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(901) **SERIAL C9838**

CROWN EMPLOYEES (EDUCATION EMPLOYEES DEPARTMENT OF COMMUNITIES AND JUSTICE CORRECTIVE SERVICES NSW) AWARD 2024

AWARD REPRINT

This reprint of the consolidated award is published under the authority of the Industrial Registrar pursuant to section 390 of the *Industrial Relations Act 1996*, and under the *Industrial Relations Commission Amendment (Industrial Court) Rules 2024*.

I certify that the form of this reprint, incorporating the variations set out in the schedule, is correct as at 19 July 2024.

R.DELGODA, *Acting Industrial Registrar*

Schedule of Variations Incorporated

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C9837	22 July 2024	11 July 2024	394	673
C9262	16 July 2021	1 January 2021	389	655

AWARD

PART A

1. Arrangement

Clause No. Subject Matter

PART A

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PART B

MONETARY RATES

Table 1 - Salaries

2. Definitions

2.1 "Act" means the *Government Sector Employment Act* 2013 or its replacement.

2.2 "AEVTI" means the Adult Education and Vocational Training Institute, which is the registered provider of adult education and vocational training for inmates within Corrective Services NSW.

2.3 "Conditions Award" means the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 as varied from time to time, or any replacement Award.

2.4 "Correctional Centre" means a centre administered by Corrective Services NSW to accommodate persons committed by a court of law.

2.5 "Correctional Education Officer" means an employee assigned as such and who is qualified as provided in subclause 4.3 of this Award and who is required to undertake the duties specified in clause 12 of this Award.

2.6 "Corrective Services NSW (CSNSW)" means a division within the Department of Communities and Justice.

2.7 "Day Worker" means an employee, other than a shift worker, whose ordinary hours of work are from Monday to Friday with hours as specified for the particular classification.

2.8 "Employee" means a member of staff in employment defined under section 43 of the Act.

2.9 "Federation" means the Australian Education Union New South Wales Teachers Federation Branch

2.10 "Industrial Relations Secretary" means the Secretary of Premier and Cabinet.

2.11 "Personnel Handbook" means the Public Service Industrial Relations Guide, published by the Industrial Relations Secretary, or any replacement publication.

2.12 "Regulation" means the Government Sector Employment Regulation 2014 or its replacement.

2.13 "Rules" mean the Government Sector Employment Rules 2014 or its replacement.

2.14 "Secretary" means the head of the Department of Communities and Justice.

2.15 "Senior Correctional Education Officer" means an employee assigned as such and who is qualified as provided in sub clause 4.4 of this Award.

2.16 "Shift Worker" is a staff member who works outside the ordinary working hours of a Day Worker as defined in clause 3 of the Conditions Award.

2.17 "Teacher" means an employee assigned as such and who is qualified as provided in subclause 4.2 of this Award and who is required to undertake duties as specified in clause 13 of this Award. A permanent

part-time Teacher means a Teacher who is assigned under the Act for set and regular hours that are less than the full contract hours of this Award.

2.18 "Through care" means the philosophy and practice of CSNSW by which inmates are managed from the start of their sentence with a view to maximizing reintegration into the community and achieving a reduction in recidivism.

3. Conditions Fixed by Other Instruments of Employment

3.1 The following Awards as varied from time to time, or any replacement Awards, in so far as they fix conditions of employment applying to employees covered by this Award, which are not fixed by this Award, shall continue to apply:

3.1.1 Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009

3.1.2 Crown Employees (Transferred Employees Compensation) Award.

3.2 The provisions of Department of Justice Flex Agreement, or any replacement Agreement, shall apply except where modified by this Award.

3.3 Except as expressly modified by this Award, and except where conditions are determined by the Awards and Agreement referred to in sub clauses 3.1 and 3.2 of this clause, the conditions of service of employees shall be determined by the provisions of the Act, the Regulation, the Rules and the Personnel Handbook.

4. Qualifications

4.1 The following qualifications shall apply except where specific exception is approved by the Secretary or delegate and where detailed in clause 16, Recruitment - Exceptional Circumstances, of this Award.

4.2 Teachers - shall hold a:

4.2.1 Bachelors degree in Education from a recognised university, incorporating subjects studied which qualifies the employee to teach in the learning area required by AEVTI; or

4.2.2 Graduate Diploma (or higher) in Education, from a recognised university; and qualification (degree, diploma or certificate) from a recognised university (or other recognised tertiary education institution) in a discipline other than education, incorporating subjects studied which qualifies the employee to teach in the learning area required by AEVTI;

4.2.3 current certificate in training and assessment as determined by the National Skills Standards Council (NSSC) or replacement body and as required by the national VET Regulator, Australian Skills Quality Authority (ASQA) or replacement body, to meet the national standards for training organisations;

together with relevant related employment experience, as approved by the Secretary or delegate.

4.3 Correctional Education Officers - shall hold a:

4.3.1 Bachelors degree in Education from a recognised university, incorporating subjects studied which qualifies the employee to teach in the learning area required by AEVTI; or

4.3.2 Graduate Diploma (or higher) in Education, from a recognised university; and qualification (degree, diploma or certificate) from a recognised university (or other recognised tertiary education institution) in a discipline other than education, incorporating subjects studied which qualifies the employee to teach in the learning area required by AEVTI;

4.3.3 current certificate in training and assessment as determined by the National Skills Standards Council (NSSC) or replacement body and as required by the national VET Regulator, Australian

Skills Quality Authority (ASQA) or replacement body, to meet the national standards for training organisations;

together with relevant related employment experience, as approved by the Secretary or delegate.

4.4 Senior Correctional Education Officers - shall hold a:

4.4.1 Bachelors degree in Education from a recognised university; or

4.4.2 Graduate Diploma (or higher) in Education, from a recognised university; and qualification (degree, diploma or certificate) from a recognised university (or other recognised tertiary education institution) in a discipline other than education; together with experience in adult education, as approved by the Secretary or delegate.

5. Salaries

5.1 Salaries for Senior Correctional Education Officers, Correctional Education Officers and Teachers are set out at Table 1 of Part B, Monetary Rates, of this Award.

5.2 These rates continue to be inclusive of the previously paid environmental allowance.

5.3 Commencing salaries for all employees to a role under this Award shall be consistent with the relevant provisions of the Personnel Handbook.

6. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation

6.1 The entitlement to salary package in accordance with this clause is available to:

6.1.1 Full-time and part-time employees;

6.1.2 Temporary employees, subject to CSNSW's convenience; and

6.1.3 Casual employees, subject to CSNSW's convenience, and limited to salary sacrifice to superannuation in accordance with subclause 6.7.

6.2 For the purposes of this clause:

6.2.1 "Salary" means the salary or rate of pay prescribed for the employee's classification by clause 5, Salaries and Table 1 of Part B, Monetary Rates, of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.

6.2.2 "Post compulsory deduction salary" means the amount of salary available to be packaged after payroll deductions required by legislation or order have been taken into account. Such payroll deductions may include, but are not limited to, taxes, compulsory superannuation payments, HECS payments, child support payments, and judgement debtor/garnishee orders.

6.3 By mutual agreement with the Industrial Relations Secretary, an employee may elect to package a part or all of their post compulsory deduction salary in order to obtain:

6.3.1 a benefit or benefits selected from those approved by the Industrial Relations Secretary and

6.3.2 an amount equal to the difference between the employee's salary, and the amount specified by the Industrial Relations Secretary for the benefit provided to or in respect of the employee in accordance with such agreement.

6.4 An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.

6.5 The agreement shall be known as a Salary Packaging Agreement.

6.6 Except in accordance with subclause 6.7, a Salary Packaging Agreement shall be recorded in writing and shall be for a period of time as mutually agreed between the employee and the Industrial Relations Secretary at the time of signing the Salary Packaging Agreement.

6.7 Where an employee makes an election to sacrifice a part or all of their post compulsory deduction salary as additional employer superannuation contributions, the employee may elect to have the amount sacrificed:

6.7.1 paid into the superannuation fund established under the *First State Superannuation Act* 1992; or

6.7.2 where the employer is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or

6.7.3 subject to CSNSW's agreement, paid into another complying superannuation fund.

6.8 Where the employee makes an election to salary sacrifice, CSNSW shall pay the amount of post compulsory deduction salary, the subject of election, to the relevant superannuation fund.

6.9 Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:

6.9.1 *Police Regulation (Superannuation) Act* 1906;

6.9.2 *Superannuation Act* 1916;

6.9.3 *State Authorities Superannuation Act* 1987; or

6.9.4 *State Authorities Non-Contributory Superannuation Act* 1987,

CSNSW must ensure that the employee's superable salary for the purposes of the above Acts, as notified to the SAS Trustee Corporation, is calculated as if the Salary Packaging Agreement had not been entered into.

