due by the judgement debtor under the judgement. In addition, the declaration should contain a statement to the effect that to the best of the knowledge of the declarant; the judgement debtor is employed at the particular area concerned.

Upon receipt of a certified copy of judgement supported by the required statutory declaration, a letter as indicated by Annexure “A” (end of this section) is to be signed by the officer with authority to approve deductions and handed personally to the staff member concerned.

Should the staff member be absent on leave, or there is some other reason why a determination as to whether deductions, and the amount thereof, cannot be made within one fortnight of the receipt of the certified copy of judgement and statutory declaration, a letter as indicated by Annexure “B” (end of this section) is to be sent to the judgement creditor.

If the staff member does not submit evidence within the stipulated time (usually seven days) a determination is to be made as to the extent of deductions which are to be made from his salary to satisfy the judgement debt. It must be remembered that the onus to prove that the debt has been paid in full, or in part, is with the staff member. Where such evidence has been submitted the judgement creditor is to be contacted to verify that payment of the judgement debt has in fact been made.

When calculating the amounts to be deducted from salaries where judgement debts have not been satisfied reference should be made to Annexure “C” (end of this section). In the main, when considering the amount of deductions to be made, cognisance should be taken of the size of the debt and the ability of the staff member to make the instalments proposed. If the debt is in respect of default on a hire-purchase agreement, the weekly deductions, as a rule, should not be less than the weekly repayments specified in that agreement.

In this regard, the net pay each fortnight is the important amount which should be considered although note should be taken of amounts deducted as miscellaneous deductions (e.g., Credit Union Savings), but which might otherwise be included in the net salary. Also of relevance is the amount of taxation concessions claimed. Thus it would be necessary to obtain full particulars from the General Office of salary earned, including gross pay, superannuation contributions, taxation and miscellaneous deductions.

Out of the sums deducted there shall be retained and paid to the Treasurer for the credit of the Consolidated Revenue Fund an amount equal to 10% of such sums (or such percentage as the Governor may by order, notify in the Gazette). The balance of such sums shall be paid to the judgement creditor. The total amount of the judgement debt shall equal the amount paid to the Treasurer including the 10% deduction.

SALARIES – DEDUCTIONS FROM SALARIES
9.8

Section 101 of the *Public Sector Management Act 1988*, precludes State Health from making deductions from an employee's salary to satisfy more than one judgement at any one time. Should a certified copy of judgement and statutory declaration be served upon the area concerned in respect of a staff member who is already having deductions made from their salary in regard to another judgement, the judgement creditor should be advised as indicated in Annexure "D" (end of this section).

Where a staff member does not submit evidence that a judgement debt has been satisfied and a determination has been made of the rate to deductions to be made from their salary they are to be advised in writing - see Annexure "E" (end of this section).

Should areas be served with a judgement order, as referred to above, and any difficulty is experienced in the determination of the interest rate and the basis on which the interest is to be calculated contact should be made with the District Court Office which made the order, so that this information might be obtained.

NB Except as detailed under "Garnishee Orders" below, no action should be taken on a garnishee order. The certified copy of judgement supported by the statutory declaration that the debt has not been satisfied are the only documents that the employer should act upon.

As stated, see the end of this section for copies of appropriate letters to be sent concerning Judgement Debts.

GARNISHEE ORDERS

Garnishees are generally not to be acted upon as there is no authority applying to the Department to enable it to do so, except in the following cases where garnishees issued under certain legislation must be complied with.

The Taxation Department has the authority to garnishee wages. However, there is no stipulation that the Taxation Department is to be given priority over any other creditors.

Garnishees for maintenance, (the "Garnishment Order Attaching Monies Due Periodically") issued under the *Family Law Act*, are to be acted upon.

The Order shall specify a date from which payments shall commence. Where the employee ceases to be employed, the area concerned shall give notice to the Court within 10 days after the employee ceases to be so employed and shall specify, if known, the name and address of the employer and the earnings from the new employer.

Areas should note that the usual commission of 10% deducted from judgement debts is not applicable to garnishee orders made by the Family Court. Approval may be sought from the relevant Registrar of the Family Court for an amount to be retained for administrative costs (or for a variation in any such amount).

The Secretary of the Department of Social Security (or delegate) now also has the power to garnishee wages under section 162 of the *Social Security Act*. Areas are required to apply a person's wages in accordance with a notice in writing under the above section which will specify the amount and time for making payment. The section provides a penalty of \$10,000 for non-compliance.

SALARIES – DEDUCTIONS FROM SALARIES

9.9**ANNEXURE “A”**

You are hereby notified that there has been served on me by (name of Judgement Creditor) a Certified Copy of Judgement against you amounting to \$ together with a Statutory Declaration to the effect that \$ is still outstanding.

I hereby require you to notify me in writing by not later than * whether the Judgement has been satisfied and, if not, the amount of the Judgement then due. If the Judgement has been satisfied in full or in part, it will be necessary for you to furnish evidence in support of such statement.

If you fail to satisfy the Judgement Debt, I (under delegation of the Director-General, Department of Health, NSW) am empowered under the provisions of the *Public Sector Management Act 1988*, to authorise necessary deductions from moneys due to you until such time as the Judgement is satisfied.

(Authorised Delegate)

*a date usually seven days from the date of letter.

SALARIES – DEDUCTIONS FROM SALARIES

9.10**ANNEXURE “B”**

Dear Sir,

Re:

I desire to acknowledge receipt of the Certified Copy of Judgement and Statutory Declaration concerning the abovenamed.

Action is being taken in connection with the Judgement Debt. The *Public Sector Management Act* requires that the Judgement Debtor be notified of the service of the Copy of Judgement and he/she advise in writing within a reasonable time whether the Judgement has been satisfied. It will, therefore, be some weeks before any deductions can be made.

Yours faithfully,

(Authorised Delegate)

ANNEXURE “C”**SUGGESTED SCALES OF DEDUCTIONS FROM SALARIES TO SATISFY JUDGEMENT DEBTS****GENERAL**

In attempting to determine any general scale of deductions to be effected from salaries to satisfy judgement debts there is always the danger that the financial circumstances of the individual will be overlooked. Thus, in applying the broad percentage deductions set out below the authorised delegate should pay due regard to any other known financial obligations of the staff member. It is clearly not the intention to impose undue hardship on any individual.

Further, in accordance with section 101 (schedule 6) of the *Public Sector Management Act 1988*, deductions may not be made which would reduce the staff member's pay to less than:

- (a) in the case of a male employee, an amount equal to \$8 less than the basic wage for adult males.
- (b) in the case of a female or temporary employee, an amount equal to \$8 less than the basic wage for adult females.

STAFF NOT CLAIMING TAXATION CONCESSIONS IN RESPECT OF DEPENDENTS

The fortnightly deductions from salary should be assessed as 20% of the total net fortnightly salary (i.e. the net pay before the deduction of superannuation and miscellaneous deductions).

STAFF CLAIMING TAXATION CONCESSIONS FOR DEPENDENTS

The fortnightly deductions from salary are to be assessed as 10% of the total net fortnightly salary (i.e. the net pay before the deduction of superannuation and miscellaneous deductions).

SALARIES – DEDUCTIONS FROM SALARIES

9.12**ANNEXURE “D”**

Dear Sir,

Re:

I desire to acknowledge receipt of the Certified Statutory Declaration concerning the abovenamed.

Action is at present being taken to satisfy a previous Judgement obtained against _____ and the provisions of the *Public Sector Management Act 1988*, preclude the Department from making deductions from an employee’s salary to satisfy more than one Judgement at any one time.

Having regard to the above, the Judgement Order obtained by you/your client _____ cannot receive attention until the previous Judgement is finalised. Such action will not be completed until

Should you decide to take other action, it would be appreciated if you could advise the me accordingly.

Yours faithfully,

(Authorised Delegate)

SALARIES – DEDUCTIONS FROM SALARIES

9.13**ANNEXURE “E”**

I have considered your indebtedness of \$ to and have exercised the powers which have been vested in me by the Director-General, Department of Health, New South Wales, under the *Public Sector Management Act 1988*, and approved of deductions at the rate of \$ per fortnight being made from your salary until such time as the debt is liquidated. The first deduction from your salary will be made on

(Authorised Delegate)

SALARIES – INCREMENTS

10.1

SALARIES - INCREMENTS

GENERAL

INCREMENT SCHEDULES

LEAVE WITHOUT PAY - ADJUSTMENT OF INCREMENT DATE

INCREMENTS DURING PERIODS OF LEAVE

SALARIES – INCREMENTS
10.2**GENERAL**

In all cases in which salary scales prescribe increments by reference to age, payment of increments is to be made on the due date.

Where the conduct or services of a public servant paid under such a scale do not meet the standards ordinarily required for payment of increments, the matter should be reported promptly to Human Resources so that the question of appropriate disciplinary action can be considered.

INCREMENT SCHEDULES

Each increment schedule is to be ruled off after the last entry and they are to be retained for audit/inspection. (Proforma of Increment Schedule on page 10.4.)

The rates, industrial codes and dates on the increment schedule must be checked by an officer other than the person who prepares the schedule.

LEAVE WITHOUT PAY - ADJUSTMENT OF INCREMENT DATE

When extending incremental dates due to leave without pay during the incremental period being in excess of 1 week the extended incremental date is to reflect that part of the day the leave without pay extends into e.g.

Incremental Date 1/2/80

Leave without pay during previous twelve months - period 8 days.

New Incremental Date 9/2/80

Close attention is also to be paid to any periods of leave without pay during the deferred period, i.e. if using the example above the public servant had a further 1³/₄days leave without pay on 3/2/80, the incremental date would be extended further to (¾) 10/2/80.

INCREMENTS DURING PERIODS OF LEAVE

Staff may be paid increments falling due during periods of leave (including extended leave but not including leave without pay) provided that their services prior to entry on such leave is satisfactory.

