



SOUTH  
AUSTRALIAN  
EMPLOYMENT  
TRIBUNAL

**FIREFIGHTING INDUSTRY  
EMPLOYEES (SOUTH AUSTRALIAN  
METROPOLITAN FIRE SERVICE)  
AWARD 2007**

This is a consolidated version of an award of the **South Australian Employment Tribunal** published pursuant to the provisions of the *Fair Work Act 1994*.

**CLAUSE 1. AWARD TITLE**

OPDATE 01:04:2007 on and from

This Award shall be known as the Firefighting Industry Employees (South Australian Metropolitan Fire Service) Award 2007.

**CLAUSE 2. ARRANGEMENT**

OPDATE 01:04:2007 on and from

This Award is arranged as follows:

*Clause Title*

1. Award title
  2. Arrangement
  3. Definitions
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  5. Where and who the award covers
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  13. Classifications and wage rates
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- Sch. 1 Additional Compensation for Certain Work Related Injuries or Illnesses  
Attachment A - Memorandum of Understanding

**CLAUSE 3. DEFINITIONS**

OPDATE 01:10:2019 on and from

- 3.1 Attendance** for the purpose of 19.4.3 and 20.1 means one working day for day workers, and either a day shift or a night shift attendance within a shift cycle for shift workers.
- 3.2 Base rate** means the 38 hour base rate specified in 13.2, 13.3, 13.4 and 13.5.
- 3.3 Commissioner's Determination** means a determination made by the Commissioner for Public Sector Employment pursuant to the *Public Sector Act 2009*.
- 3.4 Domestic/Family Violence** is a pattern of abusive behaviours by one person against another, within an intimate relationship such as marriage, domestic partnerships cohabitation, dating or within a family including across generations. Domestic/Family Violence takes many forms including physical and sexual violence, verbal abuse, threats and intimidation, emotional and social abuse, economic deprivation and property damage. The abusive pattern of behaviour is aimed at power and control through fear.
- 3.5 Firefighter** means a Firefighter (other than a Retained Firefighter), as provided for in the *Fire and Emergency Services Act 2005*.
- 3.7 Leave** means all periods of leave including Annual Leave, Personal Leave, Bereavement Leave, Parental Leave, Long Service Leave and Domestic/Family Violence Leave.
- 3.8 Officer** means an Officer (other than Retained Officer), as provided for in the *Fire and Emergency Services Act 2005*.
- 3.9 Pay week** means any week commencing at 0800 hours on a Saturday and finishing at 0759 hours on the following Saturday.
- 3.10 Period of duty** for the purpose of recall in 14.2.4 means the period during which an employee is recalled to work at a station as a replacement for an employee who is absent.
- 3.11 Prescribed meal allowance** means the average of the breakfast and dinner allowances "not absent overnight" as prescribed in Commissioner's Determination 3.2 – Remuneration Allowances and Reimbursements, Clause 9 – Meal allowance and/or its successor.
- 3.12 Prescribed mileage allowance** means the allowance as prescribed in Commissioner's Determination 3.2 – Remuneration, Allowances and Reimbursements, Clause 10 – Motor Vehicle and/or its successor.
- 3.13 SAMFS** means the South Australian Metropolitan Fire Service.
- 3.14 Shift cycle** means the two day shifts followed by the two night shifts worked by *Officers, Firefighters, Communications Centre Staff and Marine Station Staff*.
- 3.15 Total wage** means a combination of the 38 hour Base Rate specified in 13.2 and 13.3, together with the allowance detailed at 13.3.5, plus two hours compulsory overtime payable at the rate of time and one half as set out at 16.1.2(b).
- 3.15 Tribunal** means the South Australian Employment Tribunal.
- 3.16 Union** means the United Firefighters Union of South Australia.

#### CLAUSE 4. DATE THE AWARD STARTS

OPDATE 01:04:2007 on and from

This Award comes into force from 30 September 1987, however only clauses 3, 5, 29 and Schedule 1 are operative from 30 September 1987 and all other clauses of this Award are operative from 1 April 2007 or the operative date otherwise specified by this Award.

#### CLAUSE 5. WHERE AND WHO THE AWARD COVERS

OPDATE 30:09:1987 on and from

5.1 This Award applies in South Australia.

5.2 This Award relates to the industry of persons employed in the capacity of **Firefighters, Officers, Communications Centre Staff, Marine Station Staff, Breathing Apparatus Technicians** and **General Hands** in the **SAMFS**, however only clauses 3, 29 and Schedule 1 apply to Retained Firefighters and Retained Officers.

#### CLAUSE 6. RELATIONSHIP WITH OTHER AWARDS

OPDATE 01:10:2019 on and from

This Award supersedes the Firefighting Industry Employees Award 2002, but no right, obligation or liability accrued or incurred under such previous award will be affected.

#### CLAUSE 7. ENTERPRISE FLEXIBILITY PROVISIONS

OPDATE 01:10:2009 on and from

Where the **SAMFS** or employees wish to pursue an agreement at the enterprise or workplace about how this award should be varied so as to make the enterprise or workplace operate more efficiently according to its particular needs the following process shall apply:

- 7.1 A consultative mechanism and procedures appropriate to the size, structure and needs of the **SAMFS** or workplace shall be established.
- 7.2 For the purpose of the consultative process the employees may nominate the **Union** or another person to represent them.
- 7.3 Where agreement is reached an application shall be made to the **Tribunal**.

#### CLAUSE 8. WORK ORGANISATION

OPDATE 01:04:2007 on and from

- 8.1 Employees must undertake duties, including training, as directed within the limits of their competence.
- 8.2 In carrying out such duties the employee shall use such tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment.
- 8.3 Any direction issued by the employer pursuant to 8.1 and 8.2 shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

#### CLAUSE 9. PROCEDURE TO AVOID INDUSTRIAL DISPUTES

OPDATE 01:10:2019 on and from

- 9.1 In the event of a dispute arising in the workplace, the procedure to be followed to resolve the matter will be as follows:
  - 9.1.1 By the employee(s) and their immediate superior officer meeting and conferring on the matter; and
  - 9.1.2 If the matter is not resolved at such meeting the parties shall arrange for further discussions between the employee(s) and his or her nominated representative, if any, and more senior levels of management.

- 9.1.3** If the matter is still not resolved discussions shall be held between representatives of the **SAMFS** and such other party as the **SAMFS** may decide and the **Union** or other employee representative.
- 9.2** If the matter cannot be resolved it may be referred to the **Tribunal**.
- 9.3** While the dispute resolution is being followed work will continue unless an employee has a reasonable concern about an imminent risk to his or her health.

#### **CLAUSE 10. ANTI-DISCRIMINATION**

OPDATE 01:10:2019 on and from

- 10.1** It is the intention of the respondents to this award to achieve the principal object in 3(m) of the *Fair Work Act 1994* through respecting and valuing the diversity of the work force by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.
- 10.2** Accordingly, in fulfilling their obligations under the dispute avoidance and settling clause, the respondents must make every endeavour to ensure that neither the award provisions nor their operation are directly or indirectly discriminatory in their effects.
- 10.3** Nothing in this clause is taken to affect:
- 10.3.1** Any different treatment (or treatment having different effects) which is specifically exempted under the State and Commonwealth anti-discrimination legislation;
- 10.3.2** Until considered and determined further by the **Tribunal**, the payment of different wages for employees who have not reached a particular age;
- 10.3.3** An employee, employer or registered organisation, pursuing matters of discrimination in any State or federal jurisdiction, including by application to the Australian Human Rights Commission;
- 10.3.4** Nothing in this clause is to prevent:
- 10.3.4(a)** A matter referred to in 10.1 from being a reason for terminating employment if the reason is based on the inherent requirements of the particular position;
- 10.3.4(b)** A matter referred to in 10.1 from being reason for terminating a person's employment as a member of the staff of an institution that is conducted in accordance with the doctrines, tenet, beliefs or teachings of a particular religion or creed, if the employer terminates the employment in good faith in order to avoid injury to the religious susceptibilities of adherents of the religion or creed.

#### **CLAUSE 11. CONTRACT OF EMPLOYMENT**

OPDATE 01:04:2007 on and from

Employees under this Award will be employed as full-time employees or part-time employees. At the time of engagement an employer will inform each employee of the terms of their engagement, in particular, whether they are to be full-time or part time.

##### **11.1 Part-time employment**

The salary payable to a part-time employee is the full-time rate adjusted to the proportion of the actual hours worked.

**CLAUSE 12. TERMINATION OF EMPLOYMENT**

OPDATE 01:04:2007 on and from

**12.1 Notice of termination by employer**

**12.1.1** In order to terminate the employment of an employee the employer shall give to the employee the period of notice specified in the table below:

<i>Period of continuous service</i>	<i>Period of notice</i>
1 year or less	1 week
Over 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years of completed service	4 weeks

**12.1.2** In addition to this notice, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, are entitled to an additional week's notice.

**12.1.3** Payment in lieu of the notice will be made if the appropriate notice period is not required to be worked. Employment may be terminated by the employee working part of the required period of notice and by the employer making payment for the remainder of the period of notice.

**12.1.4** In calculating any payment in lieu of notice, the wages an employee would have received in respect of the ordinary time they would have worked during the period of notice had their employment not been terminated will be used.

**12.1.5** The period of notice in this clause, shall not apply in the case of dismissal for conduct that justifies instant dismissal including inefficiency within the first fourteen days, neglect of duty or misconduct and in the case of casual employees, apprentices or employees engaged for a specific period of time or for a specific task or tasks.

**12.2 Notice of termination by an employee**

**12.2.1** The notice of termination required to be given by an employee is the same as that required of an employer, save and except that there is no requirement on the employee to give additional notice based on the age of the employee concerned.

**12.2.2** If an employee fails to give notice the employer has the right to withhold monies due to the employee to a maximum amount equal to the ordinary time rate of pay for the period of notice.

**12.3 Time off during notice period**

Where an employer has given notice of termination to an employee, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the employee after consultation with the employer.

**CLAUSE 13. CLASSIFICATIONS AND WAGE RATES**OPDATE 01:07:2019 1<sup>st</sup> pp on or after

OPDATE 01:10:2019 (Cl. 13.2.2 &amp; 13.9)

**13.1** The weekly wages to be paid to employees for work performed in ordinary time shall be in accordance with the rates set out hereunder:

### 13.2 Officers

<i>Award classification</i>	<i>38 Hour Base Rate</i>	<i>Total Wage</i>
	\$	\$
Station Officer Level 1	1,029.95	1,435.05
Station Officer Level 2	1,085.15	1,511.95
Station Officer Level 2A	1,104.10	1,538.30
Commander	1,176.20	1,638.85
Assistant Chief Fire Officer	1,257.85	1,752.55

The weekly wages to be paid to the Station Officer Level 2A shall apply only to those persons who held the rank of 'A' Grade Station Officer on 31 July 1991.

**13.2.1** Subject to 13.2.2 and 13.2.3 day working, Assistant Chief Fire Officers, Regional Command Officers and Fire Safety Officers are not eligible for overtime or standby provisions in accordance with 14.1.2 and 14.2.

**13.2.2** Fire Safety Officers working overtime involving fire cause investigation within the metropolitan area of Adelaide (as defined under the *Development Act 1993* (SA) or the *Planning, Development and Infrastructure Act 2016* (SA) (as amended) as appropriate) are entitled to payment for such overtime worked at the rate of time and one half for the first three hours and double time thereafter.

**13.2.3** Day working Assistant Chief Fire Officers, Regional Command Officers and Fire Safety Officers required to attend incidents after normal working hours to provide assistance in a capacity other than their normal responsibility are entitled to the overtime provisions of 14.2.

**13.2.4** Notwithstanding the provisions of 13.2.1, 13.2.2 and 13.2.3, officers supplied with vehicles on a 24 hour call out availability, including periods of leave, are not entitled to overtime or standby in accordance with 14.1.2 and 14.2.

### 13.3 Firefighters, Marine Station and Communications Centre

#### 13.3.1 Firefighter classifications

<i>Award classification</i>	<i>38 Hour Base Rate</i>	<i>Total Wage</i>
	\$	\$
Trainee Firefighter	783.55	783.55
4th Class Firefighter	814.80	1,135.20
3rd Class Firefighter	827.45	1,152.95
2nd Class Firefighter	852.40	1,187.60
1st Class Firefighter Level 1	880.10	1,226.25
1st Class Firefighter Level 2	911.35	1,269.85
1st Class Firefighter Level 3	940.00	1,309.70
Senior Firefighter	971.40	1,353.45

#### 13.3.2 Marine Station classifications

<i>Award classification</i>	<i>38 Hour Base Rate</i>	<i>Total Wage</i>
	\$	\$
Marine Officer	971.40	1,353.45
Marine Operator	1,029.95	1,435.05

**13.3.3 Communications Centre classifications**

<i>Award classification</i>	<i>38 Hour Base Rate</i> \$	<i>Total Wage</i> \$
Communications Operator	940.00	1,309.70
Senior Communications Operator	971.40	1,353.45
Communications Officer	1,029.95	1,435.05
Senior Communications Officer	1,081.10	1,506.25

**13.3.4** For employees included in 13.2 and 13.3, an allowance calculated at 31.83% on the respective 38 hour base rates set out in this clause is paid instead of the shift allowances and work on weekend and public holidays penalty rates set out in 14.2.7 and 15.5.2.

**13.3.5** Trainee Firefighters are not entitled to the allowance set out in 13.3.4 above.

**13.3.6** Wages for employees on day work, included in 13.2 and 13.3, are calculated on the basis that they are working shift work. Such employees are entitled to be paid the additional payment of 31.83% as detailed in 13.3.4 above.

**13.3.7** An employee included in 13.2 and 13.3 shall not have their total wage reduced whilst on paid leave.

**13.4 Breathing Apparatus Technicians**

<i>Award classification</i>	<i>38 Hour Base Rate</i> \$
Breathing Apparatus Technician Grade 1	
1 <sup>st</sup> Year	880.10
2 <sup>nd</sup> Year	884.40
3 <sup>rd</sup> Year	889.90
Breathing Apparatus Technician Grade 2	923.00

**13.5 General Hands**

<i>Award classification</i>	<i>38 Hour Base Rate</i> \$
General Hands:	
Under 16 years of age	486.90
At 16 years of age	536.70
At 17 years of age	593.10
At 18 years of age	649.40
At 19 years of age	699.60
At 20 years of age	737.20
General Hand – 1 <sup>st</sup> Year Adult	755.70
General Hand – 2 <sup>nd</sup> Year Adult	762.10
General Hand – 3 <sup>rd</sup> Year Adult	768.40

### 13.6 Safety net adjustments

The rates of pay in this Award include the safety net adjustment payable under the *2019 State Wage Case and Minimum Standard for Remuneration*. This safety net adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this Award which are above the wage rates prescribed in the Award. Such above Award payments include wages payable pursuant to enterprise agreements, currently operating enterprise flexibility agreements, award variations to give effect to enterprise agreements and over award arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under the existing or previous State Wage Case principles, previous General Reviews of Award Wages and the *2019 State Wage Case and Minimum Standard for Remuneration* excepting those resulting from enterprise agreements or Award variations to give effect to enterprise agreements, are not to be used to offset safety net adjustments.

### 13.7 Eligibility for progression

**13.7.1** Eligibility for all progression shall be on the basis of qualification by examination and/or assessment of skills acquired and utilised and training requirements, within the ambit of the rank or classification, and on such being certified to in writing as part of the assessment process.

**13.7.2** Where assessment review is delayed by the failure of the **SAMFS**, the eligible date shall not be changed, and the increase, if any, will be paid retrospectively to that date.

### 13.8 Mixed functions

**13.8.1** Where a **Firefighter** or Communications Operator is required to relieve a Senior **Firefighter** or Senior Communications Operator for four (4) hours or more on any day or shift he/she shall be paid at the rate of such higher grade for such day or shift. If he/she relieves the Senior **Firefighter** or Senior Communications Operator for less than four (4) hours he/she shall be paid at the higher rate for the time so worked.

**13.8.2** A Senior **Firefighter** or Senior Communications Operator may be required to relieve a Station Officer or Communications Officer and when doing so for a period of four (4) hours or more on any day or shift, he/she shall be paid at the higher rate prescribed in this clause for such day or shift. If he/she relieves the Station Officer or Communications Officer for less than four (4) hours, he/she shall be paid at the higher rate for the time so worked.