6.10 Where the employee makes an election to salary package, and where the employee is a member of a superannuation fund other than a fund established under legislation listed in sub clause 6.9 of this clause, CSNSW must continue to base contributions to that fund on the salary payable as if the Salary Packaging Agreement had not been entered into. This clause applies even though the superannuation contributions made by CSNSW may be in excess of superannuation guarantee requirements after the salary packaging is implemented.

6.11 Where the employee makes an election to salary package:

6.11.1 subject to Australian Taxation law, the amount of salary packaged will reduce the salary subject to appropriate PAYG taxation deductions by the amount packaged; and

6.11.2 any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this Award or any applicable Award, Act or statute which is expressed to be determined by reference to the employee's rate of pay, shall be calculated by reference to the rate of pay which would have applied to the employee under clause 5, Salaries and or Table 1 of Part B, Monetary Rates, of this Award if the Salary Packaging Agreement had not been entered into.

6.12 The Industrial Relations Secretary may vary the range and type of benefits available from time to time following discussion with the Federation. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.

6.13 The Industrial Relations Secretary will determine from time to time the value of the benefits provided following discussion with the Federation. Such variations shall apply to any existing or future Salary

Packaging Agreement from the date of such variation. In this circumstance, the employee may elect to terminate the Salary Packaging Agreement.

7. Incremental Progression and Calculation of Service

7.1 Incremental progression and calculation of service shall be determined in accordance with the Regulation and the chapter dealing with Managing the Workplace of the Personnel Handbook, except where varied by clause 16, Recruitment - Exceptional Circumstances, of this Award.

8. Working Hours

8.1 Ordinary hours of work shall be 35 hours per week, Monday to Friday.

8.2 An employee shall not be directed to work longer than five continuous hours without a meal break.

8.3 Senior Correctional Education Officers and Correctional Education Officers

8.3.1 The provisions of Department of Justice Flex Agreement, or any replacement Agreement, shall apply to Senior Correctional Education Officers and Correctional Education Officers, including access to two days flex leave per flex period and five days banked hours.

8.3.2 The bandwidth shall be 6.30am - 9.00pm.

8.3.3 The core time shall be 10.00am - 3.00pm.

8.3.4 Flexible working hours including the taking of flex leave and banked hours shall remain at CSNSW's discretion, to be negotiated at the local level provided that the delivery of teaching programs is maintained.

8.4 Teachers

8.4.1 The standard attendance hours of full time Teachers shall be 35 hours per week, Monday to Friday inclusive, in recognition of the particular environment in CSNSW.

8.4.2 The daily span of working hours in correctional centres for Teachers shall be between 7.30am and 5.30pm on Monday to Friday, inclusive. Direct teaching activities and duties related to teaching worked by Teachers should, unless otherwise unavoidable or by agreement between a Teacher and the supervising Senior Correctional Education Officer, be continuous.

8.4.3 Teachers classified as Day Workers, who are directed to perform direct teaching activities between:

(i) 5.30pm and 9.00pm Monday to Friday and who are required to teach two separate sessions during these hours or one session which commences later than 5.30pm; or

(ii) 7.30am and 9.00pm Saturday and who are required to teach two separate sessions during these hours;

shall be paid at the rate of time and one quarter or may elect to take time in lieu which shall be calculated at the same rate as would have applied to the payment of teaching activities performed in terms of this clause.

8.4.4 Teachers shall not be entitled to flex time arrangements and shall be required to attend for rostered direct teaching activities as required by the Senior Correctional Education Officer.

8.4.5 The hours of attendance for duties related to teaching may be arranged by Teachers in consultation with the Senior Correctional Education Officer provided the requirements of CSNSW are met at all times. This will facilitate flexible start and finish times for Teachers.

9. Shift Work

9.1 Senior Correctional Education Officers, Correctional Education Officers and Teachers, who because of operational requirements are classified as Shift Workers shall be paid a shift allowance of 15 per cent where rostered to work Monday to Friday outside the ordinary working hours of a Day Worker.

9.2 Shift workers who are regularly required to perform rostered duty on Saturdays, Sundays and public holidays shall receive the following compensation and be subject to the following conditions:

9.2.1 For ordinary rostered time worked on a Saturday - additional payment at the rate of half time extra.

9.2.2 For ordinary rostered time worked on a Sunday - additional payment at the rate of three-quarter time extra.

9.2.3 When rostered off on a public holiday - an additional day's pay.

9.2.4 For ordinary rostered time worked on a public holiday - additional payment at the rate of time and a half extra.

9.2.5 Recreation leave at the rate of four weeks a year, that is, 20 working days plus eight rest days.

9.2.6 Additional leave on the following basis:

Number of ordinary shifts worked on Sundays and/or Public Holidays during a qualifying period of 12 months from 1 December one year to 30 November the next year.

	Additional Leave
4 -10	1 additional day's leave
11 -17	2 additional days' leave
18 - 24	3 additional days' leave
25 - 31	4 additional days' leave
32 or more	5 additional days' leave

10. Recreation Leave

10.1 Recreation leave for Day Workers shall be granted and administered as follows:

10.1.1 in accordance with the recreation leave provisions of the Regulation, the Conditions Award and the Personnel Handbook.

10.1.2 At least two consecutive weeks of recreation leave shall be taken by employees every twelve months as described in the Conditions Award.

11. Non-Attendance Time

11.1 Correctional Education Officers

11.1.1 In return for undertaking a maximum of 400 hours per annum of direct teaching activities, as provided at subclause 12.4, all Correctional Education Officers shall receive 10 working days non-attendance time.

11.2 Teachers

11.2.1 In return for the hours as described in clause 13 of this Award, Teachers shall be entitled to 7 weeks of agreed non-attendance time if employed for a full calendar year.

11.2.2 Where a Teacher commences or ceases employment part way through a calendar year, the entitlement to non-attendance time shall be calculated on a pro rata basis.

11.2.3 The pro rata calculation mentioned in paragraph 11.2.2 shall be as negotiated and agreed between CSNSW and Federation.

11.2.4 Where public holidays fall during a period of non-attendance time, those days shall be counted as non-attendance time.

11.3 Requests for non-attendance time may be granted with due consideration to the impact on CSNSW operations. Requests to access non-attendance time for a period of up to one week will not be unreasonably refused.

11.4 For Correctional Education Officers and Teachers, non-attendance time shall be non-accumulative.

11.5 For Correctional Education Officers and Teachers, may be required to attend some staff development activities during non-attendance time.

11.6 An annual calendar detailing the dates for non-attendance time to be taken shall be developed by the Senior Correctional Education Officer in consultation with senior management of the Correctional Centre and education employees, for approval by the Secretary or delegate.

12. Duties of Correctional Education Officers

12.1 Subject to subclauses 12.2 and 12.3 of this Award and following consultation with the supervising Senior Correctional Education Officer, Correctional Education Officers shall be required to undertake:

12.1.1 Direct teaching activities for up to 10 hours per week; and

12.1.2 Duties related to teaching and through care initiatives as specified at subclause 12.4, will be undertaken for the balance of hours consistent with the provisions of CSNSW's Flexible Working Hours Agreement, or any replacement Agreement, with the ordinary hours of duty for the week being 35 hours.

12.2 To accommodate the educational delivery needs of a correctional centre, the direct teaching activities may be varied by plus or minus 5 hours in any one week.

12.3 There may be a need from time to time for a Correctional Education Officer not to undertake any direct teaching activities for a specified period of time (as determined by CSNSW) in order to meet the needs of the correctional centre. In these circumstances:

12.3.1 Duties related to teaching/through care initiatives as provided by sub clause 12.4 shall be substituted for direct teaching activities; and

12.3.2 Non-attendance time as provided for in clause 11 of this Award, shall continue to apply as if direct teaching activities were being undertaken.

12.4 Direct teaching activities and duties related to teaching/through care initiatives to be undertaken by Correctional Education Officers shall be as specified in the following table:

Direct Teaching Activities Correctional Education Officer	Duties Related to Teaching/Through Care Initiatives
Face-to-face teaching in any environment or setting, including but not limited to: - classrooms - workshops - industry - in the field	Duties related to teaching, including but not limited to: - preparation, for example, of course outlines and lesson plans - marking - support and advice to inmates - motivational interactions with inmates

Application of assessment and diagnostic instruments for inmates. Vocational assessment and counselling. Tutorial support for distance education enrolments and individual learners with difficulties. Workplace training & assessment including Core Skills Assessment	- enrolment and associated administration including maintenance of education and case management files, preparation of case reports and running sheets - attendance at staff meetings - attendance at case management meetings - attendance at moderation meetings - participation in case planning and case management activities - leading approved staff development activities - engaging in approved staff development activities research - recognition of prior learning processes - selection and purchase of resources - maintenance of inmate libraries in liaison with the Manager Library Services - course, curriculum and materials development and review - course co-ordination as specified in curriculum documents - end of course evaluation - entering student data on DCS systems Duties related to facilitation of CSNSW's through care initiatives linking internal and external stakeholders, including but not limited to: - industry and community liaison and promotion - co-ordination of traineeships and workplace training programs - workplace consultancy and advisory services - work placement co-ordination, supervision and pre and post release planning - inmate selection for education & vocational training programs & other program readiness - development of education case plan (includes CSNSW's Education Profile Interviews) - review of education plans

12.5 The specific range of duties as described in the table at subclause 12.4 of this Award to be undertaken by a Correctional Education Officer must meet the needs of the particular correctional centre. Duties required of a Correctional Education Officer shall be planned following consultation between the Correctional Education Officer and the supervising Senior Correctional Education Officer.

