

AW819922 [loose-leaf version]

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

AUSTRALIAN INDUSTRIAL REGISTRY LOOSE-LEAF CONSOLIDATION

BIOMEDICAL ENGINEERS (VICTORIAN PUBLIC SECTOR) AWARD 2002

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AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

*Workplace Relations Act 1996*

s.33 action on Commission's own motion

Review of award pursuant to Item 51 of Part 2 of Schedule 5 of the  
*Workplace Relations and Other Legislation Amendment Act 1996*  
(C1999/373)

**BIOMEDICAL ENGINEERS INTERIM ORDER 1994**

(ODN C No. 32606 of 1993)

[Print L4184 [AW769743]]

DEPUTY PRESIDENT IVES

MELBOURNE, 21 NOVEMBER 2002

A. Further to the decision issued by the Commission today (PR924854), the above award is varied by deleting all clauses, schedules and appendices and inserting the following:

## **WGNETEND\_COVERPAGEPART 1 - APPLICATION AND OPERATION OF THE AWARD**

### **1. TITLE**

This award shall be referred to as the Biomedical Engineers (Victorian Public Sector) Award 2002.

### **2. ARRANGEMENT**

This award is arranged as follows:

#### **Part 1 - Application and operation of the award**

1. Title
2. Arrangement
3. Definitions
4. Operation of the award
5. Incidence of the award
6. Supersession and savings

#### **Part 2 - Award flexibility**

7. Enterprise flexibility

#### **Part 3 - Dispute resolution**

8. Anti-discrimination
9. Grievance procedures

#### **Part 4 - Employer and employee duties, employment relationship and related arrangements**

10. Notification of salary and classification
11. Disclosure of qualifications
12. Terms of employment
13. Termination of employment

#### **Part 5 - Wages and related matters**

14. Salaries per week of 38 hours
15. Payment of salary
16. Higher duties allowance

17. Meal allowance
18. Travelling allowance
19. Telephone allowance

#### **Part 6 - Hours of work, breaks, overtime, shift work, weekend work**

20. Hours of work
21. Meal interval
22. Rest period
23. Rosters
24. Overtime
25. On call
26. Re call
27. Shift allowance
28. Special rates (saturday and sunday)

#### **Part 7 - Leave of absence and public holidays**

29. Annual leave
30. Personal leave
31. Long service leave
32. Parental leave
33. Examination leave
34. Jury service
35. Public holidays

#### **Part 8 - Accident pay, clothing, equipment and tools allowances**

36. Accident pay
37. Uniform allowance
38. Damaged clothing allowance

#### **Schedule A - Respondents**

##### **3. DEFINITIONS**

**3.1 Act** shall mean the *Workplace Relations Act 1996*.

**3.2 Biomedical Engineer** shall mean an adult person employed as such who is qualified to carry out professional engineering duties as defined and is employed to apply engineering method to the solution of problems in the area of medicine and other life sciences.

**3.3 Employer** shall mean a respondent to this award listed in Schedule A - Respondents.

**3.4 Professional engineering duties** shall mean duties carried out by a person in any particular employment the adequate discharge of any portion of which duties requires qualifications of the employee as (or at least equal to those of) a Graduate member of the Institute of Engineers, Australia.

**3.5 Qualified Engineer** shall mean a Biomedical Engineer who is or is qualified to become a Graduate member of the Institute of Engineers, Australia.

**3.6 Experienced Engineer** shall mean a Biomedical Engineer with the undermentioned qualifications in any particular employment the adequate discharge of any portion of the duties of which employment requires qualifications of the employee as (or at least equal to those of) a Member of the Institute of Engineers, Australia. The aforesaid qualifications are as follows:

**3.6.1** that he/she is a Member of the said Institution; or

**3.6.2** that he/she, having graduated in a four or five year course at a University recognised by the said institution, has had four years experience in professional engineering duties since becoming a qualified engineer.

**3.7 Union** shall mean the Association of Professional Engineers, Scientists and Managers Australia.

#### **4. OPERATION OF THE AWARD**

This award shall operate on and from 21 November 2002 and shall remain in force for a period of twelve months.

#### **WGNETSTART\_DOCASSOC\_15. INCIDENCE OF THE AWARD**

This award is binding on the Association of Professional Engineers, Scientists and Managers Australia, its officers and its members and on the employers listed in Schedule A - Respondents, and applies in respect of any person or class of persons, whether members of the Association or not, employed as Biomedical Engineers and performing professional engineering duties as defined in or in connection with any hospital or benevolent home, community health centre, society or association registered pursuant to the *Health Act 1988 (Vic)* or with the Cancer Institute constituted under the *Cancer Act 1958 (Vic)*.

#### **WGNETEND\_DOCASSOC\_1**

#### **6. SUPERSESSION AND SAVINGS**

This award supersedes the Biomedical Engineers Interim Order 1994 [Print L4184 [AW769743]], but nothing in this award shall be deemed or construed to reduce the salary, conditions or allowances applying to any Biomedical Engineer prior to the date of operation of this award in respect of allowable matters.

### **PART 2 - AWARD FLEXIBILITY**

#### **7. ENTERPRISE FLEXIBILITY**

(See ss.113A and 113B of the Act)

Where an employer or employees wish to pursue an agreement at the enterprise or workplace about how the award should be varied so as to make the enterprise or

workplace operate more efficiently according to its particular needs the following process shall apply:

**7.1** A consultative mechanism and procedures appropriate to the size, structure and the needs of the enterprise shall be established.

**7.2** For the purpose of the consultative process the employees may nominate the Union or another to represent them.

**7.3** Where agreement is reached an application shall be made to the Commission.

## **PART 3 - DISPUTE RESOLUTION**

### **8. ANTI-DISCRIMINATION**

**8.1** It is the intention of the respondents to this award to achieve the principle object in section 3(j) of the *Workplace Relations Act 1996* by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

**8.2** Accordingly, in fulfilling their obligations under the disputes avoidance and settling clause, the respondents must make every endeavour to ensure that neither the award provisions nor their operation are directly or indirectly discriminatory in their effects.

