

- (c) for the purpose of travel where an employee is entitled to the cost of conveyance following permanent appointment, promotion or transfer.

ALLOWANCES FOR THE USE OF PRIVATE VEHICLE

32. (4) Where the Chief Executive Officer has given approval under this By-law an employee may be paid an allowance at a rate determined by the Commissioner, in respect of each kilometre travelled.
32. (5) Where the chief Executive Officer has given approval under this By-law, an employee may be paid an additional allowance at a rate determined by the Commissioner, in respect of any one of the following -
- (a) passengers carried (regardless of the number of passengers);
 - (b) towing an Agency's trailer or caravan,
 - (c) carriage of an Agency's tools, goods or equipment provided that the mass of the items carried exceeds 100 kilograms.

PART 4 - OTHER ENTITLEMENTS

By Law 33 - Air Fares

INTERPRETATION

33. (1) For the purposes of this By-law -
- “Dependent”, in relation to an employee, means -
- (a) an employee's spouse, including de facto spouse, and children over the age of 3 years, who:
 - (i) reside permanently with the employee;
 - (ii) are not in receipt of income, the weekly average of which over the 6 month period immediately preceding the date of accrual of an air fare and over the 6 month period immediately preceding the date of air fare utilisation, exceeds the weekly minimum adult wage; and
 - (iii) are not eligible for fares assistance as a term or condition of service from any other source; and
 - (b) any other person approved by the Commissioner for that purpose.

ESTABLISHED DEPENDENCY

33. (1A) Where one partner has established responsibility for the family unit, regardless of whether that partner is an employee, the other partner would not be entitled to claim recognition of the family unit as dependents for air fares.
33. (1B) If the circumstances of the family unit have changed to the extent that there has been a change in responsibility for the family unit, an employee may claim for air fares.

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RESTRICTION OF ENTITLEMENT

33. (2) This By-law applies only to an employee who was -
- (a) appointed to the Northern Territory Public Service prior to 1 August 1987; or
 - (b) appointed to the Northern Territory Teaching Service prior to 12 April 1990; or -
 - (c) permanently transferred, in accordance with the provisions of the Public Employment Mobility Act 1989, to the Northern Territory Public Service or the Northern Territory Teaching Service and the date of commencement in public employment precedes 1 August 1987 or 12 April 1990 respectively.

ENTITLEMENT

33. (3) An employee to whom this By-law applies and, subject to clause (5), who is permanently stationed in the Northern Territory shall accrue an economy class return air fare on completion of each 2 year period of service in the Northern Territory.
33. (4) Air fares shall accrue in respect of the employee and, subject to meeting the dependency criteria, to recognised dependents.

DEFERRAL OF ENTITLEMENT

33. (5) Leave without pay which is specified as not counting as service for all purposes, or is an unauthorised absence occurring since the last air fare accrual, shall -
- (a) defer the next air fare accrual by the equivalent number of days; and
 - (b) subsequent air fare accrual shall be after a period of 2 years service from that date or a date resulting from a further deferral or accrual.

MAXIMUM ENTITLEMENT

33. (6) Except as provided at clauses (7), (8), (9) and (16), air fares shall be made available for travel on leave from the employee's head station to Adelaide by the most direct route, or to another destination, provided that the maximum payment does not exceed the cost that would have been incurred for an economy return air fare to Adelaide.
33. (7) An employee recruited from outside the Northern Territory prior to 4 June 1985 shall, only for any air fares accrued between 4 June 1985 and 3 June 1989, be entitled to elect at the time of usage, either a return economy air fare to Adelaide or to the place from which recruited and any air fares accrued after 3 June 1989 shall be restricted to the value of the return economy Adelaide air fare.
33. (8) An employee recruited on or after 4 June 1985 and prior to 1 August 1987, and who accrued an air fare between those dates, shall in respect of that accrued air fare, be entitled to the value of an return economy air fare to any capital city of Australia and any air fares accrued on or after 1 August 1987 shall be restricted to the value of the return economy Adelaide air fare.
33. (9) Except as provided at clause (16), an employee who, prior to commencement of the Public Sector Employment and Management Act 1993, was employed under the Teaching Service Act 1981 and who is entitled to air fares in accordance with clause (3), shall, when utilising an air fare under this By-law, be entitled to a return economy air fare to any capital city in lieu of the cost of the return economy airfare to Adelaide.