13. Duties of Teachers

13.1 Teachers shall be required to undertake direct teaching activities for 20 hours per week and duties related to teaching for 15 hours per week as provided by sub clause 13.2 of this Award.

13.2 Direct teaching activities and duties related to teaching for Teachers shall be as specified in the following table:

Direct Teaching Activities Teacher	Duties Related to Teaching
Face-to-face teaching in any environment or setting, including but not limited to: -classrooms - workshops - industry - in the field	Duties related to teaching, including but not limited to: - preparation, for example, of course outlines and lesson plans - marking - support and advice to inmates - motivational interactions with inmates

Application of assessment and diagnostic instruments for inmates. Vocational assessment and counselling. Tutorial support for distance education enrolments and individual learners with difficulties.	- enrolment and associated administration including maintenance of education and case management files, preparation of case reports and running sheets - attendance at staff meetings - attendance at case management team meetings - attendance at moderation meetings - participation in case planning and case management activities - course, curriculum and materials development and review - development of learning materials
Workplace training & assessment including Core Skills Assessment.	- research - recognition of prior learning processes - engaging in approved staff development activities - leading approved staff development activities - inmate selection for education & vocational training programs & other program readiness - development of education case plan (includes CSNSW's Education Profile Interviews) - review of education plans - end of course evaluation - entering student data on DCS systems

13.3 The parties agree that the duties undertaken by Teachers shall support the work of Correctional Education Officers in relation to through care outcomes.

13.4 The specific range of duties as described in the table at subclause 13.2 of this Award to be undertaken by a Teacher must meet the needs of the particular correctional centre. Duties required of a Teacher shall be planned following consultation between the Teacher and the supervising Senior Correctional Education Officer.

13.5 From time to time a Teacher's Direct Teaching Activities i.e. teaching hours, may be lost due to restricted correctional centre routines and other centre activities. In order to maintain a reasonable level of teaching hours:

13.5.1 There may be occasions where teaching hours previously lost may be made up during the following six week period, and

13.5.2 A Teacher may be required by the supervising Senior Correctional Education Officer to make up a maximum of 5 hours over a period of one week such that the number of teaching hours taught by that Teacher shall not exceed 6 hours in any one day and 25 hours in any one week.

13.5.3 These hours may only be made up on the days a Teacher is usually engaged to work and shall replace the hours usually spent on Duties Related to Teaching.

13.5.4 The development of education plans and review of education plans, as provided in

subclause 13.2, may be substituted for direct teaching activities under subclause 13.5.2 to make up for lost teaching hours.

14. Leave Entitlements

14.1 Sick leave, maternity leave, parental leave, adoption leave, family and community service leave, and all other leave except for extended leave shall be granted and administered to employees in accordance with the provisions of the Conditions Award and the Personnel Handbook.

14.2 Extended leave entitlements shall be granted and administered to employees in accordance with the Regulation and the Personnel Handbook.

15. Part-Time Work

15.1 CSNSW is committed to providing part-time work opportunities where practicable. Such arrangements should provide flexibility for effective use of resources and be of benefit to employees.

15.2 Part-time arrangements must be acceptable to both CSNSW and the employee and shall be in accordance with the provisions of the *Industrial Relations Act* 1996 and the Flexible Work Practices Policy and Guidelines issued by the then Public Employment Office in October 1995, or any replacement Policy and/or Guidelines, including the requirement that entitlements are generally on a pro-rata basis.

16. Recruitment - Exceptional Circumstances

16.1 Exceptional circumstances shall be advertised as such and shall be limited to Teacher and/or Correctional Education Officer roles in rural locations that have been previously widely advertised with a resultant field of applicants who meet all selection criteria except for teaching qualifications. The applicant must hold qualifications in the core subject area of the advertised role and may have already commenced a course of study or have extensive employment related experience.

16.2 The decision, as to whether an exceptional circumstance exists, rests with the Secretary or delegate following consultation with local management.

16.3 In exceptional circumstances only, applicants for newly advertised role who do not possess the required teaching qualifications shall not be excluded from the selection process (subject to subclause 16.1 and 16.2 being met), and may be appointed on probation subject to the following provisions:

16.3.1 The employee shall remain on step one and shall not progress until evidence that the qualification has been completed is provided to CSNSW.

16.3.2 The employee shall commence and complete a course of study agreed to by the employee and the Secretary or delegate with no cost or burden to CSNSW.

16.3.3 Employees who have not commenced or completed their agreed course of study within the agreed and accepted timeframe shall have their circumstances reviewed by the Secretary or delegate and a representative of Federation. Where:

(i) Special circumstances exist, an extension of time shall be granted to commence or complete the course of study and the probationary period is extended for 12 months (the probationary period may be extended for up to 2 years with extensions beyond 2 years at the discretion of the Secretary or delegate);

(ii) No special circumstances exist the employee’s appointment shall be annulled.

16.3.4 Employees who have not commenced or completed the agreed course of study shall not have their appointment confirmed.

16.3.5 Once the required qualifications are gained the employee’s salary entitlements shall be adjusted to the appropriate step commensurate to the qualifications gained including years of relevant experience and adjusted at the date at which those qualifications were attained.

17. Professional Development

17.1 CSNSW is committed to the development of highly skilled, motivated and professional employees.

17.2 Access to professional development opportunities shall be based on the:

17.2.1 CSNSW's needs; and

17.2.2 Needs of individual employees as determined in consultation with their supervisors both at the local level and with the Secretary or delegate.

17.3 Subject to subclause 17.2 of this Award, the professional development of Senior Correctional Education Officers, Correctional Education Officers and Teachers shall be provided by:

17.3.1 Access to relevant courses provided by the Corrective Services Academy; and

17.3.2 Provision for study assistance as described in the study assistance provisions of the Conditions Award and the Personnel Handbook.

17.3.3 Access to retraining across disciplines in accordance with the needs of CSNSW to facilitate multi-skilling and career path development.

17.4 Senior Correctional Education Officers, Correctional Education Officers and Teachers are encouraged to share their professional development experiences with other Senior Correctional Education Officers, Correctional Education Officers and Teachers.

18. Education Quality

18.1 In line with CSNSW's commitment to reducing re-offending, AEVTI is committed to providing adult education and vocational training programs to inmates and to identified disadvantaged groups within the inmate population.

18.2 AEVTI is committed to maintaining its status as a Registered Training Organisation by complying with appropriate Vocational Education Training Accreditation Board requirements including Australian Quality Training Framework Standards.

18.3 The provision of educational programs shall be in the form of nationally accredited curricula and delivery and assessment equivalent to that available in the community. Standards of delivery and assessment will be maintained by the employment of professional educators.

18.4 Education programs aim to contribute to the good order of correctional centres and to the overall wellbeing of inmates.

18.5 Education programs aim to assist inmates to develop knowledge, skills and aptitudes to improve their prospects for post release reintegration into the wider community.

18.6 These programs will include classroom subjects, vocational education, creative and cultural activities, social education and library facilities.

19. Consultation

19.1 The parties agree to consult on any matter relating to the introduction of major, system wide, educational initiatives by CSNSW.

19.2 A consultative committee shall be established for this purpose.

20. Anti-Discrimination

20.1 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.

20.2 It follows that in fulfilling their obligations under the dispute resolution procedures 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 these 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.

20.3 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.

20.4 Nothing in this clause is to be taken to affect:

20.4.1 Any conduct or act which is specifically exempted from anti-discrimination legislation;

20.4.2 Offering or providing junior rates of pay to persons under 21 years of age;

20.4.3 Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act* 1977;

20.4.4 A party to this Award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.

20.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

20.5.1 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

20.5.2 Section 56(d) of the *Anti-Discrimination Act* 1977 provides:

> "Nothing in the 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."

21. Harassment Free Workplace

21.1 CSNSW is committed to ensuring that employees work in an environment free of harassment. Harassment is any repeated uninvited or unwelcome behaviour directed at another person. The effect of harassment is to offend, annoy or intimidate another person and to make the workplace uncomfortable and unpleasant. Harassing behaviour is unacceptable and disruptive to the well-being of individuals and workplace productivity.

21.2 Harassment on any grounds including, but not limited to, sex, race, marital status, physical impairment, sexual preference, HIV/AIDS or age shall not be condoned by CSNSW or the Federation.