**8.3** Nothing in this clause is to be taken to affect:

**8.3.1** any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;

**8.3.2** an employee, employer or registered organisation, pursuing matters of discrimination in any state or federal jurisdiction, including by application to the Human Rights and Equal Opportunity Commission; or

**8.3.3** the exemptions in sections 170CK(3) and CK(4) of the Act.

### **9. GRIEVANCE PROCEDURES**

**9.1** A Biomedical Engineer will have the right for a grievance to be heard through all levels of line management.

**9.1.1** In the first instance the Biomedical Engineer shall attempt to resolve the grievance with the Biomedical Engineer's immediate Supervisor. The local union or other representative shall be present if desired by either party.

**9.1.2** If the Biomedical Engineer still feels aggrieved, then the matter shall be referred to the Biomedical Engineer's department head. The local union or other representative shall be present if desired by either party.

**9.1.3** If the grievance is still unresolved the matter shall be referred to senior management and the senior local or State union representative.

**9.1.4** If the grievance is still unresolved then the State union representative shall be advised and will be represented at the request of either party. At this stage the Victorian Hospitals' Industrial Association ("VHIA") or the employer representative should be advised and represented at the request of either party.

**9.1.5** It is agreed steps 9.1.1 to 9.1.4 shall take place within seven days.

**9.1.6** If the grievance still exists the matter shall be referred to the appropriate reference body for decision, which shall be accepted by the parties as ending the matter.

**9.1.7** Where the provisions of 9.1.1 to 9.1.6 have been complied with and to assist in the resolution of the matter, the local union or other representative referred to in 9.1.1 and 9.1.2 shall be granted leave of absence without loss of pay to attend AIRC proceedings coming from a reference of the matter in 9.1.6.

**9.1.8** To assist in the resolution of disputes an employer shall grant the local union or other representative referred to in 9.1.1 and 9.1.2 leave of absence without loss of pay, to attend short courses conducted by a recognised training provider which are specifically directed towards dispute resolution. The granting of leave will be subject to the operating requirements of the employer. The specific training course shall be agreed between the employer and the individual employee.

**9.1.9** Until the grievance is determined work shall continue normally in accordance with the custom or practice existing before the grievance arose while discussions take place.

**9.1.9(a)** No party shall be prejudiced as to the final settlement by the continuance of work.

**9.1.9(b)** Health and safety matters are exempted from point 9.1.9.

## **9.2 Distribution of these procedures**

**9.2.1** Institutions will formulate policies and practices in accordance with these procedures, which shall be circulated to all employees throughout each institution.

**9.2.2** All new employees shall be handed a copy of these procedures on commencement of employment.

## **9.3 Reference Body**

It is agreed that the **Reference Body** is the Australian Industrial Relations Commission under the provisions of the *Workplace Relations Act 1996*.

# **PART 4 - EMPLOYER AND EMPLOYEE DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS**

## **10. NOTIFICATION OF SALARY AND CLASSIFICATION**

**10.1** Biomedical Engineers covered by this award shall on appointment to or employment within any classification be given written notification by the employer of their classification and terms of employment.

**10.2** Provided that Biomedical Engineers already employed who have not been so notified shall be given notification within one month of the date of operation of this award.

## **11. DISCLOSURE OF QUALIFICATIONS**

**11.1** A Biomedical Engineer who is employed in or who is an applicant for employment covered by this award shall if and when required so to do by his/her employer or an employer to whom he/she has applied for employment produce to his/her employer or that employer written evidence that he/she possesses or has acquired the qualifications of qualified engineer or experienced engineer (as the case may be).

**11.2** Where a Biomedical Engineer has failed to produce to his/her employer or to an employer to whom he/she has applied for employment written evidence that he/she possesses or has acquired the qualifications of Qualified Engineer or Experienced Engineer (as the case may be) and subsequently claims to be entitled to payment at the rate prescribed by this award for his/her employment by that employer in respect of any period during which he/she has failed to produce that evidence it shall be a defence to the employer if the employer establishes that during the said period the employer did not know and had no reason to believe that the Professional Engineer possessed or had acquired the qualifications of Qualified Engineer or Experienced Engineer (as the case may be).

## **12. TERMS OF EMPLOYMENT**

### **12.1 Part-time employment**

Biomedical Engineers employed on a part-time basis shall be paid for hours worked, either:

**12.1.1** at an hourly rate equal to 1/38th of the weekly rate appropriate to the Biomedical Engineers classification. Biomedical Engineers employed under this subclause shall receive leave entitlements on a pro rata basis;

**12.1.2** at an hourly rate equal to 1/38th of the appropriate weekly rate plus 25% of such hourly rate for work performed during ordinary hours on weekdays and 75% of such hourly rate for work performed on weekends and public holidays. Biomedical Engineers employed under this subclause shall not be entitled to any benefits prescribed in clause 35 - Public holidays, clause 29 - Annual leave and clause 30 - Personal leave.

The conditions of part-time work shall be agreed upon between employer and Biomedical Engineer and shall be confirmed in writing between the two parties.

### **12.2 Full-time employment**

A full-time Biomedical Engineer is one who is employed and who is ready willing and available to work the full week of 38 hours or an average of 38 hours as per clause 20 - Hours of work, as and when required by the employer. Such Biomedical Engineer shall be entitled to the full weekly wage as prescribed by this award irrespective of the number of hours worked not exceeding 38.

### **12.3 Relieving Biomedical Engineer (full-time or part-time)**

**12.3.1** A relieving Biomedical Engineer is one employed to relieve a full-time or part-time Biomedical Engineer during that engineer's absence from work for any cause.

**12.3.2** A relieving Biomedical Engineer shall be paid not less than the rate applicable to his or her classification with the addition of 25%, and shall not be entitled to the benefits of sick leave, annual leave and long service leave.

### **13. TERMINATION OF EMPLOYMENT**

**13.1** Except where the conduct of the engineer justifies instant dismissal, at least four weeks notice of termination of employment shall be given by either the institution or the Biomedical Engineer, or four weeks wages paid or forfeited as the case may be in lieu of such notice, except that the period of notice may be reduced by mutual agreement. A Biomedical Engineer who is over 45 years of age and has worked for two years or more shall be entitled to an additional weeks notice.

**13.2** Where an employer has given notice to a Biomedical Engineer, the engineer shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the Biomedical Engineer after consultation with the employer.