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GRANT OF AIR FARE ACCRUED ON OR BEFORE 1 DECEMBER 1995

33. (10) An air fare may be provided in conjunction with a period of paid leave as determined by the Chief Executive Officer, by-
- (a) issue of a travel warrant or similar payment to a commercial carrier in accordance with the provisions of the Treasurer's Directions, to the maximum value applicable; or
 - (b) reimbursement of used airline or other commercial carrier tickets after the date of accrual and subject to eligibility criteria, to the maximum value applicable; or
 - (c) payment of Kilometre Allowance in accordance with By-law 34.
33. (11) An employee who chooses to travel on leave wholly within the Northern Territory shall be entitled to use accrued air fares equivalent to the value of the return economy Adelaide air fare which may be utilised as per clause (10) or (15).
33. (12) No payment or reimbursement of fares is to be provided in respect of any travel by other than private road vehicle or for travel undertaken by other than commercial carriers.
33. (13) Air fares provided to an employee under this By-law may be extended to dependents of that employee, subject to their meeting dependency criteria, and those dependents may travel independent of the employee except that kilometre allowance is not payable where the employee does not travel with them or travels but does not have an accrued entitlement.
33. (14) In all cases, an employee is expected to take advantage of student concessions offered by commercial carriers, and extension of air fares in respect of children as permitted under this By-law is limited to the cost which would be incurred after discount of any student concession or similar discount available.

AUTOMATIC CASH PAYMENT OF AIR FARE ACCRUED ON OR AFTER 2 DECEMBER 1995

33. (15) Subject to clause (18), an air fare which accrues on or after 2 December 1995 shall, on the payday following the date of accrual, be paid as a taxable lump sum payment calculated in accordance with the following formula:

$$A = \frac{B}{(1-C)}$$

where;

A = lump sum payment;

B = the value of the relevant return economy air fare on the date of accrual;

C = the employee's marginal tax rate determined by adding the lump sum payment to the employee's gross annual income.

33. (16) In respect of clause (15) -
- (a) the relevant return economy air fare means -
 - (i) for an employee who has an entitlement to a return air fare to Adelaide, the value of the return economy air fare from the employee's head station to Adelaide; or
 - (ii) in all other cases, the value of the return economy air fare from the employee's head station to Melbourne; and
 - (b) the employee's marginal tax rate means -
the rate of tax which the employee must pay (including the relevant percentage of Medicare Levy) in respect of each dollar earned in excess of a specific amount in each financial year.
33. (17) Where an air fare is paid in cash the tax to be withheld shall be calculated by multiplying A x C.

EXEMPTION TO AUTOMATIC CASH PAYMENT OF AIR FARE ACCRUED ON OR AFTER 2 DECEMBER 1995

33. (18) Notwithstanding clause (15), an employee in receipt of the Additional Family Payment or the Basic Family Payment from the Department of Social Security, or similar payment made in their stead, who can satisfy the Chief Executive Officer at least two months prior to the date of accrual of an air fare that he/she would suffer financial loss by having the air fare paid in cash, may elect not to have the air fare paid in cash.
33. (19) Where the Chief Executive Officer is satisfied that the employee would suffer financial loss, use of the air fare shall be in accordance with the provisions of this By-law applying to an air fare which accrued on or before 1 December 1995.

USE OF AIR FARE ACCRUED ON OR AFTER 2 DECEMBER 1995 IN CONJUNCTION WITH TRAVELLING TIME

33. (20) An employee may elect, not later than two months prior to the date of accrual of an air fare, to use the provisions of By-law 35 or 48 in which case the air fare will not be paid in cash and the fare will be used in accordance with clause (10)(c).
33. (21) An employee who makes an election under clause (20) may, at any time after the election, revoke the election and request payment of the air fare in cash.
33. (22) An employee who elects not to be paid in cash and who does not use the air fare prior to the next air fare accruing will receive a cash payment for the fare, in accordance with clause (15), on the payday prior to the next air fare accruing.

CASH PAYMENT OF AIR FARE ACCRUED ON OR BEFORE 1 DECEMBER 1995

33. (23) An employee who has unused air fares at 1 July 1996 which accrued on or before 1 December 1995, may elect at any time to have one or all of those air fares paid in accordance with clause (15).