Persons between the ages of 55 years and 60 years or approaching 55 years of age, who enter on extended leave and indicate that it is their intention to elect to retire at the expiration of such leave, may be paid increments falling due during the period of extended leave, provided that their services prior to entry on such leave were satisfactory. This does not apply in respect of officers who have been paid the monetary value of recreation and/or extended leave due on cessation of employment as a gratuity.

Submissions to State Health concerning the above are to be accompanied by statements of duties and full service and salary details of the officer recommended for progression.

INCREMENT SCHEDULE NO.

PERIOD ENDING

Name	Position	Date of Appt.	Date of last increment	Leave without pay in incremental period				Present Salary		New Salary		Increment Date
				From	To	Hrs.	Days	Bases & Allowances	Yr. of service Awd/Agt.	Base & Allowances	Yr. of service Awd/Agt.	

Prepared by _____

Conduct and Service Report sent on _____

Checked by _____

SALARIES – INCREMENTS

10.4

- (a) Schedules are to be numbered from the commencement of each financial year. Where more than one sheet is forwarded in a period, the sheets are to be numbered consecutively, i.e. a combination of numerical and alphabetical figures is not allowed.
- (b) In stating periods the first and last day are, invariably, to be considered as both inclusive.
- (c) Periods of leave without pay are to be shown only when the aggregate number of days without pay during the incremental period exceeds one week.
- (d) Base salary and allowances are to be shown separately with penalty allowances shown last.
- (e) Salary rates are to be shown on the wage base applicable at the date of each salary variation.

SALARIES – OVERTIME/ADDITIONAL PAYMENTS

11.1

SALARIES – OVERTIME/ADDITIONAL PAYMENTS

OVERTIME RECORD

CLAIMS FOR OVERTIME

FORENSIC MEDICINE - MEDICAL OFFICERS

FORENSIC MEDICINE - FORENSIC ASSISTANTS

SALARIES – OVERTIME/ADDITIONAL PAYMENTS

11.2**OVERTIME/ADDITIONAL PAYMENTS****OVERTIME RECORD**

All overtime worked by Administrative and Clerical staff should be recorded in a separate Record of Attendance Book which should be maintained solely as an overtime record.

Staff members are required to sign personally the times of commencement and completion of overtime duty, a separate page being used each day on which overtime is worked. They are also required to record in the "Remarks" column a brief notation sufficient to identify the nature of the work performed.

Each page should be initialled by a responsible officer (e.g. Administrative Officers or Branch Heads).

CLAIMS FOR OVERTIME

As far as practical each area is to have a separate overtime book (PH484) and claims for overtime must be submitted on that form in duplicate and totalled at the end of each claim.

The claim must be certified by the Administrative Officer/Branch Head that the overtime claimed was worked, has been correctly approved by the appropriate delegate and that funds are available for payment.

The salaries section should retain the original detachable page with the copy being retained in the book within the Branch.

FORENSIC MEDICINE - MEDICAL OFFICERS

Approval has been given for the payment of an on-call allowance to staff members rostered second on-call and for payment of on-call allowances calculated on a daily basis where a staff member is unable to complete a normal seven day roster or is otherwise rostered, in the following terms:

Effective on and from 1 July 1977:

- (a) The payment of an on-call allowance to the staff member rostered second on-call. Such allowance to be half the rate applicable to the person rostered first on-call.
- (b) Where a staff member because of illness or other pressing necessity is unable to complete a normal seven consecutive day on-call roster or is otherwise rostered the on-call allowance payable shall be calculated at a daily rate of 24 hours completed on-call service as varied from time to time, or half that rate for the person rostered second on-call.

FORENSIC MEDICINE - FORENSIC ASSISTANTS**On-Call Allowances**

A staff member required to be on-call shall be paid for each period of 24 hours or part thereof, the rates as applicable from time to time, provided that only one allowance shall be payable in any period of 24 hours.

In addition, the occupants of the above positions are to be paid a minimum of three hours at the appropriate overtime rate for each call-back, except where such period of three hours might overlap a subsequent call-back period.

SALARIES – OVERTIME/ADDITIONAL PAYMENTS

11.3**Overtime**

The provisions of the Crown Employees (Overtime) Award shall apply to this agreement.

Penalty Rates

- (i) Staff members shall be paid for all time other than overtime worked as follows:
- (a) For time worked on a Saturday - additional payment at the rate of half time extra.
 - (b) For ordinary rostered time worked on a Sunday - additional payment at the rate of three quarter time extra.
 - (c) When rostered off on a Public Holiday - no additional compensation or payment.
 - (d) When rostered on a Public Holiday and work performed - an additional payment of a half time extra.
 - (e) Annual Leave at the rate of six weeks per annum. (30 working days plus 12 rest days).

No. of Ordinary Shifts
Worked on Sunday and/or
Public Holidays during
a Qualifying Period of
12 months from 1 December.
One Year to 30 November
the Next Year.

Additional Payment

4 to 10	1/5th of one week's ordinary salary.
11 to 17	2/5th's of one week's ordinary salary.
18 to 24	3/5th's of one week's ordinary salary.
25 to 31	4/5th's of one week's ordinary salary.
32 or more	one week's ordinary salary.

The additional payment shall be made after 1 December in each year for the preceding twelve months, provided that:

- (1) Where the employment of a staff member is terminated or he/she retires the staff member shall be entitled to be paid the additional payment that may have accrued under this paragraph from the preceding 1 December until the date of termination or retirement.
- (2) Payment shall be at the rate applying as at 1 December each year or at the date of termination or retirement.
 - (ii) In calculating overtime rates, the allowances referred to in (1) above shall be disregarded.
 - (iii) A day, afternoon or night shift for the purposes of this clause shall be regarded, respectively as shifts which do not commence before 6 am, 10 am, or 4 pm.
 - (iv) Shift allowances or penalty rates prescribed for Saturday or Sunday work performed on afternoon or night shifts are not cumulative nor payable in respect of any shift for which pay under paragraph (e) of (1), is made.

The existing overtime conditions applicable to the above staff members being supplemented by the addition of the following:

SALARIES – OVERTIME/ADDITIONAL PAYMENTS

11.4

“Any staff member who works so much overtime:

- (a) between the termination of his/her ordinary work on any day or shift and the commencement of his/her ordinary work on the next day or shift that he/she has not had at least eight consecutive hours off duty between these times; or
- (b) on a Saturday, a Sunday and a holiday, not being ordinary working days, or on a rostered day off without having had eight consecutive hours off duty in the twenty-four hours preceding his/her ordinary commencing time on his/her next ordinary day or shift;

shall, subject to this sub-clause, be released after completion of such overtime until he/she has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If on the instruction of his/her employer, such a staff member resumes or continues work without having had such eight consecutive hours off duty he/she shall be paid at double rates until he/she is released from duty or such period and he/she then shall be entitled to be absent until he/she has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.”

Lunch Break

A one hour luncheon break may be taken, provided that where necessary, the lunch hours of Assistants are varied to allow for continuity of work.

SALARIES – CESSATION OF DUTY

12.1

SALARIES – CESSATION OF DUTY

GIVING OF NOTICE

CALCULATIONS OF RESIGNATIONS AND RETIREMENTS

CESSATION - PAYMENT OF SALARY AND LEAVE

DECEASED STAFF

SEPARATION CHECKLIST

SUSPENSION OF PUBLIC EMPLOYEES FROM DUTY

GIVING OF NOTICE

Provision of Adequate Notice

In some instances Awards provide that a specific period of notice of resignation must be given. Where a period of notice is not specified the usual requirement is that “reasonable” notice be given. As a general rule, the period of “reasonable” notice should be aligned to the frequency with which a person is paid (e.g. if a person is paid on a fortnightly basis, then “reasonable” notice could be construed as being a fortnight). Should there arise any difficulty in determining what is regarded as “reasonable” notice Human Resources is to be consulted.

Cessation of Duty Without Notice

Where an officer, or employee proceeds on unauthorised leave of absence, a certified letter or a telegram is to be sent to the person’s last known address:

- requesting the reason(s) for the absence;
- directing the person to resume duty within a specified time, and
- advising of the prospect of termination of employment if this directive is not followed.

If a person does not resume duty within the specified period, or fails to contact State Health and provide a satisfactory reason for the unauthorised leave of absence, Human Resources should be advised. **Temporary employees** should have their services dispensed with in accordance with Section 38(5) of the *Public Sector Management Act 1988*.

As a general rule, persons absent without approval of leave and who subsequently do not return to work after action has been taken are entitled to be paid accrued leave in accordance with Industrial Authority (Leave) Determination, Section 2 and Section 7.

CALCULATION OF RESIGNATIONS AND RETIREMENTS

When calculating resignation and retirement entitlements, officers should ensure the following conditions are met:

- (1) Required periods of notice are given.
- (2) The Leave Card should balance against the calculation sheet.
- (3) Any leave without pay absences in the current leave period are to be deducted on resignation payment. The card should also be checked to ensure that all computer leave without pay entries have been deducted and if not, they should be taken on resignation.
- (4) A check of the staff file should be undertaken to calculate the extended leave taken (applications should be retained on the file) and also any previous service which may attract extended leave.
- (5) No credit unions loans are outstanding.
- (6) Any sick leave absence during the period of resignation are supported by a medical certificate or a deduction in salary should be taken accordingly.
- (7) Any overtime due is entered and paid.
- (8) Superannuation forms completed, if applicable.
- (9) Compensatory leave should be added to leave and paid on resignation.
- (10) The staff member should be terminated from the payroll and the appropriate advice number placed on the leave return, viz. computer input number.

CESSATION - PAYMENT OF SALARY AND LEAVE**Recreation Leave****Public Servants**

The value of accrued recreation leave on cessation may be paid as a gratuity (lump sum) or may be paid as leave on leave - see the Personnel Handbook.

In some cases it may be to the person's financial advantage (e.g. less taxation paid) to receive a lump sum payment. However, in some cases, by taking leave as leave and thereby increasing length of service, a person may be able to become eligible for the payment of arrears under an impending salary agreement or, become eligible for some other benefit, e.g. extended leave on completion of ten years' service.