## **PART 5 - WAGES AND RELATED MATTERS**

### **14. SALARIES PER WEEK OF 38 HOURS**

[14 substituted by PR928381 ppc 17Feb03]

#### **14.1 Biomedical Engineer - Class 1**

[14.1 substituted by PR933982 PR951939; PR960237 ppc 19Jul05]

	<b>Salaries per week</b>
	<b>\$</b>
1/1 (1 <sup>st</sup> year of experience after qualification)	673.70
1/2	705.30
1/3	745.10
1/4	775.40
1/5	806.00

**14.1.1** Provided that:

**14.1.1(a)** A Biomedical Engineer who holds, or is qualified to hold a degree of Bachelor of Engineering after having undertaken a four or five year full-time course, or the equivalent part-time, recognised by the Institution of Engineers, Australia, shall be entitled to be classified as a Biomedical Engineer - Class 1/1.

**14.1.1(b)** A Biomedical Engineer who holds or is qualified to hold the degree of Master of Engineering Science, Master of Engineering, or equivalent Master degree, shall be entitled to be classified as Biomedical Engineer - Class 1/2, provided further that a Biomedical Engineer so classified shall not be entitled to the higher qualification payment prescribed in 14.6 for a further period of two years.

**14.1.1(c)** A Biomedical Engineer who holds or is qualified to hold the degree of Doctor of Philosophy or Doctor of Engineering shall be entitled to be classified as a Biomedical Engineer - Class 1/4, provided further that a Biomedical Engineer so classified shall not be entitled to the higher qualification payment prescribed in 14.6 for a further period of two years.

**14.1.1(d)** A Biomedical Engineer who is an Experienced Engineer, as defined, shall be entitled to be classified as a Biomedical Engineer, - Class 1/5.

**14.1.1(e)** A sole Biomedical Engineer, i.e. who is the only Biomedical Engineer employed in a Department, shall be paid at the rate of 5% of the Biomedical Engineer - Class 1/1 in addition to the appropriate rate applicable to a Biomedical Engineer - Class 1/1.

**14.2 Biomedical Engineer - Class 2**

[14.2 substituted by PR933982 PR951939; PR960237 ppc 19Jul05]

	<b>Salaries per week</b>
	<b>\$</b>
2/1 (a)	806.00
2/1 (b)	842.40
2/2	877.60
2/3	915.90

Provided that a "Biomedical Engineer - Class 1/5 appointed to this class shall be paid at the Biomedical Engineer - Class 2/1 (b) rate.

**14.3 Biomedical Engineer - Class 3**

[14.3 substituted by PR933982 PR951939; PR960237 ppc 19Jul05]

	<b>Salaries per week</b>
	<b>\$</b>
3/1	958.50
3/2	987.70
3/3	1010.50
3/4	1059.10

#### **14.4 Biomedical Engineer - Class 4**

[14.4 substituted by PR933982 PR951939; PR960237 ppc 19Jul05]]

	<b>Salaries per week</b>
	<b>\$</b>
4/1	
4/1	1101.30
4/2	1153.00
4/3	1225.00

**14.5** For the purposes of this clause:

**14.5.1** The “1st year of experience after qualification” referred to in 14.1 of this clause shall be deemed to commence on the 1st day of January in the year following the year during which the Biomedical Engineer presented himself/herself for final examination which, if successful, would entitle the Biomedical Engineer to the Degree of Bachelor of Engineering. Where a Biomedical Engineer was required to attend a supplementary examination, such Biomedical Engineer shall, if successful, be deemed to have passed the final examination in the year during which such final examination was held.

**14.5.2** Where a Biomedical Engineer - Class 1 - 1st year of experience after qualification commences employment during the first year after qualification, such Biomedical Engineer shall be advanced to the classification Biomedical Engineer - Class 1/2 as from the 1st day of January in the next succeeding year.

#### **14.6 Higher qualifications**

Where a Biomedical Engineer has a higher qualification he/she shall be paid in addition the following:

**14.6.1** For Master of Engineering or Master of Engineering Science, the sum of 6.5% of the “Biomedical Engineer - Class 1/1, rate per week.

**14.6.2** For Doctorate of Philosophy or Doctorate of Engineering, the sum of 10% of the “Biomedical Engineer - Class 1/1, rate per week.

Such allowances shall not be cumulative in the case of multiple higher qualifications.

#### **1. Incremental Progression**

**14.7.1** Biomedical Engineers shall be eligible for progression from one pay point to the next pay point within each classification if

**14.7.1(a)** the Biomedical Engineer has given satisfactory performance over the preceding twelve months, and

**14.7.1(b)** the Biomedical Engineer has on assessment acquired and is required by the employer to utilise new and/or enhanced skills within the ambit of the classification

definition for the Biomedical Engineers position or other skills as agreed, and this has been certified to in writing following, and as part of, the assessment process

**14.7.2** Biomedical Engineers shall, subject to 14.5.2, be paid at the next pay point from the anniversary of their appointment to the classification

**14.7.3** In cases where the assessment is delayed, the anniversary date shall not be changed and the increase, if any, will be paid retrospectively to the anniversary date.

#### **14.8 Safety net adjustments**

[14.8 substituted by PR933982 PR951939; PR960237 ppc 19Jul05]

The rates of pay in this award include the arbitrated safety net adjustment payable under the *Safety Net Review—Wages June 2005* decision [PR002005]. This arbitrated safety net adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this award which are above the wage rates prescribed in the award. Such above-award payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, Australian workplace agreements, award variations to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under previous National Wage Case principles or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset arbitrated safety net adjustments.

#### **14.9 Classification Definitions**

##### **14.9.1 Biomedical Engineer Class 1**

**14.9.1 (a)** The Biomedical Engineer Class 1/1 is a biomedical engineer appointed as a Qualified Engineer as defined.

**14.9.1 (b)** The Biomedical Engineer Class 1/2 is a biomedical engineer who is appointed or who after not more than one year as a Class 1/1 Biomedical Engineer has been assessed as competent at that level and who has

**14.9.1 (b) (i)** demonstrated the development of basic testing skills and fault diagnosis and

**14.9.1 (b) (ii)** demonstrated a basic understanding of medical technology and the department quality system.

**14.9.1 (c)** The Biomedical Engineers 1/3 is a biomedical engineer who is appointed or who after not more than one year as a Class 1/2 Biomedical Engineer has been assessed as competent at that level and who has

**14.9.1 (c) (i)** demonstrated continuing development of general technical skills and

**14.9.1 (c) (ii)** demonstrated the ability to communicate effectively with other health professionals.

**14.9.1 (d)** The Biomedical Engineer Class 1/4 is a biomedical engineer who is appointed or who after not more than one year as a Class 1/3 Biomedical Engineer has been assessed as competent at that level and who has

**14.9.1 (d) (i)** demonstrated a comprehensive knowledge of the content and application of relevant Australian medical equipment standards.