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COST OF AIR FARES IN RESPECT OF CHILDREN UNDER 3 YEARS

33. (24) Where an employee produces evidence that a cost has been incurred in respect of a dependent child under the age of 3 years, or over the age of 3 years but for whom the employee has not accrued an air fare entitlement, provided that the employee has accrued an air fare since the birth of the child, the Chief Executive Officer may approve reimbursement to cover -
- a) if the travel was undertaken within Australia, the actual cost incurred in respect of the child's air fare component; or
 - b) if the travel was overseas, the cost to a maximum of 50% of the adult overseas air fare or 50% of the adult Adelaide air fare, whichever is the lesser, regardless of any additional cost incurred.

CESSATION OF EMPLOYMENT

33. (25) On cessation of employment, an unused accrued air fare in respect of the employee or dependent may be provided as a one way entitlement in accordance with this By-law.

OTHER CONDITIONS APPLICABLE TO AIR FARES ACCRUED ON OR BEFORE 1 DECEMBER 1995

33. (26) Under no circumstances shall more than one fare be granted in respect of each person travelling during one period of leave, or one application, except an application under the provisions of clause (23).
33. (27) An employee may accrue a maximum of 3 air fares each for self and dependents and on the date a fourth fare accrues, the first air fare shall lapse.
33. (28) Fares are not to be made available during any periods of absence without pay except that an employee who is on Parental Leave approved under By-law 12, may use available air fare credits during unpaid leave granted in accordance with that By-law.
33. (29) An air fare entitlement may be applied to the total cost of package tours where the cost of the air fare component is not an identifiable separate component (except in respect of the limitation contained in clause (24)(b) and the value of the employee's entitlement shall be the lesser of the return economy Adelaide air fare or the package tour cost.

By-law 34 - Kilometre Allowance

ENTITLEMENT

34. (1) An employee's air fare entitlement under the provisions of By-law 33, may be utilised as Kilometre Allowance where the employee chooses to travel by road and drive a private vehicle.

RATE OF ALLOWANCE

34. (2) The allowance is payable for the forward and return journey, at the per kilometre rate as determined by the Commissioner in respect of:
- (a) where the employee travels alone and utilises a fare accrued under By-law 33, the rate determined for vehicle allowance; or

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- (b) where an employee carries a recognised dependent (as defined under By-law 33), as a passenger and the employee has accrued an air fare in respect of that dependent, an additional component determined by the Commissioner as the passenger allowance rate, may be added once only to the basic Kilometre Allowance rate, regardless of the number of dependents carried as passengers.
- 34. (3) The air fare entitlement accrued in respect of each of the dependents carried is to be deemed used where passenger allowance is added to the Kilometre Allowance rate.
- 34. (4) The rate of allowance per kilometre payable under this By-law shall be the rate determined under By-law 32.

PAYMENT

- 34. (5) The maximum payable shall be the amount of allowance calculated, including passenger allowance where appropriate, or the cost of the economy Adelaide return air fare for the employee and recognised dependents travelling, whichever is the lesser.
- 34. (6) Where travel is undertaken wholly within the Territory, the amount of Kilometre Allowance payable shall be equal to the economy Adelaide return air fare.

OTHER ENTITLEMENT

- 34. (7) If applicable, travelling time may be available in accordance with the provisions of By-law 35.

By-law 35 - Travelling Time

ENTITLEMENT

- 35. (1) Where an employee, other than one referred to at clause (2), who is entitled to air fares under By-law 33, chooses to travel by private road vehicle and receive a kilometre allowance in lieu of an air fare, additional travelling time shall apply subject to this By-law and not be deducted from any available leave credit.
- 35. (2) This By-law shall not apply to an employee employed in a teaching capacity as defined.
- 35. (3) The maximum number of days of travelling time in respect of the forward and the return journey is set out in Appendix A at Part 7.

REQUIREMENT TO TAKE LEAVE AND LIMITATIONS

- 35. (4) Travelling Time shall be provided only where a period of at least 4 weeks recreation leave has been utilised in conjunction with an air fare entitlement and may not be provided in conjunction with any other leave.

- 35. (5) Travelling Time may be granted once only in a period of 12 months.
- 35. (6) Travelling Time is not available on cessation of duty.