It may be appropriate for a brief explanation to be given of the differences between the respective methods if such information is sought, however staff should be informed that the responsibility for deciding whether to exercise the option rests solely upon them. Two salary calculations should not be prepared in respect of a person who is about to cease employment.

Other Payments for Unused Annual Leave Received on Termination of Employment**Leave for Service before 18 August 1993 and after 17 August 1993**

Any part of the payment that is for annual leave accrued before 18 August 1993 is taxed differently to payments for leave accrued for service on or after 18 August 1993. So first you need to calculate the portion (if any) of the payment relating to service before 18 August 1993 as follows:

$$\text{Payment x } \frac{\text{Number of days in the accrual period that occurred before 18/8/93}}{\text{Number of days in the accrual period}}$$

where the accrual period is the number of whole days over which the unused annual leave accrued, assuming that the leave accrues in accordance with the employee's ordinary conditions of employment and that it relates to the most recent period of service.

Example 3

Bridget resigns from her employment on 17 March 1994 after 10 years of service and receives a payment of \$5,000 for 6 weeks' unused annual leave. Under the conditions of her employment, Bridget is entitled to 4 weeks' annual leave for each year of service. Therefore, the total number of days in the accrual period of Bridget's unused annual leave is 546 days (i.e. the 18 month period from 18 September 1992 to 17 March 1994). The number of days in the accrual period that occurred before 18 August 1993 is 334 days (i.e. the period from 18 September 1992 to 17 August 1993). Therefore, the amount of Bridget's payment which accrued before 18 August 1993 is:

$$\$5,000 \times \frac{334}{546} = \$3,059$$

The payment for service on or after 18 August 1993 is:

$$\$5,000 - \$3,059 = \$1,941.$$

SALARIES – CESSATION OF DUTY
12.5

DECEASED STAFF (See TD 602)

General

The following notes have been prepared to assist with the prompt and correct distribution of moneys due to deceased officers and employees at the date of their death. It is emphasised at the outset that such matters are to be dealt with as a matter of urgency so as to avoid any financial hardship to relatives of the deceased. The payment of all moneys due to the deceased is to be given the highest priority.

Unusual circumstances may arise which are not fully covered by these procedures and in such cases the advice of Employee and Industrial Relations is to be sought without delay.

Unclaimed salary may be paid under normal delegations, subject to the procedures set out herein.

Leave due is payable as an Act of Grace under Ministerial authority. This authority has been delegated to various officers (refer to the Delegations Manual). Such payments are not taxable and therefore should be made on a separate voucher and not updated on group certificates.

The procedures and requirements for distributing moneys due are set out in the following pages.

Unclaimed Salary

Unclaimed salary includes unpaid salary or wages, travelling expenses, overtime, uniform and laundry allowances etc.

The payment of unclaimed salary and allowances is normally paid to the legal representative (i.e. the Estate) on production of Probate of Will or Letters of Administration.

Where there are no assets or insufficient assets requiring an application to the Court for the formal grant of Administration of Probate the cost of funeral expenses may be paid from any amount held as unclaimed salary and allowances to a person upon production of a Statutory Declaration stating the following:

- that the Estate is of insufficient value to warrant applying for Letters of Administration or Probate.
- that the funeral expenses were paid by the declarant if this was the case (the declaration must be accompanied by proof of payment e.g. account and receipts).

Payment is to be approved in accordance with the Delegations Manual.

Recreation Leave (TD 602)

The monetary value of recreation leave up to a maximum prescribed in terms of the relevant Act, regulation or award, due to a deceased staff member including trainees at date of death is payable **only in the order stated below:**

- (1) to the widow or widower of the deceased; or
- (2) to the children of the deceased in equal shares; or
- (3) to the dependent relatives of the deceased as determined by the Board provided that where the particular statute applicable requires the employing authority to determine the dependent relative to whom the monetary value of **extended** leave due at date of death shall be paid the monetary value of recreation leave due at date of death shall also be paid to the person so determined; **or**
- (4) the de facto husband or de facto wife of a deceased officer, to the extent or as provided in the *De Facto Relationships Act 1984*; **or**
- (5) to the personal representative of the deceased (i.e. the Estate).

29(24/10/14)

Note: The Leave Loading is Not Payable at Death

Where funeral expenses of the deceased have not been paid or where they have been paid by a party other than the person making claim for payment of the value of recreation leave, it shall be discretionary to the approval of the Minister (or delegate in Delegations Manual) to direct that the funeral expenses shall be paid to the funeral director or to such person who has paid them (proof of payment required e.g. account and receipts) before payment of any moneys to the claimant or to any other person. (TD 602.02)

However, in considering any claim, enquiries should be made as to what approaches have been made for payment of funeral expenses in accordance with Section 122(5) of the *Stamp Duties Act 1920*, from any assets of the deceased which are held in a savings bank account or an insurance company. (TD 602.02)

No action is to be taken to recover any overpayment of salary or wages as a consequence of an officer or employee dying before completing recreation leave paid for in advance, however where an officer or employee dies owing money to State Health it is competent to direct that any moneys payable in respect of recreation leave accrued at date of death be first applied in settlement of the debt to State Health. Action is to be taken to ensure that, where such a debt exists, the Crown has first call upon the value of recreation leave due.

Where payment is made to the widow, children, etc., the money value of recreation leave due is to be calculated for the period over which the leave would have run had it been granted as recreation leave (including public holidays) commencing from the first working day after the date of decease. No further recreation leave is to accrue over such period. The payment is calculated at the rate of salary being paid at the date of decease.

Monetary value of recreation leave in excess of the accrual limit will be allowed only in those cases where the deceased had approval to accrue in excess of the limit.

Extended Leave

The monetary value of extended leave due to a deceased staff member at date of death is payable **only in the order stated below:**

- (1) to the widow or widower of the deceased; **or**
- (2) to the children of the deceased in equal shares; **or**
- (3) to the dependent relatives of the deceased as determined; **or**
- (4) the de facto husband or de facto wife of a deceased officer, to the extent or as provided in the *De Facto Relationships Act 1984*; **or**
- (5) to the personal representative of the deceased (i.e. the Estate).

These provisions are also to apply to a person who dies after completing between 5 and 10 years service as an adult.

Any payment made as above shall be in addition to any payment due for superannuation. If the deceased was contributing for superannuation and is survived by a widow, the widow's application for pension shall be obtained and processed without delay.

Where payment of the monetary value of extended leave has been made as above, no action may be brought against the Crown for payment of any amount for such leave.

Where funeral expenses of the deceased have not been paid or where they have been paid by a party other than the person making claim for payment of the value of extended leave, it shall be discretionary to seek the approval of the Minister (or delegate) to direct that the funeral expenses shall be paid to the funeral director or to such person who has paid them (proof of payment required e.g. account and receipts) before payment of any moneys to the claimant or to any other person.

Relevant Matters - Payment

The following are to be taken into account in regard to payment for recreation and/or extended leave.

- **Last Day of Service** - this is the date of death and all leave is to be calculated up to that date.
- **Children** - Where there is a guardian to any children entitled to payment of the value of recreation or extended leave, the payment may be made to such guardian for their maintenance, education and advancement. Children need not be dependants - they may be adult children. Evidence of relationship to the deceased must be sighted (i.e. birth certificate).
- **Dependent Relatives** - dependency may be partial or total. It is necessary to check relationship, dependency and that the claimants comprise **all** of the relatives dependent upon the deceased at the date of death. Prior to authorising any claims delegates are to satisfy themselves that the following enquiries have been completed or declarations obtained:
 - the marital status of the deceased verified as far as possible (sighting of marriage certificate or search at the Registry of Births, Deaths and Marriages).
 - the full names of the closest relatives (i.e. all those closest in degree of kinship) of the deceased who survived him/her established, verified as far as possible by search at the Registry of Births, Deaths and Marriages.
 - Statutory Declaration(s) from the claimant(s) setting out the facts which the claimant(s) considers support the claim to be a dependent relative of the deceased (which should be verified as far as possible by a search at the Registry of Births, Deaths and Marriages and the extent of dependency on the deceased, i.e. wholly or partially and giving detail).
 - Any other evidence available which would be of assistance, for example, particulars of deceased's will (if any), any evidence available in State Health (e.g. in records or known to fellow staff), statutory declaration from another person stating any information known to the declarant in relation to the dependency of any relative upon the deceased at the date of death.

Application For Payment - a written application is required from the claimant for the monetary value of recreation and extended leave due and must be accompanied by the following documents:

- Marriage certificate
- Deceased's death certificate
- Proof of payment of funeral expenses (where applicable)
- Statutory declarations (see "Dependent Relatives" above)

A covering list of documents received and information regarding the deceased should be prepared using forms set out in the format shown at the end of this Section.

The list, with documents attached, is to be referred to the appropriate delegate for approval of payment and then retained on the officer's personal file.

Salary Variations

Where the date of death is subsequent to the operative date of a Determination or Agreement and before the date of signature or publication respectively, a salary adjustment is to be made in terms of the Determination or Agreement, unless the Industrial Authority otherwise determines.

SALARIES – CESSATION OF DUTY

12.8

**DECEASED OFFICER/EMPLOYEE - PAYMENT OF UNCLAIMED SALARY,
RECREATION LEAVE, EXTENDED LEAVE**

DECEASED POSITION

UNCLAIMED SALARY DUE	\$.....
RECREATION LEAVE	\$.....
EXTENDED LEAVE	\$.....
DEBTS OWING TO THE CROWN	\$.....