**13.8.3** Where an Officer is required to relieve an Officer of a higher rank for four (4) hours or more on any day or shift he/she shall be paid at the rate of such higher rank for such day or shift. If he/she relieves an Officer of a higher rank for less than four (4) hours he/she shall be paid the higher rate for the time so worked.

**13.8.4** The provisions of subclause 13.8.3 hereof shall not apply in circumstances in which a Station Officer of a lower grade relieves or acts in the position of a Station Officer of higher grade.



### 13.9 Economic incapacity applications

Any employer or group of employers bound by an Award may apply to, temporarily or otherwise, reduce, postpone and/or phase-in the application of any increase in labour costs flowing from the *2019 State Wage Case and Minimum Standard for Remuneration* on the grounds of serious economic adversity. The merit of such application will be determined in light of the particular circumstances of each case and the impact on employment at the enterprise level. The increase in labour costs is a significant factor to be taken into account in assessing the merit of any application. A party may make such an application under s 31A of the *South Australian Employment Tribunal Act 2014* (the SAET Act) in the form approved under rule 34 of the *South Australian Employment Tribunal Rules 2017*. It will then be a matter for the President to decide whether it should be dealt with by a Full Bench of the South Australian Employment Tribunal.

Any decision to temporarily postpone or reduce an increase will be subject to a further review, the date of which will be determined by the South Australian Employment Tribunal at the time it decides any application under this provision.

An individual employer making an application pursuant to this provision may make a request under s 55(2) of the SAET Act that the hearing of the matter be conducted in private and/or that some or all of the evidentiary material produced in the case not be available for inspection. Any such request will be determined by the South Australian Employment Tribunal in the circumstances of each case.

## CLAUSE 14. PENALTY RATES

OPDATE 08:12:2016 on and from

### 14.1 Overtime

#### 14.1.1 Requirement to work

The **SAMFS** may require an employee to work reasonable overtime at overtime rates.

#### 14.1.2 Standby

**14.1.2(a)** An employee who is directed to hold themselves in readiness to be called back to work (standby) is paid a minimum of three hours at his or her base rate plus any penalty rate applicable to the period during which the employee was required to standby.

**14.1.2(b)** This provision only applies when the employee is **not** recalled.

**14.1.2(c)** The provisions relating to recall will apply when the employee is actually recalled. However, time reasonably spent in travelling to work in connection with a such a recall for an emergency incident is regarded as time worked.

See also 14.2.4 - Recall.

#### 14.1.3 Break

An employee who is required to work overtime is allowed to have a paid break of twenty minutes between finishing their normal rostered hours of duty and the commencement of the overtime. If the overtime continues through normal tea and meal breaks the employee working the overtime is allowed to take such breaks (this does not apply if an employee is engaged on actual firefighting duties).

#### 14.1.4 Meal allowance

A **prescribed meal allowance** is payable in the following circumstances:

- when an employee is required to work overtime for more than two hours and was not notified on the previous day or earlier; payment is also made for any subsequent meals;
- when an employee is required to work overtime prior to his or her normal commencement time and was not notified on the previous day or earlier;
- when an employee had been advised to work overtime, and has provided his or her meals and the overtime was cancelled and the meal(s) were therefore not required.

### 14.2 Officers, Firefighters, Marine Staff and Communications Centre

#### 14.2.1 Overtime rate

When an employee is directed to work overtime, all time worked in excess of or outside the rostered hours, set out in Clause 16 – Hours of work, is paid for at the rate of one and a half times the employee's base rate for the first hour and twice the employee's base rate for the remainder of the overtime. The employee will, wherever practicable, have a break off duty of at least eight hours after the completion of the overtime before reporting for duty again – without loss of pay for any time not worked. Any time worked before that break has been completed is paid at twice the employee's base rate.

**14.2.1(a)** All overtime worked on a Sunday is paid for at the rate of two times the base rate of the employee concerned.

**14.2.1(b)** All overtime worked on public holidays is paid at the rate of two and a half times the base rate of the employee concerned.

#### 14.2.2 Calculation

**14.2.2(a)** In calculating overtime each *pay week* shall stand alone.

**14.2.2(b)** For the purpose of calculating overtime, the hourly rate is calculated by dividing the employee's base rate (excluding all allowances) set out in Clause 13 Classifications and Wage Rates, by 38.

**14.2.2.(c)** Overtime is calculated and paid to the next quarter of an hour.

#### 14.2.3 Return from other location

**14.2.3(a)** An employee who returns from a job after the termination of their rostered hours of duty, is entitled to be paid overtime with a minimum payment of a quarter of an hour for the purpose of cleaning up and putting away his or her uniform.

**14.2.3(b)** An employee who returns to his or her station after having completed duties elsewhere within a period of fifteen minutes before the completion of his or her rostered hours of duty is entitled to reasonable time for cleaning up and putting away their uniform. For any time necessarily spent doing so after their rostered hours of duty he or she is entitled to be paid overtime.

#### 14.2.4 Recall

- 14.2.4(a)** An employee, who has left his or her place of employment, and is recalled to work after their normal rostered hours of duty, is to be paid for a minimum of three hours overtime. However, the employee is not required to work the full minimum three hours if the work the employee was recalled to perform is completed within a shorter period.
- 14.2.4(b)** In the event that an employee has a subsequent recall during the three hours paid period, no additional payment will be made until the time actually worked exceeds three hours.
- 14.2.4(c)** An employee recalled for duty at a place other than their home station is to be paid at overtime rates from the time he or she reports to their home station to pick-up their personal firefighting equipment.

See also 14.1.2 - Standby.

#### 14.2.5 Recall meal allowance

- 14.2.5(a)** An employee is entitled to a **prescribed meal allowance** for one meal when he or she is recalled for a day duty and is on duty before 1200 hours, the recall is in excess of three hours and the employee was not notified on the previous day or earlier that they will be required to work.
- 14.2.5(b)** An employee is entitled to a **prescribed meal allowance** for one meal when he or she is recalled for a night duty and is on duty before 2000 hours, the recall is in excess of three hours and the employee was not notified on the previous night or earlier that they will be required to work.

#### 14.2.6 Recall - transport of equipment

- 14.2.6(a)** An employee who is recalled to work overtime at a place other than their home station and who is required by the **SAMFS** to transport their personal firefighting equipment from one station to another and return using their personal transport is entitled to be paid as follows:
- 14.2.6(a)(i)** For the journey from their home station to the duty station at the commencement of the **period of duty** - the **prescribed mileage allowance**.
- 14.2.6(a)(ii)** For the journey from the duty station to their residence at the end of the **period of duty** - at the **prescribed mileage allowance** and a travelling time allowance of fifteen minutes at the employee's base rate for each eight kilometres travelled, calculated to the nearest eight kilometres. A minimum of fifteen minutes is payable.
- 14.2.6(a)(iii)** For the journey from their residence to their normal station (or to another station to which they may be required to report) at the commencement of their next working shift - at the **prescribed mileage allowance**, and with a travelling time allowance of fifteen minutes at the employee's base rate for each eight kilometres travelled calculated to the nearest eight kilometres. A minimum of fifteen minutes is payable.

- 14.2.6(b)** To calculate the allowance payable each journey shall stand alone.

#### 14.2.7 Saturday Sunday and public holiday

All times rostered on Saturdays, Sundays and public holidays (not being Sundays) is paid at the following additional rates:

	%
Saturdays	50
Sundays	100
Public holidays	150

#### 14.2.8 Exclusions

All employees on a 24 hour call out availability who are supplied with a vehicle, including all periods of leave, are **not** entitled to be paid overtime and standby.

### 14.3 Breathing Apparatus Technicians and General Hands

#### 14.3.1 Overtime rate

**14.3.1(a)** When an employee is directed by the *SAMFS* to work overtime, all time worked in excess of or outside the rostered hours, set out in clause 16 – Hours of work, is paid for at the rate of one and a half times the employee's base rate for the first three hours and twice the employee's base rate for the remainder of the overtime.

**14.3.1(b)** All overtime worked on a Sunday is paid at the rate of two times the base rate of the employee concerned.

**14.3.1(c)** All overtime worked on public holidays is paid at the rate of two and a half times the base rate of the employee concerned.

**14.3.1(d)** For the purpose of calculating overtime, the hourly rate is calculated by dividing the employee's base rate (excluding all allowances) set out in Clause 13 – Classifications and Wage Rates, by 38.

**14.3.1(e)** In calculating overtime each *pay week* shall stand alone.

### CLAUSE 15. ALLOWANCES

OPDATE 01:07:2019 1<sup>st</sup> pp on or after (cl. 15.1, 15.2, 15.3 & 15.4)

#### 15.1 Breathing Apparatus Technicians

Breathing Apparatus Technicians are entitled to an allowance of \$14.40 per week for supplying and maintaining tools ordinarily required in the performance of their trade work.

#### 15.2 Fire Training Department Assistant

Senior *Firefighters* or *Firefighters* assisting in the Training Department as drill instructors or lecturers for recruit training only - an additional payment \$2.67 per shift or part thereof.

#### 15.3 Officer in Charge - Shift Training Officer

An Officer in Charge of fire training on his/her shift at headquarters - an additional \$10.97 per *shift cycle*.

#### 15.4 Training in breathing apparatus use

Where an employee in the course of training employees in the use of breathing apparatus spends a period of more than half an hour (in total) in smoke filled enclosed room during a shift - an additional \$8.46 for such shift.

## 15.5 Day working allowances

### 15.5.1 Senior Officers, Station Officers, Firefighters and Communications Centre Staff

**15.5.1(a)** Assistant Chief Fire Officers, Commanders, Station Officers, **Firefighters** and Communications Centre Staff appointed to day working positions shall be paid the following allowances based on the appropriate total wage:

- at commencement of day working duties – 3%
- after one year on day work – 3.5%;
- after two years on day work – 4%;
- after three years on day work – 4.5%;
- after four years on day work – 5%;
- after five years on day work and thereafter – 5.5%.

**15.5.1(b)** These allowances are only payable for the duration of the appointment, including all periods of leave and terminate when the employee returns to shift duties.

### 15.5.2 Shift allowance

A shift worker working on a shift that falls between 1800 hours and 0800 hours on the next day shall, for work in ordinary time, be paid an additional payment at the rate of 15% of the employee's base rate of pay set out in Clause 13 – Classifications and wage rates.

### 15.5.3 Transfers, travelling and relieving - Firefighters and Officers

#### 15.5.3(a) *Transfers*

**15.5.3(a)(i)** If a transfer does not extend beyond eight **shift cycles** or is to provide cover for an employee who is on long service leave, recreation leave or authorised sick leave, the transfer is regarded as "relieving" (see 15.5.3(b)).

**15.5.3(a)(ii)** If an employee is transferred to or from Port Pirie, Whyalla or Mount Gambier and as a result it is necessary for the employee to change their residence, the **SAMFS** will reimburse any removal expenses reasonably incurred.

**15.5.3(a)(iii)** When an employee is transferred to any other Station by the **SAMFS** the employee will be reimbursed at the **prescribed mileage allowance** for the mileage that is in excess of the distance travelled between their residence and their new Station and the distance between their residence and headquarters (Adelaide) twice in each **shift cycle** for the duration of the transfer.

**15.5.3(a)(iv)** Where an employee whose residence is within the Adelaide metropolitan area or Port Pirie is transferred from one of those locations to the other the following allowances are paid per **shift cycle**:

- 11 meals at the prescribed meal allowance; and
- 448 kilometres at the prescribed mileage allowance.

**15.5.3(a)(v)** If an employee is transferred from Port Pirie to Adelaide and owns their own home in Port Pirie the allowance is paid for up to four months. If the employee has rental accommodation in Port Pirie the allowance is paid for up to one month.

**15.5.3(a)(vi)** If an employee is transferred from Adelaide to Port Pirie the allowance will apply until either the employee is transferred back to the Adelaide metropolitan area or the employee nominates Port Pirie as their residence.

**15.5.3(a)(vii)** If an employee transfers at their own request the allowances are paid only if the employee has completed two years at the location he or she is transferring from.

**15.5.3(b) *Relieving***

**15.5.3(b)(i)** An employee is to be given 24 hours notice of the requirement to work on a different ***shift cycle*** and/or at another Station except in an emergency.

**15.5.3(b)(ii)** The employee shall report for duty at the commencing time of the shift and is entitled to be paid any fares or mileage reasonable incurred in excess of that normally incurred travelling from their residence to their home Station.

**15.5.3(b)(iii)** The excess mileage is paid at the ***prescribed mileage allowance***. In addition the employee is entitled to a travelling time allowance paid at the rate of fifteen minutes at the base rate for each eight kilometres travelled (paid to the nearest eight kilometres, with a minimum of fifteen minutes).

**15.5.3(b)(iv)** If required, employees will transport their personal firefighting equipment. Where that occurs at the beginning and end of a period of relieving the employee is entitled to be paid as follows:

- at the ***prescribed mileage allowance*** for the mileage for the journey from their home station to their residence and from their residence to the duty station plus a travelling time allowance paid at the rate of fifteen minutes at the base rate for each eight kilometres travelled (paid to the nearest eight kilometres, with a minimum of fifteen minutes).

**15.5.3(b)(v)** For the purposes of calculating this allowances each journey shall stand alone.

**15.5.3(b)(vi)** If an employee is directed for duty at another Station after reporting to their home Station and:

- if the employee is not provided with transport for the journeys involved; or
- is required to transport his or her personal firefighting equipment from one Station to another using their own transport;

the following allowances shall apply:

- at the commencement of the duty, payment at the ***prescribed mileage allowance*** for the mileage from the employee's home Station to the Station of duty;

- at the end of the duty, payment at the **prescribed mileage allowance** for the mileage from the duty Station to their residence plus a travelling time allowance paid at the rate of fifteen minutes at the base rate for each eight kilometres travelled (paid to the nearest eight kilometres, with a minimum of fifteen minutes);
- at the commencement of the next duty at their home Station or any other Station, payment at the **prescribed mileage allowance** for the mileage incurred plus a travelling time allowance paid at the rate of fifteen minutes at the base rate for each eight kilometres travelled (paid to the nearest eight kilometres, with a minimum of fifteen minutes).

**15.5.3(b)(vii)** For the purposes of calculating this allowance each journey stands alone.

**15.5.3(b)(viii)** An employee is entitled to be paid at the base rate for any time spent travelling outside of the hours of duty set out in Clause 16 – Hours of work, if the employee is unable to provide their own transport and is not provided with transport by the **SAMFS**.

**15.5.3(b)(ix)** If an employee is required to relive in Port Pirie the allowances set out in 15.5.3(a) apply.

#### **15.5.4** Fire watching duties

An employee engaged on fire watching duties for four hours will be paid the **prescribed meal allowance**. This shall not apply if light refreshments are provided by the **SAMFS**.

#### **15.5.5** Ship watching duties

An employee engaged on ship watching duties between 1300 hours and 0800 hours will be paid the **prescribed meal allowance**. This shall not apply if a meal is provided by the **SAMFS**.

### **CLAUSE 16. HOURS OF WORK**

OPDATE 01:07:2019 1<sup>st</sup> pp on or after (cl. 16.1.5(b))

#### **16.1 Ordinary hours of work - Officers, Firefighters, Communications Operators and Marine staff**

##### **16.1.1** Shift cycle

**16.1.1(a)** The **shift cycle** for which the hours of duty operates shall be worked in two shifts in each 24 hours as follows:

- Day shift of ten hours from 0800 to 1800;
- Night shift of fourteen hours from 1800 to 0800 (next day).

**16.1.1(b)** In each day cycle the duty cycle for each particular shift of personnel is as follows:

- Two day shifts of duty followed by two night shifts of duty followed by four days off duty.

**16.1.1(c)** Any variation to this system of operation shall be by consent between the **SAMFS** and the **Union**.

### **16.1.2** Hours

**16.1.2(a)** The ordinary working hours for shift employees is 38 hours per week worked over a cycle of eight weeks for which a roster of hours of duty operates.