21.3 Senior Correctional Education Officers shall exercise their best endeavours to prevent all forms of harassment by setting personal examples, by ensuring proper standards of conduct are maintained in the workplace and by taking immediate and appropriate measures to stop any form of harassment of which they may be aware.

21.4 All employees are required to refrain from perpetuating, or being party to, any form of harassment.

21.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation.

22. Deduction of Federation Membership Fees

22.1 The Federation shall provide CSNSW with a schedule setting out Federation's fortnightly membership fees payable by members of the Federation in accordance with Federation's rules.

22.2 The Federation shall advise CSNSW of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of Federation fortnightly membership fees payable shall be provided to CSNSW at least four weeks in advance of the variation taking effect.

22.3 Subject to subclauses 22.1 and 22.2 above, CSNSW shall deduct Federation's fortnightly membership fees from the pay of any employee who is a member of Federation in accordance with the Federation's rules, provided that the employee has authorised CSNSW to make such deductions.

22.4 Monies so deducted from the employee's pay shall be forwarded regularly to the Federation together with all necessary information to enable the Federation to reconcile and credit subscriptions to employees' membership accounts.

22.5 Unless other arrangements are agreed to by CSNSW and Federation, all membership fees shall be deducted on a fortnightly basis.

22.6 Where an employee has already authorised the deduction of membership fees from his/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.

23. Dispute Resolution Procedures

23.1 Subject to the provisions of the *Industrial Relations Act* 1996, should any dispute (including a question or difficulty) about an industrial matter arises then the following procedures shall apply:

23.1.1 Should any dispute, question or difficulty arise as to matters occurring in a particular workplace, then the employee and/or Federation workplace representative shall raise the dispute, question or difficulty with the supervisor as soon as practicable.

23.1.2 The supervisor shall discuss the matter with the employee and/or Federation representative within two working days with a view to resolving the dispute, question or difficulty or by negotiating an agreed method and time frame for proceeding.

23.1.3 Should the above procedure be unsuccessful in producing a resolution of the dispute, question or difficulty or should the matter be of a nature which involves multiple workplaces, then the individual employee or the Federation may raise the matter with an appropriate CSNSW manager with a view to resolving the dispute, question or difficulty or negotiating an agreed method and time frame for proceeding.

23.1.4 Where the procedures in paragraph 23.1.3 do not lead to resolution of the dispute, question or difficulty, the matter shall be referred to the Secretary or delegate and the Branch Secretary of the Federation. They or their nominees shall discuss the dispute, question or difficulty with a view to resolving the matter or by negotiating an agreed method and time frame for proceeding.

23.1.5 Should the above procedure not lead to a resolution, then either party may make application to the Industrial Relations Commission of New South Wales.

23.1.6 While the dispute resolution procedure is being followed, the status quo shall remain unless an work health and safety issue precludes such work. The status quo is the situation which prevailed before the cause of the dispute.

24. Duties as Directed

24.1 CSNSW may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the classification structure of this Award and provided that such duties are not designed to promote deskilling.

24.2 CSNSW may direct an employee to carry out such duties and use such tools and equipment as may be required, provided that the employee has been properly trained in the use of such tools and equipment.

25. No Further Claims

25.1 Other than as provided for in the *Industrial Relations Act* 1996, there are to be no further claims demands or proceedings instituted by parties to this Award before the NSW Industrial Relations

Commission for extra or reduced wages, rates of pay, allowances or conditions of employment with respect to the Employees covered by the Award that take effect prior to 1 January 2025.

26. Area, Incidence and Duration

26.1 This Award shall apply to all employees as defined in clause 2, Definitions, of this Award.

26.2 This award rescinds and replaces the Crown Employees (Department of Communities and Justice – Corrective Services NSW) Award 2023 published on 21 April 2023 (394 I.G. 1)

26.3 This Award shall take effect from the first full pay period to commence on or after 1 January 2022 and shall remain in force until 31 December 2024.

PART B

MONETARY RATES

Table 1 - Salaries

	2.53% from the first pay period commencing on or after 1 January 2023 $	1% from the first pay period commencing on or after 1 July 2023 $	3% from the first pay period commencing on or after 1 January 2024 $
Teacher and Correctional Officer			
Step 1	94,047	94,987	97,837
Step 2	96,697	97,664	100,594
Step 3	100,469	101,474	104,518
Step 4	105,429	106,483	109,677
Senior Correctional Education Officer			
Step 1	119,782	120,980	124,609
Step 2	123,485	124,720	128,462

Printed by the authority of the Acting Industrial Registrar.

(901) **SERIAL C9837**

CROWN EMPLOYEES (EDUCATION EMPLOYEES DEPARTMENT OF COMMUNITIES AND JUSTICE CORRECTIVE SERVICES NSW) AWARD 2024

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Department of Communities & Justice.

(Case No. 243355 of 2024)

Before President Taylor 11 July 2024

VARIATION

1. Delete the title of the award published 21 April 2023 (394 I.G. 1) and insert in lieu the following new title:

CROWN EMPLOYEES (EDUCATION EMPLOYEES DEPARTMENT OF COMMUNITIES AND JUSTICE CORRECTIVE SERVICES NSW) AWARD 2024

2. At subclause 25.1 delete the words "and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014" and replace "2024" with "2025" so that the subclause reads as follows:

25.1 Other than as provided for in the *Industrial Relations Act* 1996, there are to be no further claims/demands or proceedings instituted by parties to this Award before the NSW Industrial Relations Commission for extra or reduced wages, rates of pay, allowances or conditions of employment with respect to the Employees covered by the Award that take effect prior to 1 January 2025.

3. Delete clause 26.2 of the Award and replace with the following clause:

26.2 This award rescinds and replaces the Crown Employees (Department of Communities and Justice – Corrective Services NSW) Award 2022 published on 21 April 2023 (394 I.G. 1).

4. Delete clause 26.3 of the Award and replace with the following clause:

26.3 This Award shall take effect from the first full pay period to commence on or after 1 January 2022 and shall remain in force until 31 December 2024.

5. Delete the table in Part B, Monetary Rates, Table 1 - Salaries and insert in lieu thereof the following new table:

PART B

MONETARY RATES

Table 1 - Salaries

	2.53% from the first pay period commencing on or after 1 January 2023	1% from the first pay period commencing on or after 1 July 2023	3% from the first pay period commencing on or after 1 January 2024
	$	$	$
Teacher and Correctional Officer			

Step 1	94,047	94,987	97,837
Step 2	96,697	97,664	100,594
Step 3	100,469	101,474	104,518
Step 4	105,429	106,483	109,677
Senior Correctional Education Officer			
Step 1	119,782	120,980	124,609
Step 2	123,485	124,720	128,462

6. This variation will take effect on and from 11 July 2024.

I. TAYLOR, *President*

Printed by the authority of the Industrial Registrar.

(564) **SERIAL C9839**

PUBLIC HOSPITAL MEDICAL OFFICERS (STATE) AWARD 2023

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 216536 of 2024)

Before Commissioner Muir 21 June 2024

VARIATION

1. Delete the definition of "Registrar" in clause 1, Definitions, of the award published 21 July 2023 (394 I.G. 778) and insert in lieu the following:

(i) has had at least three years' experience in public hospital service as defined under this Award; or

(ii) has had at least two years' experience in public hospital service and is training under an accredited training program which allows the medical officer to occupy the position of registrar in their third year of post graduate training;

and

(iii) is appointed as a registrar by a hospital, and

(iv) is occupying a position of registrar in an established position as approved by the employer.

2. Delete subclause (v) of clause 6, Hours of Work and replace with the following:

(v) All time worked in excess of ten hours in any one shift shall be paid as if it were overtime.

3. Delete clause 10, Meal Breaks and replace with the following:

10. Meal Breaks

The principles to be applied by the employer in relation to meal breaks for Resident Medical Officers are outlined in Ministry of Health Circular No. 88/251.

Day Shifts - Monday to Friday

(i) Subclauses (ii) to (v) apply to a shift of rostered hours commencing at or after 7.00am and finishing no later than 7.00pm.

(ii) In the interests of patient care and the health and welfare of medical staff, officers must have a break from duty for the purpose of taking a meal.

(iii) There shall be a uniform meal break of 30 minutes except where locally agreed arrangements for a longer period are made (which shall not exceed one hour).

(iv) If officers are required to work during their meal break they shall be paid for the time worked.

(v) Medical Administrators are to establish simple and effective procedures in consultation with officers to record when staff are required to work through their meal break and to ensure that payment is made.

Shifts Other than Day Shifts - Monday to Friday

(vi) Subclause (vii) below applies to shifts other than those referred to in subclause (i) above.

(vii) The arrangements outlined in Circular No. 83/250 of 19 August, 1983 in relation to meal breaks during shifts other than Day Shifts, Monday to Friday, will continue to apply.