TOTAL DUE \$

AMOUNT OF FUNERAL EXPENSES
PAID BYRELATIONSHIP.....
ADDRESS

SUBMITTED FOR APPROVAL TO PAY THE SUM OF \$
TO M
OF
(REQUIRED DOCUMENTS ATTACHED - SEE SUMMARY)

.....
SIGNATURE

PAYMENT APPROVED UNDER DELEGATION

.....
SIGNATURE

.....
POSITION

DECEASED OFFICER/EMPLOYEE**DOCUMENTS ATTACHED: (TICK BOX)****(1) UNCLAIMED SALARY:**

WRITTEN APPLICATION

PROBATE OF WILL **OR****PLUS**

LETTERS OF ADMINISTRATION

OR STATUTORY DECLARATION INCLUDING FUNERAL ACCOUNT AND RECEIPTS**(2) RECREATION LEAVE/EXTENDED LEAVE:**

WRITTEN APPLICATION

PROOF OF PAYMENT OF FUNERAL EXPENSES

STATUTORY DECLARATION(S) FROM PERSON(S) CLAIMING TO BE DEPENDENT RELATIVE(S)

OTHER EVIDENCE RE DEPENDENT RELATIVE

(3) OTHER DOCUMENTS:

DECEASED'S BIRTH CERTIFICATE

WIDOW'S/WIDOWER'S BIRTH CERTIFICATE

MARRIAGE CERTIFICATE

DECEASED'S FULL DEATH CERTIFICATE

SALARIES – CESSATION OF DUTY**12.10****SEPARATION CHECKLIST - CENTRAL ADMINISTRATION**

All Central Office staff separating from the Department (resignation, redundancy etc.) will be required to meet with the Manager, Accounts so that items detailed on the attached checklist can be handed in prior to leaving these premises.

SEPARATION CHECKLIST**EMPLOYEE NAME** _____ **LDD/S** _____**PAYROLL NO.** _____**BRANCH** _____**ADMIN OFFICER** _____ **PHONE** _____

- 1) Departmental ID Card
- 2) Departmental Access Card
- 3) Parliamentary and Other Access Cards
- 4) Mobile Telephone & Accessories
- 5) Pager
- 6) Special Authority Cards
- 7) Keys - Office
- Safe
- Cupboards/Cabinets
- 8) Home Equipment (Dictaphone, Computer etc.)
- 9) Motor Vehicles - Keys
- Petrol Cards yes/no _____ Transport Branch
- 10) Corporate Card/Relevant Receipts yes/no _____ Ledgers
- 11) Bridge Token/Cab Charge etc.
- 12) Advances re travel, petty cash etc. yes/no _____ Cashiers Office

ALL ISSUED ITEMS RECEIVED _____

SALARIES – CESSATION OF DUTY

12.11**SUSPENSION OF PUBLIC EMPLOYEES FROM DUTY (Pr. Mem. 94/21; 94/35)**

Following implementation of the previous guidelines, it is apparent that some operational difficulties have been experienced by agencies. Accordingly the policy has been amended.

Under the revised guidelines attached, Chief Executives may suspend an employee without pay before criminal or disciplinary charges have been finalised, in exceptional circumstances.

Agencies should continue to give priority to the option of placing employees facing criminal charges or disciplinary proceedings on alternative duties, or duties at another location. The Chief Executive, where they believe it is necessary, may suspend the employee from duty with pay. In all suspension cases the decision should be reviewed at least every 30 days.

The Premier's Department will monitor the implementation of these guidelines in agencies.

SALARIES – CESSATION OF DUTY

12.12

SUSPENSION OF PUBLIC EMPLOYEES

REVIEW POINT	PROCEDURE	CRITERIA FOR DECISION
<ul style="list-style-type: none"> • CRIMINAL OR • INTERNAL INVESTIGATION 	<p>Where an employee is under criminal or internal investigation, and it is inappropriate for the employee to continue in their usual duties, the first option is for the Chief Executive* to place the employee on alternative duties or duties at another location.</p>	<ul style="list-style-type: none"> • Nature of allegation. • Nature and location of current/proposed duties. • Public interest. • Nature of crime/conviction. • Efficient operation of the agency. • Maintenance of good order and discipline.
<ul style="list-style-type: none"> • CRIMINAL CHARGE • DISCIPLINARY CHARGE • COMMITMENT FOR TRIAL OR SENTENCE 	<p>Where an employee is facing a criminal or disciplinary charge or is committed for trial or sentencing, and it is inappropriate for the employee to continue in their usual duties, the first option is for the Chief Executive to place the employee on alternative duties or duties at another location, pending the outcome of the disciplinary process or criminal proceedings. However, the Chief Executive* may suspend the employee from duty with pay, where it is considered that the charges are serious enough, or having the employee remain at work would be detrimental to the effective running of the agency. This decision should be reviewed every 30 days.</p> <p>Where the option to suspend from duty with pay is not available, the Chief Executive* may consider the alternative of directing the employee to not attend work, meaning that the employee would remain on full pay, pending the outcome of the disciplinary process or criminal proceedings. This decision should be reviewed every 30 days.</p> <p>In exceptional circumstances, the Chief Executive* may suspend the employee from duty without pay. Without limiting the generality of this term, such circumstances would include where an employee has been remanded in custody, or has admitted to behaviour that under the circumstances renders the employee unfit to continue in paid employment with the agency. This decision should be reviewed at least every 30 days.</p>	
<p>CONVICTION FOR A CRIME NOTWITHSTANDING APPEAL ON CONVICTION</p>	<p>Where an employee is convicted of a crime, notwithstanding the availability of an avenue of appeal against conviction, the Chief Executive* (pending final decisions on whether the employee is retained or dismissed) will suspend the employee from duty without pay, if the nature of the offence is such that this action is warranted in the public interest, having regard to the efficient operation of the agency or the maintenance of good order and/or discipline. The suspension decision should be reviewed every 30 days.</p> <p>If the option to suspend without pay is not available, then suspension with pay should apply.</p>	

*Or the Chief Executive's delegate where appropriate.

SALARIES – PROCEDURES

13.1**SALARIES - PROCEDURES**

SALARY PAYMENTS - PART-TIME EMPLOYEES

PAYMENT BY BANK DEPOSIT

SALARIES AND SALARY PROCEDURES - INTERNAL CONTROL

PAYROLL VOUCHER LISTING

PAY SLIPS AND EMPLOYER'S RECORDS

SALARY UNDERPAYMENTS - PAYMENT OF ARREARS

SALARY AND OTHER OVERPAYMENTS

RECOVERY OF OVERPAYMENTS FOR NSW HEALTH EMPLOYEES

PERSONAL FILES - ACCESS

STAFF - PART-TIME EMPLOYEES - SALARY PAYMENTS

Positive measures of checking of hours must be adopted.

If the information regarding the actual number of hours worked is not readily available to the salaries clerk, such as from a separate time book for the part-time staff, the responsibility for certifying as to the correctness of the number of hours being paid is to be placed with the immediate supervisor.

In addition, frequent periodic checks are to be carried out as to approvals and hours worked by part-time staff.

SALARIES - PAYMENT BY BANK DEPOSIT**Timing**

Where salaries are paid by means of bank deposit, payment of same by the general office should be made in sufficient time to allow the credits being made at the bank and branch of the staff members concerned by no later than the pay day.

Financial Institutions Duty

The awards of the Department of Health incorporate the requirement that salaries are paid direct to bank accounts.

Duty only becomes payable when a cheque is deposited for credit to an account and not when it is merely cashed across the counter. However, if a cheque is cashed somewhere other than a bank, then the business cashing the cheque may well deduct the cost of the duty which they will eventually be charged when they deposit the cheque to their own bank account.

Where employees have their salary credited to a bank account, or to an account with some other organisation such as a building society or credit union, then they also will be liable for any charges imposed.

SALARIES AND SALARY PROCEDURES GENERALLY - INTERNAL CONTROL

The responsibility for the accuracy of computer input documents submitted rests entirely with the Salaries Section staff. On change of personnel, steps must be taken to ensure that the new occupant is aware of the requirement as affecting his/her position.

General

It is mandatory that one officer prepare computer input documents which are to be checked by another officer, preferably the Senior Salaries Clerk. Upon receipt of the payroll, 100% of permanent salary variations are to be checked **from the payroll/Employee Detail Record**. A senior officer should undertake at least 10% of this check.

It is mandatory that computer input documents be signed by the Senior Administrative Officer or equivalent. The authorisation must not be regarded as a formality.

A separate register is to be maintained listing all computer input documents which have been authorised. The register is to provide for the following columns:

SALARIES – PROCEDURES

13.3

Advice Nos.	Date	Initials of	Processed
From	To	Authorised	SAO
			(edit report checked)

The error batch control report supplied showing serial numbers of variation advices received and processed is to be checked by the Senior Salaries Clerk against the register. This report is to be initialled to indicate that the check has been carried out. Error reports are to be retained for audit/inspection.

All unused lines on computer input documents are to be “scored” out by the officer preparing the sheet.

Alterations on computer input documents are to be ruled out, initialled and fresh entry made.

Computer input documents are accountable and are to be entered in the Accountable Books Register.

The names and specimen initials of officers preparing and checking entries on computer input documents are to be shown on the inside cover of computer books.

Higher Duty Allowances

Higher Duty Allowances are not to be noted on salary/service cards except where the allowance is paid on a “permanent” basis through the computer.

All applications for higher duties allowances for both permanent and temporary officers are to be retained on the officer’s file.

The computer input document is to be used to advise of Temporary Higher Duty Allowances.

Refunds

Refunds (Leave Without Pay, Resignations etc.) are to be deducted from salary sheets or by temporary salary variation using computer variation advices.

Net refunds of salary are to be credited to the Remitting Account each payday and details entered in the Refund Register (include receipt number).

Gross refunds are to be balanced in conjunction with the Salary Control/Drawing Account reconciliations and moneys for taxation, superannuation and miscellaneous deductions cleared from the Drawing Account to the Remitting Account.

It will be necessary to submit journal transfer entries in order to properly identify the nature of deposit.

The operation of the Remitting Account is discussed more fully in the Accounting Procedures Manual.

Information required by Treasury is total amount refunded, the Head of Expenditure and Item Number to which it refers. Any amount referring to previous years’ expenditure is to be shown separately under Treasury Account No. 5325.