**14.9.1 (e)** The Biomedical Engineer Class 1/5 is a biomedical engineer who is appointed or who after not more than one year as a Class 1/4 Biomedical Engineer has been assessed as competent at that level and who has

**14.9.1 (e) (i)** demonstrated a comprehensive understanding of medical technology and

**14.9.1 (e) (ii)** demonstrated the ability to perform the prescribed duties with reduced supervision.

#### **14.9.2 Biomedical Engineer Class 2**

**14.9.2 (a)** The Biomedical Engineer Class 2 is capable of carrying out responsible and varied professional engineering work, and makes independent studies, analyses, interpretations and conclusions.

**14.9.2 (b)** The Biomedical Engineer Class 2/1 is a biomedical engineer who is appointed and who either

**14.9.2 (b) (i)** is in charge of biomedical engineering staff, but not other professional engineers as a regular or continuous responsibility; or

**14.9.2 (b) (ii)** performs without engineering supervision normal professional biomedical engineering tasks and accepts technical responsibility for such work; or

**14.9.2 (b) (iii)** under professional engineering supervision undertakes more novel, more complex and/or critical biomedical engineering tasks.

**14.9.2 (c)** The Biomedical Engineer Class 2/2 is a biomedical engineer who is appointed or after not more than one year as a Class 2/1 Biomedical Engineer has been assessed as competent at that level and who has

**14.9.2 (c) (i)** assisted other biomedical engineering staff with the solution of technical problems and/or

**14.9.2 (c) (ii)** demonstrated skill in the supervision of biomedical engineering staff and/or

**14.9.2 (c) (iii)** demonstrated the ability to provide clinical staff with technical assistance relating to the safety, application, evaluation and/or selection of medical equipment.

**14.9.2 (d)** The Biomedical Engineer Class 2/3 is a biomedical engineer who is appointed or after not more than one year as a Class 2/2 Biomedical Engineer has been assessed as competent at that level and who has

**14.9.2 (d) (i)** demonstrated the knowledge and ability to prepare written specifications for medical equipment and/or

**14.9.2 (d) (ii)** demonstrated the knowledge and skill required to develop biomedical technology.

**14.9.2 (e)** The Biomedical Engineer Class 2/4 is a biomedical engineer who is appointed or after not more than one year as a Class 2/3 Biomedical Engineer has been assessed as competent at that level and who has

**14.9.2 (e) (i)** demonstrated the knowledge and ability to process medical product recalls, hazard alerts and incident investigation and/or

**14.9.2 (e) (ii)** demonstrated a good understanding of the international standards and regulatory requirements relating to medical technology and /or

**14.9.2 (e) (iii)** presented original research or biomedical technology design or development to a relevant professional group.

### **1. Biomedical Engineer Class 3**

**14.9.3 (a)** The Biomedical Engineer Class 3 is expected to possess mature engineering knowledge and judgement in Biomedical Engineering practice, to continue to develop expertise with advances in the relevant body of engineering knowledge, and, to seek and utilize other specialist advice when required. Such work normally is accepted as technically accurate and feasible.

**14.9.3 (b)** The Biomedical Engineer Class 3/1 is biomedical engineer who is appointed or reclassified from a lower level and who

**14.9.3 (b) (i)** is in charge of graduate Biomedical Engineering staff, or

**14.9.3 (b) (ii)** has had the status of Experienced Engineer, as defined, for at least four years and is engaged upon Biomedical Engineering work of a research or development nature; or

**14.9.3 (b) (iii)** works under broad policy control and direction on professional Biomedical Engineering work of a novel, complex and/or critical nature; or

**14.9.3 (b) (iv)** is responsible for the organisation and supervision of the Biomedical Engineering work of a Department where considerations such as size, complexity of the work, or the scope of managerial responsibility do not justify a position of engineer class 4.

**14.9.3 (c)** The Biomedical Engineer Class 3/2 is a biomedical engineer who is appointed or after not more than one year as a Class 3/1 Biomedical Engineer has been assessed as competent at that level and who has

**14.9.3 (c) (i)** demonstrated the ability to successfully manage material and financial resources allocated to a Biomedical Engineering department and/or

**14.9.3 (c) (ii)** developed policies and procedures for the successful operation of a Biomedical Engineering department and/or

**14.9.3 (c) (iii)** demonstrated the application of knowledge and skill to the development of specialist biomedical technology.

**14.9.3 (d)** The Biomedical Engineer Class 3/3 is a biomedical engineer who is appointed or after not more than one year as a Class 3/2 Biomedical Engineer has been assessed as competent at that level and who has

**14.9.3 (d) (i)** demonstrated the skills required for the successful management of the staff of a Biomedical Engineering department and/or

**14.9.3 (d) (ii)** developed or arranged for the development of training programs for other Biomedical Engineering or hospital professionals and/or

**14.9.3 (d) (iii)** demonstrated initiative in developing and/or managing specialist biomedical technology.

**14.9.3 (e)** The Biomedical Engineer Class 3/4 is a biomedical engineer who is appointed or after not more than one year as a Class 3/3 Biomedical Engineer has been assessed as competent at that level and who has

**14.9.3 (e) (i)** provided the organisation with a medical equipment management service that is in accordance with best Biomedical Engineering practice and/or

**14.9.3 (e) (ii)** demonstrated the ability to provide clinical staff with engineering consultation relating to the safety, application, specification, evaluation and selection of medical equipment or systems and/or

**14.9.3 (e) (iii)** demonstrated the experience, knowledge and skill required for the development and/or management of specialist biomedical technology.

#### **14.9.4 Biomedical Engineer Class 4**

**14.9.4 (a)** The Biomedical Engineer Class 4 works under broad policy control and direction and undertakes professional engineering work requiring either sustained managerial functions or in-depth engineering knowledge and competence, exercising experienced independent judgement and originality.