CALCULATION

- 35. (7) Where travel is undertaken to a destination other than Adelaide the period of travelling time may be determined by calculating one day for each 800 kilometres, less one day for each of the forward and return journeys, but any period so determined shall not exceed the maximum permitted from the employee's head station as stated in Appendix A.
- 35. (8) The number of days stated or calculated for each of the forward and return journeys are to be added together and applied as a continuous period immediately at the end of the recreation leave period, and shall include weekends and programmed days off but exclude public holidays.

By-law 36 - Increments

ENTITLEMENT

- 36. (1) Employees shall be entitled to increments within the scale of salary fixed for their substantive designation after completing 12 months service, continuous or broken in the preceding 24 months.
- 36. (2) A second or subsequent increment shall not be payable unless the previous increment has been received for a period of 12 months.
- 36. (3) An employee shall be subject to conditions of advancement if such conditions have been determined.

DEFERRAL OF INCREMENT

- 36. (4) Any period of leave without pay that is specified as not counting as service for all purposes or is an unauthorised absence, occurring since the last increment, shall defer the next increment by the equivalent number of calendar days, and any subsequent increments shall be from that date, or a date resulting from a further deferral.

INCREMENT IN RELATION TO AGE

- 36. (5) An employee under 21 years of age who holds a designation where age rates are payable shall be paid in accordance with the age rates specified.

By Law 37 - Overtime

INTERPRETATION

37. (1) For the purposes of this By-law -

“day” means from midnight to midnight;

“emergency duty” means work outside ordinary hours in relation to which the employee was not given notice before the employee ceased work at ordinary time but does not include -

- (a) circumstances where duty for the day in question is varied by alteration of the commencement of a scheduled shift to meet a sudden situation;
- (b) circumstances in which work is performed on restrictive duty as defined in By-law 38, and is paid for in accordance with that By-law;

“ordinary time” means the hours and days that an employee is normally required to work;

“overtime” means time worked other than ordinary time;

“excess travelling time” means time in addition to the usual time taken to travel to and from an employee’s normal place of work, and the time taken to travel to and from a temporary place of work, excluding the employee’s normal hours of work;

“salary” includes higher duties allowance and any allowance stated as being all purpose in the relevant Award;

“shift worker” means an employee as defined at By-law 39;

“usual station” means -

- (a) for employees who are required ordinarily to work at the same place of work, a place so fixed by the Chief Executive Officer; or
- (b) for employees whose place of work is variable within a specified district, a place within the district fixed by the Chief Executive Officer.

ENTITLEMENT

37. (2) Subject to clause (3), an employee who works overtime is entitled to be paid the appropriate overtime rate, or with the consent of the Chief Executive Officer, to take time off in lieu of that payment, in respect of that time in accordance with this By-law.

37. (3) Except with the express approval of the Commissioner, an employee holding, or acting in, a designation having a minimum salary that exceeds the maximum salary payable in relation to an Administrative Officer 6 is not eligible to be paid for overtime work or time off in lieu.

37. (4) Overtime work is not to be performed without prior written approval being given by the Chief Executive Officer and where it is not possible to obtain prior approval unless the Chief Executive Officer subsequently gives a written approval.

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37. (5) Overtime shall be calculated to the nearest quarter of an hour of the total time claimed in each fortnightly period.

TIME OFF IN LIEU OF PAYMENT FOR OVERTIME

37. (5A) An employee who wishes to take time off in lieu of payment for overtime in accordance with clause (2), shall make a written request to the Chief Executive Officer for that purpose.
37. (5B) Where time off in lieu is granted, it shall be taken:
- (a) at the ordinary time rate, that is one hour for each hour worked; and
 - (b) at a time or times agreed between the Chief Executive Officer and the employee.
37. (5C) Time off in lieu must be utilised within 8 months from the original date of entitlement and if it is not taken within this period, the employee shall, subject to clause (5D), receive payment at the appropriate overtime rates calculated in accordance with the employee's salary at the time of actual payment.
37. (5D) Where an employee who is to receive payment under clause (5C) is promoted beyond the salary barrier prescribed under clause (3), payment shall be made at the salary rate of the employee immediately prior to the employee's actual promotion.
37. (5E) The maximum amount of time off in lieu which can be accrued is:
- (a) for seasonal workers, no upper limit; or
 - (b) for all other employees, 40 hours.