4. Delete clause 12, On Call and Call Back and replace with the following:

12. On Call and Call Back

(i) An "on call period" is a period during which an officer is required by the employer to be on call. The forms of on call are:

(a) "on call (clinical) duty" means the officer is required by the employer to hold themselves in readiness and to provide remote clinical support or attend a hospital to perform work as clinically appropriate, if called upon to do so; or

(b) "on call (relief) duty" means the officer is required by the employer to hold themselves in readiness to attend a hospital to perform work in the event of an emergent situation if called upon to do so, but not to provide remote clinical support.

(ii) For the purposes of calculation of payment of on-call allowances and for call-back duty (where an officer on call is called upon to attend a hospital to perform work), an on-call period shall not exceed 24 hours.

(iii) An officer shall be paid for each on-call period which coincides with a day rostered on duty an allowance as set out in Item 3 of Table 1, Allowances, and for each on-call period coinciding with a day not rostered on duty an allowance as set in the said Item 3, as applicable to the type of on-call for which the officer is rostered.

(iv) Subject to subclauses (v) - (x) below, officers who are required to attend a hospital to perform any work, whether notified before or after leaving the employer's premises, shall be paid for all time worked at the appropriate overtime rate, with a minimum of four hours at such rates.

(v) Once an officer is in attendance at a hospital, they may be required to perform work other than that for which they were originally recalled. Officers shall not be required to work the full four hour minimum payment period if they complete the work they were recalled to perform and any additional work they are required to undertake, within a shorter period.

(vi) The employer must have processes in place for the formal release of officers from recall duty.

(vii) Officers who are not formally released and who are recalled again during the four hour minimum payment period are not entitled to any additional payment until the expiration of the four hour period.

(viii) Officers who are advised they will not be required to perform any additional work and are formally released and who are subsequently recalled again during the four hour minimum payment period, shall be entitled to another four hour minimum payment.

(ix) The allowances in Item 3 of Table 1, Allowances compensate an officer for all of their time on call other than time performing call-back duty in accordance with subclause (iv). To avoid any doubt:

(a) an officer who is on call is not entitled to be paid any additional amount for time spent answering a call or time spent travelling to a hospital to perform call-back duty;

(b) an officer on on-call (clinical) duty is not entitled to any additional payment for time spent providing remote clinical support; and

(c) time referred to in subclauses (a) and (b) does not count as time worked for the purposes of this award.

(x) Where clinically appropriate, an officer on on-call (clinical) duty must provide technology support resolution or clinical support remotely.

5. Delete Table 1 - Allowances and Other Rates of Part B and replace with the following:

Table 1 - Allowances and Other Rates

Item No.	Clause	Allowance Description	Frequency	Rate from first pay period on or after 1-Jul-2023
		In Charge		
1	5	In charge Allowance	Per 12 hours of duty or part thereof	22.80
		Meal Allowance for Overtime		
2	11(ii)	(a) Breakfast at or before 6.00 a.m.	Each	35.65*
2	11(ii)	(b) Evening at least 1 hour after normal ceasing time and extends beyond or is worked wholly after 7.00 pm.	Each	35.65*
2	11(ii)	(c) Lunch beyond 2.00pm Saturdays, Sundays or Holidays	Each	35.65*
		On-call		
3	12(iii)	On-call (clinical) allowance per on-call period which coincides with a day rostered on duty	Per Day	$106.20
3	12(iii)	On-call (clinical) allowance per on-call period which coincides with a day rostered off duty	Per Day	$213.20
3	12(iii)	On call (relief) allowance per on-call period which coincides with a day rostered on duty	Per Day	$35.00
3	12(iii)	On call (relief) allowance per on-call period which coincides with a day rostered off duty	Per Day	$50.00
		Uniform		
4	21(iii)	Full uniform including special shoes if required	Per Week	2.89
4	21(iii)	Other Cases	Per Week	2.13

6. This variation will take effect on and from 1 July 2024.

C. MUIR, *Commissioner*

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(105) **SERIAL C9836**

TRANSPORT INDUSTRY - GENERAL CARRIERS CONTRACT DETERMINATION 2017

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Transport Workers' Union of New South Wales, Industrial Organisation of Employees.

(Case No. 77087 of 2022)

Before Commissioner Sloan 12 June 2024

VARIATION

1. Delete the tables in subclause F.3.2 of clause F.3, The Surcharge, of Schedule F - Temporary Fuel Surcharge, of the determination published 24 August 2020 (387 I.G. 924) and reprinted 1 March 2024 (396 I.G. 891), and insert in lieu the following:

F.3.2 For pay periods commencing between 15 July 2024 and 18 August 2024, the Temporary Fuel Surcharge shall be:

Vehicle Carrying Capacity	Surcharge (per km)
Rigid-carrying capacity over 3 and including 5 tonnes	$0.10
Rigid-carrying capacity over 5 and including 8 tonnes	$0.12
Rigid-carrying capacity over 8 and including 10 tonnes	$0.17
Rigid-carrying capacity over 10 and including 12 tonnes	$0.17
Rigid-carrying capacity over 12 and including 14 tonnes	$0.17
Rigid-carrying capacity over 14 tonnes or more	$0.22
Single Axle Prime Mover	$0.22
Bogie Axle Prime Mover	$0.27

For pay periods commencing between 17 June 2024 and 14 July 2024, the Temporary Fuel Surcharge shall be:

Vehicle Carrying Capacity	Surcharge (per km)
Rigid-carrying capacity over 3 and including 5 tonnes	$0.11
Rigid-carrying capacity over 5 and including 8 tonnes	$0.13
Rigid-carrying capacity over 8 and including 10 tonnes	$0.19
Rigid-carrying capacity over 10 and including 12 tonnes	$0.19
Rigid-carrying capacity over 12 and including 14 tonnes	$0.19
Rigid-carrying capacity over 14 tonnes or more	$0.24
Single Axle Prime Mover	$0.24
Bogie Axle Prime Mover	$0.29

2. Delete the tables in subclause F.3.3 of clause F.3, The Surcharge of Schedule F - Temporary Fuel Surcharge, and insert in lieu the following:

For pay periods commencing between 15 July 2024 and 18 August 2024:

Vehicle Carrying Capacity	Surcharge (per hour)
Rigid-carrying capacity over 8 and including 10 tonnes	$2.39
Rigid-carrying capacity over 10 and including 12 tonnes	$2.39
Rigid-carrying capacity over 12 and including 14 tonnes	$2.39
Rigid-carrying capacity over 14 tonnes or more	$3.06
Single Axle Prime Mover	$3.07
Bogie Axle Prime Mover	$3.73

For pay periods commencing between 17 June 2024 and 14 July 2024:

Vehicle Carrying Capacity	Surcharge (per hour)
Rigid-carrying capacity over 8 and including 10 tonnes	$2.62
Rigid-carrying capacity over 10 and including 12 tonnes	$2.62
Rigid-carrying capacity over 12 and including 14 tonnes	$2.62
Rigid-carrying capacity over 14 tonnes or more	$3.35
Single Axle Prime Mover	$3.36
Bogie Axle Prime Mover	$4.09

3. This variation will take effect on 15 July 2024.

D. SLOAN, *Commissioner*

Printed by the authority of the Industrial Registrar.

SERIAL C9842

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

INDUSTRIAL COURT CRIMINAL PRACTICE NOTE NO. 1

First Issue Date: 1 July 2024

Issued pursuant to Section 185A of the *Industrial Relations Act* 1996 and Section 15 of the *Civil Procedure Act* 2005.

WORK HEALTH AND SAFETY ACT PROSECUTIONS

Commencement

1. This Practice Note commences on 1 July 2024.

Application

2. This Practice Note applies to all criminal proceedings commenced in the Court pursuant to s229B(1)(b) the *Work Health and Safety Act 2011* (the WHSA) (WHS prosecutions).

Introduction

3. The purpose of this Practice Note is to explain the administrative and case management procedures followed in the Court for WHS prosecutions.

Commencement of Summary Proceedings

4. Summary Proceedings are to be commenced pursuant to s246 *Criminal Procedure Act* 1986 (CPA) and Rule 7C of the Industrial Relations Commission Rules.

5. The Summons will be made returnable on the Monday following 8 weeks from the date of issue.

6. The Summons and a copy of this practice note is to be served on the defendant within 7 days of the issue of the summons in accordance with Rule 7C.2(4) of the Industrial Relations Commission Rules.

7. The defendant or the defendant's legal representative is to file with the Court and serve on the prosecutor a Notice of Appearance (in the approved form) within 7 days of the service of the Summons.

Service of the Brief of Evidence

8. The prosecutor is to serve the brief of evidence and a statement of facts on the defendant or the defendant's legal representative within 2 weeks of service of the Notice of Appearance or within 28 days of the issuing of the Summons, whichever is the later.