**14.9.4 (b)** The Biomedical Engineer Class 4/1 is a biomedical engineer who is appointed or reclassified from a lower level and who either

**14.9.4 (b) (i)** is responsible for the organisation and supervision of biomedical engineering work of a Department; or

**14.9.4 (b) (ii)** is a specialist Biomedical Engineer and who undertakes sustained specialist Biomedical Engineering functions beyond that of Biomedical Engineer Class 3.

**14.9.4 (c)** The Biomedical Engineer Class 4/2 is a biomedical engineer who is appointed or after not more than two years as a Class 4/1 Biomedical Engineer has been assessed as competent at that level and who

**14.9.4 (c) (i)** has been assessed as a competent manager of the personnel resources of a Biomedical Engineering department and/or

**14.9.4 (c) (ii)** assisted in the development of medical technology related policies and procedures for the organisation and/or

**14.9.4 (c) (iii)** has demonstrated specialist expertise and experience in the development and/or management of specialist biomedical technology.

**14.9.4 (d)** The Biomedical Engineers Class 4/3 is a biomedical engineer who is appointed or after not more than two years as a Class 4/2 Biomedical Engineer has been assessed as competent at that level and who has

**14.9.4 (d) (i)** demonstrated good management practices and/or

**14.9.4 (d) (ii)** provided a medical equipment management service that is in accordance with best Biomedical Engineering practice and/or

**14.9.4 (d) (iii)** provided clinical staff with a high level of engineering consultation relating to the safety, application, specification, evaluation and selection of medical equipment or systems and/or

**14.9.4 (d) (iv)** developed and/or managed specialist biomedical technology and who has presented original research or biomedical technology design or development information to a relevant professional group.

## **15. PAYMENT OF SALARY**

**15.1** Subject to any individual arrangements between an employer and a Biomedical Engineer salaries shall be paid no later than a Thursday following the end of the pay period.

**15.2** On or prior to the day the employer shall state to each Biomedical Engineer in writing the amount of wages to which he/she is entitled, the amount of deductions therefrom, and the net amount being paid to him/her.

## **16. HIGHER DUTIES ALLOWANCE**

Where a Biomedical Engineer is absent from work for any cause and a Biomedical Engineer in a lower class is appointed to assume all the duties and responsibilities of

the Biomedical Engineer who is absent for more than five consecutive working days, such Biomedical Engineer shall be entitled to be paid for the period for which he/she assumed such duties at not less than the minimum rate prescribed for the classification applying to the Biomedical Engineer so relieved.

## **17. MEAL ALLOWANCE**

[17 varied by PR951937 ppc 14Sep04]

An employee shall either be supplied with a meal or be paid an allowance of \$9.50.

**17.1** When overtime in excess of one hour is worked after the usual time of ceasing work for the day.

**17.2** When recalled to duty outside of usual working hours for a period in excess of two hours and when the time of such recall coincides with or over-runs normal hospital meal time.

## **18. TRAVELLING ALLOWANCE**

**18.1** A Biomedical Engineer who is recalled to work outside the normal working hours and who uses his/her vehicle for transport to a place of work and return shall receive an allowance corresponding with the kilometre rates as determined and updated from time to time by the Australian Taxation Office and published with a minimum payment of 60 cents for each occasion of such use. Such an allowance shall be incorporated into and form part of this award. Any Biomedical Engineer who is recalled who does not use his/her vehicle shall be provided, at the expense of the employer, with a hire car or taxi, for the inward and return journeys.

**18.2** Should a Biomedical Engineer be required to use his/her vehicle during normal working hours on institution business, the engineer shall receive such allowance per kilometre as is granted in 18.1.

**18.3** A Biomedical Engineer on rostered shifts who is required to use public transport to journey to or from work between 9.00 p.m. and 7.00 a.m., shall be provided with transport (taxi or hire car) if no public transport is available for the inward and/or outward journey. The institution shall be responsible for the payment of such transport.

## **19. TELEPHONE ALLOWANCE**

Where an employer requires a Biomedical Engineer to install and/or maintain a telephone for the purposes of being on call, the employer shall refund the installation costs and the subsequent six monthly rental charges on production of receipted accounts.

## **PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK**

### **20. HOURS OF WORK**

**20.1** The hours for an ordinary week's work shall be 38, or be an average of 38 per week, in a two or four week period, or by mutual agreement, a five week period in the case of an employee working ten hour shifts, and shall be worked.

**20.1.1** in a week of five days in shifts of not more than seven hours and 36 minutes each; or

**20.1.2** by mutual agreement in a week of four days in shifts of not more than ten hours each; or

**20.1.3** by mutual agreement, provided that the length of any ordinary shift shall not exceed ten hours.

Subject to the roster provisions 80 hours may be worked in any two consecutive weeks, but not more than 50 ordinary hours may be worked in any of such weeks.

**20.2** With the exception of time occupied in having meals, the work of each shift shall be continuous.

## **21. MEAL INTERVAL**

A meal interval of not less than 30 minutes and not more than 60 minutes shall be allowed during each shift in excess of five hours and shall not be counted as time worked.

## **22. REST PERIOD**

At a time suitable to the employer, two rest periods each of ten minutes shall be given to each Biomedical Engineer during each ordinary hours period of duty and shall be counted as time worked.

## **23. ROSTERS**

A roster setting out a Biomedical Engineer's normal working hours, times of commencing duty, time off duty, times of ending duty and times "on call" shall be kept posted or affixed in some conspicuous and readily accessible place. Except in the case of sickness or other emergency, the roster shall not be altered without at least three days' notice being given to the Biomedical Engineer affected by such alteration.

## **24. OVERTIME**

**24.1** An institution may require a Biomedical Engineer to work reasonable overtime and such Biomedical Engineer shall work overtime in accordance with such requirement.

**24.2** Only authorised overtime shall be paid for and the following rates of overtime shall apply:

**24.2.1** in excess of the ordinary hours, work on any one day - time and a half for the first two hours and double time thereafter;

**24.2.2** outside a spread of twelve hours from the commencement of the last rostered period of ordinary duty - double time;

**24.2.3** except as provided for in 24.2.4 overtime shall be paid for and a Biomedical Engineer shall not be allowed to take time off in lieu thereof;

**24.2.4** a Biomedical Engineer - Class 3 and 4, may elect in lieu of payment of overtime, to take time off equivalent to the time worked at a time mutually agreed between the employer and the Biomedical Engineer.