Refunds Register

A Refunds Register (PH507) or Additional Payments and Refund Adjustment Book (PH516) as described below, is to be used in all areas to record details of refunds. The “gross refund” column is to be totalled fortnightly to agree with the sum banked to the Central Remitting Account.

The Refunds Register is printed in duplicate and is accountable - the original sheet is to be used to acquit fortnightly pay sheets and is to be attached thereto.

Where adjustments are effected through the computer input, the document number (and in the case of manual refunds, the refunds register folio number), is to be referenced on salary/service cards.

When forwarding Treasury remittances for refunds, the Senior Salaries Clerk is to inspect both the Refund Register and Drawing Account cash book to ensure all refunds are cleared.

Additional Payments and Refund Adjustments Book - PH516

The following specific instructions are to be adhered to:

Each form is to show the name of the Area etc., as well as the Department Code.

The number of lines used and column totals are to be inserted at the foot of each form with unused lines being scored out.

Special attention is to be given to the use of carbon paper to ensure a clear and legible impression on the copy to be used by the Central Salaries Bureau.

Every endeavour is to be made to submit the forms to the Central Salaries Bureau progressively rather than together close to the normal fortnightly close off time.

Abbreviations should be used as much as possible in view of the limited space.

In using columns 51-56 it is to be noted that those miscellaneous deductions subject to updating or downdating are to be individual entries with the relevant code numbers marked in column 50.

Certification is to be made on the bookfast copy by the checking and preparing officers that salary/service records have been noted appropriately.

Particular attention is drawn to the fact that the computer will not accept updates (or downdates) where the number advised consists of more than four (4) digits. It will still be necessary to make more than one entry in the book where the amount to be advised exceeds 9999.

The book must be completed in triplicate:

Original:

To be completed either as a refund register or salary voucher original (refunds and salary payments are not to be entered on the same form unless a refund is part of a supplementary voucher payment). This original is the Auditor-General's copy and will be submitted in the same manner as currently applied to the supplementary vouchers and the refund register.

SALARIES – PROCEDURES
13.5**First Copy:**

Completed by carbon (frequent changes of carbon recommended) and will be the Treasury input document. It must be clear and concise and therefore lines must “line up” with the original.

All existing requirements in regard to computer documents apply equally to this form. It should be authorised separately (original full signature required). In regard to vouchers which can be prepared fully in advance (e.g., new starters voucher) this copy can be forwarded as soon as prepared without awaiting acquittances.

Second Copy:

This is the bookfast copy to be used for reference and audit/inspection purposes. If the form is used as a refund register this copy is to be signed by the checking and preparing officers. Under the Hospay system this copy is retained and entered in the Prepayments/Termination Advice.

Exception and Error Reports

The exception and error reports which accompany salary sheets are to be reviewed immediately upon receipt of sheets and corrective action taken. Excessive payments are to be checked thoroughly.

It is the Senior Salaries Clerk/Office Manager’s responsibility to ensure that all necessary action is taken - the reports should be suitably endorsed to indicate that checks have been conducted.

Authorisation of Computer Input Documents

Before input documents are authorised, a check is to be made covering the following:

- (a) both preparing and checking officer’s initials appear on the data sheets;
- (b) all blank spaces on data sheets scored out;
- (c) alterations ruled out and fresh entry made (alterations to be initialled);
- (d) check of employment forms accompanying appointment schedules.

Check of Salary Sheets and Salary Cards

Check of salary sheets on receipt from the Computer Bureau is to be limited to a check of basic details of variations only, i.e. serial number and gross salary rate.

A 100% check against salary cards is to be made for the pay period nearest the end of September and March.

The check is to be carried out with the assistance of an independent person (with some salaries experience) if possible.

A certificate is to be furnished as evidence that this check has been carried out. The certificate is to record also the details of any errors, discrepancies, etc., located during the check. Certificates to be retained for inspection/audit.

A copy of the certificate relating to the 100% payroll check should be forwarded to the Auditor-General by 30 November each year.

Salary Control Accounts

Standard salary control accounts are to be maintained and reconciliation with amounts remitted to Taxation Department and the State Superannuation Board effected.

The annual reconciliation is to be submitted to the Senior Officer of the “Salaries Section”/Accounts Branch before issue of group certificates and retained for inspection/audit. It is the Senior Officer’s responsibility to ensure it is submitted.

The reconciliation should be set out in accordance with the format shown on the following page.

SALARIES – PROCEDURES

13.7**RECONCILIATION OF SALARIES FOR FOUR WEEKS ENDING.....**

	<u>GROSS</u>	<u>TAX</u>	<u>SUPERANNUATION</u>
(a) Payroll totals			
.....			
PLUS			
b) Separate completed vouchers			
SUB-TOTALS			
LESS			
c) Refunds for 4 weeks (Folios.....to.....)			
d) SUB-TOTALS	*	*	
e) Plus totals brought forward from previous 4 weeks			
f) Totals carried forward			
g) Computer totals			
PLUS			
h) Separate vouchers not updated			
LESS			
i) Refunds taken but not downdated (Folios..... to))			
j) + Incorrect adjustments. to			
k) Totals as above		<u>HOSPAY</u>	

Explanatory Notes

- (a) Show totals on payroll summary for the two pay days within the period.
- (b) The numbers and totals of all completed vouchers are to be listed including those not updated.
- (c) These figures are to be the total refunds for each pay taken from the Refund Register.
- (d) The totals for taxation and superannuation must agree with the amounts held at the end of the period.
- (e) The totals to be shown are those under “totals carried forward” from the previous four weeks.
- (f) Self-explanatory
- (g) The totals to be shown are the year to date totals shown on the payroll summary for the second pay of the period.
- (h) The numbers and totals of all completed vouchers not updated are to be listed.
- (i) The totals and register numbers of all refunds not downdated are to be shown.
- (j) Any adjustments necessary because of errors or non-acceptance when advising variations to be shown.
- (k) The totals for all sections must agree with those shown in (f).

Payment of Income Tax Deductions to the Commissioner of Taxation

In order to ensure that remittances to the Australian Taxation Office agree in total with the total of income tax deductions shown on group certificates issued by them, salaries staff shall undertake a reconciliation, at least monthly, to balance the amounts remitted to the Australian Taxation Office, with the total deducted from employees' salaries and wages in that period, as reflected in the earnings records from which the group certificates are produced.

Any discrepancy between the total of the Group Certificates and the amounts remitted to the Australian Taxation Office which cannot be located in reasonable time without undue effort and expense shall be adjusted in the following manner after agreement with the Australian Taxation Office as to the amount involved:

- (1) Where the total of income tax deductions as per group certificates exceeds the total of the amounts paid to the Australian Taxation Office for the year in question, the difference is to be paid to the Australian Taxation Office and the amount involved charged against the appropriate salaries, wages and allowances items of the department's vote.
- (2) Where the total of the amount paid to the Australian Taxation Office for the year exceeds the total of income tax deductions as shown by group certificates, the amount of the difference is to be claimed from the Australian Taxation Office and credited to the Consolidated Revenue Fund revenue item “Repayments to Credit of Consolidated Revenue Fund Votes - Previous Years” or, where Consolidated Revenue Fund is not involved, to an appropriate departmental account.

Whilst adjustments are to be effected in the above manner, all reasonable steps shall be taken subsequently to locate and adjust discrepancies, and any major discrepancy shall be reported to the Treasury.

Attention is drawn to the Australian Taxation Office's general requirement as set out in the leaflet “Group Instalment Deduction Procedure - Notes for Guidance of Employers”.

In particular, attention is invited to the notes under the headings: Preparation of Group Certificates; Issue of Group Certificates; Group Certificate issued for an amount in excess of Instalment Deductions Made; and Reconciliation Statement.

SALARIES – PROCEDURES**13.9**

Under the terms of the Deputy Commissioner of Taxation's Ruling IT 2171, clerks should remit PAYE taxation deductions to the Australian Taxation Office by the seventh day of the month following that in which the deductions are made.

It is requested that clerks conform with efficient funds management practice and remit their respective PAYE deductions to reach the Deputy Commissioner on the seventh day of each month, or the first working day after that day, when it falls on a weekend or public holiday.

For those authorities which fall under the definition of an "early remitter" within section 221EC of the *Income Tax Assessment Act 1936*, payments are required to be received by the seventh and twenty-first days of each month. When either day falls on a weekend or public holiday, the payments should reach the Deputy Commissioner by the first working day after the weekend or public holiday.

Authorities operating within the Treasury Banking System must ensure that these payments are correctly recorded on the appropriate day of their monthly cash flow forecast when this is submitted to the Treasury.

With regard to tax deductions from prescribed payments, authorities should remit such deductions to the Australian Taxation Office by the fourteenth day of the month following that in which the deductions are made.

Authorities are requested to conform with efficient funds management practice and remit deductions from prescribed payments by the fourteenth day of each month or the first working day after that day, when the fourteenth falls on a weekend or public holiday.

Permanent Variations

For each permanent variation processed details of the computer input document number and date paid are to be recorded on the salary/service card.

Acquittance of Pay Sheets

Pay sheets are to be fully and correctly acquitted and referred to the Senior Administrative Officer within fourteen days of end of pay period. "Fully and correctly acquitted" means:

- Salary vouchers submitted for recoup and salary payrolls are to be accompanied by original acquittances. The attaching of photostat copies of receipts, the originals of which are attached to other vouchers or a statement that receipts are attached to other vouchers is to be avoided as far as practicable.
- Treasury receipt accompanies the cheque list.
- The summary remitting warrant is stamped by the bank and is attached to the pay sheets.
- All loose receipts, authorities, cash refunds register sheets, salaries advance register sheets etc., are correctly referenced using a numerical sequence for identification purposes and are securely fastened to the voucher.

It is the prime responsibility of the Senior Salaries Clerk to ensure proper acquittance. Where detailed work in this regard is undertaken by another officer, the Senior Salaries Clerk is to test check the sheets and be satisfied that they have been properly acquitted.