**16.1.2(b)** Employees will be rostered to work an average of 42 hours per week over an eight week period. Two of those hours will be paid for at one and a half times the employee's base rate (see below) and the other two will be designated as accrued leave and taken as such in conjunction with annual leave entitlements.

Note: The hourly rate of pay for the two hours of rostered overtime shall be calculated by dividing the 38 hour base rate by 40.

### **16.1.3** Unauthorised absence

An employee is not entitled to payment in respect of any unauthorised absence from duty. The amount by which an employee's wage is to be reduced is to be calculated on an hourly basis by dividing his or her total wage by 40.

### **16.1.4** Shift roster

**16.1.4(a)** On appointment or promotion an employee will be allocated to a particular shift roster.

**16.1.4(b)** A roster of shifts, showing the staff allocated to each particular shift within the metropolitan area of Adelaide will be made by the employer and exhibited on the notice boards at each station in Adelaide. A separate roster will be made for and exhibited at Port Pirie.

### **16.1.5** Change of shift

**16.1.5(a)** An employee may be changed from one shift to another shift to cover short term shortages that may occur on that shift.

**16.1.5(b)** An employee required to change from one shift to another shift is entitled to an inconvenience allowance of:

- \$29.06 for Senior Firefighters/Firefighters;
- \$38.68 for Station Officers and Communications Officers;
- \$48.46 for Commanders;

on each occasion that an employee is required to change from one shift to another shift.

**16.1.5(c)** An employee may be permitted to change his or her rostered shift with the approval of the officer in charge if the employee concerned arranges a suitable substitution with another employee. (The above allowance does not apply.)

**16.1.5(d)** An employee is not permitted to change his or her rostered shift with another employee who is on recreation leave.

### **16.1.6** Day work

**16.1.6(a)** The ordinary working hours for day workers shall be 38 hours per week.



**16.1.6(b)** Employees will be rostered to work an average of 42 hours per week over an eight week period. Two of those hours will be paid for at one and a half times the employee's base rate and the other two will accrue to entitle the employee to a rostered day off in each four week cycle, or as agreed between the **SAMFS** and the employee.

**16.1.6(c)** Except as provided for in 16.1.7 the ordinary hours of day workers are to be worked between 0700 hours and 1800 hours.

#### **16.1.7** Day work shift - Fire Safety Department

Day workers in the Fire Safety Department may be rostered on shift which operates as follows:

- Tuesday from 0800 to 1600 hours;
- Wednesday to Saturday inclusive from 1600 to 2400 hours.

### **16.2 Breathing Apparatus Technicians and General Hands**

#### **16.2.1** Hours of work

**16.2.1(a)** The hours of work of Breathing Apparatus Technicians and General Hands are an average of 38 per week.

**16.2.1(b)** The average of 38 hours per week is to be worked by the employees working a 40 hour week; two of the hours shall accrue to provide a rostered day off in each four week cycle, or as agreed between the **SAMFS** and the employee.

#### **16.2.2** Advice of rostered day off

**16.2.2(a)** The **SAMFS** will advise the employee entitled to a rostered day off at least four weeks in advance of the day he or she is to take off.

**16.2.2(b)** By agreement between the **SAMFS** and the employee, the rostered day off may be substituted for another day.

#### **16.2.3** Effect of personal leave due to injury and sickness on rostered day off

An employee who is on personal leave on his or her rostered day off is not entitled to sick pay for that rostered day off. The employee's sick leave entitlement will not be reduced for sickness or injury on that day.

#### **16.2.4** Personal leave due to injury and sickness before or after a rostered day off

An employee who is absent on personal leave on the working day immediately preceding or following a rostered day off must provide a medical certificate or other reasonable evidence as detailed in 19.3 covering the absence before payment for the sick leave will be made.

#### **16.2.5** Public holiday falling on rostered day off

Where a public holiday falls on the rostered day off, the rostered day off will be on the day immediately before or after the public holiday.

#### **16.2.6** Ordinary spread of hours of work

The ordinary hours of work are between 0730 and 1730 Monday to Friday inclusive, or as otherwise agreed between the **SAMFS** and the employee and shall not exceed eight hours a day.

## CLAUSE 17. BREAKS

OPDATE 01:04:2007 on and from

### 17.1 Breathing Apparatus Technicians and General Hands

#### 17.1.1 Meal break

An unpaid meal break of not less than twenty minutes and not more than 60 minutes will be allowed to be taken on each day between the hours of 1200 and 1400.

#### 17.1.2 Morning break

A paid morning break of fifteen minutes will be allowed to be taken on each day from Monday to Friday inclusive between the hours of 1000 and 1030.

## CLAUSE 18. ANNUAL LEAVE

OPDATE 08:12:2016 on and from

### 18.1 Terminating employment

If, after one month's continuous service (in any service year) an employee leaves employment by giving the appropriate period of notice and is not terminated on disciplinary grounds (that is, lawfully leaves employment):

- where the employee's classification is included in 13.2 and 13.3 the payment specified in the Total Wage; or
- where the employee's classification is included in 13.4 and 13.5 the payment specified for the base rate;

for the pro rata leave to which the employee is eligible (and which has not been taken). Such pro rata leave does not include leave loading.

### 18.2 Personal Leave due to injury or sickness during leave

An employee who becomes ill whilst on leave may, upon the production of a medical certificate from a medical practitioner certifying that the employee would have been unable to attend work for a period of at least three days, convert the period of the illness to personal leave - subject to the employee having sufficient personal leave credit to do so.

### 18.3 Breathing Apparatus Technicians and General Hands

#### 18.3.1 Period of leave

**18.3.1(a)** Annual leave is to be taken at a time or times agreed between the employer and the employee. Notwithstanding the provisions of this clause and without the intention of disrupting continuous period(s) of annual leave, by agreement between the employer and employee, a full-time employee may take annual leave in single day periods not exceeding 10 days in any calendar year for the purposes of personal leave to care for a family member as set out in 21.

**18.3.1(b)** A period of 28 consecutive days paid annual leave is allowed annually to every employee after twelve months continuous service (less the period of annual leave).

**18.3.1(c)** If it is not practical to grant the employee the leave in one continuous period, the **SAMFS** may allow the leave in two periods - one of seven consecutive days and one (to be granted within one month of the end of the first period of seven days) of 21 consecutive days; where this is to occur the employee concerned will be notified within two months of becoming entitled to the leave.

**18.3.1(d)** The employee and the **SAMFS** may agree to other methods of taking leave.

**18.3.1(e)** If an employer and an employee fail to agree on a time (or times) for taking annual leave, or part of it, the employer may require the employee to take annual leave by giving the employee notice of the requirement at least 2 weeks before the period of annual leave is to begin.

**18.3.1(f)** To assist employees in balancing their work and family responsibilities, an employee may elect with the consent of the employer, to accrue and carry forward any amount of annual leave for a maximum of two years from the date of the entitlement.

**18.3.2** Payment before going on leave

Before going on leave the employee is entitled to be paid the wages that will become due during the period of leave at the rate of pay that applies to the employee immediately before taking the leave. In addition the employee is to be paid leave loading calculated at the rate of 17.5% of their base rate of pay. This loading is not payable to proportionate leave on termination or for days added for public holidays occurring during the period of leave.

**18.3.3** Notice to take leave

An employee is not required to go on leave unless he or she has been given at least two weeks notice and all wages and allowances accruing whilst on leave are paid to the employee before he or she goes on leave.

**18.3.4** Public holiday occurring during leave

If a public holiday occurs during a period of leave, an additional day of leave will be credited to the employee concerned.

**18.4 Firefighters and officers**

**18.4.1** Shift operational staff

**18.4.1(a)** *Period of leave*

A period of 42 consecutive day's paid annual leave is allowed after twelve months of continuous service (less the period of annual leave).

**18.4.1(b)** *Roster*

**18.4.1(b)(i)** This entitlement is to be taken in accordance with an annual leave roster as agreed between the **SAMFS** and the **Union**. The **SAMFS** may, however, allow an employee to change his or her annual leave period.

**18.4.1(b)(ii)** A roster of annual leave to be granted to employees during a subsequent twelve month period will be prepared and displayed. That roster shall be adhered to so far as is practicable.

**18.4.2** Day working operational staff

**18.4.2(a)** *Period of leave*

A period of 35 consecutive day's paid annual leave is allowed after twelve months of continuous service (less the period of annual leave).

**18.4.3** Public Holiday occurring during leave

If a public holiday occurs during a period of leave, an additional day of leave will be credited to the employee concerned.

**CLAUSE 19. PERSONAL LEAVE- INJURY AND SICKNESS**

OPDATE 08:12:2016 on and from

**19.1** Entitlement to personal leave

An employee (other than a casual employee) who has a personal leave credit:

- 19.1.1 Is entitled to take personal leave if the employee is too sick to work or;
- 19.1.2 Who is on annual leave, is entitled to take personal leave if the person is too sick to work for a period of at least 3 consecutive days. Personal leave so taken does not count as annual leave.

**19.2** Accrual of personal leave entitlement

An employee's entitlement to personal leave accrues as follows and depends on how long he or she has worked for the **SAMFS** and accrues as follows:

**19.2.1** Firefighters and Officers

**19.2.1(a)** *Firefighters* and Officers are entitled to 126 hours of personal leave for each completed year of service.

**19.3.1(b)** Leave not taken in any one service year will accumulate.

**19.2.2** All other employees

**19.2.2(a)** Other employees are entitled to 80 hours of paid sick leave for each completed year of service.

**19.3.2(b)** Leave not taken in any one service year will accumulate.

**19.2.3** Part-time employees

A part time employee accrues pro rata hours in accordance with the following formula:

$\frac{76}{38}$  x average weekly ordinary hours over the previous 12 months.

**19.3** An employee's personal leave accumulates from year to year and any personal leave taken by the employee is deducted from the employee's personal leave credit.

**19.4** Conditions of payment of personal leave

**19.4.1** An employee is not entitled to payment for personal leave unless:

- 19.4.1(a)** The employee gives the employer notice of the sickness as soon as practicable before his or her next rostered starting time, its nature and estimated duration before the period for which personal leave is sought begins (but if the nature or sudden onset of the sickness makes it impracticable to give the notice before the period begins, the notice is validly given if given as soon as practicable and not later than 24 hours after the period begins, and given via telephone at the first opportunity); and

**19.4.2** Where the employee's classification is included in 13.2 and 13.3, the payment specified is the Total Wage and where the employee's classification is included in 13.4 and 13.5, the payment specified is the base rate.

**19.4.3** Evidence supporting claim

**19.4.3(a)** For a continued absence of up to two **attendances** no evidence is required, provided that such absences do not exceed a total of five **attendances** in an anniversary year.

**19.4.3(b)** If any single absence is of more than three **attendances** in duration the employee must establish, by production of a medical certificate or statutory declaration, that illness occurred that required taking of personal leave.

**19.4.4** The effect of workers' compensation

If an employee is receiving workers' compensation payments, he or she is not entitled to personal leave.

**19.4.5** The effect of public holidays

A public holiday occurring during any period of personal leave of an employee entitled to public holidays, as prescribed by clause 25 - Public holidays, shall not be regarded as part of the personal leave.

## CLAUSE 20. BEREAVEMENT LEAVE

OPDATE 01:04:2007 on and from

### 20.1 Entitlement to leave

An employee (other than a casual employee), on the death of a:

- **spouse**;
- parent;
- parent-in-law;
- sister or brother;
- child or step-child;
- household member,

is entitled, on reasonable notice, to leave up to and including the day of the funeral of the relative, three attendances as bereavement leave on any occasion on which a member of the employee's family listed above in Australia dies or outside of Australia if the employee attends the funeral. This leave is without deduction of pay for a period not exceeding the number of hours worked by the employee in 2 ordinary shifts. For the purposes of this clause, the word **spouse** shall not include a spouse from whom the employee is separated but shall include a person who lives with the employee as a de facto spouse. This leave is additional to any other personal leave but does not accrue.

### 20.2 Evidence supporting claim

Proof of death must be furnished by the employee to the satisfaction of the employer, if requested.

### 20.3 Unpaid entitlement to leave

An employee may take unpaid bereavement leave by agreement with the employer.

### 20.4 Effect of other leave

This clause has no operation where the period of entitlement to this leave coincides with any other period of leave.

**CLAUSE 21. PERSONAL LEAVE TO CARE FOR A FAMILY MEMBER**

OPDATE 08:12:2016 on and from

**21.1 Definitions**

- 21.1.1 **Personal leave to care for a family member** means leave provided in accordance with this clause.
- 21.1.2 **Family** - the following are to be regarded as members of a person's family:
- (a) a spouse;
  - (b) a child or step child;
  - (c) a parent or parent in-law;
  - (d) any other member of the person's household
  - (e) a grandparent or grandchild
  - (f) any other person who is dependent on the person's care.
- 21.1.3 **Personal leave** means leave provided for in accordance with clause 19.1.

**21.2 Paid personal leave to care for a family member**

- 21.2.1 An employee (other than a casual employee) with responsibilities in relation to a member of the employee's **family** who need the employee's care and support:
- (a) due to personal injury; or
  - (b) for the purposes of caring for a **family** member who is sick and requires the employee's care and support or who requires care due to an unexpected emergency,
- is entitled to up to 10 days or 76 hours in any completed year of continuous services (pro rata for part time employees) to provide care and support for each persons when they are ill.
- 21.2.2 By agreement between the employer and an individual employee, the employee may access an additional amount of their accrued **personal leave** for the purposes set out in this clause. In such circumstances, the employer and the employee shall agree upon the additional amount that may be accessed.
- 21.2.3 The entitlement to use **personal leave to care for a family member** is subject to the employee being responsible for the care of the person concerned.
- 21.2.4 The employee must, if required by the employer, establish by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another.
- 21.2.5 In normal circumstances an employee must not take **personal leave to care for a family member** where another person has taken leave to care for the same person.
- 21.2.6 The employee must, where practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee must notify the employer by telephone of such absence at the first opportunity on the day of the absence.
- 21.2.7 The amount of **personal leave to care for a family member** taken is to be deducted from the amount of the employee's **personal leave** credit.

### 21.3 Unpaid personal leave to care for a family member

- 21.3.1 Where an employee has exhausted all paid personal leave entitlements, an employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care to a **family** member who is ill or who requires care due to an unexpected emergency.
- 21.3.2 The employer and the employee shall agree upon the period of unpaid **personal leave to care for a family member** which may be taken.
- 21.3.3 In absence of the agreement between the employer and the employee, the employee is entitled to take up to two days (of a maximum of 16 hours) of unpaid leave per occasion, provided that notice and evidentiary requirements are met.

### 21.4 Single day absences

Single day absences may be taken for **personal leave to care for a family member** as provided for in clause 18.3.1.

### 21.5 Casual employees caring responsibilities

- 21.5.1 Casual employees are not entitled to **personal leave to care for a family member** or bereavement leave but subject to the notice and evidentiary requirements in 20 and 21.2, casuals are entitled to not be available to attend work, or to leave work:
- (a) to care for a member of their family who is sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child; or
  - (b) upon the death of a **family** member.
- 21.5.2 The period for which the employee will be entitled to not be available to attend work for each occasion in clause 21.5.1 is:
- (a) the period agreed upon between the employer and the employee; or
  - (b) up to 48 hours (or 2 days) per occasion.
- 21.5.3 The casual employee is not entitled to any payment for the period of non-attendance under this clause.
- 21.5.4 An employer must not fail to re-engage a casual employee because the employee accessed the entitlement provided under this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
- 21.5.5 This clause does not intend to alter the nature of casual employment and is without prejudice to any parties' arguments about the nature of casual employment.

### 21.6 Domestic and family violence

- 21.6.1 Effective from 1 July 2016 the Domestic and Family Violence Guideline was implemented by the Commissioner for Public Sector Employment which allows South Australian public sector employees who are victims of domestic/family violence to take up 15 days of Special Leave with pay, in addition to existing leave entitlements and flexible working arrangements.
- 21.6.2 Applications for Domestic and Family Violence leave must be consistent with Determination 3.1 – Employment Conditions – Hours of Work, Overtime and Leave, Section F Part 1.

- 21.6.3 Applications for access to Domestic and Family Violence leave may be taken as consecutive or single days or hours and this needs to be identified by the employee on the SAMFS application form. In order to maintain confidentiality SAMFS may record special leave approved in such circumstances as "urgent pressing necessity".
- 21.6.4 This leave is not cumulative.

