

Career Break Scheme for NSW Department of Health Nurses and Midwives

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Summary Award provisions of the Career Break Scheme are set out in the Crown Employees Nurses (State) Award. The Policy is to ensure staff in the NSW Department of Health are aware of the award provisions; sets out requirements for implementation of the Scheme's provisions and consolidates this information in a single policy directive.

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This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

CAREER BREAK SCHEME FOR NSW DEPARTMENT OF HEALTH NURSES AND MIDWIVES

CONTENTS

	Page
1. INTRODUCTION	2
2. SCOPE	2
3. PURPOSE	2
4. DEFINITIONS	2
5. ACCOUNTABILITIES	3
6. RELATED POLICIES	3
7. OPERATION OF THE SCHEME	3
8. APPLICATIONS AND SELECTION	4
9. LEAVE	5
9.1 Leave During the Deferred Salary Leave Year	5
9.2 Leave Before or After the Deferred Salary Leave Year	5
9.3 Leave During the Working Years Preceding the Deferred Salary Leave Year	5
10. SUPERANNUATION	5
10.1 Members of the State Superannuation Scheme	5
10.2 Members of the State Authorities Superannuation Scheme	6
10.3 Members of Other Complying Funds (eg First State Superannuation, HESTA, HIP)	6
10.4 Payment of the Participant's Personal Superannuation Contributions	6
11. WORKERS' COMPENSATION COVERAGE	6
12. SALARY PACKAGING	7
13. MISCELLANEOUS DEDUCTIONS DURING THE DEFERRED SALARY LEAVE YEAR	7
14. WORK UNDERTAKEN DURING THE DEFERRED SALARY LEAVE YEAR	7
14.1 Work Within the NSW Department of Health	7
14.2 Work Outside the NSW Department of Health	7
15. RIGHT OF RETURN	8
16. MAKING CHANGES TO THE DEFERRED SALARY LEAVE YEAR	8
16.1 The Deferred Salary Leave Year	8
16.2 Suspension, Deferral or Withdrawal From Participation	8
16.3 Postponing the Deferred Salary Leave Year	8
17. ENQUIRIES	9

1. INTRODUCTION

As part of a review of the *Health Administration and Department of Health Nurses (State) Award*, now the *Crown Employees Nurses (State) Award*, it was agreed to introduce a provision for nurses and midwives employed in the NSW Department of Health as public servants to apply to participate in a Career Break Scheme ('the Scheme').

The Award provisions of the Scheme are detailed at clause 16 of the *Crown Employees Nurses (State) Award* ('the Award').

The Scheme allows employees to defer twenty per cent of their salary for four years, and be paid this deferred salary in the fifth year. Employees approved to participate in the Scheme may take a break of one year away from their position covered by the Award – the Deferred Salary Leave Year. This one year absence may be for professional and personal development, such as participation in other industry experience; post graduate study; working in overseas health systems; or for other activities, including those of a non-professional nature unrelated to the practice of nursing and midwifery.

The provisions of the Scheme are the same as those set out at clause 56 of the *Public Health System Nurses' and Midwives' (State) Award* and in *PD2007_042 Career Break Scheme for Public Health System Nurses and Midwives*.

The Scheme is subject to applicable taxation law and requirements, and such law and requirements prevail to the extent of any inconsistency with the Scheme as described in this Policy Directive.

2. SCOPE

This Policy Directive describes the Scheme's provisions for nursing and midwifery staff employed in the NSW Department of Health.

The entitlements are contained in the Award. This policy directive details the Scheme's provisions, as well as providing additional information on the application of the Award provisions.

3. PURPOSE

The purpose of this policy directive is to:

- ensure staff employed in the NSW Department of Health are aware of the provisions of the Scheme applying to nurses and midwives;
- set out requirements for the implementation of the Scheme's provisions; and
- consolidate this information in a single policy directive.

4. DEFINITIONS

The Deferred Salary Leave Year means the fifth year of the Scheme where the employee is absent from work and receives the deferred salary from the previous four years through participation in the Scheme. This year cannot be compressed into a period of less than twelve months.

Employer means any person authorised to exercise the functions of the employer of staff to which this policy directive applies.

Employee means those persons who hold a position for which a nursing or midwifery qualification is an essential requirement and is employed as a public servant within the NSW Department of Health.

NSW Department of Health ('the Department') includes any administrative unit or division under the control of the Director-General in which staff of the NSW Department of Health are employed.