The Request for Recoupment Form, PH284 covering acquitted salary vouchers is to be signed by the Senior Administrative Officer who should be satisfied that control measures and the general standard of work are sufficient to meet State Health requirements.

SALARIES – PROCEDURES
13.10

Acquitted copies of payrolls will constitute supporting documents for payment vouchers and must be retained for the prescribed period (see Accounting Procedures Manual).

Payment of Advance Salaries**Cash Advances**

Draw cheque on Drawing Account and note cash sheet “Salary Advance”.

List names of staff and amounts for each pay period in Salary Advances Register (a separate page is required for each fortnightly pay period).

Officers signing cheques to be cashed for advances are to sight leave applications and initial the Advances Register (cheque number to be shown in Register).

Advances are to be signed for in the Register - the original pages to be used to acquit the paysheets for the appropriate pay period and the copies are to be retained as the record of salaries advanced.

Note on cash lists “ADVANCE (FOLIO NO.)”

Advances By Cheque

The same procedure as in “Cash Advances” above applies, except that individual cheques would be drawn for staff, the individual cheque numbers recorded in the Salary Advances Register and staff would not need to sign the Register (although original pages would still be used to acquit the payroll).

Over-Advances

Where recoupment of the Drawing Account is not effected within the pay period(s) intended (i.e. an over-advance) the balance should be recovered on the next available pay-day:

- Show normal acquittance rotations on cash lists where recoupment effected (i.e. “ADVANCE [FOLIO NO.]”).
- Transfer amount not recouped to Advances Register Folio for next pay period - show in signature column “B/F FROM (FOLIO NO.)”.
- Show on cash list for next pay period “OVER-ADVANCE \$.....” and folio number.

Advances General

When proceeding on recreation leave an officer or employee may be paid their entitlement in respect of the pay days occurring during the period of leave. The payment is to be included with the periodic salary/wages payment in the last payday prior to proceeding on leave providing:

- (a) The terms of 2. hereunder are met; and
- (b) Sufficient extended or recreation leave balance remains to cover the period from payment to the time leave commences; and
- (c) The payroll system is computerised with adequate processing capabilities for making and controlling advance payments.

When directions (a) and (b) above are not met payment may be made on the last day of duty prior to commencing on leave. In either case this payment is to be made only if requested, and sufficient notice is given of the desire to receive payment in advance, but not as a gratuity. (TD 608.05)

Accounting officers shall ensure that all authorised deductions are taken into account in respect of the whole period covered by an advance payment. (TD 608.06)

SALARIES – PROCEDURES
13.11

Where salaries or wages chargeable against the Consolidated Fund are paid in advance, any portion relating to a succeeding financial year shall be charged to Advances to be Recovered Account within Special Deposits Account. (TD 608.07)

This account shall be adjusted by repayment from the vote concerned in July of the financial year to which the charge applies.

Pay envelopes are to be checked against Leave Advice entries to ensure:

- all necessary pays are produced
- correct taxation, allowances and miscellaneous deductions are taken
- total hours/days paid are correct
- leave loadings are paid where appropriate.

It should be noted that no action should be taken to recover a salary advance if an officer dies before completing the period of recreation leave.

At six monthly intervals the recreation leave balances of all staff are to be checked, excess balances forfeited and persons approaching the limit advised, in accordance with instructions under (“Check Of Leave Balances”). The Senior Salaries Clerk should complete a 25% check of all leave balances.

Also at six monthly intervals, the Senior Salaries Clerk should check to determine staff entitlements to annual leave loading payments.

It is a requirement that deductions from recreation leave accruals for periods of leave without pay are to be made **once** each year and rounded off to the nearest **lowest** ¼ day.

Monthly Certificates

The Senior Salaries Clerk is required to issue a monthly certificate as to the accuracy or otherwise of the general work situation in areas under his/her control.

Audit Memorandums

Memorandums received during the course or after the course of an audit are to be acted upon immediately so that there is evidence that remedial action has been taken.

PAY SLIPS AND EMPLOYERS’ RECORDS (2002/41)

In November 2001 Circular 2001/108 *Important Changes to Industrial Legislation* was released to the Health Services providing a summary of recent amendments to Industrial Legislation that affect the Health Services.

One of the amendments was to the *Industrial Relations Act 1996* where a new regulation commenced on 1 January 2002, advising agencies of their obligations to provide particulars of remuneration to employees.

Please find attached a copy of Section 7(1) of the Industrial Relations (General) Regulation 2001, which specifies the particulars of remuneration to be supplied to employees with their pay slips. Health Services are to ensure that pay slips and employer’s records comply with this Regulation.

Specific enquiries concerning this Circular are to be directed to the relevant Area Human Resource Department in your Health Service. Only Health Service Human Resource personnel should contact the Health Department nominee identified above.

7022 LEGISLATION

August 2001

Clause 7 Industrial Relations (General) Regulation 2001

Part 4 Pay slips and employers' records Division 1 Pay slips

Part 4 Pay slips and employers' records**Division 1 Pay slips****7 Particulars of remuneration to be supplied to employees**

(1) For the purposes of section 123 (1) of the Act, the following written particulars are to be supplied by the employer to an employee when remuneration is paid to the employee:

- a) the name and Australian Business Number of the employer,
- b) the name of the employee,
- c) if the remuneration of the employee is set by an industrial instrument - the classification of the employee under that instrument,
- d) the date on which the payment was made,
- e) the period of employment to which the payment relates,
- f) the gross amount of remuneration (including overtime and other payments),
- g) the amount paid as overtime or such information as will enable the employee to calculate the amount paid as overtime,
- h) the amount deducted for taxation purposes,
- i) the amount deducted as employee contributions for superannuation purposes,
- j) the particulars of all other deductions,
- k) the net amount paid.

Note. Section 123 of the Act provides that a failure by the employer to provide the above particulars is an offence punishable by a maximum penalty of 20 penalty units. The section enables an employer, with the approval of the Industrial Registrar, to make different arrangements for the supply of information about remuneration.

(2) Subclause (1) (a) does not take effect until 1 January 2002.

NEW SOUTH WALES GOVERNMENT GAZETTE No. 132

PAYROLL VOUCHER LISTING

For areas utilising the Hospay System or other computer system payrolls will be prepared in duplicate, one copy of which is to be attached to the covering cash sheets, dissection sheets, cash pay listings and bank deposit listings and forwarded fortnightly to the Administrative Officer to show that the payroll has been fully and properly acquitted. For areas using the Centralised Payroll System the final page of the payroll will be printed twice and one of these pages used in place of the full payroll listing.

SALARY UNDERPAYMENTS - PAYMENT OF ARREARS

Approval for the retrospective payment of arrears is to be obtained from Human Resources. Retrospectivity is limited to a period of six years immediately prior to the matter being raised. All cases of retrospectivity in excess of six years which warrant further action should be submitted to Employee and Industrial Relations.

SALARY AND OTHER OVERPAYMENTS**General**

A salary or other overpayment (e.g. travelling, subsistence, goods and services) **has** to be repaid in accordance with the “Refund of Monies” section listed below. The officer responsible for the overpayment being made can also be subject to disciplinary action under the provisions of the *Public Sector Management Act 1988* and possible imposition of a fine.

Recovery action is to be instituted in the first place as set out in the “Refund of Monies” section below and full details (including recovery action) entered in a Salaries and Other Overpayments Register. The Register is to record the date and amount of overpayment, type, officer responsible, recovery/write-off action. The senior accounting officer is to review and initial the register on a quarterly basis. (For the purposes of this instruction, the “senior accounting officer” is defined as Manager, Accounts or Director, Administration.)

No recovery of salary or other overpayments is to be undertaken against the officer who has made the overpayment or is responsible for the overpayment being made unless the overpayment is considered to be under Section 60(1) and (7) of the *Public Finance and Audit Act 1983*, i.e. cash deficiency or loss or destruction of property, wherein the procedures as apply to a “Debt due to the Crown” are to be followed.

The senior accounting officer should consider whether the record of the officer who is responsible for the overpayment, e.g. frequency and degree of overpayments, warrants disciplinary action being taken against the officer in accordance with Part 5 of the *Public Sector Management Act 1988* and possible imposition of a fine.

Staff are to be advised **in writing** of any overpayments made to them and all papers re overpayment action are to be held on file pending audit.

Refund of Monies

It is not practicable to lay down fixed principles for the recouping of overpayments to cover all cases. Important factors to be taken into consideration are the amount of the overpayment and the financial circumstances of the officer or employee to whom the overpayment has been made. Another consideration is whether or not the person who received the overpayment could reasonably have believed that he/she was entitled to the amount; for example, if an officer was inadvertently paid normal salary twice on the same pay day.

It is stressed that in all cases where deductions for an overpayment are to be made from a staff member’s salary, the matter of the overpayment and terms of repayment must be discussed with the staff member prior to any deduction being made from salary.

Written acceptance of repayment terms is to be obtained and held on file together with all details of repayments.

The foregoing considerations are to be taken into account in determining the period over which repayment should be spread. If necessary, and certainly where the amount is large, the advice of Human Resources Branch is to be sought prior to referral to the Executive Director, Finance and Administration.

Where an agreement on repayment with an officer cannot be reached, the matter is to be referred to the Executive Director, Finance and Administration for consideration.

Ultimately, if agreement cannot be reached and the officer or person who received the overpayment refuses to make the repayment, the matter is to be referred to the Crown Solicitor for recovery action.

Officers undertaking overpayments recovery action are also to make themselves aware of the provisions detailed in Treasurer's Directions 450.01 to 450.10 (see page 5.25) as well as Delegation F7 on page 2.1 of the Financial Delegations Manual. The provisions as detailed provide guidelines for the undertaking of recovery action.

RECOVERY OF OVERPAYMENTS FOR NSW HEALTH SERVICE EMPLOYEES (PD2009_015)

PD2009_015 rescinds PD2005_160.

1. INTRODUCTION

This policy directive sets out principles for the recovery of overpayments made to staff employed in the NSW Health Service.

2. SCOPE

This policy directive applies to all staff employed in the NSW Health Service.