## CLAUSE 22. PARENTAL LEAVE

OPDATE 01:04:2007 on and from

### 22.1 Definitions

In this clause, unless the contrary intention appears:

- 22.1.1 **Adoption** includes the placement of a child with a person in anticipation of, or for the purposes of, adoption.
- 22.1.2 **Adoption leave** means adoption leave provided under clause 22.3.4.
- 22.1.3 **Child** means a child of the employee or the employee's **spouse** under the age of one year; or
- means a child under the age of school age who is placed with an employee for the purposes of **adoption**, other than a child or step-child of the employee, or of the **spouse** of the employee, who has previously lived with the employee for a continuous period of at least six months.
- 22.1.4 **Eligible casual employee** means a casual employee employed by an employer during a period of at least 12 months, either:
- (a) on a regular and systematic basis for several period of employment; or
- (b) on a regular and systematic basis for an ongoing period of employment,
- and who has, but for the pregnancy or the decision to **adopt**, a reasonable expectation of ongoing employment.
- 22.1.5 **Extended adoption leave** means adoption leave provided under 22.3.4(b).
- 22.1.6 **Extended paternity leave** means paternity leave provided under 22.3.3(b).
- 22.1.7 **Government authority** means a person or agency prescribed as a government authority for the purposes of this definition.
- 22.1.8 **Maternity leave** means maternity leave provided under 22.3.2.
- 22.1.9 **Medical certificate** means a certificate as prescribed in 22.5.1.
- 22.1.10 **Parental leave** means **adoption leave, maternity leave, paternity leave, extended adoption leave or extended paternity leave** as appropriate, and is unpaid leave.
- 22.1.11 **Paternity leave** means paternity leave provided under 22.3.3.
- 22.1.12 **Primary care-giver** means a person who assumes the principal role of providing care and attention to a **child**.
- 22.1.13 **Relative adoption** means the **adoption** of a **child** by a parent, a **spouse** of a parent or another relative, being a grandparent, brother, sister, aunt or uncle (whether of the whole blood or half blood or by marriage).
- 22.1.14 **Short adoption leave** means **adoption leave** provided under 22.3.4(a).



22.1.15 **Special adoption leave** means **adoption leave** provided under 21.10.

22.1.16 **Special maternity leave** means **maternity leave** provided under 22.9.1.

22.1.17 **Spouse** includes a defacto spouse or a former spouse.

## 22.2 Employer's responsibility to inform

On becoming aware that:

- (a) an employee is pregnant; or
- (b) an employee's **spouse** is pregnant; or
- (c) an employee is adopting a **child**,

an employer must inform the employee of:

- (i) the employee's entitlements under this clause; and
- (ii) the employee's responsibility to provide various notices under this clause.

## 22.3 Eligibility for and entitlement to parental leave

22.3.1 Subject to the qualifications in 22.4, the provisions of this clause apply to full-time, part-time and **eligible casual employees** but do not apply to other employees.

22.3.1(a) For the purposes of this clause **continuous service** is work for an employer on a regular and systematic basis (including a period of authorised leave or absence).

22.3.1(b) An employer must not fail to re-engage a casual employee because:

- (i) the employee or the employee's **spouse** is pregnant; or
- (ii) the employee is or has been immediately absent on **parental leave**.

22.3.1(c) The right of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

22.3.2 An employee who becomes pregnant is, on production of the required **medical certificate**, entitled to up to 52 weeks of **maternity leave**.

22.3.3 A male employee is, on production of the required **medical certificate**, entitled to one or two periods of **paternity leave**, the total of which must not exceed 52 weeks, as follows:

22.3.3(a) An unbroken period of up to one week at the time of the birth of the child.

22.3.3(b) A further unbroken period of up to 51 weeks in order to be the **primary care-giver** of the **child** (to be known as **extended paternity leave**).

22.3.4 An employee is entitled to one or two periods of **adoption leave**, the total of which must not exceed 52 weeks, as follows:

22.3.4(a) An unbroken period of up to three weeks at the time of the placement of the **child** (to be known as **short adoption leave**).

22.3.4(b) A further unbroken period of up to 49 weeks in order to be the **primary care-giver** of the **child** (to be known as **extended adoption leave**).

## 22.4 Qualifications on entitlements and eligibility

22.4.1 An employee engaged upon casual or seasonal work is not entitled to **parental leave**.

- 22.4.2 An entitlement to **parental leave** is subject to the employee having at least 12 months of **continuous service** with the employer immediately preceding:
- (a) in the case of **maternity leave**, the expected date of birth; or otherwise
  - (b) the date on which the leave is due to commence.
- 22.4.3 The entitlement to **parental leave** is reduced:
- 22.4.3(a) In the case of **maternity leave**, by any period of **extended paternity leave** taken by the employee's **spouse** and/or by any period of **special maternity leave** taken by the employee.
  - 22.4.3(b) In the case of **extended paternity leave**, by any period of **maternity leave** taken by the employee's **spouse**.
  - 22.4.3(c) In the case of **extended adoption leave**, by any period of **extended adoption leave** taken by the employee's **spouse**.

## 22.5 Certification required

- 22.5.1 An employee must, when applying for **maternity leave** or **paternity leave**, provide the employer with a medical certificate that:
- (a) names the employee or the employee's **spouse** as appropriate;
  - (b) states that the employee or the employee's **spouse** is pregnant; and
  - (c) states:
    - (i) the expected date of birth;
    - (ii) the expected date of termination of pregnancy; or
    - (iii) the date on which the birth took place,whichever is appropriate.
- 22.5.2 At the request of the employer, an employee must, in respect of the conferral of **parental leave**, produce to the employer within a reasonable time a statutory declaration which states:
- 22.5.2(a) *Parental leave*
    - (i) The particulars of any period of **parental leave** sought or taken by the employee's **spouse**, and where appropriate;
    - (ii) That the employee is seeking the leave to become the **primary care-giver** of a **child**.
  - 22.5.2(b) *Adoption leave*
    - (i) In the case of **adoption leave**, a statement from a **Government authority** giving details of the date, or presumed date, of **adoption**; and
    - (ii) That for the period of the leave the employee will not engage in any conduct inconsistent with the employee's contract of employment.

## 22.6 Notice requirements

### 22.6.1 Maternity leave

22.6.1(a) An employee must:

- (i) Not less than 10 weeks before the expected date of birth of the **child**, give notice in writing to her employer stating the expected date of birth; and
- (ii) Give not less than four weeks notice in writing to her employer of the date of which she proposes to commence **maternity leave** stating the period of leave to be taken; and
- (iii) Notify the employer of any change in the information provided pursuant to 22.5 within two weeks after the change takes place.

22.6.1(b) An employer may, by not less than 14 days notice in writing to the employee, require her to commence **maternity leave** at any time within six weeks immediately before the expected date of birth. Such a notice may be given only if the employee has not given her employer the required notice.

### 22.6.2 Paternity leave

An employee must:

22.6.2(a) Not less than 10 weeks prior to each proposed period of **paternity leave**, give the employer notice in writing stating the dates on which he proposes to start and finish the period(s) of **paternity leave**.

22.6.2(b) Notify the employer of any change in the information provided pursuant to 22.5 within two weeks after the change takes place.

### 22.6.3 Adoption leave

An employee must:

22.6.3(a) On receiving notice of approval for **adoption** purposes, notify the employer of the approval and, within two months of the approval, further notify the employer of period(s) of **adoption leave** the employee proposes to take.

22.6.3(b) In the case of a **relative adoption**, so notify the employer on deciding to take a **child** into custody pending an application for **adoption**.

22.6.3(c) As soon as the employee is aware of the expected date of placement of a **child** for **adoption** purposes, but not later than 14 days before the expected date of placement, give notice in writing to the employer of that date, and of the date of commencement of any period of **short adoption leave** to be taken.

22.6.3(d) At least 10 weeks before the proposed date of commencing any **extended adoption leave**, give notice in writing to the employer of the date of commencing leave and the period of leave to be taken.

### 22.6.4 Unforeseen circumstances

An employee is not in breach of any of these notice requirements if the employee's failure to comply is caused by unforeseen or other compelling circumstances, including:

- (a) the birth occurring earlier than the expected date; or
- (b) the death of the mother of the **child**; or
- (c) the death of the employee's **spouse**, or
- (d) the requirement that the employee accept earlier or later placement of the **child**,

so long as, where a living **child** is born, the notice is given not later than two weeks after the birth.

## 22.7 Taking of parental leave

- 22.7.1 No employee may take **parental leave** concurrently with such leave taken by the employee's **spouse**, apart from **paternity leave** of up to one week at the time of the birth of the **child** or **adoption leave** of up to 3 weeks at the time of the placement of the **child**.
- 22.7.2 Subject to complying with any relevant provision as to the taking of annual leave or long service leave, an employee may, instead of or in conjunction with **parental leave**, take any annual leave or long service leave to which the employee is entitled.
- 22.7.3 Paid personal leave or other paid absences are not available to an employee during the employee's absence on **parental leave**.
- 22.7.4 A period of **maternity leave** must be taken as one continuous period and must include, immediately following the birth of the **child**, a period of 6 weeks of compulsory leave.
- 22.7.5 Subject to 22.4 and unless agreed otherwise between the employer and employee, an employee may commence **parental leave** at any time within six weeks immediately prior to the expected date of birth.
- 22.7.6 Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the **child**, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.
- 22.7.7 Where leave is granted under 22.7.5, during the period of leave an employee may return to work at any time, as agreed between the employer and the employee provided that time does not exceed four weeks from the recommencement date desired by the employee.
- 22.7.8 **Maternity leave** and **paternity leave** cannot extend beyond the **child's** first birthday.
- 22.7.9 **Adoption leave** cannot extend beyond the **child's** first birthday.
- 22.7.10 **Extended adoption leave** cannot extend beyond the first anniversary of the initial placement of the **child**.
- 22.7.11 Notwithstanding the provisions of this clause, employees eligible for **parental leave** have the right to request **parental leave** as consistent with 22.15.

## 22.8 Variation and cancellation of parental leave

- 22.8.1 Without extending an entitlement beyond the limit set by 22.3, **parental leave** may be varied as follows:

22.8.1(a) The leave may be lengthened once by the employee giving the employer at least 14 days notice in writing stating the period by which the employee requires the leave to be lengthened.

22.8.1(b) The leave may be lengthened or shortened by agreement between the employer and the employee.

22.8.2 **Parental leave**, if applied for but not commenced is cancelled:

(a) should the pregnancy terminate other than by the birth of a living **child**; or

(b) should the placement of a **child** proposed for **adoption** not proceed.

22.8.3 If, after the commencement of any **parental leave**:

(a) the pregnancy is terminated other than by the birth of a living **child** or, in the case of **adoption leave**, the placement of the **child** ceases; and

(b) the employee gives the employer notice in writing stating that the employee desires to resume work,

the employer must allow the employee to resume work within four weeks of receipt of the notice.

22.8.4 **Parental leave** may be cancelled by agreement between the employer and the employee.

## 22.9 Special maternity leave and personal leave

22.9.1 If:

(a) an employee not then on **maternity leave** suffers illness related to her pregnancy she is entitled to take leave under 19; or

(b) the pregnancy of an employee not then on **maternity leave** terminates after 27 weeks otherwise than by the birth of a living **child**,

she may take such paid personal leave as she is then entitled to and such further unpaid leave (to be known as **special maternity leave**) as a legally qualified medical practitioner certifies to be necessary before her return to work. Provided that the aggregate of paid personal leave, **special maternity leave** and **maternity leave** must not exceed the period to which the employee is entitled under 22.3.2 and she is entitled to take unpaid **special maternity leave** for such periods as a registered medical practitioner certifies as necessary.

22.9.2 Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid personal leave to which she is entitled in lieu of, or in addition to, **special maternity leave**.

22.9.3 An employee who returns to work after the completion of a period of such leave is entitled to the position which she held immediately before commencing such leave, or in the case of an employee who was transferred to a safe job, to the position she held immediately before such transfer.

22.9.4 If that position no longer exists, but there are other positions available which the employee is qualified for and is capable of performing, she is entitled to a position, as nearly as possible, comparable in status and pay as that of her former position.

### 22.10 Special adoption leave

- 22.10.1 An employee who has received approval to **adopt** a **child** who is overseas is entitled to such unpaid leave as is reasonably required by the employee to obtain custody of the **child**.
- 22.10.2 An employee who is seeking to **adopt** a **child** is entitled to such unpaid leave not exceeding five days as is required by the employee to attend such interviews, workshops, court attendances or examinations as are necessary as part of the **adoption** procedure.
- 22.10.3 The leave under this clause 22.10 is to be known as **special adoption leave** and does not affect any entitlement under 22.3.
- 22.10.4 **Special adoption leave** may be taken concurrently by an employee and the employee's **spouse**.
- 22.10.5 Where paid leave is available to the employee, the employer may require the employee to take such leave instead of **special adoption leave**.

### 22.11 Transfer to a safe job - maternity leave

- 22.11.1 If, in the option of a legally qualified medical practitioner:
- (a) illness or risks arising out of the pregnancy; or
  - (b) hazards connected with the work assigned to the employee,
- make it inadvisable for the employee to continue her present work, the employee must, if the employer considers that it is practicable to do so, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of **maternity leave**.
- 22.11.2 If the transfer to a safe job is not considered practicable, the employee is entitled, or the employer may require the employee, to take leave for such period as is certified necessary by a legally qualified medical practitioner.
- 22.11.3 Leave under this clause 22.11 will be treated as **maternity leave**.

### 22.12 Part-time work

An employee who is pregnant or is entitled to **parental leave** may, by agreement with the employer, reduce the employee's hours of employment to an agreed extent subject to the following conditions:

- 22.12.1 Where the employee is pregnant, and to do so is necessary or desirable because of the pregnancy; or
- 22.12.2 Where the employee is entitled to **parental leave**, by reducing the employee's entitlement to **parental leave** for the period of such agreement.

### 22.13 Communication during parental leave

- 22.13.1 Where an employee is on **parental leave** and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
- (a) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing **parental leave**; and

- (b) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing **parental leave**.

22.13.2 The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of **parental leave** to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

22.13.3 The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with 22.13.1.

#### **22.14 Return to work after parental leave**

22.14.1 An employee must confirm the employee's intention to return to work, by notice in writing, to the employer given at least four weeks before the end of the period of **parental leave**.

22.14.2 On returning to work after **parental leave** an employee is entitled:

- (a) to the position which the employee held immediately before commencing **parental leave**; or
- (b) in the case of an employee who was transferred to a safe job, to the position which she held immediately before the transfer.

22.14.3 If the employee's previous position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee is entitled to a position as nearly as comparable in status and pay to that of the employee's former position.

#### **22.15 Right to request**

22.15.1 An employee entitled to **parental leave** pursuant to clause 22.3, may request the employer to allow the employee:

- (a) to extend the period of simultaneous unpaid leave provided for in clause 22.3.3(a) and 22.3.4(a) up to a maximum of eight weeks;
- (b) to extend the period of unpaid **parental leave** provided for in 22.3.2 by a further continuous period of leave not exceeding 12 months;
- (c) to return to work from a period of **parental leave** on a part-time basis until the **child** reaches school age,

to assist the employee in reconciling work and parental responsibilities.

22.15.2 The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

22.15.3 The employee's request and the employer's decision made under 22.15.1(b) and (c) must be recorded in writing.

22.15.4 Where an employee wishes to make a request under 22.15.1(c), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from **parental leave**.

## 22.16 Termination of employment

- 22.16.1 An employee on **parental leave** may terminate their employment at any time during the period of leave by giving the required notice.
- 22.16.2 An employer must not terminate the employment of an employee on the ground of her pregnancy or an employee's absence on **parental leave**. Otherwise the rights of an employer in relation to termination of employment are not affected by this clause.