5. ACCOUNTABILITIES

Employees must apply for participation in the Scheme and have a responsibility to provide the necessary information and documents to enable their application for participation in the Scheme to be considered in an informed manner, and to provide this material promptly in furtherance of any application they may make.

Employers:

- have a responsibility to ensure employees covered by the Award are aware of the Scheme's provisions;
- shall consider employees' application for participation in the Scheme promptly and by correctly applying the provisions set down in the Award and in this policy directive;
- are responsible for the accurate and timely assessment of applications for participation in the Scheme; and
- are to ensure that employees' records for participation in the Scheme are accurate and complete.

6. RELATED POLICIES

PD2007_042 Career Break Scheme for Public Health System Nurses and Midwives.

7. OPERATION OF THE SCHEME

Employees who apply for and are approved to participate in the Scheme receive 100% of their normal salary for the first four years, with a deduction equivalent to 20% of net salary (gross less tax). The 20% of net salary is deposited into an account administered by the employer in the employee's name each pay period for payment in the fifth year, being the Deferred Salary Leave Year.

The employer will establish a separate account for each approved employee who participates in the Scheme for the duration of the employee's involvement in that Scheme. Interest accruing in the account for the period of its operation will be made available for the exclusive benefit of the approved employee during the Deferred Salary Leave Year, or upon the employee withdrawing from the Scheme.

Participants will be paid the accrued salary plus interest in the Deferred Salary Leave Year in either a lump sum, or by fortnightly payment. The employee shall make a written election prior to the commencement of the Deferred Salary Leave Year to be paid by lump sum, or fortnightly payment.

If the employee elects to receive a lump sum, this sum is the combination of the salary deductions made during years one to four of the Scheme, together with interest accruing in the account.

If the employee elects to be paid fortnightly, payment shall be calculated in the following manner:

(a) *For those years when twenty six fortnights are payable:*

Fortnight one: employee is paid one twenty-sixth of the total amount available in the account at the date the calculation is made for payment.

Fortnight two: employee is paid one twenty-fifth of the total amount available in the account at the date the calculation is made for payment.

Fortnight three: employee is paid one twenty-fourth of the total amount available in the account at the date the calculation is made for payment; and

So on in corresponding manner for the remaining fortnights of the deferred salary leave year. In the last fortnight, the employee will be paid the remaining amount in the account, and that account closed.

(b) *For those years when twenty seven fortnights are payable:*

Fortnight one: employee is paid one twenty-seventh of the total amount available in the account at the date the calculation is made for payment.

Fortnight two: employee is paid one twenty-sixth of the total amount available in the account at the date the calculation is made for payment.

Fortnight three: employee is paid one twenty-fifth of the total amount available in the account at the date the calculation is made for payment; and

So on in corresponding manner for the remaining fortnights of the deferred salary leave year. In the last fortnight, the employee will be paid the remaining amount in the account, and that account closed.

8. APPLICATIONS AND SELECTION

Applications from employees will be called once per year by the employer for participation in the Scheme, to commence during that year. A pro-forma application form is at **Attachment A**.

Employees who have been approved to participate in the Scheme will commence their participation in the scheme from a prospective date by agreement between the employee and the employer. The employer shall not unreasonably refuse agreement to the determination of such date. The deferral of 20% of the participant's salary and payment of the remaining 80% of the participant's salary will commence from the beginning of the first full pay period falling on or after the agreed date of participation in the Scheme.

Where an employee approved to participate in the Scheme is placed into another position by way of temporary engagement or secondment (for example, taking up a

temporary project position) during the four years when salary is being deferred preceding the Deferred Salary Leave Year, occupancy of such position(s) will not of itself affect, prevent or cease their continued participation in the Scheme.

Where an employee is unable to join the Scheme during the nominated period, they may seek special consideration to enable them to ordinarily join the Scheme outside the nominated period. However, if there are compelling reasons or unforeseen circumstances outside of the nominated period, the employer may give consideration to such affected employee participating in the Scheme without waiting until the next nominated period.

9. LEAVE

9.1 Leave During the Deferred Salary Leave Year

Participants shall not apply for or be granted Annual Leave, Long Service Leave or Sick Leave during the Deferred Salary Leave Year.

Participants may apply for and be granted Maternity, Adoption and Parental Leave during the Deferred Salary Leave Year. The application of these Leave Types is as per those Award provisions and Policy Directives in place from time to time for nursing and midwifery staff employed in the NSW Department of Health.