Before the first mention

9. The parties are to take the following steps before the first mention to assist with the efficient progress of the matter:

a) Retain solicitors and/or counsel who will be appearing in the matter to allow for meaningful and binding forensic decisions to be made;

b) The defendant is to consider the plea that it intends to enter to the charge;

c) The defendant is to consider any representations that it might wish to make to the prosecutor regarding the particulars of the charge and the facts that will facilitate a plea of guilty. The defendant should be available on the first mention date to commit to a timetable for the submission of representations;

d) The defendant is to consider whether the defendant intends to make an application to the regulator for an Enforceable Undertaking.

At the first mention

10. The prosecutor is to advise whether service of the brief and the statement of facts has been given in accordance with the requirements of this practice note.

11. The defendant is to advise the court of whether it is in a position to enter a plea, and if so, the nature of that plea, and the following procedure then applies:

    a) If the defendant enters a plea of guilty, the matter will be listed for a sentence hearing;

    b) If the defendant enters a plea of not guilty, the matter will be listed for defended hearing;

    c) If the defendant needs further time to consider the brief of evidence and/or seek further particulars, the matter will be stood over for 9 weeks, with any request for particulars to be sent within 2 weeks and responded to within 3 weeks from the date that it was received.

12. Upon entry of the plea, the parties should be prepared to provide estimates for the length of any hearing (either interlocutory, sentence or defended) and any special requirements or directions required for such hearing (e.g. service of expert evidence, requirement for an interpreter).

13. Where a plea of guilty is likely to be entered, subject to an agreement on the particulars of the charge and the facts alleged, the following procedure applies:

    a) A direction will be made for the defendant to make representations to the prosecutor relating to the particulars of the charge and the facts alleged;

    b) A direction will be made for the prosecutor to respond to the defendant's representations;

    c) The matter will be listed for mention, at which time the defendant is to enter a plea of guilty or not guilty to the charge;

    d) In the event that there is still a dispute between the parties as to the facts and/or particulars alleged by the prosecutor, the defendant can enter a plea of guilty and the

matter will be listed for sentence hearing on the basis that the disputed facts and/or particulars will be determined at the sentence hearing.

14. Where a plea is entered, and the parties identify the need for an interlocutory hearing, that hearing will be listed and a timetable imposed.

15. If the defendant intends to make an application to the regulator for an Enforceable Undertaking, the procedure at paragraphs 38-41 applies.

At the second mention

16. The defendant is to advise the court of whether it is in a position to enter a plea, and if so, the nature of that plea, and the following procedure then applies:

    a) If the defendant enters a plea of guilty, the matter will be listed for a sentence hearing;

    b) If the defendant enters a plea of not guilty, the matter will be listed for defended hearing.

17. Upon entry of the plea, the parties should be prepared to provide estimates for the length of any hearing (either interlocutory, sentence or defended) and any special requirements or directions required for such hearing (e.g. service of expert evidence, requirement for an interpreter).

18. Where a plea is entered, and the parties identify the need for an interlocutory hearing, that hearing will be listed and a timetable imposed.

19. Where a plea of guilty is likely to be entered, subject to an agreement on the particulars of the charge and the facts alleged, the procedure set out at paragraph 13 applies. The Court may have regard to a failure at the second mention to indicate that a plea of guilty is likely to be entered when assessing the utilitarian value of any plea of guilty entered at a later time.

20. If the defendant has made an application to the regulator for an Enforceable Undertaking, the procedure at paragraphs 40-41 applies.

21. Where no plea is entered the Court will allocate the matter for hearing on the basis of a not guilty plea unless the Defendant or their legal representative satisfies the Court that the interests of justice dictate a further adjournment, in which case the matter will be listed for a third mention within 4 weeks.

At the third mention

22. Where a plea of guilty is likely to be entered, subject to an agreement on the particulars of the charge and the facts alleged, the procedure set out at paragraph 13 applies.

23. Subject to any order being made by the Court, in the absence of a plea being entered, the matter will be allocated for hearing on the basis of a not guilty plea.

24. No further adjournments, other than by operation of paragraph 22, will be allowed except in exceptional circumstances and where the interests of justice dictate. Any such application should be made by notice of motion supported by evidence on affidavit.

Breach of the Court's directions

25. If there is a breach of the Court's directions sufficient to cause slippage in the timetable sufficient to impact upon the listing dates for the matter, the parties must, in accordance with paragraph 26 below, relist the matter in the next Monday list. The party in breach, or a legal practitioner with knowledge of the reasons for the breach, must send to the list Judge's associate and serve a letter by no later than 4pm on the preceding Thursday, identifying the breach, explaining the reasons for the breach and outlining the proposed directions to be made in consequence of the breach.

Liberty to Restore

26. Parties have general liberty to restore to the Monday list on 2 working days' notice. A party seeking to do so is to make prior arrangement with, or give appropriate notice to, any other party and notify the List Judge or, once allocated, the Judge case managing the proceedings.

Applications to vacate hearings

27. Applications to vacate hearing dates by consent are to be made by letter to the Judge's associate explaining the reasons for the application. Otherwise, applications to vacate hearing dates (other than as a consequence of a plea of guilty being entered by a defendant) are to be by notice of motion with an affidavit in support explaining the circumstances giving rise to the application.

Expert evidence

28. Unless the Court otherwise orders, an expert witness' evidence in chief must be given by the tender of one or more reports.

29. The provisions of Part 31 rules 23 and 27 *Uniform Civil Procedure Rules 2005* apply to the evidence of expert witnesses and any report of an expert witness.

Preparation for sentence hearings

30. Where a plea of guilty is entered, the prosecutor is to file and serve any sentence bundle on the defendant no later than 4 weeks before the date on which the matter is listed for sentence. The sentence bundle should not include documents that are wholly addressed by agreed facts,

31. If the prosecutor or the defendant seeks an order referred to in ss236-241 WHSA, the prosecutor or the defendant is to notify the other party in writing of the terms of the order sought and is to file and serve any affidavit evidence in support of the order, by no later than 4 weeks before the date on which the matter is listed for sentence.

32. The defendant is to file and serve any affidavit and supporting documentation relevant to the issue of capacity to pay a fine (s6 *Fines Act* 1996) no later than 4 weeks before the date on which the matter is listed for sentence.

33. The defendant is to file and serve any other affidavit and supporting documentation no later than 2 weeks before the date on which the matter is listed for sentence.

34. The prosecution and the defence are to file and serve an outline of submissions no later than 3 days prior to the sentence date.

35. If there is a change to the conduct or length of the sentence hearing, the parties are to notify the list judge or, once allocated, the Judge case managing the proceedings at the earliest possible stage.

Court Technology and Evidence

36. If a party intends to adduce electronic evidence during the sentence hearing, the party must consult the Associate to the Judge hearing the matter no later than 7 days before the sentence hearing or trial to confirm that the Court's technology resources are capable of playing the evidence.

37. Where the electronic evidence is not in a form that is compatible with the Court's technology resources, the evidence must either be converted to formats used by the Court or the party must bring their own devices to play the evidence.

Applications for Enforceable Undertakings

38. Applications to the regulator for an Enforceable Undertaking (EU) pursuant to Part 11 WHSA must be made by a defendant no later than 12 weeks after the service of the brief of evidence.

39. The Court will take into account an application for an EU made later than 12 weeks after the service of the brief of evidence which is unsuccessful, when assessing the utilitarian value of any plea of guilty entered at a later time.

40. Matters in which an application for an EU is made will be adjourned for a preliminary hearing on a date no later than the Monday following 2 weeks after the next meeting of the Enforceable Undertaking Panel or other convenient date in the EU process. The parties must, within 2 weeks of a decision by the regulator to reject an application for an EU, re-list a matter for mention.

41. The making of such an application will have the effect of pausing the timetable established by this practice note.

Reckoning of Time

42. The provisions of Part 1.11 of the *Uniform Civil Procedure Rules 2005* apply to criminal proceedings.

Affidavits

43. The provisions of Part 35 of the *Uniform Civil Procedure Rules 2005* apply to affidavits filed in criminal proceedings.

Motions

44. The provisions of Part 18 of the *Uniform Civil Procedure Rules 2005* apply to motions filed in criminal proceedings.

Summonses

45. The provisions of Part 33 of the *Uniform Civil Procedure Rules 2005* apply to the following summonses filed in criminal proceedings:

a) summonses to give evidence under s165(3)(b) of the *Industrial Relations Act 1986*; and

b) summonses for production under s165(3)(c) of the *Industrial Relations Act 1986*

Justice I Taylor
President of the Commission

1 July 2024

SERIAL C9841

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

PRACTICE NOTE NO. 2A

First Issue Date: 16 December 1998
Re-Issue Date: 1 July 2024

Re-issued pursuant to Section 185A of the *Industrial Relations Act* 1996 and Section 15 of the *Civil Procedure Act* 2005.

LISTS OF AUTHORITIES AND LEGISLATION

1. This Practice Note has effect from 1 July 2024. It applies to proceedings in the Industrial Relations Commission and the Industrial Court *other than* criminal matters.

