

CROWN EMPLOYEES (DEPARTMENT OF INDUSTRY, SKILLS AND REGIONAL DEVELOPMENT) PROFESSIONAL OFFICERS AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Review of Award pursuant to Section 19 of the *Industrial Relations Act 1996*.

(No. IRC 739 of 2015)

Before Commissioner Stanton

28 October 2015

REVIEWED AWARD

Arrangement

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MONETARY RATES

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PART A

1. Title of the Award

This Award shall be known as the Crown Employees (Department of Industry, Skills and Regional Development) Professional Officers Award.

2. Definitions

- (i) "Act" means the *Government Sector Employment Act 2013*.
- (ii) "Association/Union" means the Public Service Association and the Professional Officers' Association Amalgamated Union of New South Wales or the Association of Professional Engineers, Scientists and Managers, Australia (NSW Branch) to be known as Professionals Australia.

- (iii) "Department" means the Department of Industry, Skills and Regional Development, as specified in Schedule 1, Part 1 of the *Government Sector Employment Act 2013*.
- (iv) "Industrial Relations Secretary" means the Secretary of the Treasury , as established under the *Government Sector Employment Act 2013*.
- (v) "Job Evaluation" means a methodology agreed between the parties to grade Professional Officer roles under this Award.
- (vi) "Member of Staff" for the purposes of this Award, means a person employed as an employee on probation, or employee, employed in any capacity under the provisions of Part 4 Division 5 of the Act, who are classified under this Award.
- (vii) "Normal Work" as defined in clause 10, Grievance and Dispute Settling Procedures, is defined as the duties, responsibilities and capabilities relevant to the Role Description, of a member or members of staff, at the time of a grievance, dispute or difficulty.
- (viii) "Professional Officer" means and includes all members of staff employed under the provisions of the Act, who at or after the date of this Award, are assigned to a role of, and were classified as, a Professional Officer under this Award, and who meet the minimum qualification requirements pursuant to clause 7, Minimum Qualification Requirements and Commencing Rates.
- (ix) "Public Service" means the Public Service as defined in Part 4 of the *Government Sector Employment Act 2013* .
- (x) "Regulation" means the *Government Sector Employment Regulation 2014* , as amended.
- (xi) "Role" means a role assigned to an employee as dealt with in Part 4 Division 5 of the *Government Sector Employment Act 2013*.
- (xii) "Rules" means the *Government Sector Employment Regulation 2014*.
- (xiii) "Salary Rates" means the ordinary time rate of pay for the member of staff's grading, excluding shift allowances, weekend penalties, and all other allowances not regarded as salary.
- (xiv) "Secretary " means the Secretary of the Department of Industry, Skills and Regional Development.
- (xv) "Service" means continuous service for salary purposes.

3. Salaries

Subject to the provisions of the Crown Employees (Public Sector – Salaries 2015) Award the rates of salary shall be paid to employees assigned to roles specified as set out in Table 1 - Salaries, of Part B, Monetary Rates.

4. Savings of Rights

At the time of making of this Award, no member of staff covered by this Award will suffer a reduction in their rate of pay or any loss or diminution in his or her conditions of employment as a consequence of the making of this Award.

5. Progression Criteria

- (i) A member of staff who has been in receipt of the maximum salary prescribed for their Grade for 12 months shall be eligible to progress to the next Grade, up to Grade 4, subject to satisfying the progression criteria, other than Research Station Managers.
- (ii) Research Station Managers can be graded at level 3, 4 or 5 of the Professional Officers' scale. Research Station Managers shall commence at the minimum rate of the grade applicable to the role assigned and

will only be filled by comparative assessment and demonstrating the ability to undertake the capabilities outlined in the Government Sector Capabilities Framework and the existence of a vacancy.

- (iii) Single graded roles above Grade 4 will only be filled by comparative assessment and demonstrating the ability to undertake the capabilities outlined in the Government Sector Capabilities Framework and the existence of a vacancy.

6. Appeals Mechanism

- (i) A member of staff shall have the right to appeal a decision made by the Department in relation to progression between Grade 1 and Grade 4.
- (ii) A member of staff who wishes to appeal against a decision refusing progression between grades, pursuant to subclause (i) of clause 5, Progression Criteria must submit a written submission outlining their case to the Director Industrial Relations within twenty eight (28) days of being advised of the decision.
- (iii) The Director Industrial Relations shall constitute an appeals panel consisting of one (1) Management representative, one (1) Association representative, and one (1) peer acceptable to the Department and Association.
- (iv) The appeals panel shall meet within twenty-eight (28) days of an appeal being lodged by a member of staff. The appeals panel shall forward their written recommendation on hearing the appeal to the Secretary, or delegated member of staff, for approval.
- (v) The Secretary, or delegated member of staff, shall advise the member of staff who has lodged the appeal of their decision on the appeal within seven (7) days of the appeal being heard.
- (vi) This appeals procedure does not cover matters dealt with by Clause 24 of the Rule.

