

HEALTH EMPLOYEES' ENGINEERS (STATE) AWARD 2023

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Ministry of Health.

(Case No. 212517 of 2023)

Before Chief Commissioner Constant

17 August 2023

AWARD**PART A****Arrangement**

Clause No.	Subject Matter
1.	Definitions
2.	Salaries
3.	Grading Committee
4.	Conditions of Service
5.	Dispute Resolution
6.	Anti-Discrimination
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PART B - MONETARY RATES

Table 1 - Salaries

PART A**1. Definitions**

Unless the context otherwise indicates or requires the several expressions hereunder defined shall have their respective meaning assigned to them:

"Assistant Engineer" means a person appointed as such to an established position as approved by the employer and who has acquired membership of the Institute of Hospital Engineering, Australia - NSW Branch or such other qualifications as the employer deems appropriate, provided that all persons employed and classified as assistant engineers in public hospitals at the operative date of this Award shall be deemed to hold qualifications to the level required by this Award.

"Engineer" means a person appointed as such to an established position as approved by the employer and who has acquired membership of the Institute of Hospital Engineering, Australia - NSW Branch or such other qualifications as the employer deems appropriate, provided that all persons employed and classified as engineers in public hospitals at the operative date of this Award shall be deemed to hold qualifications to the level required by this Award.

"Health Service" means a Local Health District constituted under section 8 of the *Health Services Act 1997*, a Statutory Health Corporation constituted under section 11 of that Act, and an Affiliated Health Organisation constituted under section 13 of that Act, as amended or varied from time to time

"Hospital" means a public hospital as defined in section 15 of the *Health Services Act 1997*, as amended or varied from time to time

"Maintenance Supervisor (Tradesperson)" means a person appointed as such to an established position as approved by the employer and:

- (a) who assists the engineer or the assistant engineer in the supervision of staff and the general maintenance work of the hospital and, in addition, relieves them during their absence; or
- (b) who, where there is no engineer, is responsible for the operation of the steam raising plant and general maintenance work.

"Union" means the Health Services Union NSW.

2. Salaries

Full-time Engineer employees shall be paid the salaries as set out in Table 1 of Part B - Monetary Rates of this Award.

3. Grading Committee

- (i) A committee consisting of up to three representatives of the employer and up to three representatives of the Union shall be constituted to consider and recommend to the employer (a) the grading of any new position or any variation of grading or classification of a position as a result of any substantial alteration of duties and/or responsibilities or in any case of anomaly; and (b) the date of effect of the grading recommended. Provided that:
 - (a) an employee shall, while the grading of their position is under consideration by the committee be ineligible to be a member of the committee;
 - (b) the committee shall not, without sufficient reason, recommend the retrospective operation of any grading; and
 - (c) where a retrospective date of effect is recommended such a date shall not be earlier than a date six months prior to the date on which the matter was referred to the committee.
- (ii) The members of the committee shall be entitled to examine any statement of duties pertaining to any position referred to the committee and any papers which illustrate the type of work performed by the occupant of the position or, if the employer approves, papers which are otherwise relevant to the question of the grading of the position, including statements of duties of other positions.
- (iii) Except as otherwise provided, the matters to be referred to the committee shall be:
 - (a) any application by an employee for review of the grading of the position he occupies if the chief executive officer of the Health Service certifies that in their opinion there has been a substantial alteration of duties and/or responsibilities since the last grading of the position and states the nature of such alteration, or that the grading of the position is markedly out of keeping with that of other positions in the Health Service;
 - (b) the grading of any new position;
 - (c) such cases as the Union may raise where the Union has stated the grounds and indicated the basis on which it desires such cases to be considered by the committee; and
 - (d) such other cases as the NSW Ministry of Health may approve.
- (iv) The committee shall meet to consider the grading of a position within twenty-one days of such grading having been referred to the committee.
- (v) In the event of the members of the committee being in disagreement as to the grading to be recommended for a position or as to the date of effect, the members representing the Union shall, within twenty-one days of the meeting of the committee at which such disagreement occurred, furnish to the

employer, a written report stating the grading or date of effect which they consider appropriate with their reasons therefore and indicating also whether they wish to interview the employer in connection with their representations.

- (vi) The report of the committee shall be signed by at least one representative of the employer and of the Union.
- (vii) Nothing in this clause shall affect the right of the Union to apply to the Public Health Employees (State) Industrial Committee for the settlement of any dispute arising from the grading of any employees under this Award.

4. Conditions of Service

- (i) The Health Employees Conditions of Employment (State) Award 2023 as varied or replaced from time to time, shall apply to all persons covered by this Award.

Provided that Clause 9, Overtime, of that Award shall not apply to an employee covered by this Award who is:

- (a) classified as Engineer, Grade 7; or
- (b) paid an allowance because they act in the capacity of a group engineer or regional engineer; or
- (c) who, following 13 November 1997, is reclassified to a higher grade because they act in the capacity of a group engineer or regional engineer;

and the salary rates of engineers not so entitled to overtime shall be deemed to cover all incidents of employment.

- (ii) In addition, the Health Industry Status of Employment (State) Award 2023, as varied or replaced from time to time, shall also apply to relevant employees.

5. Dispute Resolution

The dispute resolution procedures contained in the Health Employees Conditions of Employment (State) Award 2023, as varied or replaced from time to time, shall apply.

6. Anti-Discrimination

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

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

NOTES -

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

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

7. No Extra Claims

Other than as provided for in the *Industrial Relations Act 1996* and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014 (or its successor however described) there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2024 by a party to this Award.

8. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2023 and shall remain in force for a period of one year. The rates in the second column in Table 1 of Part B - Monetary Rates will apply from the first full pay period on or after (ffppoa) 1 July 2023.
- (ii) This Award rescinds and replaces the Health Employees’ Engineers (State) Award 2022 published 16 December 2022 (393 I.G. 764) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained herein employed in the New South Wales Health Service under s115(1) of the *Health Services Act 1997*, or their successors, assignees or transmitters, excluding the County of Yancowinna.

PART B

MONETARY RATES

Table 1 - Salaries

In the period 1 July 2023 to the commencement of the first full pay period on or after 1 July 2023, the applicable rates of pay are those that applied immediately prior to the first full pay period on or after 1 July 2023.

Classification	Rate from ffppoa 01/07/2023 Per week \$
Engineer	
Assistant	
Grade 1	1,573.87
Grade 2	1,682.59

Grade 3	1,789.96
Grade 4	1,898.21
Grade 5	2,059.96
Grade 6	2,221.59
Engineer	
Grade 1	1,573.87
Grade 2	1,682.59
Grade 3	1,789.96
Grade 4	1,898.21
Grade 5	2,059.96
Grade 6	2,221.59
Grade 7	2,570.85
Maintenance Supervisor (Tradesperson)	
Grade 1	1,417.01
Grade 2	1,520.96

N. CONSTANT, *Chief Commissioner*

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