## **25. ON CALL**

**25.1** An “on-call” allowance of 2.5% of the weekly rate for Biomedical Engineer - Class 1 2nd year shall be paid to a Biomedical Engineer in respect to any 24 hour period or part thereof during which the engineer is on call during the period commencing from the time of finishing ordinary duty on Monday and the termination of ordinary duty on Friday.

**25.2** The allowance shall be 5% in respect to any other 24 hour period or part thereof or any public holiday or part thereof.

## **26. RE CALL**

**26.1** In the event of a Biomedical Engineer being recalled to duty for any period during an off-duty period such engineer shall be paid from the time of receiving the recall until the time of finishing such recall duty with a minimum of two hours’ payment for each such recall, at the following rates:

**26.1.1** Within a spread of twelve hours from the commencement of the last previous period of ordinary duty - time and a half.

**26.1.2** Outside a spread of twelve hours from the commencement of the last previous period of ordinary duty - double time.

**26.2** Provided that if the Biomedical Engineer is recalled and does not have an uninterrupted break of six hours between midnight and the commencement of the next period of ordinary duty, he/she shall be entitled to time off of six hours from the time of finishing the last recall and the time of commencing his/her next period of ordinary duty without loss of pay.

## **27. SHIFT ALLOWANCE**

**27.1** In addition to any rates prescribed elsewhere in this award a Biomedical Engineer whose rostered hours of ordinary duty finish between 6.00 p.m. and 8.00 a.m. or commence between 6.00 p.m. and 6.30 a.m. shall be paid an amount equal to 2.5% of the rate applicable to first year of experience, Biomedical Engineer - Class 1 per rostered period of duty.

**27.2** Provided that in the case of a Biomedical Engineer working on any rostered hours of ordinary duty finishing on the day after commencing duty or commencing after midnight and before 5.00 a.m. he/she shall be paid for any such period of duty an amount equal to 4% of the rate applicable to the first year of experience Biomedical

Engineer - Class 1 and provided further that in the case of a Biomedical Engineer permanently working on any such rostered hours of ordinary duty he/she shall be paid for any such period of duty an amount equal to 5% of the rate applicable to first year of experience Biomedical Engineer - Class I. **Permanently working** shall mean working for any period in excess of four consecutive weeks.

**27.3** Provided further that in the case of a Biomedical Engineer who changes from working on one shift to working on another shift the time of commencement of which differs by four hours or more from that of the first he/she shall be paid an amount equal to 4% of the rate applicable to first year of experience Biomedical Engineer - Class I on the occasion of each such change in addition to any amount payable under the preceding provisions of this clause.

**27.4** The allowances payable pursuant to this clause shall be calculated to the nearest five cents, portions of a cent being disregarded.

## **28. SPECIAL RATES (SATURDAY AND SUNDAY)**

**28.1** Where Saturday or Sunday duties are required to be carried out in excess of the ordinary week's work, such duties shall be paid for at the rate of double time.

**28.2** All rostered time of ordinary duty performed on a Saturday or on a Sunday shall be paid for at the rate of time and a half.

**28.3** If the Saturday or Sunday duty involves duty in excess of the prescribed rostered hours, the excess period shall be paid for at the rate of double time for Saturday and Sunday.

## **PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS**

### **29. ANNUAL LEAVE**

#### **29.1 Period of leave**

A Biomedical Engineer who has been in the service of the same employer for a period of not less than twelve months shall be granted 152 hours leave on ordinary pay.

#### **29.2 Annual leave - exclusive of public holidays**

The annual leave prescribed in 29.1 shall be exclusive of any of the holidays prescribed by clause 35 - Public holidays, and if any such holiday falls within a Biomedical Engineers period of annual leave and is observed on a day which in the case of that Biomedical Engineer would have been an ordinary working day there shall be added to the period of annual leave time equivalent to the ordinary time which the Biomedical Engineer would have worked if such day had not been a holiday.

#### **29.3 Leave to be taken**

The annual leave provided for by this clause shall be allowed and shall be taken and except as provided by 29.7 payment shall not be made or accepted in lieu of annual leave.

#### **29.4 Time of taking leave**

Annual leave shall be given at a time determined by mutual agreement between the employer and the Biomedical Engineer within a period not exceeding six months from the date when the right to annual leave accrued and after not less than two weeks' notice to the Biomedical Engineer.

#### **29.5 Leave allowed before due date**

An employer may allow annual leave to a Biomedical Engineer before the right thereto has accrued due, but where leave is taken in such case a further period of annual leave shall not commence to accrue until after the expiration of the twelve months in respect of which annual leave had been taken before it accrued. Where leave has been granted to a Biomedical Engineer pursuant to this subclause before the right thereto has accrued due and the Biomedical Engineer subsequently leaves or is discharged from the service of the employer before completing the twelve months continuous service in respect of which the leave was granted and the sum paid by the employer to the Biomedical Engineer as ordinary pay for the annual leave or part so taken in advance exceeds the sum which the employer is required to pay under 29.7 the employer shall not be liable to make any payment to the Biomedical Engineer under 29.7 and shall be entitled to deduct the amount of such excess from remuneration payable to the Biomedical Engineer upon termination of the employment.

#### **29.6 Payment for period of annual leave**

Each Biomedical Engineer before going on leave shall be paid for the period of such leave provided the period is not less than one week.

#### **29.7 Proportionate leave**

**29.7.1** Where the employment of a Biomedical Engineer is terminated at the end of the period of employment of less than twelve months, the employer shall forthwith pay to the Biomedical Engineer, in addition to all other amounts due to him, an amount equal to 1/12th of his/her ordinary pay for that period.

**29.7.2** Where the employment of a Biomedical Engineer who has become entitled to one or more periods of annual leave provided by this award is terminated, the employer shall be deemed to have given all of such leave (except so much, if any, as has already been taken) to the Biomedical Engineer as from the date of the termination of the employment, and shall forthwith pay to the Biomedical Engineer, in addition to all other amounts due to the Biomedical Engineer, the Biomedical Engineers ordinary pay for the period of that leave.