Usual requirements

2. Each party wishing to rely on authorities or legislation at a hearing shall file a list of authorities and legislation, along with an authorities bundle with the Industrial Registry, no later than 10.00 am one working day before the hearing. Filing of the list and the authorities bundle is to be effected by email and hard copy. The hard copy must be filed at the Registry location (Sydney or Parramatta) where the matter is to be heard. A copy of the list of authorities and legislation is to be served on the other parties at the time of filing.

3. Lists should be divided into two parts. Part "A" should list the authorities and legislation from which passages are to be read and identify the specific passages or sections of legislation. Part "B" should contain authorities and legislation which will be referred to generally, but from which passages are not to be read or referred to specifically.

4. Only authorities listed in Part “A” are to be included in the authorities bundle.

5. A supplementary list and authorities bundle of no more than four authorities and legislation may be filed by email and, where possible, hardcopy, no later than 4.00 pm on the last working day before the hearing. If hard copies of the supplementary authorities are not able to be filed in advance at the Registry location where the matter is to be heard, they are to be provided at the commencement of the hearing.

6. The Commission encourages the parties to confer with a view to providing a joint bundle of authorities.

7. Where an authorities bundle is provided electronically, it is to be in the following format:

    a. A single Portable Document Format (PDF) that is text-searchable;
    b. Each separate authority within the PDF is to be bookmarked with tab numbers that replicate the tab numbers in the hardcopy;
    c. It is to commence with the index, which is to include the matter number.

8. For Full Bench matters, sufficient hardcopy bundles are to be provided to ensure each member of the Bench has one.

Requirements for Appeals and large matters

9. For appeals and any other matter designated by directions as large, the following requirements apply in lieu of paragraphs 2 and 6 above.

10. Each party wishing to rely on authorities or legislation at a hearing, shall file by email or hardcopy a list of authorities and legislation with the Industrial Registry, no later than **4.00 pm three working days** before the hearing. A copy of the list of authorities and legislation is to be served on the other parties at the time of filing.

11. A party (the applicant unless otherwise agreed) is to prepare a joint index and bundle of authorities and no later than **10.00 am one working day** before the hearing, is to file an electronic copy plus three hardcopies of that joint bundle at the Registry location (Sydney or Parramatta) where the matter is to be heard.

12. Otherwise, the usual requirements apply.

Justice I Taylor
President
1 July 2024

Revision history

First Issue Date:	16 December 1998
Re-Issue Date	1 February 2010
Further Re-Issue Date	15 November 2017 Replacing Practice Note 2
Further Re-Issue Date	1 July 2024

SERIAL C9840

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

PRACTICE NOTE NO. 32

First Issue Date: 11 February 2021
Re-Issue Date: 1 July 2024

Re-issued pursuant to Section 185A of the *Industrial Relations Act* 1996 and Section 15 of the *Civil Procedure Act* 2005.

FILING, LENGTH, PRESENTATION, AND FORMATTING OF DOCUMENTS AND COURTBOOKS

1. This Practice Note has effect from 1 July 2024 and replaces previous Practice Note 32.

2. This Practice Note applies to proceedings before the Industrial Relations Commission and the Industrial Court *other than* criminal proceedings and appeal proceedings. It applies *subject to* any directions that are made in a matter.

3. Filing of documents must be in accordance with Rule 2.5 of the Industrial Relations Commission Rules 2022 and Schedule A.

4. The Commission may, on application or on its own initiative, grant a party, on terms determined by the Commission, leave to be excused from compliance in part or in whole with the requirements of Schedule A or any directions.

5. Parties should identify any proposed alteration to the standard requirements at the first directions hearing.

6. Once directions have been made, any application to vary the direction can only be made by a party after it has consulted the other party or parties, and must:

   6.1. be made in writing no later than 4.00 pm, 3 days before the time for filing of that party's evidence and/or submissions;

   6.2. state what alteration to the timetable is sought;

   6.3. indicate the attitude of the other party or parties;

   6.4. provide reasons for the proposed variation.

Filing documents electronically

7. A Notification of an Industrial Dispute (Form 4) can be filed in the Online Registry or by email.

8. The following forms can be filed in the Online Registry and *cannot be filed by email* without leave of the Registrar: an Unfair Dismissal Application (Form 7A), Application for Public Sector Disciplinary Appeal (Form 4A), Employer's Response to Unfair Dismissal Application (Form 7B), and an Employer's Response to Public Sector Disciplinary Appeal (Form 4B), Notice of Appearance (UCPR Form 6A), Notice of Discontinuance (UCPR Form 33), Notice of Change of

Solicitor or Appointment of Solicitor (UCPR Form 77), Notice of Intention to File Notice of Ceasing to Act (UCPR Form 79) and Notice of Ceasing to Act (UCPR Form 80).

9. All other documents can be filed by email, *provided* they comply with Schedule B.

10. At the next in-person appearance that follows any document being filed by email, a party is to provide two hardcopies to the Commission, unless provided in advance. The hardcopies must be an exact replica of the electronic PDF. A failure to do so may result in the party being unable to rely on or refer to such documents until a hardcopy has been provided.

Filing documents in hardcopy

11. When filing a document in hardcopy, either in person or by post, a party must provide two copies (or such greater number of copies as required by Schedule 2 to the Industrial Relations Commission Rules 2022) and at the same time, an **electronic copy** on a USB drive or by email the same day. (Note: parties will need a further copy for themselves and, if the document is to be served on other parties by hardcopy, enough copies to serve each party, plus an additional copy to attach to an affidavit of service.)

12. An 'electronic copy' means a document in a text-searchable Portable Document Format (PDF).

13. The Commission may direct that a document that has been filed is to be also provided electronically in Microsoft Word format by a certain time and if so requested, a party must email such a document within the time specified.

14. The Commission may direct that a copy of a document provided to the Commission during an appearance or hearing that has not been previously filed is to be filed electronically by a certain date.

Justice I Taylor
President
1 July 2024

Revision history

First Issue Date: 11 February 2021
Re-Issue Date (version 6): 1 July 2024
Replacing Practice Notes 32 and 2A

SCHEDULE A TO PRACTICE NOTE NO. 32

BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

REQUIREMENTS FOR LENGTH, PRESENTATION, AND FORMATTING OF DOCUMENTS

Documents generally

A1. Any witness statement or affidavit must not exceed 25 pages before annexures and must not have more than 100 pages of annexures.

A2. An outline of written submissions must not exceed 15 typed pages spaced line and a half, or 10 pages single spaced.

A3. Formatting and presentation of all witness statements, affidavits and submissions must be in typeface that is no smaller in appearance than an Arial font in 11-point size or a Times New Roman font in 12-point size and otherwise be in accordance with the formatting and requirements contained in cl 4.3 of the Uniform Civil Procedure Rules 2005.

A4. Paragraphs A1-A3 do not apply to applications made pursuant to s229 of the *Work Health and Safety Act 2011* (application for external review), nor the following classes of documents in proceedings commenced pursuant to s174 or s181E of the *Police Act 1990* ("*Police Act*"):

A4.4. Section 174 applications

A4.1.4. documents made available to the applicant police officer ("Officer") pursuant to sub-s 174(5) of the *Police Act*;

A4.1.5. the notice issued by the Commissioner of Police to the Officer under sub-s173(5)(a) of the Police Act;

A4.1.6. any response by the Officer provided in accordance with sub-s173(5)(c) of the Police Act; and

A4.1.7. the Order made by the Commissioner of Police under sub-s173(2)

4.1. Section 181E applications

A4.1.8. documents made available to the applicant police officer pursuant to sub-s181E(3) of the Police Act (often referred to as "the Commissioner's Confidence brief");

A4.1.9. the notice issued by the Commissioner of Police to the Officer under sub-s 181D(3)(a) of the Police Act;

A4.1.10. any response by the Officer provided in accordance with sub-s 181D(3)(b) of the Police Act; and

A4.1.11. the Order made by the Commissioner of Police under sub-s 181D(1).

Court books for hearing

A5. By 4.00 pm 3 working days prior to a hearing, a court book is to be provided to the Commission in both hardcopy and electronic copy containing all documents that any party will seek to tender or refer to in the proceeding.

A6. The Applicant is to provide the court book, unless otherwise agreed or directed.

A7. If the matter is to be heard by a single member and witnesses are to be called, two hardcopies are to be provided (so there is a second copy to be shown to witnesses). If the matter is being heard by a full bench at first instance, then four hardcopies are to be provided. The hardcopies are to be exact replicas of the electronic copies, with physical tab numbers separating the documents and every page sequential page numbered.

A8. As early as possible following all submissions and evidence being filed, the parties are to confer as to the index to the court book to ensure that the court book will, so far as known, contain all documents that a party will seek to tender or refer to in the proceeding, and does not contain any documents filed that no party will need. Note: the court book is to contain documents that a party will seek to tender even if another party will object to that tender.