The Determination of Conditions of Subsidy requires (to the extent permitted by law) non-declared affiliated health organisations to comply with policy directives dealing with the terms and conditions of employment of staff employed in the NSW Health Service and to provide to staff the same conditions of employment as those set out in industrial instruments applicable to staff employed in the NSW Health Service.

3. PURPOSE

The purpose of this policy directive is to ensure that overpayments are recovered as per relevant Award provisions and in the absence of Award provisions, that overpayments are recovered in accordance with a fair and reasonable process.

4. DEFINITIONS

Employer means any person authorised to exercise the functions of the employer of staff to which this policy directive applies.

NSW Health Service consists of those persons who are employed under Chapter 9, Part 1 of the *Health Services Act 1997* by the Government of New South Wales in the service of the Crown.

Public health system includes area health services, declared affiliated health organisations in respect of their recognised establishments or services, statutory health corporations, the Ambulance Service of NSW, Institute for Medical Education and Training, Health Support Services, Health Infrastructure and any administrative unit or division under the control of the Director-General or Health Administration Corporation in which staff of the NSW Health Service are employed.

5. ACCOUNTABILITIES

Entities within the public health system have a duty to ensure that proper procedures and controls are in place which ensure that, as far as is reasonably possible, employees receive their due entitlements to salaries and wages – no more and no less.

Where overpayments occur, entities within the public health system and employees are obligated to correct the overpayment.

6. AWARD PROVISIONS

The following Awards contain procedures regarding the recovery of overpayments and the rectification of underpayments:

- Ambulance Service of NSW Administrative and Clerical Employees (State) Award
- Health Employees Conditions of Employment (State) Award
- Hospital Scientists (State) Award
- Public Health System Nurses' and Midwives' (State) Award
- Public Hospital Career Medical Officers (State) Award
- Public Hospital Medical Officers Award
- Public Hospital (Medical Superintendents) Award
- Public Hospital (Professional and Associated Staff) Conditions of Employment (State) Award
- Staff Specialists (State) Award

The provisions contained within these Awards are set out at Attachment A.

7. GENERAL PRINCIPLES

For employees not covered by the above Awards, the following principles are to be applied when recovering overpayments:

- The employee must be given a full explanation of the cause of any overpayment and the details of the calculation of the amount involved.
- The personal circumstances of the employee must be considered and discussed with a view to reaching agreement on the quantum and timing of repayments.
- Where the employee disagrees in relation to the overpayment, either as to the facts or to the repayment plan, the employer must establish a fair and transparent process to review the situation with the employee.
- The employee is entitled to be represented by a nominated person in these matters, including their employee association.
- If the employer and the employee cannot reach agreement then the employer is obligated to seek resolution by taking such action, including commencing legal action, as may be appropriate to ensure recovery of the overpayment.

8. ENQUIRIES

Any enquiries regarding this policy directive should be directed to the human resource personnel in the relevant health service. Only human resource personnel in the health service are to contact the Department.

ATTACHMENT A**Award Provisions Regarding Overpayments and Underpayments**

The following process will apply once the issue of underpayment or overpayment is substantiated.

(i) Underpayment

- (a) If the amount underpaid is equal to or greater than one day's gross base pay the underpayment will be rectified within three working days.
- (b) If the amount underpaid is less than one day's gross base pay it will be rectified by no later than the next normal pay. However, if the employee can demonstrate that rectification in this manner would result in undue hardship, every effort will be made by the employer to rectify the underpayment within three working days.

(ii) Overpayment

- (a) In all cases where overpayments have occurred, the employer shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The employer will also advise the employee of the pay period from which the recovery of the overpayment is to commence.
- (b) One off overpayments will be recovered in the next normal pay, except that where the employee can demonstrate that undue hardship would result, the recovery rate shall be at 10% of an employee's gross fortnightly base pay.
- (c) Unless the employee agrees otherwise, the maximum rate at which cumulative overpayments can be recovered is an amount, calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly base pay.
- (d) The recovery rate of 10% of an employee's gross fortnightly base pay referred to in subclause (ii)(c) above may be reduced by agreement, where the employee can demonstrate that undue hardship would result.
- (e) Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause (ii)(c) above, the employer shall have the right to deduct any balance of such overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

PERSONAL FILES - ACCESS

Personal files are confidential documents and therefore access should be restricted to staff having a legitimate reason for viewing or using the file.

Each employee has the right to examine his or her own personal file. If they wish to do so, they should make arrangements with the appropriate responsible officer who will ensure that access is provided.

Unsupervised access to personal files should not be allowed to occur.

SALARIES/LEAVE PART-TIME STAFF

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SALARIES/LEAVE PART-TIME STAFF

PART-TIME WORK

PART-TIME WORK**1. POLICY STATEMENT**

The Government is committed to improving the efficiency and effectiveness of the Public Service. Part-time work provides flexibility for managers to make better use of staff and allows staff to choose preferred work patterns.

Planned and well-managed part-time work contributes to better work performance, productivity and staff retention. Part-time work is a valuable option for both management and staff.

For management, offering work on a part-time basis is an extremely efficient way to meet the particular needs of a workplace. For instance, a function or service may only be required for a number of hours each day, or for only some days of each week, or an activity which required intense resourcing in its implementation phase may require less intense staffing once it has been established.

For staff, part-time work acknowledges that people over their life-cycle have different relationships to and needs in employment. It is an ideal opportunity to combine employment with personal activities or responsibilities such as study, care of children or other dependants, other forms of employment, or tapering work prior to retirement.

Part-time work is an important equal employment opportunity strategy. It widens the choice of work patterns available, thus opening up job opportunities to those who may not otherwise have been able to pursue a career where full-time hours are required. This is of special benefit, for example, to people with the kind of disability which may make full-time work difficult but who want to pursue a career and who have important skills to offer a workplace.

The option to work part-time applies to both permanent and temporary employees. However, temporary staff can apply for permanent positions on a full-time or part-time basis only when advertised in the press.

The Government encourages the wider use of part-time work to strengthen all areas of public sector management and to ensure the managers have the greatest degree of flexibility to effectively and efficiently manage the delivery of Government programs and services. Part-time work contributes to this increased management flexibility.

2. PRINCIPLES OF PART-TIME WORK

Although the mix of part-time and full-time staff may vary, the same amount of work should be covered, i.e. part-time staff should not be allocated a full-time workload.

As with all jobs, the principles of good job design should be adhered to for all part-time positions.

Part-time staff are eligible for all developmental opportunities available to full-time staff (e.g. study time, higher duties, job rotation, etc.)

3. DEFINITION

“Part-time Work” means employment for less than the full ordinary working hours per week for the classification on a continuing basis and for set and regular hours.

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Part-time staff should be employed for a guaranteed minimum of no less than 10 hours per 2 week period.

The normal hours of work per day for part-time staff should not exceed the normal hours worked by full-time staff in the same classification. If essential, such work will be subject to normal overtime provisions.

“Set and Regular Hours” means that the number of hours is set per period and the days on which a person must work per fortnight do not vary.

4. USING PART-TIME WORK TO ADVANTAGE

Departments considering the potential benefits of part-time work for either service or staff needs may find the following examples helpful: providing more effective service delivery during peak periods; improving work practices when programming work, reviewing corporate strategies and job restructuring; making better use of staff through workforce planning.

5. COVERAGE

These guidelines apply to all staff employed under the *Public Sector Management Act*, unless covered by an award, agreement or determination which contains part-time provisions. This includes staff who are on part-time maternity, parental or adoption leave. Conditions relating to the right of return and the maximum period of part-time maternity, parental or adoption leave remain unchanged. All other conditions including reduced minimum hours, pro-rata entitlements and options of flexitime and staggered hours are in line with this section. Declared authorities may find the general approach of value when developing or modifying part-time work schemes.

6. GENERAL STAFFING CONDITIONS

Part-time work can be infinitely flexible as long as the hours are greater than 10 per fortnight. It allows for new and existing staff to be employed on a part-time basis and change to a full-time basis, where this work is sought by the employee and required by the employer. Similarly full-time employees can choose to work part-time if this is convenient to the employer, and required by the employee.

Part-time work may be available to:

- (i) full-time officers and temporary employees who wish to work part-time in an existing position;
- (ii) existing full-time or part-time officers applying for promotion or transfer and if they are willing to work the approved hours of the position;
- (iii) staff recruited and appointed or employed to work in a position where the approved hours are less than full-time.

The decision to work part-time is purely voluntary. No person can be directed or placed under any duress to move from full-time to part-time work or vice versa. Existing employees who work on a temporary basis should not be adversely affected by these changes in any way. The hours of work should not be varied without the agreement of both the employer and the employee.

6.1 Return to Full-Time Employment or Part-Time Employment

A person who is initially contracted to work part-time may elect to work full-time at any time subject to departmental convenience and the availability of work for the classification and grade of the position.

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A full-time staff member who elects to work part-time for a set period will be guaranteed the right of return to full-time work at the end of that period, **provided this is specified and negotiated at the outset.**

A full-time staff member who elects to work part-time and who has not specified that they wish to return to full-time work may elect to return to full-time work at any time subject to departmental convenience and the availability of work for the classification and grade of the position.

6.2 Management of Part-Time Work

The effective management of part-time staff requires a high level of managerial skill. For example, there is a need to guard against part-time employees being expected to carry out all of the responsibilities of a full-time job in part-time hours; at the same time it is important to avoid loading up full-time work colleagues with the residual duties of a full-time position being occupied part-time. The failure to address these issues in a planned way can lead to either undue work pressure on the part-timer, or hostility against the part-timer by work colleagues adversely affected by the arrangement. The prospect of either situation would be a disincentive to officers to apply for part-time work.

As another example, care must be taken to ensure that there is no suggestion that part-time staff with other fixed responsibilities at times when they are usually not at work, could be in any subjected to unwanted pressure to be available for work outside their usual part-time hours. Where the nature of the work is such that the circumstances are exceptional (e.g. a legal officer required to appear in court) special arrangements to work outside of agreed part-time hours need to be negotiated at the outset.