**29.7.3** Paragraph 29.7.1 applies to and in respect of any annual leave (except so much, if any, as has already been taken) whether or not the Biomedical Engineer concerned continues to be entitled (apart from this clause) to take it, and so applies as if the Biomedical Engineer's rights to take it had accrued immediately before the date of the termination of the Biomedical Engineer's employment.

**29.7.4** Nothing in 29.7.2 or 29.7.3 affects the obligation of an employer to give or a Biomedical Engineer to take annual leave in accordance with this award.

## **29.8 Weekend worker**

### **29.8.1 Additional leave (full-time)**

**29.8.1(a)** For all purposes of this clause in addition to the leave herein prescribed a full-time Biomedical Engineer as defined required to work and who worked ordinary hours as prescribed under 20.1 on week days and on weekends throughout the qualifying twelve-month period of service shall be allowed 38 working hours leave.

**29.8.1(b)** A full-time Biomedical Engineer with twelve months continuous service so engaged for part of the qualifying twelve-month period shall have the leave prescribed in 29.1 increased by 3 hours 48 minutes for each month during which engaged as aforesaid.

**29.8.1(c)** A full-time Biomedical Engineer so engaged for part of the qualifying twelve-month period whose employment is terminated shall receive in addition to other amounts due in lieu of annual leave a pro rata payment based on the amount payable under this subclause for the full qualifying twelve month period and the period so engaged.

**29.8.1(d)** This subclause shall not apply to any weekend on which the Biomedical Engineer works four hours or less.

### **29.8.2 Part-time Biomedical Engineers only - Sunday worker**

**29.8.2(a)** For the purposes of this award **Sunday worker** shall mean any Biomedical Engineer who in any one year of employment works portion of his/her ordinary hours on a Sunday.

**29.8.2(b)** A Sunday worker who works on ten or more Sundays during the yearly period of which his/her leave accrues shall be allowed 38 working hours' leave additional to the leave herein before prescribed. This subclause shall not apply to any Sunday on which the employee works four hours or less.

## **29.9 Sickness during annual leave**

**29.9.1** Where a Biomedical Engineer becomes sick whilst on annual leave for a period of not less than five days on which he/she would otherwise have worked, and immediately forwards to the employer a certificate of a legally qualified medical practitioner, then the number of days not less than five specified in the certificate shall be deducted from any sick leave entitlement standing to the Biomedical Engineer's credit, and shall be re-credited to his/her annual leave entitlement.

**29.9.2** The amount of annual leave loading received for any period of annual leave converted to sick leave in accordance with 29.9.1 shall be deducted from any future entitlement to annual leave loading, or if the Biomedical Engineer resigns, from termination pay.

## **29.10 Annual leave loading**

**29.10.1** A loading of 17.5% shall be paid at the time leave is taken provided always that such loading shall in no case be payable when the Biomedical Engineer is in receipt of a weekly wage in excess of the rate for a Biomedical Engineer - Class 3 - 2nd year; and further provided that where the wage of a Biomedical Engineer is in excess of the rate for a Biomedical Engineer - Class 3 - 2nd year per week the 17.5% loading shall be replaced by and payable by an amount equal to 17.5% of the rate for a Biomedical Engineer - Class 3 - 2nd year.

**29.10.2** The loading calculated according to 29.10.1 shall be payable on proportionate leave paid on termination and calculated according to 29.7.1.

## **30. PERSONAL LEAVE**

### **30.1 Amount of paid personal leave**

**30.1.1** Paid personal leave will be available to a Biomedical Engineer when they are absent due to:

- Personal illness or injury (sick leave); or
- For the purposes of caring for an immediate family member or household member who is sick and requires the Biomedical Engineers care and support (carer's leave); or
- Bereavement on the death of, or the serious illness of an immediate family member or household member (compassionate leave).

**30.1.2** A Biomedical Engineer is entitled to the following amount of paid personal leave:

- during the first year of service, 7.6 hours for each month of service up to 91.2 hours of sick leave and 30.4 hours of compassionate leave;
- during the second, third and fourth years of service up to 106.4 hours of sick leave in each year and 30.4 hours of compassionate leave;
- 159.6 hours of sick leave and 30.4 hours of compassionate leave in the fifth and subsequent years of service.

**30.1.2** In any year unused personal leave accrues at the rate of the lesser of:

**30.1.2(a)** the current year's sick leave entitlements less the amount of sick leave and carer's leave taken during the year; or

**30.1.2(b)** the balance of that year's unused personal leave.

### **30.2 Immediate family or household**

**30.2.1** The entitlement to use personal leave for the purposes of compassionate leave or carer's leave is subject to:

**30.2.1(a)** The person being either:

**30.2.1(a)(i)** a member of the Biomedical Engineer's immediate family; or

**30.2.1(a)(ii)** a member of the Biomedical Engineer's household.

**30.3** The term **immediate family** includes:

**30.3.1** Spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the Biomedical Engineer. A de facto spouse means a person of the opposite sex to the Biomedical Engineer who lives with the Biomedical Engineer as his or her husband or wife on a bona fide domestic basis; and

**30.3.2** Child or an adult child (including an adopted child, a step-child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the Biomedical Engineer or spouse of the employee.

### **30.4 Sick leave**

**30.4.1** In the event of a Biomedical Engineer becoming sick and unfit for duty and such sickness is not due to misconduct, he/she shall be entitled to sick leave as follows:

**30.4.1(a)** 7.6 hours, up to 91.2 hours of the current year's personal leave entitlement in the first year of service;

**30.4.1(b)** up to 106.4 hours, in each year in the second, third and fourth years of service;

**30.4.1(c)** up to 159.6 hours, in the fifth and following years of service.

Provided that such illness is certified by a legally qualified medical practitioner (or a statutory declaration signed by the Biomedical Engineer shall be deemed to be satisfactory evidence of sickness) and evidence thereof, if required by the hospital is provided to the hospital within three days of such a request.

**30.4.2** A Biomedical Engineer may be absent through sickness for one day, without furnishing evidence of such sickness, on not more than three occasions in any one year of service, provided that where a Biomedical Engineer is rostered to work on a public holiday and fails to do so through sickness, he/she shall not be entitled to sick leave under 30.4.1 unless he/she furnishes evidence of such sickness within three days of his return to work.