## 22.17 Replacement employees

- 22.17.1 A **replacement employee** is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on **parental leave**.
- 22.17.2 Before an employer engages a **replacement employee** the employer must inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

## CLAUSE 23. JURY SERVICE

OPDATE 08:12:2016 on and from

- 23.1** 23.1 An employee required to attend for jury service during their ordinary working hours will be reimbursed by the **SAMFS** an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the amount they would have received in respect of the time they would have worked had they not been on jury service.
- 23.2** An employee shall notify the **SAMFS** as soon as possible of the date upon which they are required to attend for jury service.
- 23.3** The employee shall give the **SAMFS** proof of attendance, the duration of such attendance and the amount paid in respect of such jury service.

## CLAUSE 24. LONG SERVICE LEAVE

OPDATE 08:12:2016 on and from

Long Service Leave will be in accordance with the provisions of the *Public Sector Act 2009*.

## CLAUSE 25. PUBLIC HOLIDAYS

OPDATE 08:12:2016 on and from

### 25.1 Dayworkers

Employees shall be entitled to the following holidays without loss of pay:

- New Year's Day;
- Australia Day;
- Adelaide Cup Day;
- Good Friday;
- Easter Saturday;
- Easter Monday;
- Anzac Day;
- Queen's Birthday
- Labour Day;
- Christmas Eve (7.00pm – midnight);
- Christmas Day;
- Proclamation Day; and
- New Year's Eve (7-00pm – midnight).



**CLAUSE 26. UNIFORM/CLOTHING ALLOWANCE**

OPDATE 01:10:2007 1<sup>st</sup> pp on or after (s 99 review & SWC 2007)

**26.1** Where required special clothing such as uniforms, overalls, caps is not laundered at the expense of the **SAMFS**, the employee shall be paid a laundry allowance of 24 cents per day or part thereof when on duty or \$1.21 per week, whichever is the lesser amount. The laundry allowance is not payable when the employee is on leave.

**26.2** Such special clothing will remain the property of the **SAMFS**.

**26.3** Where it is necessary that an employee be provided with gloves, protective clothing and safety equipment, the **SAMFS** must reimburse the employee for the cost of purchasing such items. The provisions of this clause do not apply where the items and equipment is supplied to the employee at the expense of the **SAMFS**; such items and equipment will remain the property of the **SAMFS**.

**CLAUSE 27. POSTING OF AWARD**

OPDATE 01:04:2007 on and from

This Award shall be exhibited by the **SAMFS** on its premises in a place accessible to all employees.

**CLAUSE 28. INDEX OF FACILITATIVE PROVISIONS**

OPDATE 01:10:2019 on and from

**28.1** A facilitative provision is one which provides that the standard approach in an award provision may be departed from by agreement between the **SAMFS** and the **Union** and/or an employee, or the majority of employees, in the enterprise or workplace concerned.

**28.2** Facilitative provisions in this award are contained in the following clauses:

<i>Clause title</i>	<i>Clause number</i>
Change of shift	16.1.5
Breathing Apparatus Technicians and General Hands:	
• Hours of work	16.2.1
• Advice of rostered day off	16.2.2
• Ordinary spread of hours of work	16.2.6
• Period of leave	18.4.1
Firefighters and officers roster	18.4.1(b)
Variation of period of parental leave	28.8

**CLAUSE 29. ADDITIONAL COMPENSATION FOR CERTAIN WORK RELATED INJURIES OR ILLNESSES**

OPDATE 30:09:1987 on and from

The **employer** must pay and/or provide benefits pursuant to Schedule 1 of this Award.

## **SCHEDULE 1 - ADDITIONAL COMPENSATION FOR CERTAIN WORK RELATED INJURIES OR ILLNESSES**

OPDATE 30:09:1987 on and from

OPDATE 01:10:2019 on and from (Cl. S1.31.3 & Attachment 2)

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**PART 1 - INTRODUCTION**

- S1.1 This schedule provides benefits to eligible employees with eligible injuries that would have been applicable under the WR&C Act if they cease to be entitled to similar benefits under the RTW Act.
- S1.2 A return to work within the meaning of the RTW Act is the main objective in managing all work injuries. The primary return to work objective will be employment in SAMFS. New or other return to work options can only be explored when return to work options within SAMFS have been fully explored (and the onus of proof to establish this lies with the employer) or if the employee requests the exploration of new or other employment options in writing (which request may be withdrawn). The Union will reasonably support and co-operate in the pursuit of this objective.
- S1.3 This schedule operates in addition to and not instead of any entitlements applicable under any other statute or law, except that:
  - S1.3.1 any payment which would otherwise be payable under this schedule will not be payable if precisely the same payment has already been made under a compensation Act; and
  - S1.3.2 if an eligible employee receives a payment for economic loss pursuant to Part 4, Division 6 of the RTW Act, S1.60 through S1.63 apply.
- S1.4 Providing the criteria in S1.35 through S1.36 are met, if an entitlement has been claimed by an eligible employee under a compensation Act and that claim has been rejected, any equivalent or similar entitlement may be claimed, and if rejected disputed, under this Schedule notwithstanding that proceedings relating to the rejected compensation Act claim are extant. In making such a claim or in any dispute about such a claim, the matter shall proceed on the basis that the relevant claim under a compensation Act shall remain rejected.
- S1.5 If the employer is considering making a decision about an employee's entitlements pursuant to this Schedule which may be adverse to the relevant employee, the employer must provide procedural fairness to the relevant employee before any final decision is made.
- S1.6 Claims for entitlements under this Schedule must be made in writing.

**PART 2 – DEFINITIONS IN THIS SCHEDULE**

- S1.7 **Average Weekly Earnings** means Average Weekly Earnings under S4(1) of the RTW Act;
- S1.8 **Compensation Act** means either or both or all of the *Workers Rehabilitation and Compensation Act 1986*, the *Return to Work Act 2014*, and any successor legislation to the *Return to Work Act 2014*. Insofar as references in this Schedule to "compensation Act" refer to the *Return to Work Act 2014*, those references are not limited to the *Return to Work Act 2014* as at 1 July 2017.
- S1.9 **Benefits** or **entitlements** means weekly payments of income compensation or medical and/or like expenses or an entitlement to a reasonable rehabilitation/return to work plan pursuant to this Schedule.
- S1.10 **Claims income compensation** means either an express request to be paid income compensation pursuant to this Schedule or, if an eligible employee is in receipt of income compensation pursuant to this Schedule, the absence of a request to cease payments of income compensation.
- S1.11 **Eligible employee** means:
- S1.11.1 current and former employees (irrespective of when a former employee's employment ceased) who are or were employed in a position or positions contemplated by clause 5.2 of this award; who
- S1.11.2 have had a claim accepted under a compensation Act;
- but does not include
- S1.11.3 former employees whose employment has been lawfully terminated by the employer on the ground of serious and wilful misconduct and/or criminal conduct.
- S1.12 **Income compensation lump-sum** means a lump sum payment in an agreed amount and on agreed terms and in accordance with attachment 2 to this Schedule to forever end an entitlement to income compensation pursuant to this Schedule in respect of a particular injury or injuries.
- S1.13 **Independent medical adviser** or **IMA** means an independent medical adviser under S1(1) of the RTW Act;
- S1.14 **Injury** means an injury within the meaning of S4(1) of the RTW Act.
- S1.15 **Interest** means interest calculated in accordance with Regulation 38 of the *Return to Work Regulations 2015* as at 1 July 2017.
- S1.16 **Medical and/or related expenses** means any cost payable or to be payable in respect of costs provided for by s33 of the RTW Act, such as services, appliances, medicines, materials, travel and accommodation.
- S1.17 **Medical expense lump-sum** means a lump sum payment in an agreed amount and on agreed terms in accordance with attachment 2 to this Schedule to forever end an entitlement to medical and/or related expense compensation pursuant to this Schedule in respect of a particular injury or injuries.
- S1.18 **No current work capacity** means a present inability arising from the particular eligible injury or the combined effect of one or more eligible injuries such that the eligible employee is not able to return to work, either:
- S1.18.1 if the employer has made and continues to make such work available, in suitable employment in his or her employment at the time of the occurrence of the injury or injuries; or

- S1.18.2 in other suitable employment.
- S1.19 **Notional Weekly Earnings** means the eligible employee's Notional Weekly Earnings under the relevant compensation Act as adjusted pursuant to Part 9 of this Schedule.
- S1.20 **Professional representative** means a legal practitioner or other person who has been engaged or appointed to represent a party to proceedings before SAET (whether personally or through an employee or agent).
- S1.21 **Recognised health practitioner** means a recognised health practitioner within the meaning of S4(1) of the RTW Act;
- S1.22 **Recovery/return to work plan** means a recovery/return to work plan established or continuing under the RTW Act or this Schedule.
- S1.23 **Retiring age** means "retiring age" as defined in S44(1) of the RTW Act.
- S1.24 **RTW Act** or **Return to Work Act 2014 (SA)** means the *Return to Work Act 2014 (SA)* as at 1 July 2017 (and all references to the RTW Act and Regulations under that Act are references to that Act and the relevant Regulations as at 1 July 2017, subject to an express contrary intention);
- S1.25 **SAET** means the South Australian Employment Tribunal;
- S1.26 **Seriously injured worker** has the same meaning as under the RTW Act;
- S1.27 **Suitable employment** means suitable employment as defined under S4(1) of the RTW Act, and a reference to a recovery/return to work plan or services in that provision extends to a recovery/return to work plan or services under this Schedule.
- S1.28 **WR&C Act** means the *Workers Rehabilitation and Compensation Act 1986 (SA)*.

### PART 3 - ELIGIBLE INJURIES

#### Only eligible employees can have eligible injuries

- S1.29 An injury is not an eligible injury unless the injured employee is an eligible employee.

#### Temporal connection to employment

- S1.30 An eligible injury arises out of or in the course of the eligible employee being at work (whether responding to an actual or apparent emergency situation, undertaking training or otherwise) or when responding to an actual or apparent emergency situation when not on paid time (which does not expand the operation of the RTW Act).

#### Causal connection to the nature of firefighting

- S1.31 To be an eligible injury the injury must have:
- S1.31.1 resulted from conduct directed at the employee that is or appears to be a criminal offence; and / or
  - S1.31.2 occurred as a direct and immediate result of conduct that is or appears to be a criminal offence; and/or
  - S1.31.3 occurred in other circumstances where the employee is placed in a dangerous situation, which can include training (however psychiatric injuries are only eligible injuries pursuant to S1.31.3 if they are caused as a consequence of a specific incident or incidents).

### **Incapacity required for eligibility**

S1.32 An eligible injury temporarily or permanently incapacitates the injured employee for work (including because of a need to attend on a medical practitioner for treatment or examination).

### **When an injury ceases to be an eligible injury**

S1.33 An eligible injury ceases to be an eligible injury when:

S1.33.1 the injured employee makes a return to work within the meaning of the RTWA which is sustainable and is earning a salary or wage that is the same or more than their Notional Weekly Earnings; and

S1.33.2 there is no reasonable basis to incur medical and / or related expenses (whether to treat symptoms or reduce the likelihood of symptoms recurring or for any other reason deemed appropriate by a medical practitioner).

### **When an injury resumes being an eligible injury**

S1.34 If an eligible injury ceased to be an eligible injury pursuant to S1.33 but the criteria in S1.33 are no longer met, the injury resumes being an eligible injury.

### **Compensation Act status for an injury to be an eligible injury**

S1.35 To be an eligible injury a claim for compensation relating to the injury must have been accepted under a compensation Act.

S1.36 If, in relation to a particular injury:

S1.36.1 no compensation has been paid under the RTW Act and no Recovery/Return to Work Plan has been established under the RTW Act;

S1.36.2 that injury is only an eligible injury to the extent that the eligible employee would be entitled to receive benefits or entitlements under the WR&C Act (disregarding the operation of the RTW Act).

### **Consequential injuries taken to be part of original eligible injuries**

S1.37 Any injury arising out of or in the course of an eligible employee's attendance at a place to:

S1.37.1 receive a medical service in relation to an eligible injury; and / or

S1.37.2 obtain a medical report or certificate (or to be examined for that purpose) in relation to an eligible injury; and / or

S1.37.3 receive services or assistance or perform activities intended to assist the eligible employee's recovery or return to work or restoration to the community in relation to an eligible injury; and / or

S1.37.4 to apply for, or receive, compensation in relation to an eligible injury;

S1.37.5 will be taken to constitute part of the original eligible injury, whether or not the eligible employee had additional reasons for attending at that place (for example, if an injury arose from performing activities at the eligible employee's home recommended by a doctor to assist in recovering from an eligible injury).



## **Injuries and incapacity attributable to surgery etc**

S1.38 Any injury or incapacity attributable to surgery or other treatment or service or advice performed or provided with due care and skill by a person professing to have particular skills and undertaken or provided in relation to an eligible injury will be taken to constitute part of the original eligible injury.

## **PART 4 - MEDICAL EXPENSE ENTITLEMENTS & LUMP SUMS**

### **Medical and related expenses – entitlement**

S1.39 The employer must pay compensation for medical and/or related expenses incurred in consequence of an eligible injury, whenever any such expenses are incurred. To avoid doubt, an eligible employee's entitlement to medical and/or related expenses does not end only because income compensation payments to the eligible employee cease. However, if a redemption or commutation in respect of medical and/or related expense entitlements arising out of a particular injury or injuries has been paid pursuant to S12 of the WR&C Act or s54 of the RTW Act, no medical and/or related expenses are payable under this Schedule in relation to that injury or injuries.

#### *Medical expense lump sums*

S1.40 Medical expense lump-sums (in addition to such compensation as is payable for medical and related expenses incurred before receiving a medical expense lump-sum payment) may be paid to eligible employees.

#### *Medical and related expenses – effect of medical expense lump-sum*

S1.41 Once an eligible employee has received a medical expense lump-sum payment the employer is not obliged to pay compensation for medical and/or related expenses pursuant to this Schedule if:

S1.41.1 medical and/or related expenses are incurred in consequence of a particular eligible injury after the day when the eligible employee receives a medical expense lump-sum payment; and

S1.41.2 a medical expense lump-sum payment received by the eligible employee is specifically in respect of that particular eligible injury.

#### *Medical and related expenses – pre-approval*

S1.42 An eligible employee is entitled to a decision by the employer on a claim for compensation for a medical and / or related expense that the eligible employee wishes to incur but is yet to incur. For the avoidance of doubt, a decision to reject such a claim (in whole or in part) is a decision for the purposes of this Schedule.

## **PART 5 - INCOME COMPENSATION ENTITLEMENTS & LUMP SUMS**

S1.43 The employer must pay weekly payments of income compensation in respect of incapacity for work (whether partial or total) arising out of an eligible injury in accordance with the following principles. However, if a redemption or commutation in respect of weekly payments arising out of a particular injury or injuries has been paid pursuant to s12 of the WR&C Act or s53 of the RTW Act, no income compensation is payable under this Schedule in relation to that injury or injuries.

### **Work capacity review**

S1.44 An eligible employee's entitlement to income compensation in respect of a particular eligible injury does not arise without an entitling assessment pursuant to S1.49 (work capacity review) and ceases if there is a disentitling assessment pursuant to S1.51.

### **Income compensation – quantum**

S1.45 Weekly payments must be paid at the rate of 80% of the eligible employee's Notional Weekly Earnings or, if the eligible employee has actual earnings, 80% of the difference between actual earnings and the eligible employee's Notional Weekly Earnings.

### **Income compensation – duration**

S1.46 An eligible employee's entitlement to income compensation ceases when the eligible employee reaches retiring age.

S1.47 If an eligible employee breaches the obligation of mutuality, the eligible employee's entitlement to income compensation may be discontinued for such time as the eligible employee remains in breach of the obligation of mutuality. An eligible employee resigning (other than on medical advice to resign) after claiming income compensation under this Schedule breaches mutuality. Lawful termination of employment by the employer on the ground of serious and wilful misconduct and/or criminal conduct breaches mutuality.

S1.48 An eligible employee's entitlement to income compensation may be discontinued if there is a disentitling assessment on a work capacity review.

### **Work Capacity Reviews**

S1.49 An eligible employee's entitlement to receive income compensation does not commence unless the eligible employee is assessed in relation to the cumulative effect of one or more eligible injuries (an **entitling assessment**) by the employer as:

S1.49.1 having no current work capacity; and

S1.49.2 likely to continue indefinitely to have no current work capacity; or

S1.49.3 being in employment but because of the injury or injuries is likely to continue indefinitely to be incapable of undertaking further or additional employment or work that would increase the eligible employee's current weekly earnings.