DURATION OF OVERTIME WORK

37. (6) An employee is not to be required to work overtime to such an extent that the employee -
- (a) is unable to perform his or her duties efficiently; or
 - (b) becomes a danger to himself or herself or to others.
37. (7) Normally an employee is not to be required to work overtime to such an extent that the employee does not have a break from work ("rest period") of at least 8 consecutive hours between the cessation of overtime worked and recommencement of work at ordinary time.
37. (8) In addition to the period of 8 hours referred to in clause (7) an employee is to be allowed reasonable travelling time for travelling from or to his or her normal place of employment.
37. (9) Where an employee has worked overtime to such an extent that he or she would not have a rest period and reasonable travelling time as required by clause (8) if he or she again commenced work at ordinary time, the employee shall not be required to again commence work at ordinary time until the employee has had time off for a rest period and travelling time, and is not to lose any pay in relation to that time off.

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RATE OF OVERTIME

37. (10) The appropriate rate of pay for overtime worked by an employee who is not a shift worker is -
- (a) for work at any time from Monday to Friday (both inclusive) at the rate of time and a half;
 - (b) for work at any time on a Saturday at the rate of single time and a half for the first 3 hours and at double time thereafter;
 - (c) for work at any time on a Sunday, at the rate of double time;
 - (d) for work on a public holiday -
 - (i) during time that would have been normal working hours had the day not been a public holiday, at the rate of single time and a half;
 - (ii) during time that would have been outside normal working hours had the day not been a public holiday, at the rate of double time and a half.
37. (11) Subject to clauses (12) and (13), the appropriate rate of pay for overtime work by an employee who is a shift worker is -
- (a) for work at any time other than a public holiday, double time;
 - (b) for work at any time on a public holiday, double time and a half.
37. (12) If practicable, a shift worker who works overtime on a Sunday is to be given one day off on any of the 5 working days following that Sunday, and if the shift worker takes such a day off the appropriate rate of pay for the overtime work performed on the Sunday is the employee's ordinary rate of pay.
37. (13) Where an employee is required to resume or continue work without having the rest period and reasonable travelling time prescribed under clauses (7) and (8), the appropriate rate for the time so worked is double time.
37. (14) Where an attendance for overtime work extends from one day to another day and a higher rate of pay is payable in relation to one of those days the appropriate overtime rate payable for the minimum payment in relation to the entire attendance is the amount calculated at the higher rate of pay.

MINIMUM PAYMENT

37. (15) Overtime work that is not continuous with ordinary time or separate from other duties (and for this purpose meal periods shall be ignored) is subject to a minimum payment.
37. (16) Subject to clause (18), the minimum payment is payment for 4 hours and is payable in relation to each separate attendance.
37. (17) Where an attendance for overtime work extends over from one day to another day the minimum payment is to be in relation to only one attendance.

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37. (18) Where an employee on restrictive duty as defined in By-law 38, otherwise than on passive duty or as duty employee, is required to work overtime on restrictive duty -
- (a) subject to paragraph (b), the minimum payment to be paid is payment for 3 hours in relation to each separate attendance;
 - (b) if a subsequent attendance is required within 3 hours of the commencement time of an employee's attendance, the employee is not entitled to claim a separate minimum payment in relation to the subsequent attendance unless the total time worked during the previous attendance and the subsequent attendance exceeds 3 hours and in any event only one payment is to be made in relation to both attendances;
 - (c) with the result that the total time worked during a previous attendance and a subsequent attendance (commencing from the commencement time of the previous attendance) together equal 3 or more hours, a separate minimum payment is payable in relation to the subsequent attendance.

EXCESS TRAVELLING TIME

37. (19) An employee who is required to report for duty at a place other than his or her normal place of employment is entitled to be paid for excess travelling time at the appropriate rate in accordance with clauses (20) to (23).
37. (20) An employee who receives a salary that exceeds the first incremental point of the salary payable in relation to an Administrative Officer 4 is not entitled to claim to be paid for excess travelling time.
37. (21) Subject to clauses (15) to (18), payment for excess travelling time does not affect an employee's entitlement to any other allowance.