A9. The electronic version of the court book is to be in the following format:

9.1. A single Portable Document Format (PDF) that is text-searchable.

9.2. Every page of the PDF, starting with the cover page and index, is to be sequentially numbered.

9.3. Each separate document within the PDF is to be bookmarked with tab numbers that replicate the tab numbers in the hardcopy.

9.4. It commences with a cover page that records the matter number, names of the parties, date of the filing, states the name of the party that filed the bundle with an index that lists each document and its page numbers. The following is an example of the Index.

COURT BOOK INDEX	
Title of Document	**Page Numbers**
1. Workplace Policy	1-16
2. Memorandum dated 3 June 2024	17-22
3. Email dated 6 June 2024	23-25

Authorities

A10. Each party wishing to rely on authorities or legislation at a hearing is to file a list of authorities and legislation along with an authorities bundle with the Industrial Registry in accordance with Practice Note 2A. The hard copy must be filed at the Registry location (Sydney or Parramatta) where the matter is to be heard.

A11. The Commission encourages the parties to confer with a view to providing a joint bundle of authorities.

A12. ***SCHEDULE B TO PRACTICE NOTE NO. 32***

BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

REQUIREMENTS FOR FILING DOCUMENTS BY EMAIL

A document permitted to be filed by email will be accepted if it complies with the following requirements. If you are unable to comply with these requirements, you can file a hardcopy in person or by post.

B1. The email is addressed to IRC.Registry@courts.nsw.gov.au and copied to all other parties to the proceedings.

B2. The email states:

a. the matter number, or if the matter has not yet commenced, the subject line specifies the nature of the matter (e.g.: Dispute Notification: Unfair Dismissal);

b. the name of the party forwarding the document for filing and the contact details of a person responsible for the matter, including their email address and phone number;

c. the parties that have been copied into the email.

B3. What is attached to the email complies with the following:

(a) Documents other than statements and affidavits are to be attached as a single document in the following format:

i. A single Portable Document Format (PDF) that is preferably text-searchable.

ii. Every page of the PDF starting with the cover page and index, is to be sequentially numbered.

iii. Unless you are unable to do this, each separate document within the PDF is to be bookmarked.

iv. It commences with a cover page that records a title of the document or bundle, the nature of the matter, matter number, names of the parties, date of the filing, states the name of the party that filed the PDF and if the bundle contains more than one

document has an index that lists each document and its page numbers. The following is an example of an Index.

INDEX	
Title of Document	**Page Numbers**
1. Workplace Policy	1-16
2. Memorandum dated 3 June 2024	17-22
3. Email dated 6 June 2024	23-25

b) Each statement of evidence or affidavit is to be attached to the email as a separate PDF document. After the last page of the body of the statement or affidavit and before the first page of any annexure, there should be an index of the documents in the annexure in the format prescribed above. The index page should contain a page number.

c) There is a size limitation for documents electronically lodged with the Commission. This size restriction is currently 150Mb via email and 5Mb vis the Online Registry. Please contact the Registry to discuss lodgement options for documents over the size restriction.

SERIAL C9831

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

PRACTICE NOTE NO. 17A

First Issue Date: 9 October 2019
Re-Issue Date: 28 March 2024

Re-issued pursuant to Section 185A of the *Industrial Relations Act* 1996 and Section 15 of the *Civil Procedure Act* 2005.

APPLICATIONS PURSUANT TO SECTION 84 OF THE INDUSTRIAL RELATIONS ACT 1996 (UNFAIR DISMISSALS)

1. The purpose of this Practice Note is to facilitate the resolution of unfair dismissal matters in a just, quick and cost-effective manner and to ensure that practitioners and others who appear before the Commission do all they can to facilitate such an outcome.

2. This Practice Note has effect from the date of issue, and amendments have effect from the date of re-issue.

3. **Allocation of Listing Date**

When an application under s 84 of the *Industrial Relations Act* 1996 ('Act') is filed, the matter will be listed for conciliation by a Commissioner. As a general rule, the conciliation will be listed not more than 21 days after the application is filed.

4. **Conciliation**

a. Parties, legal practitioners, industrial agents and others who appear before the Commission should do all they can to facilitate the fair and prompt disposal of matters before the Commission.

b. In order to ensure there is a genuine opportunity to resolve matters at the conciliation, applicants are expected to attend the conciliation in person, and respondents, including those who are legally represented, must ensure that there is a person in attendance at the conciliation with the power to make decisions to enable the resolution of the matter.

c. A response in accordance with cl 4.5(2) of the Industrial Relations Rules 2022 must be no more than 30 pages without leave of the Commission. Any request for leave must be made at least two working days prior to the date on which the response is due to be filed with the Commission and must contain reasons as to why the additional pages are required.

d. Parties and their representatives should:

i. identify the real issues in dispute prior to the conciliation;

ii. establish parameters in which they are willing to resolve the matter at the conciliation. Such parameters do not need to be divulged nor maintained at the conciliation but will assist the Commission in assisting the parties to resolve the matter;

iii. make contact with the opposing party prior to the conciliation to attempt to narrow the issues in dispute and to explore the basis on which the matter might be resolved; and

iv. both before and during the conciliation, use their best endeavours to resolve the issues in dispute, including by ensuring the participation in the conciliation by individuals with authority to settle proceedings.

e. Ordinarily there should be only one conciliation, however, a Commissioner may permit further conciliation conferences at their discretion.

f. If an applicant fails to appear at a conciliation conference and has not provided a clear and compelling reason for non-attendance, this may result in the matter being dismissed.

5. **Preliminary Issues**

a. If a preliminary issue such as a jurisdictional challenge is raised at or before the conciliation, the Commissioner to whom the matter is allocated in order to undertake the conciliation will determine whether the issue will be heard as a threshold issue or will be dealt with after conciliation.

b. If the Commissioner determines that the issue should be heard before conciliation, then the Commissioner may make appropriate directions for the arbitration of the issue and determine the question or issue in advance of any conciliation.

c. In cases where the Commissioner conducts a conciliation before the hearing of the preliminary issue, and the conciliation fails, the Commissioner may make directions for the hearing of the preliminary issue.

6. **Directions for Arbitration where No Preliminary Issue Raised**

a. When a conciliation is unsuccessful, the Commissioner will make directions for the arbitration of the matter. The Commissioner may make such directions as it considers appropriate for the just resolution of the issues between the parties. The Commission has issued "Usual Directions" which, in the ordinary course, will be made by the Commission. These can be found on the Commission's website.

b. The Commissioner who conducted the conciliation will ascertain an estimate of the number of days required for arbitration. Arbitration date(s) will usually form part of the directions made by the Commissioner following the unsuccessful conciliation.

c. To assist in the timely and efficient allocation of arbitration date(s), parties are encouraged to consider at an early stage whether they intend to exercise their rights under s173 of the Act and, if so, to do so expeditiously.

7. **Further Conciliation**

a. Parties are encouraged to continue their attempts to resolve matters once the matter is listed for arbitration and particularly prior to the time for compliance with directions in order to minimise the costs. Even after compliance with directions, further timely attempts by the parties to resolve matters are encouraged.

b. To assist the parties in circumstances where such settlement attempts are positive but inconclusive, a further conciliation conference with the same Commissioner who conducted the first conciliation may be requested, preferably not less than seven days prior to the

arbitration. A party may make such an application for a further conciliation conference only by consent of the other party and by writing to the Industrial Registrar.

c. Nothing in this Practice Note prevents the Commission from undertaking further conciliation at the arbitration of the matter.

d. Any further conciliation process does not excuse the parties from complying with directions made in the proceedings unless an order is made by the Commission to that effect.

8. **Compliance with Directions**

Parties **must** comply with any directions made by the Commission unless the Commission determines to vary the directions. An application to vary the directions must be made prior to the date for compliance. Such an application must be in writing and contain full supporting grounds and the other party's view of the request for variation.

9. **Adjournments**

a. In accordance with the Commission's function to provide a forum for the resolution of unfair dismissal matters in a fair and prompt manner, as a general rule, an adjournment of the date that is allocated for conciliation will not be granted unless there are clear and compelling reasons for the adjournment to occur. Consent of the opposing parties does not guarantee an adjournment will be granted by the Commission, although it will be a factor taken into account in the determination of such application.

b. The day (or days) in which the application will be dealt with by arbitration is definite. Any application for an adjournment of an unfair dismissal matter fixed for arbitration must be made in a timely way, following consultation with the other party, be in writing and contain full grounds including the other party's view of the request for adjournment. Applications will be considered and determined by the Commissioner allocated the arbitration of the unfair dismissal application and will be granted only on clear and compelling grounds, supported by evidence.

c. In the event that a party fails to attend the arbitration, the matter may, in appropriate circumstances, be heard and determined in the absence of that party.

N J Constant
Chief Commissioner
28 March 2024