

19. CASUAL EMPLOYMENT

19.1 The provisions of this clause replace clause 10 – Casual Employment of the Applicable Award.

Salary

19.2 A casual Employee shall be paid for each hour worked at the appropriate classification contained in Schedule 2 – General Division Salaries, Schedule 3 – Specified Calling Salaries or Schedule 4 – Legal Grade Salaries of this Agreement in accordance with the following formula:

$$\frac{\text{Fortnightly salary}}{75}$$

with the addition of casual loading in lieu of annual leave, personal leave and payment for public holidays. Casual loading will be in accordance with clause 19.3.

The loading paid to casual Employees does not adequately compensate for long service leave, despite the current wording of clause 10 (1) (a) of the Applicable Award.

Casual Employees are entitled to long service leave in accordance with clause 19.4(a) below.

Casual Loading

19.3 The casual loading payable is 22 per cent on and from the date of registration of this Agreement and 25 per cent on and from 13 June 2020.

Unlike salaries, the new casual loading is not backdated to 13 June 2019.

Conditions of Employment

19.4 (a) Conditions of employment, leave and allowances provided under this Agreement or the Applicable Award do not apply to a casual Employee with the exception of bereavement leave, long service leave, family and domestic violence leave and carers leave. However, where expenses are directly and necessarily incurred by a casual Employee in the ordinary performance of their duties, the Employee shall be entitled to reimbursement in accordance with the Applicable Award.

Casual Employees will now accrue long service leave under the Applicable Award, thereby removing them from the scope of the *Long Service Leave Act 1958* (LSL Act). More information regarding long service leave and transitional arrangements for casual Employees can be found [here](#).

Section 6 of the LSL Act, which sets out what constitutes continuous employment for the purposes of the LSL Act, should be applied in determining continuous service for casual Employees under the Applicable Award.

The long service leave entitlement is calculated on a pro rata basis according to the average hours worked during the accrual period.

- (b) The minimum period of engagement of a casual Employee will be 3 hours on each engagement.

The minimum period of engagement is three *continuous* hours. Casual Employees are to be paid for a minimum of three hours even if the Employer ceases the engagement early – subject to the Employee being ready, willing and able to work.

- (c) The Employer will determine the appropriate increments for casual Employees by taking into consideration prior experience within the Public Sector.

Increments for casual Employees need to be considered based on experience rather than being time centric.

It is recommended that agencies adopt an approach whereby a casual Employee is able to:

1. negotiate an increment upon their initial engagement based on prior experience; and
2. make an application after a period of time working at a classification level on the basis of their experience with the agency.

While increments for casual Employees should not be automated based on their employment duration, agencies may consider setting some time restrictions around when a casual employee can apply or reapply for an increment increase (i.e. given fixed term and permanent employees are only entitled to an increment after a 12 month period).

- (d) Nothing in this clause shall confer “permanent” or “fixed term contract” officer status within the meaning of section 64 of the *Public Sector Management Act 1994*.
- (e) The employment of a casual Employee may be terminated at any time by the casual Employee or the Employer giving to the other one hour’s prior notice. In the event of an Employer or casual Employee failing to give the required notice, one hour’s salary shall be paid or forfeited.
- (f) Neither the Overtime Allowance provisions of the Applicable Award, nor clause 22.16 – Overtime of this Agreement, applies to casual Employees. Additional hours are paid at the normal casual rate.

Caring Responsibilities

- 19.5 (a) Subject to the evidentiary and notice requirements in clause 26 – Personal Leave

of this Agreement, a casual Employee is entitled to not be available to attend work or to leave work if they need to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

- (b) The Employer and the casual Employee shall agree on the period for which the casual Employee will be entitled to not be available to attend work. In the absence of agreement, the Employee is entitled to not be available to attend work for up to 47 hours (i.e. two days) per occasion. The casual Employee is not entitled to any payment for the period of non-attendance.

The 47 hour entitlement stated above is a drafting error. A casual Employee is entitled to not be available to attend to work for up to 48 hours as per clause 10 (3) (b) of the Applicable Award.

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