7. Minimum Qualification Requirements and Commencing Rates

The qualifications described in subclauses (i) to (v) of this clause describe the minimum tertiary qualifications required for classification as a Professional Officer. In addition to minimum tertiary qualifications, all Professional Officers must demonstrate the ability to undertake the capabilities outlined in the Government Sector Capability Framework relevant to the relevant role and grade.

- (i) The commencing rate of salary payable to a member of staff who has obtained a degree, or equivalent qualifications, at a recognised University or tertiary institution, requiring a minimum of three years full time study, or other qualifications deemed by the Department to be the equivalent thereof shall be the rate prescribed for the first year of service at Grade 1.
- (ii) The commencing rate of salary payable to a member of staff who has in addition to the qualifications specified in subclause (i) of this clause, has completed an additional course study to qualify for degree honours, or has obtained a degree and additional qualifications at a recognised University, and/or tertiary institution, requiring a minimum of four years full time study, or qualifications deemed by the Department to be equivalent thereof, shall not be less than the rate prescribed for Grade 1 Year 2.
- (iii) The commencing rate of salary payable to a member of staff who has obtained a relevant post-graduate degree at a recognised University, or other qualifications deemed by the Department to be the equivalent thereof, shall not be less than the rate prescribed for Grade 1 Year 3.
- (iv) The commencing rate of salary payable to a member of staff who has obtained a degree in Veterinary Science which is registrable in NSW shall not be less than the rate prescribed for Grade 1 Year 4.
- (v) Assignment to either a Grade 8 or 9 role, is not dependent on degree, or post-graduate degree qualifications. For consideration for assignment to a vacant Grade 8 or 9 role, the member of staff who applies for a vacant role at either Grade will have been assessed to hold generic competencies comparable to Levels 7 or 8, of the Australian Qualification Framework (AQF), accredited by the

National Training Authority, or to have been assessed as holding generic competencies for Levels 7 and 8 (ASF) which may be developed for National Competency Standards - Public Administration, during the operation of this Award.

8. Allowances

- (i) A member of staff who is assigned to a role in Charge of a Veterinary Laboratory shall be paid an allowance of an amount as set out in Item 1 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, which shall be calculated as part of the members of staff's salary for all purposes.
- (ii) Members of staff assigned to a role in Charge of a Veterinary Laboratory shall be assigned for a period of up to two (2) years, with all future assignments to this role being determined by merit selection following internal advertisement through the relevant Veterinary Laboratory.
- (iii) The allowance referred to in subclause (i) of this clause shall be subject to all adjustments made in relation to Allowances included in the Crown Employees (Public Sector - Salaries 2015) Award, or any other subsequent Award(s) establishing allowances in the public service.

9. Job Evaluation

- (i) Roles classified as Professional Officers shall be graded in accordance with the accredited Job Evaluation methodology agreed by the Department, the Industrial Relations Secretary and Associations, or any other methodology agreed between the parties during the operation of this Award to grade Professional Officer roles.
- (ii) The grading of Professional Officers roles shall be carried out in consultation between the Department and Associations using the Department's Joint Consultative Committee. This Committee shall be the forum for negotiation and consultation on the operation of the Department's Job Evaluation methodology during the operation of this Award.
- (iii) Roles will be evaluated and graded from time to time in the following circumstances:
 - (a) where the nature of a role is significantly changed, or a new role is created;
 - (b) where a role falls vacant, the Department can determine whether it is necessary to evaluate and grade the role prior to advertising the vacancy; and
 - (c) at the request of any party to this Award provided that the role occupied by the member of staff has not been evaluated and graded for a minimum of twelve (12) months.
- (iv) Where a member of staff's role is evaluated as falling within a lower or higher grading than that to which the member of staff is presently assigned, then the Department:
 - (a) will examine the feasibility of initiating work redesign changes to the role in order to seek to justify the role's salary range at its existing grading level, or;
 - (b) adhere to existing statutory and related Public Service policies on filling regraded roles if initiating action under paragraph (a) of this subclause is determined to be inconsistent with maintaining Department efficiency, or otherwise impracticable.

10. Grievance and Dispute Settling Procedures

- (i) All grievances and disputes relating to the provisions of this Award shall initially be dealt with as close to the source as possible, with graduated steps for further attempts at resolution at higher levels of authority within the Department, if required.
- (ii) A member of staff is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.