NO CLAIM IN CERTAIN CASES

37. (22) The Chief Executive Officer shall not approve a claim for excess travelling time if -
- (a) the time in relation to which a claim is made exceeds 5 hours in any one day;
 - (b) the excess time spent in travelling does not exceed -
 - (i) half of one hour in any one day; or
 - (ii) a total of two and one half hours in any pay period;
 - (c) the employee is performing any duty when travelling;
 - (d) the means of transport used by the employee provides accommodation and meals; or
 - (e) the employee receives overtime pay, emergency duty pay or any other similar payment in relation to the time spent travelling.

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RATE OF PAYMENT FOR EXCESS TRAVELLING TIME

37. (23) The appropriate rate of payment for excess travelling time is:
- (a) single time if travelling at any time from Monday to Saturday (inclusive);
 - (b) single time and a half if travelling at any time on a Sunday or public holiday.

EMERGENCY DUTY

37. (24) An employee who is required to perform emergency duty is entitled to be paid in relation to -
- (a) the time that emergency duty is performed; and
 - (b) the time necessarily spent in travelling to and from emergency duty.
37. (25) The appropriate rate of payment for the purposes of clause (24) is double time.
37. (26) Emergency duty is subject to a minimum payment for 2 hours.
37. (27) The provisions of clauses (15) to (18) apply to and in relation to emergency duty as though emergency duty were overtime work.

By-law 38 - Restrictive Duty

INTERPRETATION

38. (1) For the purposes of this By-law -
- “duty employee” is an employee who works at the normal place of employment after ordinary time on duties that are required to be carried out at regular times or on an ad hoc basis in circumstances in which, if attendance is overnight, the employee is provided with facilities for sleeping and other personal activities;
- “home duty” means working at home normally on an intermittent basis whether predetermined or not and/or being available at home for immediate call to duty;
- “on call” means being available at home to commence duty without delay or within a reasonable time, before the next ordinary commencing time for that employee;
- “passive duty” means being present at the normal place of employment after ordinary time until released or required to perform duty in circumstances in which, if attendance is overnight, the employee is not provided with facilities for sleeping and other personal activities;

“restrictive duty” means any one of the following categories of duty -

duty employee
home duty
on call
passive duty
stand-by;

“stand-by” means remaining at home to be available for immediate recall to duty before the employee's normal ordinary time.

ENTITLEMENT

- 38. (2) An employee who is required to be on restrictive duty is entitled to be paid at the appropriate rate in relation to that duty.
- 38. (3) The Chief Executive Officer may direct an employee to hold themselves in readiness to perform overtime.
- 38. (4) The Chief Executive Officer shall not approve an application for payment under this By-law unless satisfied that the requirements of this By-law have been complied with.
- 38. (5) A requirement for the purposes of clause (2) shall be given prior to the duty in question being undertaken, and in the case of restrictive duty that is on-call duty or stand-by duty, shall be given before the employee ceases ordinary time duty.
- 38. (6) Except with the express approval of the Commissioner, an employee holding or acting in a designation in relation to which the salary payable exceeds the maximum salary payable in relation to Administrative Officer 6 is not eligible to receive payment for restrictive duty.
- 38. (7) An employee on restrictive duty is not entitled to payment for excess travelling time under the provisions of clause (23) of By-law 37.
- 38. (8) An employee is not entitled to receive payment in relation to stand-by, home duty or duty employee time if the employees receives other payment (eg pay for overtime or excess travelling time) in relation to that time.

RATE OF PAYMENT

- 38. (9) Payment for restrictive duty shall be calculated on an hourly basis.
- 38. (10) The appropriate rate of payment for the different categories of restrictive duty is as follows -

- (a) on call, the hourly rate as determined by the Commissioner for all time for which the employee is required to remain at the appropriate state of readiness outside ordinary time;
- (b) stand by, half single time;
- (c) home duty -
 - (i) Monday to Saturday (both inclusive), three quarters of single time;
 - (ii) Sunday, single time.
 - (iii) public holidays, single time and a quarter;
- (d) passive duty -
 - (i) Monday to Saturday (both inclusive), single time;
 - (ii) Sunday, single time and one third;
 - (iii) public holidays, single time and two thirds;
- (e) duty employee -
 - (i) Monday to Saturday (both inclusive), single time and a quarter;
 - (ii) Sunday, single time and two-thirds;
 - (iii) public holidays, double time.