In respect to Maternity or Adoption Leave, if the Deferred Salary Leave Year has not commenced, the participating employee may elect to postpone the commencement of the Deferred Salary Leave Year.

9.2 Leave Before or After the Deferred Salary Leave Year

Participants entitled to Annual Leave or Long Service Leave are able to take such leave immediately preceding or following the Deferred Salary Leave Year, subject to customary approval processes and requirements.

9.3 Leave During the Working Years Preceding the Deferred Salary Leave Year

The 20% deduction from net salary (gross less tax) will continue during periods of paid leave during the first four years of the employee's participation in the Scheme.

10. SUPERANNUATION

10.1 Members of the State Superannuation Scheme

The Deferred Salary Leave Year has been determined as prescribed leave. The superable salary is deemed to be the participant's full salary for each of the five years they participate in the Scheme. The Department will maintain the participant's employer contributions for the full five year period at the rate applicable to a person earning full salary for each of the five years. Any required personal superannuation contributions of participants are payable at the rate applicable to 100% of salary for each of the five years.

10.2 Members of the State Authorities Superannuation Scheme

The Deferred Salary Leave Year has been determined as prescribed leave. The superable salary is deemed to be 100% of the participant's normal salary for each of the five years they participate in the scheme. The Department will maintain the participant's employer contributions for the full five year period at the rate applicable to a person earning full salary for each of the five years. Any required personal superannuation contributions of participants are payable at the rate applicable to their full salary for each of the five years.

10.3 Members of Other Complying Funds (eg First State Superannuation, HESTA, HIP)

The Department will cease making employer contributions during the Deferred Salary Leave Year. The superable salary is deemed to be 100% of the participant's normal salary (both deferred and the remaining 80% paid) for each of the first four years, and superannuation employer contributions are calculated on this basis. In the Deferred Salary Leave Year no employer contributions to superannuation are payable for members of these funds.

10.4 Payment of the Participant's Personal Superannuation Contributions

The amount of such required employee contributions is determined by the superannuation scheme/fund to which the participating employee is a member.

During each of the first four years of the Scheme, participants will pay their personal superannuation contributions from the 80% of salary that remains after they have had their deduction of 20% of salary put aside for payment in the deferred salary leave year.

Personal contributions during the Deferred Salary Leave Year are payable at the rate applicable to the participant's full salary.

Participants' personal contributions will be payable at the rate applicable to their full salary for each of the first four years.

In the fifth year, that is the Deferred Salary Leave Year, participants will pay their personal superannuation contributions from the deferred salary that has been put aside during the preceding four years for payment in the Deferred Salary Leave Year.

Participants should seek independent financial advice for the effect on superannuation, and their superannuation obligations through their participation in the Scheme. Participants should also check with the administrator of the superannuation fund(s) to which they belong as to the impact of their participation in the Scheme on insurance cover, etc that may be part of their superannuation scheme.

11. WORKERS' COMPENSATION COVERAGE

During the Deferred Salary Leave Year participants are not covered by the Department's workers' compensation provisions unless working in a position in the Department that is not covered by the *Crown Employees Nurses (State) Award*.

12. SALARY PACKAGING

Participants in the Scheme who salary package can continue to access salary packaging for the first four years while deferring 20% of their salary.

As the net salary is reduced by the value of the salary packaged benefits, Scheme deductions for participants who are also salary packaging will be less than for participants who are not salary packaging.

The account established for each approved employee who participates in the Scheme will allow monitoring by an individual, as well as allowing for interest and government statutory charges to be attributed to individual balances.

A statement of earnings detailing interest credited and any charges debited to the participant's account will be issued to each participant by the Department on a regular basis. It is the responsibility of each participant to declare those adjustments in their annual taxation return to the Australian Taxation Office.

Unless a participant withdraws from the Scheme, there will be no access to the deferred salary until the Deferred Salary Leave Year is taken.

Salary packaging will not be available for the Deferred Salary Leave Year, as the participant is not in receipt of a salary. It is a participant's responsibility to withdraw from the salary packaging arrangement prior to the commencement of the Deferred Salary Leave Year and in accordance with the required period of notice as set out in the Salary Packaging Policy and Procedure Manual

13. MISCELLANEOUS DEDUCTIONS DURING THE DEFERRED SALARY LEAVE YEAR

During the Deferred Salary Leave Year miscellaneous deductions will not be made by the Department, as the participant draws down the funds in the account. The employee is responsible for making their own arrangements for payment of such deductions during the Deferred Salary Leave Year.