- (iii) Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti Discrimination Act 1977*) that makes it impractical for the member of staff to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Secretary or delegate.
- (iv) The immediate manager, or other appropriate employee, shall convene a meeting in order to resolve the grievance, dispute or difficulty within two (2) working days, or as soon as practicable, of the matter being brought to attention.
- (v) If the matter remains unresolved with the immediate manager, the member of staff may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager shall respond within two (2) working days, or as soon as practicable. The member of staff may pursue the sequence of reference to successive levels of management until the matter is referred to the Secretary.
- (vi) The Secretary may refer the matter to the Secretary for consideration.
- (vii) If the matter remains unresolved, the Secretary shall provide a written response to the member of staff and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- (viii) A member of staff, at any stage, may request to be represented by the Association/Union.
- (ix) The member of staff or the Association/Union on their behalf, or the Secretary may refer the matter to the Industrial Relations Commission of NSW if the matter is unresolved following the use of these procedures.
- (x) The member of staff, Association/Union, Department and the Industrial Relations Secretary shall agree to be bound by any order or determination by the Industrial Relations Commission of NSW in relation to the dispute.
- (xi) Whilst the procedures outlined in subclauses (i) to (x) of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or, in the case involving work health and safety, if practicable, normal work shall proceed in a manner which avoids any risk to the health and safety of any member of staff or member of the public.

11. Anti-Discrimination

- (i) It is the intention of the parties bound by this Award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of the obligations for the parties to make application to vary any provision of the Award which, by its terms or operation, has a direct or indirect discriminatory effect.
- (iii) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (iv) Nothing in this clause is to be taken to affect:
 - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;

- (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) a party to this Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.
- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
 - (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in this Act affects any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion".

12. Deduction of Union Membership Fees

- (i) The union shall provide the employer with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- (ii) The union shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.
- (iii) Subject to (i) and (ii) above, the employer shall deduct union fortnightly membership fees from the pay of any employee who is a member of the union in accordance with the union's rules, provided that the employee has authorised the employer to make such deductions.
- (iv) Monies so deducted from employee's pay shall be forwarded regularly to the union together with all necessary information to enable the union to reconcile and credit subscriptions to employees' union membership accounts.
- (v) Unless other arrangements are agreed to by the employer and the union, all union membership fees shall be deducted on a fortnightly basis.
- (vi) Where an employee has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

13. Area, Incidence and Duration

The members of staff regulated by this Award shall be entitled to the conditions of employment as set out in this Award and, except where specifically varied by this Award, existing conditions are provided for under the *Government Sector Employment Act 2013*, the *Government Sector Employment Regulation 2014*, the *Government Sector Employment Rules 2014*, the Crown Employees (Public Service Conditions of Employment) Award 2009 and the Crown Employees (Public Sector - Salaries 2015) Award or any replacement Awards.

The changes made to the Award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 28 October 2015.

The Award remains in force until varied or rescinded, the period for which it was made having already expired.

PART B
MONETARY RATES

Table 1 - Salaries

Effective from the beginning of the first pay period to commence on or after 1.07.2015

(A) Full Time		1.7.2015 Annual Rate 2.50% \$	Common Salary Points
Grade 1	Year 1	58,687	46
	Year 2	60,998	50
	Year 3	64,399	56
	Year 4	69,696	64
	Year 5	73,918	70
	Year 6	78,301	76
Grade 2	Year 1	82,135	81
	Year 2	84,570	84
	Year 3	87,147	87
	Year 4	90,646	91
Grade 3	Year 1	94,423	95
	Year 2	97,426	98
	Year 3	99,367	100
	Year 4	102,223	103
Grade 4	Year 1	106,307	107
	Year 2	109,490	110
	Year 3	112,713	113
Grade 5	Year 1	116,042	116
	Year 2	118,359	118
Grade 6	Year 1	122,002	121
	Year 2	125,773	124
Grade 7	Year 1	129,886	127
	Year 2	134,202	130
Grade 8	Year 1	140,757	132
	Year 2	147,850	133
Grade 9	Year 1	155,332	134
	Year 2	163,193	135

(B) Part-Time Hourly Rate Formulae

$$\frac{\text{Annual Salary}}{52.17857143 \times 35} \times 1 = \text{1 hours pay}$$

Table 2 - Other Rates and Allowances

Effective from the beginning of the first pay period to commence on or after 1.07.2015

Item No	Clause No	Brief Description	1.7.2015 Amount 2.50% \$
1	8(i)	OIC Veterinary Laboratory	6,926 per annum

J. D. STANTON, Commissioner

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