38. (11) Where restrictive duty is one of the following categories -

- (a) stand-by;
- (b) home duty; or
- (c) duty employee;

the following provisions apply -

- (d) payment is to be made only in relation to three quarters of whichever is the lesser: either, the time of restrictive duty that occurs within the first 14 hours after the employee's normal commencement on ordinary time; or, the time of restrictive duty that occurs after the time at which the employee last commenced ordinary time;
- (e) where restrictive duty occurs after the 14 hours referred to in paragraph (d) but in the same 24 hour period, payment is to be made in relation to only one quarter of the time of restrictive duty.

CALCULATION OF PAY

38. (12) Payment for restrictive duty, other than on call duty -
- (a) shall be on an hourly basis;
 - (b) shall include any higher duties allowance if that allowance is applicable;
 - (c) shall be calculated to the nearest quarter-hour;
 - (d) shall be calculated in accordance with the following formula -

$$\text{Annual salary} \quad \times \quad \frac{6}{313} \quad \times \quad \frac{1}{38} \quad \times \quad \begin{array}{l} \text{Rate of} \\ \text{payment} \\ \text{prescribed in} \\ \text{clauses (10) and (11)} \end{array}$$

MINIMUM PAYMENT

38. (13) Notwithstanding clause (12) (a), an employee performing any category of restrictive duty, except passive duty or duty employee, who is required to work overtime or ordinary time on a public holiday is entitled to a minimum payment in accordance with By-law 37, whether or not any duties are actually carried out.

By-law 39 - Shift Payments

INTERPRETATION

39. (1) For the purposes of this By-law -
- “afternoon shift” means a shift commencing at or after 10.00 am and before 8.00 pm;
 - “day shift” means a shift commencing at or after 6.00 am and before 10.00 am;
 - “night shift” means a shift commencing at or after 8.00 pm and before 6.00 am;
 - “shift worker” means an employee rostered on a cycle of shifts which are alternating or rotating through any combination of day shift, afternoon shift, and/or night shift, by means of a roster;
39. (2) A reference in this By-law to a percentage is a reference to a percentage of the employee's ordinary rate of pay.

ENTITLEMENT

39. (3) A shift worker is entitled to be paid an additional payment at the appropriate rate in relation to shift work.
39. (4) The appropriate rates for additional payments are -
- (a) 15% for an afternoon or night shift;
 - (b) 30% for a night shift where that shift is worked continuously for a period of 4 weeks;
 - (c) 50% for a shift any part of which is worked between midnight Friday and midnight Saturday;
 - (d) 100% for a shift any part of which is worked between midnight Saturday and midnight Sunday; and
 - (e) 150% for a shift any part of which is worked on a public holiday.
39. (5) Where a higher additional payment is payable in relation to part of a shift the higher additional payment is payable in relation to the whole shift.
39. (6) Where under normal circumstances an employee is rostered for duty in such a way that a public holiday falls on a day that the employee is not rostered for duty the employee is entitled to be paid one day's pay at the ordinary rate for that employee in relation to that public holiday.
39. (7) An additional payment payable in relation to shift work under this By-law is not to be included when calculating overtime pay or any allowance based on salary and a shift worker who works overtime is to be paid in relation to that time in accordance with By-law 37.
39. (8) For the purposes of this By-law, where a shift commences on a day that is a public holiday and continues on to the next day which is also a public holiday the whole of the shift is to be regarded as only one shift.

By-law 40 - Payment for Saturday Duty

SATURDAY DUTY

40. (1) Except as provided in Clause (2), for all rostered time of ordinary duty performed on a Saturday, payment shall be made at the rate of 40% additional to the ordinary rate of pay.
40. (2) The provisions of this By-law shall not apply to a shift worker as defined under By-law 39.

40. (3) The period for which the additional payment prescribed by this By-law shall be paid shall be calculated to the nearest quarter of an hour of the total amount to be claimed in each fortnightly period.
40. (4) Additional payment for rostered time of ordinary duty as provided by this By-law, shall be made in respect of any such duty which an employee would have performed had they not been on approved recreation leave.