14. WORK UNDERTAKEN DURING THE DEFERRED SALARY LEAVE YEAR

14.1 Work Within the NSW Department of Health

During the Deferred Salary Leave Year, participants are not permitted to undertake work in the NSW Department of Health in positions covered by the Award. However, this does not prevent work in the NSW Department of Health in another position not covered by the Award (e.g. Health Manager, Security Officer).

14.2 Work Outside the NSW Department of Health

Subject to approval by the employer, an employee may undertake outside employment in the Deferred Salary Leave Year.

Participants who undertake outside employment in the Deferred Salary Leave Year will be subject to the salary, employment conditions, workers' compensation provisions and eligibility for superannuation fund membership benefits applying to that employment and employer.

15. RIGHT OF RETURN

The participant will resume employment in their substantive position at the conclusion of their participation in the Scheme, being the anniversary date of commencing the Deferred Salary Leave Year.

16. MAKING CHANGES TO THE DEFERRED SALARY LEAVE YEAR

16.1 The deferred salary leave year

The Deferred Salary Leave Year must be a whole year and would ordinarily commence on the fifth anniversary of participation in the Scheme.

An example of circumstances warranting a delay in commencing the Deferred Salary Leave Year would be when a participant enrolls in a university where the course to be undertaken commences part or a significant way into the Deferred Salary Leave Year as originally scheduled. Any proposed variation/ delay to commencement of the Deferred Salary Leave Year should be subject to discussion between the participant and the Department, with a view to reaching agreement on the actual commencement date of the Deferred Salary Leave Year in a timely manner.

16.2 Suspension, Deferral or Withdrawal From participation

Participants may temporarily suspend or defer participation in the Scheme and resume at a later agreed date. Such agreement for resumption must be reached between the participant and the employer.

Where a participant wishes to withdraw from the Scheme, the withdrawal date will be entered on the pay system and the monies in the account paid to the employee.

16.3 Postponing the Deferred Salary Leave Year

Participants may apply to postpone taking the Deferred Salary Leave Year prior to the commencement of the Leave Year. Participants should make this application at least four weeks prior to the commencement of the Leave Year. Where this decision is known earlier than four weeks prior to the commencement of the Leave Year, this should be conveyed to the employer in a timely manner.

The employer will reserve the right to approve or not approve the request in terms of organisational requirements and the individual participant's circumstances.

A decision on the request to postpone the Deferred Salary Leave Year will be made in consultation with the participant. If a participant cannot proceed to take the Deferred Salary Leave Year, the deferred salary will not be released until such time as the participant commences the leave.

Where a participant postpones their Deferred Salary Leave Year, payment during the fifth year, which would have been the year normally taken as leave, will be at the participant's normal (100%) salary. No deductions equivalent to the 20% of net salary will be set aside.

In exceptional circumstances the employer may need to postpone the participant's Deferred Salary Leave Year. In the small number of cases where postponement may be necessary, the decision will be made in consultation with the participant. Where a participant's Deferred Salary Leave Year is postponed a new Deferred Salary Leave Year will be negotiated with the participant.

17. ENQUIRIES

Any enquiries concerning this Policy Directive should be directed to the relevant person in the Division or organisational unit authorised to exercise the functions of the employer. Only the employer or employer's representatives are to contact the Department.

Professor Debora Picone AM
Director-General

**APPLICATION TO PARTICIPATE
IN THE CAREER BREAK SCHEME UNDER THE CROWN EMPLOYEES NURSES (STATE)
AWARD FOR A DEFERRED SALARY LEAVE YEAR IN THE NSW DEPARTMENT OF
HEALTH**

Family Name: Given Name(s):

..... Employee Number/ Identification Number:

Telephone Numbers: Work: After Hours:

Substantive Nursing/Midwifery position:.....

Location:

Date commenced service:/...../.....

I hereby apply to participate in the *Career Break Scheme* commencing from
.....(specify proposed prospective commencement date).

I understand that my application is not a guarantee of approval to participate in the scheme.

Signature: Date:

RECOMMENDATION

Recommended Not Recommended

Comments:

.....
.....
.....

(Attach additional page if necessary.)

Recommending Officer's Name: Signature:

Recommending Officer's position:

APPROVAL

Application Approved Application Declined

Reason for decision if application declined:

.....
.....
.....

Approving Officer's Name: Signature:

Approving Officer's position:

A COPY OF THE COMPLETED FORM IS TO BE PROVIDED TO THE APPLICANT