S1.50 The employer may make an entitling assessment on any basis.

S1.51 A **disentitling assessment** is an assessment that the eligible employee does not meet the criteria in S1.49. A disentitling assessment can only be made if:

S1.51.1 the employer has sought and obtained an opinion from an IMA (whose expertise is appropriate to the particular injury or injuries) about whether the eligible employee meets the criteria in S1.49; and

S1.51.2 if the eligible employee has earnings in employment or other work, the IMA considers that notwithstanding the eligible injury or injuries the eligible employee is, and is likely to continue indefinitely to be, capable of undertaking further or additional employment or work which would increase the eligible employee's earnings, and specifies what that additional employment or work is; and

S1.51.3 the IMA provides a written opinion that the eligible employee does not meet the criteria in S1.49; and

S1.51.4 if the eligible employee has earnings in employment or other work, the IMA specifies on reasonable grounds the additional employment or work the IMA considers that the eligible employee could do to increase their earnings.

*Work capacity reviews and ceasing income compensation*

S1.52 An eligible employee receiving income compensation under this Schedule shall continue to receive income compensation under this Schedule until at least 13 weeks after the eligible employee receives written notification from the employer that the eligible employee is no longer entitled to receive income compensation under this Schedule because of a disentitling assessment.

*Work capacity reviews and commencing or recommencing income compensation*

S1.53 If an eligible employee who is not receiving income compensation under this Schedule or a compensation Act claims income compensation the employer is not obliged to pay income compensation under this Schedule until an entitling assessment is made. In those circumstances, if an entitling assessment is made the eligible employee is entitled to arrears and interest for all periods when they are entitled to income compensation.

*First work capacity review; timing*

S1.54 A work capacity review may be performed before or after an eligible employee has exhausted their entitlement to weekly payments under a compensation Act.

S1.55 An eligible employee who, immediately before the end of the second designated period defined in s39 of the RTW Act, was in receipt of weekly payments under the RTW Act is entitled to receive income compensation pursuant to this Schedule at the same rate unless and until a work capacity review is conducted.

S1.56 If S1.55 applies and the outcome of the work capacity review is:

S1.56.1 an **entitling assessment**, the employer must conduct reviews in accordance with Part 9 of this Schedule and adjust the eligible employee's income compensation accordingly;

S1.56.2 a **disentitling assessment**, S1.52 and Part 8 of this Schedule apply.

*Reassessment*

S1.57 An eligible employee's work capacity may be reassessed consistent with S1.49 through S1.51 at any reasonable time and must be reassessed as often as is reasonably necessary.

*Income compensation – effect of income compensation lump-sum*

S1.58 An income compensation lump-sum (in addition to such compensation as is payable for income compensation before receiving an income compensation lump-sum payment) may be paid to eligible employees.

S1.59 Once an eligible employee has received an income compensation lump-sum payment the employer is not obliged to pay weekly payments pursuant to this Schedule if:

S1.59.1 an entitlement to income compensation in consequence of a particular eligible injury arises after the day when the eligible employee receives an income compensation lump-sum payment; and

S1.59.2 an income compensation lump-sum payment received by the eligible employee is specifically in respect of that particular eligible injury.

*Income compensation – effect of lump-sum payment for economic loss*

S1.60 If this Award applies to an employee who claims compensation pursuant to Part 4, Division 6 of the RTW Act, before paying any such compensation the employer must:

S1.60.1 give the employee written notice of:

- S1.60.1.1 the dollar amount of compensation the employer says the employee is entitled to; and
- S1.60.1.2 clauses S1.60 through S1.63 of this Schedule; and
- S1.60.2 request written confirmation from the employee that, having regard to clauses S1.60 through S1.63 of this Schedule, they wish to be paid compensation pursuant to Part 4, Division 6 of the RTW Act and allow a reasonable time for the employee to respond in writing.
- S1.61 If an eligible employee has received a payment pursuant to Part 4, Division 6 of the RTW Act (**the payment**) 3 months or more after this Schedule is inserted into the Award the eligible employee is not entitled to income compensation pursuant to this Schedule in relation to the same injury or injuries that the payment related to.
- S1.62 If an eligible employee has received a payment pursuant to Part 4, Division 6 of the RTW Act (**the payment**) before 3 months after this Schedule is inserted into the Award, the eligible employee is not entitled to income compensation pursuant to this Schedule in relation to the same injury or injuries that the payment related to unless they agree in writing to repay the payment and comply with that agreement, with repayments to be made by periodic payments in accordance with S1.78.1 unless otherwise agreed in writing.
- S1.63 If an eligible employee has received income compensation pursuant to this Schedule and then receives a payment pursuant to Part 4, Division 6 of the RTW Act (**the payment**):
- S1.63.1 the eligible employee ceases to be entitled to income compensation pursuant to this Schedule in relation to the same injury or injuries that the payment related to; and
- S1.63.2 the employer is entitled to deduct from the payment any income compensation previously paid to the eligible employee pursuant to this Schedule in relation to the same injury or injuries that the payment related to.

## **PART 6 - RECOVERY/RETURN TO WORK PLANS**

### **Continuing operation of plans established under the RTW Act**

- S1.64 If a recovery/return to work plan established under s25 of the RTW Act has not reached its completion date or action when entitlements under this Schedule arise, it continues to operate by virtue of this Schedule irrespective of whether the RTW Act authorises its continued operation until the date or action the plan is expressed to conclude on, unless the eligible employee and the employer agree that the plan should cease operation or be varied or if SAET determines that the plan should cease operation or be varied.

### **When plans are established - entitlement**

- S1.65 If it is reasonable to do so, the employer may establish a written recovery/return to work plan in relation to an eligible employee who has an eligible injury. If an eligible employee's entitlements under this Schedule are not exhausted, the employer must establish a written recovery/return to work plan if the eligible employee requests such a plan in writing.

## Content of plans

- S1.66 A recovery/return to work plan may provide for any assistance, service, payments or return to work arrangement that may reasonably assist the full restoration of the eligible employee to the workforce and/or the community, including by alleviating the impact of the disability so far as is possible. A recovery/return to work plan must assist the full restoration of the eligible employee to the workforce and/or the community, including by alleviating the impact of the disability, so far as is reasonably practicable, and must be in accordance with Attachment 1 to this Schedule.
- S1.67 Recovery/return to work plans under this Schedule may not impose unreasonable obligations on eligible employees.
- S1.68 An eligible employee whose entitlements under this Schedule are not exhausted is entitled to a reasonable recovery/return to work plan if the employer establishes a recovery/return to work plan or if the employee requests a recovery/return to work plan.
- S1.69 If:
- S1.69.1 an eligible employee who has been incapacitated for work in consequence of an eligible injury is able to return to work, whether on a full-time or part-time basis and whether or not to his or her previous employment;
  - S1.69.2 the employer must provide suitable employment for the eligible employee (the employment being employment for which the eligible employee is fit and, subject to that qualification employment which is, so far as reasonably practicable the same as, or equivalent to, the employment in which the eligible employee was working immediately before the incapacity) as part of a recovery/return to work plan;
  - S1.69.3 if the eligible employee requests it; but not if
  - S1.69.4 it is not reasonably practicable to provide such employment (and the onus of establishing that lies on the employer); or
  - S1.69.5 the eligible employee left the employment of the employer before the commencement of the incapacity for work; or
  - S1.69.6 the eligible employee terminated the employment after the commencement of the incapacity for work; or
  - S1.69.7 new or other employment options and any ancillary matters have been agreed and remain agreed between the eligible employee and employer and are contained in a current recovery/return to work plan; or
  - S1.69.8 the eligible employee has otherwise sustainably returned to work earning at or above the eligible employee's Notional Weekly Earnings.
- S1.70 Suitable employment to be provided by the employer includes employment in respect of which the number of hours each day or week that the employee performs work or the range of duties the employee performs is suitably increased in stages.
- S1.71 If an eligible employee performs alternative or modified duties pursuant to a recovery/return to work plan, the employer must pay an appropriate wage or salary in respect of those duties.

## PART 7 - MUTUAL OBLIGATIONS

- S1.72 When an eligible employee is entitled to receive benefits pursuant to this Schedule the employer must reasonably:

- S1.72.1 manage the eligible employee's injury; and
- S1.72.2 provide services and assistance to further the eligible employee's recovery and return to work and / or the community and to alleviate the impact of the disability so far as is possible; and
- S1.72.3 at the employee's request, review any service/s or entitlements provided pursuant to this Schedule and/or investigate any matter, if it appears to the employee that the employer may not be complying with this Schedule and provide the employee with written advice about the outcome of any such review or investigation and any actions the employer will take arising out of any such review or investigation.
- S1.73 An employee receiving income compensation under this Schedule must not breach the obligation of mutuality defined by s48(3) and (4) of the RTW Act. If an employee breaches mutuality, mutuality may be restored in accordance with the principles applicable under the RTW Act. A breach of mutuality does not alter the employee's entitlement to compensation for medical and / or related expenses.

**PART 8 - REDUCTION, DISCONTINUANCE & SUSPENSION OF INCOME COMPENSATION**

- S1.74 If an eligible employee's entitlement to income compensation under this Schedule ceases or will cease or reduces or will reduce (including because the employee has ceased to be an eligible employee), payments of income compensation may only be discontinued or reduced in accordance with this Part.
- S1.75 Unless S1.52 applies (work capacity reviews – 13 weeks' notice), no cessation or reduction of payments of income compensation may occur until the employee has received at least 28 days written notice of any such cessation or reduction.
- S1.76 If a person (or the Union on the person's behalf) disputes a decision to reduce, discontinue or suspend their payments of income compensation (by either an application to SAET or the invocation of a dispute resolution procedure in this Award or an applicable enterprise agreement) within one month of the person receiving notice of a decision by the employer to reduce, discontinue or suspend income compensation under this Schedule:
- S1.76.1 the operation of the decision is suspended and—
- S1.76.1.1 the income compensation must continue or, if the decision has already taken effect, the income compensation must be reinstated (to its previous level), until the matter first comes before a member of SAET; and
- S1.76.1.2 the employer must make a payment to the person of any income compensation that has not been made between the date that the decision took effect and the date the income compensation is reinstated;
- S1.76.1.3 unless the person elects in writing not to receive payments under this clause; and
- S1.76.2 SAET may as it thinks fit and from time to time, and after having regard to the nature and circumstances of the case—
- S1.76.2.1 further suspend the operation of the decision (from time to time) until the dispute is resolved to avoid the person suffering financial hardship and extra weight must be given to the desirability of requiring the continuation of payments if SAET considers it is reasonably open to the person to dispute the relevant decision;

- S1.76.2.3 vary or revoke a decision under this clause, including to provide that weekly payments will only continue, or continue at a reduced rate, if the person complies with conditions determined by SAET;
- S1.76.2.4 make an order to pay an amount relating to all or any weekly payments that have not been made to the employee during the dispute.
- S1.77 If a dispute is ultimately resolved in favour of the employer and the person has been paid more than the person's lawful entitlements to income compensation pursuant to S1.76, the employer may, at the employer's discretion (but subject to this Schedule):
- S1.77.1 recover the excess (and any interest on the excess) from the employee as a debt; or
- S1.77.2 set off the amount recoverable under S1.77.1 against liabilities of the employer to pay the employee under this Schedule or a compensation Act.
- S1.78 If it is reasonable in the circumstances, the employer may set off or recover an amount under S1.77.1 as a single lump sum, or by periodic payments, or by a combination of a lump sum and periodic payments, or in some other manner agreed between the employer and the person in writing, however:
- S1.78.1 the employer cannot require a person to make periodic payments exceeding 10% of the person's net income ("net income" means income after an appropriate deduction is made for any income tax and child support payable by the person and any deductions made because of a garnishee order or similar order or requirement or any other deduction imposed by statute) without the person's written agreement;
- S1.78.2 the employer may, in its absolute discretion, waive (absolutely or subject to such conditions as the employer thinks fit) the whole or any part of an amount it is entitled to recover, and shall do so if:
- S1.78.2.1 the employer is satisfied that the person is experiencing severe financial hardship, or it appears appropriate to do so because of any other special circumstances specific to the person; or
- S1.78.2.2 the employer considers it appropriate considering the likely costs associated with recovering the amount and the amount itself;
- S1.78.3 unless the person has provided materially false or misleading information to the employer that caused the employer to make the relevant payment/s, the employer must grant these remissions if the total amount payable is repaid within the following periods:
- S1.78.3.1 a 15% remission if the total amount is repaid within 1 month of the person first receiving written notification of the amount they are liable to pay;
- S1.78.3.2 a 10% remission if the total amount is repaid within 6 months of the person first receiving written notification of the amount they are liable to pay.
- S1.79 If a person has made a payment (including by an amount being set off) to the employer under S1.78, the employer must, within two months of end the financial year in which the payment is made, furnish the person with a statement that sets out:
- S1.79.1 the total amount paid by the person during that financial year; and
- S1.79.2 the amount left to be paid (if any); and
- S1.79.3 must furnish a final statement within 2 months after the debt is extinguished.

**Interaction between paid annual and/or long service leave and income compensation – suspension**

- S1.80 If an eligible employee takes paid annual or long service leave, the employer may suspend the income compensation that would otherwise be payable to the eligible employee when the eligible employee is on that leave if the employer complies with the notice requirements of this clause.
- S1.81 If the employer proposes to suspend the income compensation that would otherwise be payable during such a period of leave, the employer must provide the eligible employee with written notice of that proposal (including details of when income compensation payments under this Schedule will resume) within 14 days of the eligible employee requesting the relevant paid leave.
- S1.82 The eligible employee may withdraw the request for paid leave at any time within 14 days of a written notice under S1.81.
- S1.83 The employer cannot compel an eligible employee to take leave when they are entitled to income compensation.

**PART 9 – ADJUSTMENTS TO INCOME COMPENSATION**

**Economic adjustments to the level of income compensation**

- S1.84 If an eligible employee is incapacitated for work or appears likely to be incapacitated for work for more than one year, the employer must, during each year of incapacity, review the income compensation for the purpose of making an adjustment to the amount of the income compensation under this Part.

**Quantum of economic adjustments – industrial instruments**

- S1.85 Subject to S1.87, the Notional Weekly Earnings of an eligible employee who is entitled to income compensation shall be adjusted to reflect any increases in the rates of remuneration applicable to the classification held by the employee (or, where relevant, any successor classification) immediately prior to the particular injury occurring and prescribed by an award or enterprise agreement.

**Notice requirements before economic adjustment decided**

- S1.86 At least 28 days before deciding the quantum of an economic adjustment pursuant to this clause, the employer must give the eligible employee written notice of the following.
- S1.86.1 The increase in the rate of remuneration the employer says applies pursuant to S1.85 and how the proposed economic adjustment has been calculated by applying that increase to the eligible employee's pre-existing Notional Weekly Earnings.
- S1.86.2 The increase in the rate of remuneration the employer says would be applicable if an economic adjustment was made in accordance with the Wage Price Index for total hourly rates of pay excluding bonuses for South Australia, and how an economic adjustment would be calculated by applying that increase to the eligible employee's pre-existing Notional Weekly Earnings, and the eligible employee's right to elect in writing to receive an economic adjustment on that basis rather than in accordance with S1.85.
- S1.86.3 The eligible employee's right to make written representations to the employer on the review within a reasonable time specified in the notice.



**Election for economic adjustment based on Wage Price Index not industrial instrument**

S1.87 If an eligible employee elects in writing to have their Notional Weekly Earnings adjusted in accordance with the Wage Price Index for total hourly rates of pay excluding bonuses for South Australia, the employer must adjust the eligible employee's Notional Weekly Earnings accordingly.

**Timing of economic increase based on industrial instrument**

S1.88 An economic increase reflecting changes to remuneration in an award or enterprise agreement operates from the date of the employer's decision on the review, back-dated to the date of the relevant changes in rates of remuneration.

**Timing of economic increase based on Wage Price Index**

S1.89 An economic increase in accordance with S1.87 operates from the end of the year of incapacity in which the review is made.

