

## **ATTACHMENT 6**

### **DETERMINATION NO. 39.**

### **EXCESS HOURS COMPENSATORY LEAVE**

Note: Where the terms "Commission" and/or "Board" are used, these are to be read as "Director-General".

**EDUCATION COMMISSION OF NEW SOUTH WALES**

**SECTION 25 DETERMINATION NO. 39, 1982**

**EXCESS HOURS AND COMPENSATORY LEAVE**

Pursuant to section 25 of the Education Commission Act, 1980, the Education Commission has determined certain conditions of employment of officers and employees in the Education Teaching Service and the Technical and Further Education Teaching Service.

This Determination will apply to all officers hereunder defined on and from the nineteenth day of July, 1982.

This Determination replaces any determination made pursuant to section 26 of the Teaching Service Act, 1970, as amended, and all or any parts of the Regulations, Determinations or approvals adopted by the Education Commission on 20th October, 1980, covering officers who are members of the Technical and Further Education Teaching Service, to the extent of their inconsistency with this Determination.

**Definitions**

1. For the purpose of this Determination:-

"Commission", shall mean the Education Commission of New South Wales.

"Director-General", shall mean the Director-General of Education or the Director-General of Technical and Further Education.

"Officer", means and shall include all persons who normally work administrative hours and conditions or who are seconded from a teaching position or deployed in an administrative position and who work administrative hours and conditions and are either permanently or temporarily employed under the provisions of the Education Commission Act and whose services are wholly at the disposal of the Commission and who are members of the Education Teaching Service or the Technical and Further Education Teaching Service.

"Headquarters", means the administrative centre where the major part of the officer's work is performed, where the officer normally reports or the office to which the officer is attached.

"Field Officer", means an officer who is required to work in schools, colleges or elsewhere as directed, away from the officer's headquarters as a regular part of the officer's duties.

"Excess Hours", shall mean all time on weekdays whether before or after the usual office hours or on weekends or public holidays necessarily occupied by direction of the appropriate Director-General or other responsible senior officer

on his/her behalf in the performance of work which from its character or from special circumstances cannot be performed during the usual office hours applying at the officer's headquarters. Provided that excess hours for officers for whom usual office hours are not fixed or for field officers shall mean all such time on any day in excess of their ordinary hours of work per week divided by five. And provided further that where a flexible working hours scheme is in operation the usual office hours shall include the bandwidth of that scheme.

### Compensatory Leave

2. An officer who, at the direction of the appropriate Director-General or other responsible officer on his behalf, works excess hours may take compensatory leave for the time so worked.

Provided that such leave shall be taken:

- (i) at the convenience of the appropriate Director-General;
- (ii) in multiples of a quarter day only; and
- (iii) within two months of the date of working the excess hours except in the case of excess hours performed on public holidays, in which case the officer may elect to have the compensatory leave added to annual leave credits.

And provided further that:

- (i) compensatory leave for weekend duty performed may be accrued until the next school or college holidays;
- (ii) field officers who are required to work in schools or colleges as a regular part of their duties may accumulate compensatory leave until the next school or college holidays and may also, subject to the appropriate Director-General's approval, accumulate and take leave in lieu of bank holidays on the Tuesday following Easter;
- (iii) a seconded or deployed officer must take all compensatory leave granted prior to the completion of his/her period of secondment or deployment;
- (iv) compensatory leave may only be granted to officers whose salary or salary and allowances in the nature of salary are not in excess of the rate prescribed as the maximum rate for the position of a Class 2 Senior Education Officer or a Chief Guidance Officer as varied from time to time; and
- (v) where an officer on his own initiative chooses to work in excess of his/her daily spread of hours or on weekends or public holidays, the Director-General may in exceptional circumstances grant compensatory leave.

### Payment in Lieu of Compensatory Leave

- 3.(1) In exceptional circumstances where it is not possible for an officer to take all or part of any accumulated compensatory leave prior to or during the next school or college vacation period, the Director-General may:-
- (i) allow the compensatory leave to continue to accumulate beyond that school or college vacation period, or
  - (ii) subject to sub-clauses (2) and (3) of this clause authorise payment in lieu of compensatory leave.
- (2) Payment in lieu of compensatory leave shall be paid the following rates:-
- (i) for all excess hours worked before the usual commencing time and after the usual ceasing time Monday to Friday, inclusive, at the rate of time and one half for the first two hours and at the rate of double time thereafter, until relieved from duty;
  - (ii) for all excess hours worked on Saturday at the rate of time and one half for the first two hours and at the rate of double time thereafter;
  - (iii) for all excess hours worked on Sunday at the rate of double time; and
  - (iv) for all excess hours worked on public holidays at the rate of double time and one half.

Provided that:

- (i) payment rates are not fixed for meal times:-
  - (ii) if an officer is absent from duty on any working day during any week in which excess hours have been worked by him/her the time so lost may be deducted from the total amount of excess hours worked by him/her during the week unless he/she is granted leave of absence on recreation or on account of illness or unless in the opinion of the appropriate Director-General, his absence has been caused by circumstances beyond his/her control; and
  - (iii) an officer who works excess hours on Saturday, Sunday or public holidays shall, if payment is made in lieu of compensatory leave, be paid a minimum payment for three hours at the appropriate rate prescribed by this Determination.
- (3) (i) Payment in lieu of compensatory leave for excess hours worked shall not be paid for periods of less than one quarter of an hour;
- (ii) (a) the formula for the calculation of payment for excess hours at ordinary rates shall be:

$$\frac{\text{Annual Salary}}{1} \times \frac{1}{52.17857} \times \frac{1}{\text{Number of ordinary hours of work per week}}$$

- (b) to determine time and one half or double rates or double and one half rates and hourly rate at ordinary time shall be multiplied by 3/2, 2/1 or 5/2, respectively, calculated to the nearest cent;
- (iii) payment in lieu of compensatory leave for excess hours worked may only be made to officers whose salary or salary and allowance in the nature of salary does not exceed the rate prescribed as the maximum rate for a Class 2 Senior Education Officer or a Chief Guidance Officer, as varied from time to time;
- (iv) payment in lieu of compensatory leave for excess hours worked shall not be made under this Determination without the special approval of the Commission in the case of officers for whom compensation is specifically elsewhere provided for, or who are paid an allowance for overtime or excess hours or whose salary is fixed as inclusive of overtime or excess hours in any Award, Agreement or Determination of the Commission or by the regulations under the Education Commission Act.