To equip public sector managers for their role in management of part-time work, briefings on the principles and practical applications of part-time arrangements will be required.

6.3 Management of Excess Staff

Usual Public Service redeployment provisions apply to part-time officers. A redeployed part-time officer will be eligible for placement in another position with the same salary and class of work if agreed to by the Department, in accordance with the policy outlined in 6.1 and 7.1.

7. ADMINISTRATIVE ARRANGEMENTS

7.1 Hours of Duty

Departments approve the contract hours to be worked in a position. Where a person requests to work on a part-time basis, the hours are subject to the agreement of both the Department and the person concerned. Similarly, the hours can be varied by agreement.

The agreed contract hours can be weekly based (for staff on fixed or staggered time systems) or four-weekly (for staff on flexible working hours). The pattern of hours and days to be worked is also decided, or changed, by agreement. Where time worked on a day exceeds 5 hours, a break of at least half an hour must be taken.

All positions are established as full-time to make transfers easier from full-time to part-time or vice versa. People occupying positions are full-time or part-time depending on the approved contract hours for the position, i.e. a person is part-time if the contract hours are less than full-time. It is intended that all positions be established as full-time, but the people in the positions will be working either full-time or part-time. For example, a department may have an establishment of four positions, two filled on a full-time basis and two filled part-time at half the full-time hours. It has an establishment of four but a staff number of three equivalent full-time.

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14.5**7.2 Flexible Working Hours**

Subject to departmental convenience, part-time staff may work flexible working hours, fixed hours or under a staggered time system.

To work flexible working hours requires a written agreement between the person and the Department, preferably at immediate Supervisor/Manager level, to determine agreed contract hours and core time. In general, however, the usual conditions of flexible working hours apply unless varied by agreement (except for bandwidth which cannot be varied).

Where flexible working hours are not convenient or appropriate, staff may elect to work under a staggered starting and finishing times system. Under such an arrangement a person may start work within the span of one hour of the nominated starting time and finish work within the span of one hour of the nominated finishing time. No credit or debit of hours is to be carried over to the following working day. For example: a person's nominated starting is 9.00 a.m. and finishing time is 1.00 p.m. (the hours of work for that day are four). The person may elect, subject to departmental convenience, to start work any time between 8.30 a.m. and 9.30 a.m. If the person commenced at 8.30 a.m. then the finishing time would be at the completion of the hours of work for that day, i.e. 12.30 p.m. If the person started work at 9.30 a.m., the finishing time would be 1.30 p.m.

The Guidelines state that, apart from the requirement that there be a written agreement to work flexible working hours. "In general..... the usual conditions of flexible working hours apply unless varied by agreement (except for bandwidth which cannot be varied.)"

The intention is that part-time staff have access to the full flexitime provisions. The number of hours taken as flexileave would depend on the daily contract hours of the particular staff member. The taking of such leave on any occasion is subject to departmental convenience and the ability to accrue hours to off-set the taking of leave.

Staff may be permitted, subject to departmental convenience, to extend the luncheon period to the maximum number of hours available to full-time employees.

7.3 Punctuality

The same conditions concerning punctuality apply to both part-time and full-time staff and are set out in the Staff and Personnel Handbook.

7.4 Remuneration

The remuneration of part-time staff is to be expressed on a weekly equivalent basis calculated without the addition of any loadings, unless a loading is prescribed by an award for part-time employment. The appropriate weekly rate should be divided by the number of hours required to be worked weekly by a full-time person within that classification and the quotient should be multiplied by the number of hours actually worked by the part-time person, i.e. everything is proportional. This is described in detail in the Appendix - Remuneration.

7.5 Additional Hours/Overtime

The working of additional hours or overtime by part-time staff will be restricted to exceptional circumstances and to where the person has no objection to working the additional hours. Where it is essential for a person to work beyond daily hours or bandwidth, and the officer agrees to do so, the conditions applying are described in detail in the Appendix - Overtime.

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It is intended that part-time staff will only be entitled to overtime when they work beyond the full-time starting and finishing times in the case of standard and staggered hours, and beyond the full-time bandwidth in the case of flexitime.

7.6 Increments

Increments should be paid on a pro-rata basis at the normal incremental day. The intention is that staff working part-time should receive an annual increment (where applicable and subject to satisfactory performance) so that their salary will be pro-rata of the full-time rate for the same classification, grade and years of service. It will therefore not be necessary to calculate the equivalent of full-time service.

7.7 Pay for Public Holidays

Part-time staff are eligible for payment for any public holidays which occur on their usual working days. Part-time staff are not eligible for payment for any public holiday which falls on a day on which they would not usually work. Payment for the public holiday will be the rate the person ordinarily receives.

7.8 Engaging In Private Employment

The following guiding principles must be met prior to approval being given for a person to engage in private employment:

- the work does not arise from nor is it associated with the person's official knowledge and duties although, in approved activities, technical or professional expertise may be utilised;
- the work will be done in the person's own time; and
- the work does not involve a conflict of interest with the person's duties.

7.9 Superannuation

It is intended that part-time employees be eligible to contribute to superannuation, subject to their satisfying the requirements laid down in the relevant superannuation legislation. In fact, any person who is contributing to superannuation prior to a change in hours worked is generally required to continue contributing. When a person is considering changing the number of hours worked, the employee should be advised to contact the State Authorities Superannuation Board, to ascertain the options available with regard to the employee's superannuation benefits. Information about contributions and entitlements is available from the Board.

7.10 Higher Duties

The provisions of clause 34 of the Public Sector Management (General) Regulation 1988, shall apply pro-rata to part-time staff relieving in higher graded positions. Full-time staff who relieve in higher graded positions, where approved hours are less than full-time, shall be eligible to be paid an allowance under clause 34 at a proportion of the rate of the higher position.

It is intended that a part-time employee who acts in a full-time position but only for their part-time hours is eligible to be paid Higher Duties Allowance on a pro-rata basis. For example, a part-timer who works 20 hours per week and who acts in a full-time higher graded position for the part-time employee's normal weekly hours is entitled (assuming 100% HDA approved) to $20/35 \times \$\text{full-time HDA}$.

‘Insert an additional 2nd paragraph as follows:

“A full-time employee who acts in a higher graded part-time position is eligible to be paid Higher Duties Allowance for the authorised hours worked in the higher graded position. For example, a full-timer who acts in a part-time higher graded position where the hours are 17.5 per week is entitled (assuming 100% HDA approved) to 17.5/35 x \$full-time HDA.”

8. LEAVE CONDITIONS

8.1 General

The conditions listed hereunder are general conditions only. Departments shall consult with the Industrial Authority concerning any inconsistencies with relevant awards, agreements or determinations or doubts about the conditions to apply.

Entitlements to extended leave and recreation leave which have not been exhausted remain to the person’s credit and may be carried over and taken subject to departmental convenience at a later date.

The maximum amount of recreation leave that shall be accrued by a part-time person shall be no greater than the amount accrued after 2 years service.

8.2 Minimum Period of Leave to be Granted

The minimum period of leave to be granted is fifteen minutes except for extended leave where the minimum period is half the standard full-time daily hours for the classification.

8.3 Debits for Leave Granted

Except for extended leave, leave taken is to be debited in the following manner:

- (a) in periods of fifteen minutes; and
- (b) always to the end of the fifteen minutes.

8.4 Recreation Leave

General provisions -

Full-time and part-time staff are generally entitled to four weeks recreation leave per year (some staff may receive five weeks recreation leave in accordance with the *Public Sector Management (General) Regulation 1988*, and others may be entitled to additional leave under a variety of other provisions). For staff who receive additional leave under the Regulation, the calculation of leave should be adjusted accordingly. For staff who receive additional leave under awards or provisions other than the Regulation the matter is to be referred to the Industrial authority. Recreation leave accrual is explained in the Appendix - Recreation Leave Accrual.

Note, clause 48(2) of the Regulation specifies which clauses of the leave provisions of the Regulation apply to part-time temporary employees. Unless authorised by the Regulation, the following provisions only apply to officers and full-time temporary employees.

8.6 Annual Leave Loading

Annual leave loading is payable subject to the usual conditions. It shall be paid at the person's rate of remuneration when the leave is taken and payment is made, providing that where a person commences part-time employment during a leave loading year, the annual leave loading shall be calculated as follows:

- (a) for the period of full-time employment, the loading is to be calculated and paid for at the full-time rate of the person's current grade for the appropriate part of the leave year;
- (b) for the period during which the part-time employment arrangement operates, the loading is to be calculated and paid at the person's current salary in accordance with the number of hours worked for the appropriate part of the leave year.

8.7 Sick Leave

Available sick leave may be taken, as necessary, during periods when a person would otherwise be on duty. The usual provisions applying to full-time staff, i.e. 15 days sick leave in any period of 12 months still apply and may be granted on a pro-rata basis to part-time staff as detailed below. Sick leave calculation is explained in the Appendix - Sick Leave Calculation.

8.8 Special Sick Leave

Special sick leave may be granted subject to the usual conditions on a pro-rata basis.

8.9 Short Leave

Short leave may be granted on a pro-rata basis subject to the usual conditions including the requirement that the Department Head should be satisfied that the leave is needed in order for the person to attend to an urgent or pressing necessity.

8.10 Extended Leave

Part-time officers are entitled to extended leave which will be granted on the same basis as that applying to full-time officers but will be paid for on a pro-rata basis. The eligibility period for extended leave is the same as for full-time officers and leave will accrue in the same way. As a general rule, when calculating the amount of leave to be debited, it will be necessary to calculate the amount of leave that a full-time officer would be debited during the period in question. Extended leave calculation is explained in the Appendix - Extended Leave Calculation.

From 1 April 1991 extended leave should be calculated and leave taken should be debited on a working day basis. The new Personnel Handbook contains a ready reckoner for calculating extended leave on a 5 days basis (Division 2, Part 2, Leave, Section 2).