**Adjustments due to change from original arrangements**

S1.90 The employer may, on its own initiative and must at the written request of an eligible employee, review the calculation of the Average Weekly Earnings of the eligible employee (and therefore the Notional Weekly Earnings of the eligible employee) for the purpose of making an adjustment due to:

S1.90.1 a change in a component of the eligible employee's remuneration used to determine Average Weekly Earnings (including a component constituted by a non-cash benefit); or

S1.90.2 a change in the equipment or facilities provided or made available to the eligible employee (if relevant to Average Weekly Earnings).

S1.91 Before the employer begins a review under S1.90, the employer must give the eligible employee written notice informing the eligible employee of the proposed review and inviting the eligible employee to make written representations to the employer on the subject of the review within a reasonable time specified in the notice.

S1.92 If the employer finds on a review under S1.90 that there has been a change that warrants an adjustment contemplated by S1.90, the employer shall make the relevant adjustment.

S1.93 An adjustment under S1.90:

S1.93.1 will take effect as an adjustment to the eligible employee's Notional Weekly Earnings (and may therefore increase or reduce income compensation under this Schedule); and

S1.93.2 operates from an appropriate date determined by the employer (which may be an antecedent date but not a date that is before the date of the change on which the adjustment is based and not so as to result in a retrospective reduction in income compensation).

S1.94 For the purposes of a review under S1.90, the employer may, by notice in writing to the eligible employee to whom the review relates, require the eligible employee to furnish any information that the employer reasonably determines to be relevant to the review.

S1.95 If an eligible employee fails to comply with a requirement under S1.94 within the time allowed in the notice, the employer may suspend income compensation payments to the eligible employee.

- S1.96 On completing a review under S1.90, the employer must give the eligible employee written notice setting out the employer's decision on the review, and the eligible employee's rights to dispute the employer's decision.
- S1.97 S1.90 through S1.103 do not limit the rights of the employer under any other clause of this Schedule.

### **General Review of weekly payments**

- S1.98 The employer may, on its own initiative and must if requested in writing by an eligible employee, review the amount of the weekly payments made to an eligible employee. The employer is not required to comply with a request for such a review if the request is made within 3 months of the completion of an earlier review.
- S1.99 Before the employer begins a S1.98 review under this clause, the employer must give the eligible employee written notice informing the eligible employee of the proposed review and inviting the eligible employee to make a written representation to the employer on the subject of the review within a reasonable time specified in the notice.
- S1.100 If the employer finds on a S1.98 review that the eligible employee's entitlement to income compensation has ceased, or has increased or decreased, the employer must adjust and may discontinue the income compensation to reflect that finding.
- S1.101 For the purposes of a S1.98 review, the employer may, by notice in writing to an eligible employee who is receiving weekly payments, require the eligible employee to submit to an examination by an IMA nominated by the employer or require the eligible employee to furnish evidence of the eligible employee's earnings (other than earnings paid by the employer).
- S1.102 If an eligible employee fails to comply with a requirement under S1.101 within the time allowed in the notice, the employer may suspend income compensation payments to the eligible employee.
- S1.103 On completing a S1.98 review, the employer must give the eligible employee written notice setting out the employer's decision on the review, and the eligible employee's rights to dispute the employer's decision, in accordance with S1.104.

### **PART 10 - DECISIONS ON CLAIMS**

- S1.104 The employer must provide its written decision on a claim for entitlements under this Schedule (including a decision to cease or reduce or suspend income compensation and decisions to review income compensation and decisions on recovery/return to work plans) to the person who made the claim (including by their representative). The written decision must include the information required by s31(8)(b) of the RTW Act and regulation 20 of the RTW Regulations.
- S1.105 The employer must decide claims for entitlements under this Schedule (including claims for the provision of a recovery/return to work plan) as quickly as reasonably practicable and where the claim is for income compensation must, wherever practicable, endeavour to decide the claim within 10 business days from receipt of the claim.
- S1.106 A person (or the Union acting on their behalf) who believes there has been undue delay in deciding a claim or other matter affecting the person under this Schedule may apply to SAET for expedited determination of the matter.
- S1.107 An application for an expedited determination of a matter cannot be made until at least 10 business days after the matter was placed before the relevant decision-maker.

- S1.108 On an application for expedited determination of a matter, SAET may (in addition to such other powers as SAET may have) give directions SAET considers necessary to expedite the determination of the matter or decide the matter itself.
- S1.109 If SAET decides a claim on an application for expedited decision, the decision is to be treated as a decision of the employer.

### PART 11 - DISPUTE RESOLUTION

- S1.110 For the avoidance of doubt and without limiting such other legal rights as the employer, the Union and a person claiming an entitlement under this Schedule may have:
- S1.110.1 disputes over the employer's decisions on entitlements under this Schedule may be resolved pursuant to chapter two part one of the Fair Work Act 1994 and /or chapter two part two of the Fair Work Act 1994 (including concurrently) and any successor legislation to those provisions; and
- S1.110.2 proceedings and dispute resolution processes taking issue with the employer's decision/s on entitlements under this Schedule may be commenced by either the person claiming the entitlement or the Union.
- S1.111 Proceedings in the SAET about the employer's decision/s on entitlements under this Schedule should, so far as is reasonably practicable, be heard together with such other proceedings between the same parties in the SAET as may exist.

### PART 12 - COSTS OF PROCEEDINGS

#### General Entitlement To Costs

- S1.112 A party (other than the employer) is entitled, subject to this Schedule, to an award against the employer for the party's reasonable costs of proceedings for resolution of the matter before SAET.
- S1.113 Costs may only be awarded to cover the cost of representation by a legal practitioner or an employee or employee of the Union and disbursements incurred by a party to proceedings before SAET up to a reasonable amount reasonably incurred, subject to the qualification that costs for medical services reimbursed as disbursements in the proceedings are limited to the scales of charges applicable at the relevant time that apply for the purposes of s33 of the RTW Act or, if a service is not covered by a scale of charges under that section, to an amount determined in accordance with the principles that apply under that section.
- S1.114 If SAET is of the opinion that a party:
- S1.114.1 has acted unreasonably:
- S1.114.1.1 in bringing proceedings before SAET; or
- S1.114.1.2 in view of an assessment or recommendation of a SAET member under s43(13) of the South Australian Employment Tribunal Act 2014; or
- S1.114.1.3 without limiting S1.114.1.2 — in failing to discontinue or settle any proceedings before the conclusion of the hearing of a matter; or
- S1.114.1.4 in relation to any other aspect of the conduct of proceedings before SAET; or
- S1.114.2 has acted frivolously or vexatiously in bringing or in relation to the conduct of proceedings before SAET,

SAET may—

- S1.114.3 decline to make an award of costs in favour of the party and may further (if it thinks fit) make an award of costs against the party; or
- S1.114.4 reduce the amount of the award of costs to which the party would otherwise have been entitled.
- S1.115 Subject to S1.116, an award of costs to cover professional advice or assistance may, if SAET considers appropriate, be made in favour of the person who provided the professional advice or assistance.
- S1.116 An award of costs to cover the cost of representation by an employee or employee the Union is payable to the Union.
- S1.117 An award of legal costs cannot exceed 85% of the amount that would be allowable under the relevant Supreme Court scale if the proceedings were in the Supreme Court.

### **Costs liability of representatives**

- S1.118 If a professional representative acting for a party to proceedings before SAET under this Schedule (whether personally or through an employee or agent) has caused costs to be incurred improperly or without reasonable cause or to be wasted by undue delay or negligence or by any other misconduct or default, SAET may order:
  - S1.118.1 that all or any of the costs between the professional representative and his or her client be disallowed or that the professional representative repay to his or her client the whole or part of any money paid on account of costs;
  - S1.118.2 that the professional representative pay to his or her client all or any of the costs which his or her client has been ordered to pay to any party;
  - S1.118.3 that the professional representative pay all or any of the costs of any party other than his or her client.
- S1.119 Without limiting S1.118, a professional representative is in default for the purposes of that clause if any proceedings cannot conveniently be heard or proceed, or fail or are adjourned without any useful progress being made, because the professional representative failed to:
  - S1.119.1 attend in person or by a proper representative; or
  - S1.119.2 file any document which ought to have been filed; or
  - S1.119.3 lodge or deliver any document for the use of SAET which ought to have been lodged or delivered; or
  - S1.119.4 be prepared with any proper evidence or account; or
  - S1.119.5 otherwise proceed.
- S1.120 SAET may not make an order against a professional representative under S1.118 unless SAET has informed the professional representative of the nature of the order proposed and allowed the professional representative a reasonable opportunity to make representations, and call evidence, in relation to the matter.
- S1.121 SAET may order that notice of any proceedings or order against a professional representative under S1.118 be given to the client in such manner as SAET directs.
- S1.122 SAET's power to make an order under S1.118 is exercisable by a presidential member of SAET or another member of SAET who is authorised by a presidential member of SAET to make the particular order.

## **PART 13 – MISCELLANEOUS**

### **Interest on Delayed Income Compensation**

S1.123 If:

- S1.123.1 income compensation, or part of income compensation, is not paid as and when required to be paid under this Schedule; or
- S1.123.2 the payment of income compensation is delayed pending resolution of a dispute over the employer's decision/s on an entitlement to income compensation under this Schedule; then
- S1.123.3 interest will be paid on any arrears, however, no interest is payable under this clause if the delay is attributable to some fault on the part of the eligible employee.

### **Interim payments**

- S1.124 A person may, pending the final determination of a claim, apply to the employer for interim payments of income compensation under this Schedule.
- S1.125 The employer must offer to make interim payments if it fails to determine the relevant claim within 10 business days after the date of receipt of the claim unless the failure to determine the claim is:
  - S1.125.1 due to the unreasonable failure or refusal of the person making the claim to attend a medical examination arranged by the employer; or
  - S1.125.2 because the employer has arranged an examination for the purposes of a work capacity review and that examination is yet to occur.
- S1.126 If on the final determination of a claim (if the employer rejects the claim, the claim is finally determined when any relevant proceedings have been completely finalised) an amount the employee was not entitled to has been paid under this clause, the employer may recover that amount as a debt in a Court of competent jurisdiction.

### **Income Compensation & Leave Entitlements**

- S1.127 Section 50 of the RTW Act is incorporated into this Schedule. To the extent that s50 of the RTW Act is inconsistent with clauses S1.80 through S1.83, those clauses prevail.
- S1.128 The references to "weekly payments" in s50 of the RTW Act as incorporated into this Schedule are to be read as references to income compensation pursuant to this Schedule.

### **Injuries that develop gradually**

- S1.129 The date when an injury that develops gradually or is a disease will be taken to have occurred will be determined in accordance with RTW Act s188.

### **Costs associated with lump-sum payment agreements**

- S1.130 If the employer offers an eligible employee a lump sum payment agreement, and the eligible employee incurs costs in having one or more of annexures A, B or C to such an agreement completed by a professional adviser, a financial adviser or a recognised health practitioner, the employer must reimburse the eligible employee for any such costs subject to any limits applicable at the time the relevant advice is obtained pursuant to ss53 and 54 of the RTW Act.

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**Review & anomalies**

S1.131 The Union and the employer shall:

- S1.131.1 jointly review the operation of this Schedule with that review to commence 2 years after the order incorporating this Schedule in this Award is made and to conclude within 2 months of commencement; and
- S1.131.2. use their best endeavours to resolve perceived anomalies or perceived unfair situations arising out of the operation of this Schedule or the alteration to the rights of employees arising out of the change from the WR&C Act to the RTW Act.

**SCHEDULE 1**

**ATTACHMENT ONE  
 RECOVERY/RETURN TO WORK PLAN**

**Recovery/Return to Work Plan**

**No:**

Boxes marked \* MUST be completed in full.

Details		
*Commencement date/action:	*Completion date/action:	
*Worker's full name:	*Claim no:	
*Pre-injury position:	*Date of birth:	
*Pre-injury employer: State of South Australia (SAMFS)	*Date of injury:	
* Employer contact person:	*Nature of injury:	
Is an interpreter required? Yes <input type="checkbox"/> No <input type="checkbox"/>	Preferred language:	
Objectives:		
<p><b>Mandatory:</b> Select at least one of the following objectives</p> <p><input type="checkbox"/> (i) The worker's return to the pre-injury employment with the pre-injury employer;</p> <p><input type="checkbox"/> (ii) The worker's return to different employment with the pre-injury employer;</p> <p><input type="checkbox"/> (iii) The worker's return to the pre-injury employment but with a different employer;</p> <p><input type="checkbox"/> (iv) The worker's return to different employment with a different employer;</p> <p><input type="checkbox"/> (v) The worker's return to independence within the community;</p>		
Goal(s):	Actions and services required to meet the goals and objectives of this recovery/return to work plan	By whom (name) By when (date)
<p><b>*Hourly wage rate to be paid by employer: \$</b></p> <p>If an eligible employee who has been incapacitated for work in consequence of a work injury undertakes alternative or modified duties under employment or an arrangement that falls outside the eligible employee's contract of service for the employment from which the injury arose, the employer must pay an appropriate wage or salary in respect of those duties.</p>		

<b>Stay at work/return to work arrangements:</b>						
From	To	Days	Hours	Work activities	Considerations/Restrictions	Supervisor (name)

**Important Notice to Eligible Employees**

- A failure to comply with an obligation under a recovery/return to work plan may lead to the discontinuance of income compensation.
- Recovery/return to work plans may be disputed but that does not suspend obligations imposed by the plan pending a determination of the dispute.
- A refusal or failure to undertake work that has been offered and that the eligible employee is capable of performing, or to take reasonable steps to find or obtain suitable employment, may lead to the discontinuance of income compensation. This may also occur if an eligible employee obtains suitable employment and then unreasonably discontinues the employment.

**Preparation details**

Prepared by:	Telephone:
Position:	Email:

Relevant comments by any party:

**Agreement** (a signature confirms the party has been consulted in preparing this recovery/return to work plan)

Parties involved	Print name	Signature (or reason if none)	Date
Eligible employee			
Employer			
Treating Medical Practitioner/s			

**Established/Approved**

**Recovery/return to work plan:**  **Approved**  **Not approved**

Employer Signature	Initials and surname	Date
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Employer comments:



**SCHEDULE 1**

**ATTACHMENT TWO**

**LUMP-SUM AGREEMENT**

to

**EXTINGUISH RIGHTS**

to [income compensation and/or medical and/or related expense compensation]  
[amend as appropriate]

**Pursuant to Schedule 1 of the Firefighting Industry Employees (SAMFS) Award**

**This is an agreement between:**

[insert eligible employee's name]

"the eligible employee"

And

Chief Executive of the Department Treasury and Finance

"the employer"

**Background**

1. The eligible employee suffered an injury or injuries as follows (***the injury or injuries***):

Injury Date	Injury Description

2. The employer has undischarged liabilities to the eligible employee to pay income compensation and compensation for medical and/or related expenses [delete "income compensation and" if appropriate] in respect of the injury or injuries in accordance with Schedule 1 of the Firefighting Industry Employees (SAMFS) Award (***the undischarged liabilities***).
3. Noting that no lump-sum payment agreement can be finalised unless the eligible employee has received competent professional advice about the consequences of this agreement, the eligible employee has received such advice, as appears from Annexure "A".
4. Noting that no lump-sum payment agreement can be finalised unless the eligible employee has received competent financial advice about the investment or use of the lump sum payment, the eligible employee has received such advice, as appears from Annexure "B".



**NOTIFICATION TO ELIGIBLE EMPLOYEE**

Under Section 33A of the *Health and Other Services (Compensation) Act 1995 (Medicare Act)*, you are advised that the employer intends to make an advance payment under Section 33B of the Medicare Act for compensation payable under a judgment or settlement as follows:

1. The employer intends to make an advance payment to the Commonwealth.
2. The amount of the advance payment will be 10% of the total lump sum under Schedule One of the Firefighting Industry Employees (SAMFS) Award [insert dollar figure].
3. The Commonwealth can retain some or all of the advance payment for eligible benefits paid by the Commonwealth in respect of services and care rendered or provided in the course of treatment for, or as a result of, your compensable injury or injuries. If the amount specified in the notice under Section 33C of the Act is less than the amount of advance payment, the difference is payable by the Commonwealth to you.
4. You will be required to make an additional payment to the Commonwealth in respect of the eligible benefits if the amount specified by the written notice given to you under Section 33C of the Act is greater than the amount of the advance payment.