By-law 41 - Assistance with Studies

APPROVED COURSE OF STUDY

41. (1) This By-law shall apply where an accredited course of study undertaken or proposed to be undertaken by an employee is recognised by the Chief Executive Officer as relevant to the Public Sector in accordance with clause (2).
41. (2) The Chief Executive Officer may determine that a course of study is relevant to the Public Sector where the Chief Executive Officer is satisfied that -
- (a) the course of study is a short course of instruction which is relevant to the functions of the Agency;
 - (b) the course of study is a first qualification which is relevant to the Public Sector;
 - (c) the course of study is a subsequent qualification which, in the opinion of the Chief Executive Officer, would be of substantial benefit to the Agency; or
 - (d) where the course of study is a course leading to a diploma, associateship or other certificate, which is relevant to the employee's career in the Public Sector.
41. (3) An employee may apply to the Chief Executive Officer for recognition of a course of study and for assistance to undertake or continue a course of study.

STUDY LEAVE

41. (4) The Chief Executive Officer may subject to Agency requirements, approve an application with respect to an approved course of study-
- (a) as paid study leave in relation to -
 - (i) attendance at lectures, tutorials and for similar purposes so long as the time does not exceed 8 hours per week including travelling time;

- (ii) attendance for examinations including necessary travelling time but excluding any time off required to prepare for examinations; and
 - (iii) where the employee undertakes the course of study as an external student, attendance to comply with residential requirements of the course for a period not exceeding 4 weeks in any year including travelling time;
- (b) as study leave without pay for a period in excess of 8 hours per week for the purposes specified in paragraph (a), or on the basis that the employee make up the time granted by performance of duty at a time when they would not normally be required to perform duty.
41. (5) The Chief Executive Officer should not approve an application under clause (4) where the Chief Executive Officer is satisfied that the approved course is available outside normal working hours.

EFFECT OF STUDY LEAVE WITHOUT PAY ON SERVICE

41. (6) Study leave without pay granted under this By-law does not count as service for any purpose but does not break continuity for long service leave purposes where the employee -
- (a) has satisfactorily completed the course in respect of which the study leave without pay was granted; and
 - (b) upon resumption of duty after that period of study leave without pay completes a continuous period of service for -
 - (i) a period that is equivalent to the period of study leave without pay; and
 - (ii) a period of 12 months,

the period of leave taken without pay shall count as service for long service leave purposes.

FEES

41. (7) Where an employee is undertaking an approved course of study the employee may apply for reimbursement of fees incurred for enrolment, tuition or examination necessarily incurred in respect of that study, but not being a fee to which clause (10) refers, the Chief Executive Officer may approve reimbursement where the employee -
- (a) has produced evidence of meeting all requirements as set by the institution or course provider in relation to the unit or course of study and has satisfactorily completed the course to which the fee pertains; and
 - (b) produces proof of payment of the fee.

41. (8) The Chief Executive Officer shall not authorise reimbursement of fees which are amenities fees, graduation fees, fees payable as a result of failure by the employee to enrol by a specified time or date, or any other amount payable by the employee by reason of some act or omission on their part, or any fees which have been paid by any other organisation.
41. (9) An employee shall not be reimbursed the cost incurred for -
- (a) supplying books or materials;
 - (b) accommodation; or
 - (c) activities associated with attendance at residential institutions.

HIGHER EDUCATION CONTRIBUTION SCHEME

41. (10) The Chief Executive Officer shall not approve the reimbursement of the Higher Education Contribution Scheme (HECS) incurred by an employee in respect of an approved course of study unless the Chief Executive Officer is satisfied that -
- (a) the contribution arises from the attendance at the Northern Territory University except where the approved course of study is not provided at that university;
 - (b) the amount does not exceed the amount payable in relation to the discounted liability of the employee had the employee paid HECS in advance;
 - (c) the employee has paid the full amount of the contribution claimed;
 - (d) the employee has satisfactorily completed the approved course of study or unit of study; and
 - (e) the employee was employed by the Territory at the time the liability was incurred and is an employee at the time of making the application.

NON-REIMBURSEMENT OF FEES & HECS

41. (11) The Chief Executive Officer shall not authorise reimbursement of fees or HECS under this By-law where an employee is absent from duty on any form of leave without pay (including unpaid maternity or parental leave), and that employee has not returned to duty.