I acknowledge receipt of the above advice.

.....

[Insert name of eligible employee] ...../...../20...

**ANNEXURE "A"**

**PROFESSIONAL ADVICE**

**SUBJECT: Lump-sum payment agreement under Schedule 1 of the Firefighting Industry Employees (SAMFS) Award**

I, [Insert name of eligible employee], have received competent professional advice about the consequences of a lump-sum payment in the amount of \_\_\_\_\_ from \_\_\_\_\_

I have received advice on matters including the following.

- A. That on receipt of this lump-sum payment I have no entitlement to income compensation in respect of dates on or after receipt of that payment or payment of medical and /or related expenses incurred on or after receipt of that payment in relation to my injury/injuries described in paragraph 1 of the lump sum payment agreement.
- B. That on receipt of a lump-sum payment in respect of medical and/or related expenses I may not be able to claim medical benefits from Medicare nor my health fund for treatment regarding my injury/injuries described in paragraph 1 of the lump sum payment agreement.
- C. Taxation implications of the lump-sum payment, if any. In particular, I have been advised that I may seek a private ruling in accordance with the Income Tax Assessment Act 1997.
- D. Centrelink implications in relation to the lump-sum payment.

[Insert name of eligible employee]

Adviser's Name:

[Insert address of eligible employee]

Adviser's Company name and address:

.....  
Eligible employee's signature

.....  
Adviser's Signature

.....  
Date and time signed by eligible employee:

.....  
Date and time signed by adviser:

**ANNEXURE "B"**

**FINANCIAL ADVICE**

**SUBJECT: Lump-sum payment agreement under Schedule One of the Firefighting Industry Employees (SAMFS) Award**

I, [Insert name of eligible employee] have received competent financial advice from .....

about the investment or use of the lump-sum payment of [insert dollar figure]. I am satisfied the advice is appropriate to my circumstances.

[Insert name of eligible employee]

Adviser's Name:

[Insert address of eligible employee]

Adviser's Company name and address:

.....  
Eligible employee's signature

.....  
Adviser's Signature

.....  
Date and time signed by eligible employee:      Date and time signed by adviser: .....

**ANNEXURE "C"**

**MEDICAL CERTIFICATE**

**SUBJECT: Lump-sum payment agreement under Schedule One of the Firefighting Industry Employees (SAMFS) Award**

I, ..... hereby certify that the extent of [Insert name of eligible employee]'s, incapacity resulting from the following injury/injuries can be determined with a reasonable degree of confidence.

Injury Date	Injury Description	Employer
[Content to precisely mirror paragraph 1 of the lump sum agreement]	[Content to precisely mirror paragraph 1 of the lump sum agreement]	State of South Australia / South Australian Metropolitan Fire Service

I also certify that [Insert name of eligible employee] has received advice from me about the future medical services (and, if relevant, therapeutic appliances and other forms of assistance related to his or her future health) that [Insert name of eligible employee] will or is likely to require on account of the work injury or injuries set out above and any related surgery, treatment or condition.

Signature: .....

Qualifications: .....

Address/contact details: .....

.....

.....

.....

Date: .....

**ATTACHMENT A – MEMORANDUM OF UNDERSTANDING**

OPDATE 08:12:2016 on and from

This attachment is included for information only.

The MOU set out below and dated 25 November 2016 records an understanding reached between the parties in respect of the feasibility study undertaken pursuant to clause 21.1 of this agreement.

**MEMORANDUM OF UNDERSTANDING (MOU)  
BETWEEN  
DEPARTMENT OF PREMIER AND CABINET  
and  
SOUTH AUSTRALIAN METROPOLITAN FIRE SERVICE (SAMFS)  
and  
UNITED FIREFIGHTERS UNION OF SOUTH AUSTRALIA INC (UFU)**

- REFERENCES:
- (a) Firefighting Industry Employees (South Australian Metropolitan Fire Service) Award 2007 (the Award)
  - (b) South Australian Metropolitan Fire Service Enterprise Agreement 2014 (the Agreement)

**1 PURPOSE**

The purpose of the MOU is to record:

- 1.1 the agreement reached between the parties in respect of the review of the Composite Wage Structure, as detailed in clause 21.1 of the Agreement;
- 1.2 the process by which the Total Wage is structured both within the Award and the Agreement;
- 1.3 the historical calculation of penalty rates of 31.83% as set out in Award clause 13.3.5;
- 1.4 the process by which overtime entitlements in the Agreement have been calculated;
- 1.5 the calculation of travel entitlements as set out in Appendix A (1) of the Agreement.

**2 TOTAL WAGE**

- 2.1 The Total Wage has the meaning ascribed to it at Award clause 3.15, viz;
  - 2.1(a) a combination of the 38 hour base rate specified in Award clauses 13.2 and 13.3 together with the allowance detailed at Award clause 13.3.5, plus 2 hours compulsory overtime as set out in Award clause 16.1.2(b)
- 2.2 The effect of Award clause 3.15 is as follows:
  - 2.2(a) 38 hour base rate PLUS 31.83% of the 38 hour base rate (Award clause 13.3.5) PLUS 7.5% <sup>(1)</sup> of the 38 hour base rate (Award clause 16.1.2(b))
- 2.3 The definition of the Total Wage at clause 6 of the Agreement has the same meaning as Award clause 3.15, as detailed above.
- 2.4 In future the rates displayed at Appendix A of the Agreement will be adjusted in line with any agreed increases, with no further reference to the 38 hour base rate as was the case with pre-existing Appendix A of the Agreement.
- 2.5 The MOU notes that the pay rates set out in the Award clauses 13.2, 13.3, 13.4 and 13.5 reflect the application of the South Australian Wage Fixing Principles.

**3 PENALTY RATES**

- 3.1 The penalty rates of 31.83% set out in Award clause 13.3.5 have been historically calculated as follows:
  - The SAMFS makes 26 equal payments of wages per year based on the rates set out in the Agreement, total days per year is then 364.

- Therefore – Total ordinary hours per year = 364  

$$= \frac{x 24}{8736}$$
- Application of penalties
  - 11 public holidays (11 x 24 x 2.5) = 660 hours
  - 52 Sundays (52 x 24 x 2) = 2496
  - 51 Saturdays (51 x 24 x 1.5) = 1836
  - 250 night shifts (250 x 14 + 15%) = 4025
  - 250 day shifts (250 x 10) = 2500
  - Total hours including penalties 11517
  - Subtract total ordinary hours 8736
  - Total penalty hours 2781**
- Percentage increase in hours of pay =
 
$$\frac{2781}{8736} \times \frac{100}{1} = 31.83\% \text{ penalties}$$

(1) 2 hours compulsory overtime = 2 x time and a half = 3  
 3/40 as a percentage = 7.5%

#### 4 TRANSITION OF OVERTIME RATES

- 4.1 This MOU notes the differentiation between the overtime rates set out respectively in the Award and the Agreement, which arises as a result of the utilisation of a different formula in the calculation of overtime rates in the Agreement.
- 4.2 The calculations utilised in setting the new overtime rates in the Agreement are detailed in the examples below. The divisor of 40, used in these calculations, is consistent with the provisions set out in Award clause 16.1.2(b). For the purpose of these examples the classification of a First Class Firefighter Level 3, with wages current as at 1 July 2016, has been applied.
- 4.3 The current overtime entitlements set out in Award clause 14.2 are as follows:
- 1<sup>st</sup> hour of overtime – time and a half the 38 hour base rate
  - 2<sup>nd</sup> hour of overtime and thereafter – double the 38 hour base rate
  - Overtime worked on a Sunday – double the 38 hour base rate
  - Overtime worked on a public holiday – double time and a half the 38 hour base rate

4.4 To take into account the Total Wage concept the First Class Firefighter Level 3 classification is broken down as follows:

<u>38 hour Base Rate</u>		<u>31.83% Penalties</u>		<u>2 hours Overtime</u>		<u>Total</u>
\$1181.49	+	\$376.07	+	\$88.61	=	\$1646.17

4.5 The pre-existing calculation for overtime entitlements, pursuant to Award clause 14.2 utilising the figures set out in clause 4.4 hereof were as follows:

- \$1181.49 ÷ 38 = \$31.09 hourly rate
- \$31.09 x 1.5 = \$46.64 per hour
- \$31.09 x 2 = \$62.18 per hour
- \$31.09 x 2.5 = \$77.73 per hour

4.6 The calculation to establish a Normal hourly rate (see definition Agreement clause 6), utilising the figures in 4.4 hereof, is as follows:

- Total Wage = \$1646.17
- Normal hourly rate = \$1646.17 ÷ 40 = \$41.15



4.7 To calculate a new overtime multiplier to replace the pre-existing rate of 1.5 in the Agreement, the following formula is utilised:

- Current overtime rate (1.5) ÷ Normal hourly rate
- $\$46.64 \div \$41.15 = 1.133$
- New overtime multiplier = 1.133

To test the accuracy of the new overtime rate against the Award provision, the following formula is utilised:

- Normal hourly rate x New overtime multiplier
- $\$41.15 \times 1.133 = \$46.64$

4.8 To calculate a new overtime multiplier to replace the pre-existing rate of 2 in the Agreement, the following formula is utilised:

- Current overtime rate (2) ÷ Normal hourly rate
- $\$62.18 \div \$41.15 = 1.511$
- New overtime multiplier = 1.511

To test the accuracy of the new overtime rate against the Award provision, the following formula is utilised:

- Normal hourly rate x New overtime multiplier
- $\$41.15 \times 1.511 = \$62.18$

4.9 To calculate a new overtime multiplier to replace the pre-existing overtime rate of 2.5, the following formula is utilised:

- Current overtime rate (2.5) ÷ Normal hourly rate
- $\$77.73 \div \$41.15 = 1.889$
- New overtime multiplier = 1.889

To test the accuracy of the new overtime rate against the Award provision, the following formula is utilised:

- Normal hourly rate x New overtime multiplier
- $\$41.15 \times 1.889 = \$77.73$

NB The figures used in the examples above may vary slightly from the figures in the proposed Agreement. This is due to rounding.

4.10 It is noted in each of the examples above the new overtime rate displayed in the Agreement yields an identical result to the existing Award overtime provisions, therefore satisfying the cost neutral objective required by clause 21.1 of the Agreement.

4.11 The principles with respect to the administration of overtime in Award clauses 14.1 and 14.2 shall continue to apply.

4.12 The Agreement now displays the following overtime rates in lieu of the pre-existing rates:

- Agreement clause 19.3(a) - the first hour of overtime at the rate of 1.13324 times the employee's normal hourly rate of pay, in lieu of the Award rate of 1.5 times the 38 hour base rate.
- Agreement clause 19.3(b) - the second and subsequent hours of overtime at the rate of 1.51099 the employee's normal hourly rate of pay, in lieu of the Award rate of 2 times the 38 hour base rate.
- Agreement clause 19.3(c) - all overtime worked on a Sunday at the rate of 1.51099 times the employee's normal hourly rate of pay, in lieu of the Award rate of 2 times the 38 hour base rate.

- Agreement clause 19.3(d) - all overtime worked on a public holiday at the rate of 1.88874 times the employee's normal hourly rate of pay, in lieu of the Award rate of 2.5 times the 38 hour base rate.

## 5 HOURLY TRAVEL RATES

5.1.1 The development of the hourly travel rates is based on the provisions set out in Award clause 15.5.3.

5.1.2 Again utilising the example of a First Class Firefighter Level 3, with rates current as at 1 July 2016 as detailed in the pre-existing Appendix A of the Agreement (which utilised the 38 hour base rate), the hourly travel rate is calculated as follows:

- 38 hour base rate ÷ 38
- \$1181.49 ÷ 38 = \$31.09

5.2 In future the hourly travel rate as displayed at Appendix A (1) of the Agreement will be adjusted in line with increases to the Total Wage.

## 6 CONCLUSION

6.1 The parties to this MOU acknowledge that the cost neutral objective set out in clause 21.1 of the Agreement has been met and now agree that the details set out above will, inter alia, form the basis of an application to be made to the Industrial Relations Commission of South Australia to vary the Award and the Agreement.

6.2 It is agreed also that this MOU will form part of the Award and the Agreement as representing the historical basis upon which variations have been made to the industrial instruments.

## 7 SIGNATORIES

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Department of Premier and Cabinet

DATE

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Chief Officer SAMFS

DATE

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Secretary UFU of SA Inc

25 November 2016

**APPLICATIONS FILED**

<i>Case No</i>	<i>Description</i>
<b>1639/2007</b>	NEW AWARD New Award made and varied. Oupdate 01/04/2007.
<b>43/2008</b>	AWARD REVIEW S99 (See also 548/2008). Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift, Cl. 26 Uniform/Clothing Allowance re SWC 2007. Oupdate ppc 01/10/2007.
<b>548/2008</b>	AWARD VARIATION (See also 43/2008). Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift, Cl. 26 Uniform/Clothing Allowance re s 99 review & SWC 2007. Oupdate ppc 01/10/2007.
<b>824/2008</b>	AWARD VARIATION Award varied. Cl. 13.3.1 Firefighter Classifications, Cl. 13.5 General Hands re Minimum Standard. Oupdate ppc 01/01/2008.
<b>5882/2008</b>	AWARD VARIATION Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift re SWC 2008. Oupdate ppc 01/10/2008.
<b>5767/2009</b>	AWARD VARIATION Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift re SWC 2009. Oupdate ppc 01/10/2009.
<b>4651/2010</b>	AWARD VARIATION Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift re SWC 2010. Oupdate ppc 01/10/2010.
<b>4255/2011</b>	AWARD VARIATION Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift re SWC 2011. Oupdate ppc 01/10/2011.
<b>2757/2012</b>	AWARD VARIATION Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift re SWC 2012. Oupdate ppc 01/07/2012.
<b>3199/2013</b>	AWARD VARIATION Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift re SWC 2013. Oupdate ppc 01/07/2013.
<b>4202/2014</b>	AWARD VARIATION Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift re SWC 2014. Oupdate ppc 01/07/2014.
<b>6386/2015</b>	AWARD VARIATION Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift re SWC 2015. Oupdate ppc 01/07/2015.
<b>3187/2016</b>	AWARD VARIATION Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift re SWC 2016. Oupdate ppc 01/07/2016.

<i>Case No</i>	<i>Description</i>
<b>6466/2016</b>	AWARD VARIATION Award varied. Cl. 3 Definitions, Cl. 5 Where & Who the Award Covers, Cl. 13 Classifications and Wage Rates, Cl. 14 Penalty Rates, Cl. 15 Allowances, Cl. 16 Hours of Work, Cl. 18 Annual Leave, Cl. 19 Personal Leave - Injury & Sickness, Cl. 21 Personal Leave to Care for a Family Member, Cl. 23 Jury Service, Cl. 24 Long Service Leave, Cl. 25 Public Holidays, New Att. A- Memorandum of Understanding.re introduction of total wage and other matters. Oupdate 08/12/2016.
<b>3335/2017</b>	AWARD VARIATION Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift re SWC 2017. Oupdate ppc 01/07/2017.
<b>575/2018</b>	AWARD VARIATION Award varied. Cl. 4 Date the Award Starts (01/04/2007), Cl. 3 Definitions, Cl. 5 Where and Who the Award Covers, new Cl. 29 and new Sch. 1 Additional Compensation for Certain Work Related Injuries or Illnesses (30/09/1987).
<b>4325/2018</b>	AWARD VARIATION Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift re SWC 2018. Oupdate ppc 01/07/2018.
<b>ET-19-01422</b>	AWARD VARIATION Award varied. Cl. 13 Classifications & Wage Rates, Cl. 15 Allowances, Cl. 16.1.5 Change of Shift re SWC 2019. Oupdate ppc 01/07/2019.
<b>ET-19-00750</b>	S99 REVIEW OF AWARD Award varied. Cl. 3 Definitions, Cl. 7 Enterprise Flexibility Provisions, Cl. 9 Procedure to Avoid Industrial Disputes, Cl. 10 Anti-Discrimination, Cl. 13 Classification and Wage Rates, Cl. 28 Index of Facilitative Provisions, Cl. 29 Additional Compensation for Certain Work Related Injuries or Illnesses. Oupdate 01/10/2019.