**30.4.3** Notwithstanding anything contained in 30.4.1 and 30.4.4, if the period of sick leave therein contained is not taken in any year, such portion as is not taken shall be cumulative from year to year.

**30.4.4** Where a Biomedical Engineer transfers to another hospital under this award, accumulated sick leave to his/her credit up to a maximum of 2128 hours shall be credited to him/her in his/her new employment as accumulated sick leave. The hospital may require a Biomedical Engineer to produce a written statement from his/her previous employer specifying the amount of accumulated sick leave credit at the time of leaving that previous employment.

**30.4.5** No employer shall terminate the service of any Biomedical Engineer during the currency of any period of sick leave with the object of avoiding its obligations under this clause.

### **30.5 Compassionate leave**

**30.5.1** A Biomedical Engineer is entitled to use up to the number of hours worked by a Biomedical Engineer in two ordinary working days as compassionate leave, on any occasion on which a member of the employee's immediate family or household dies or is seriously ill, provided that the aggregate of all leave taken in any year pursuant to this clause shall not exceed the number of hours worked by the Biomedical Engineer in four ordinary days work.

**30.5.2** Proof of such death, or in the case of serious illness, dependence for care of such relation as referred above shall be furnished by the Biomedical Engineer to the satisfaction of the employer.

**30.5.3** Provided further that this clause shall have no effect while the period of entitlement to leave coincides with any other period of entitlement to leave.

### **30.6 Carer's leave**

**30.6.1** A Biomedical Engineer with responsibilities in relation to either members of their immediate family or household who need their care and support is entitled to use up to five days per annum of their personal leave entitlement to provide care and support for such persons when they are ill. Leave may be taken for part of a single day.

**30.6.2** The entitlement to use personal leave is subject to the Biomedical Engineer being responsible for the care of the person concerned.

**30.6.3** The Biomedical Engineer must, if required by the employer, establish by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another.

**30.5.4** In normal circumstances a Biomedical Engineer must not take carer's leave under this clause where another person has taken leave to care for the same person.

**30.6.5** The Biomedical Engineer must, where practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and their relationship to the Biomedical Engineer, the reasons for taking such

leave and the estimated length of absence. If it is not practicable for the Biomedical Engineer to give prior notice of absence, the Biomedical Engineer must notify the employer by telephone of such absence at the first opportunity on the day of absence.

**30.6.6** A Biomedical Engineer may elect with the consent of the employer, to take unpaid leave for the purpose of providing care to a family or household member who is ill.

## **31. LONG SERVICE LEAVE**

### **31.1 Entitlements**

**31.1.1** A Biomedical Engineer shall be entitled to long service leave with pay, in respect of continuous service with one and the same employer, or service with Institutions or Statutory Bodies, in accordance with the provisions of this clause.

**31.1.2** Subject to 31.1.3, the amount of such entitlement shall be:

**31.1.2(a)** On the completion by the Biomedical Engineer of fifteen years continuous service - six months long service leave and thereafter an additional two months long service leave on the completion of each additional five years service.

**31.1.2(b)** In addition, in the case of a Biomedical Engineer who has completed more than fifteen years service and whose employment is terminated otherwise than by the death of the Biomedical Engineer an amount of long service leave equal to 1/30th of the period of his/her service since the last accrual of entitlement to long service leave under 31.1.2(a).

**31.1.2(c)** In the case of a Biomedical Engineer who has completed at least ten years service, but less than fifteen years service and whose employment is terminated for any cause other than serious and wilful misconduct, such amount of long service leave as equals 1/30th of the period of service.

**31.1.3** For the purpose of determining the entitlement of any Biomedical Engineer under any provision of this clause in respect of a period of employment beginning before 31st December, 1964, and ending after the said date, so much of that service as was completed before said date shall be reduced by one quarter.

### **31.2 Service entitling to leave**

**31.2.1** Subject to this subclause the service of a Biomedical Engineer of an Institution or Statutory Body shall include service for which long service leave, or payment in lieu, has not been received in one or more Institutions including Statutory Bodies directly associated with such Institution or Institutions for the periods required by 31.1.

**31.2.2** Subject to this subclause service shall also include all periods during which a Biomedical Engineer was serving in Her Majesty's Forces or was made available by the employer for National Duty.

**31.2.3** When calculating the aggregate of service entitling to leave any period of employment with any one of the said Institutions or Statutory Bodies of less than six months duration shall be disregarded.

**31.2.4** Where the business is transmitted from one employer (the transmitter) to another employer (the transmitted) a Biomedical Engineer who worked with the transmitter and who continues in the service of the transmitted shall be entitled to count his/her service with the transmitter as service with the transmitted for the purposes of this clause.

**31.2.5** For the purposes of this clause service shall be deemed to be continuous notwithstanding:

**31.2.5(a)** the taking of any annual leave or long service leave;

**31.2.5(b)** any absence from work of not more than fourteen days in any year on account of injury or illness or if applicable such longer period as provided in clause 30 – Personal leave;

**31.2.5(c)** any interruption or ending of the employment by the employer if such interruption or ending is made with the intention of avoiding obligations in respect of long service leave or annual leave;

**31.2.5(d)** any absence on account of injury arising out of or in the course of the employment of the Biomedical Engineer for a period during which payment is made under clause 36 - Accident pay;

**31.2.5(e)** any leave of absence of the Biomedical Engineer where the absence is authorised in advance in writing by the employer to be counted as service;

**31.2.5(f)** an interruption arising directly or indirectly from an industrial dispute;

**31.2.5(g)** any period of absence from employment between the engagement with one of the said Institutions or Statutory Bodies and another provided it is less than the Biomedical Engineers allowable period of absence from employment. A Biomedical Engineers allowable period of absence from employment shall be five weeks in addition to the total period of paid annual and/or sick leave which the Biomedical Engineer actually receives on termination or for which he/she is paid in lieu;

**31.2.5(h)** the dismissal of a Biomedical Engineer if the Biomedical Engineer is re-employed within a period not exceeding two months from the date of such dismissal;

**31.2.5(i)** any absence from work of a female Biomedical Engineer for a period not exceeding twelve months in respect of any pregnancy;

**31.2.5(j)** any other absence of a Biomedical Engineer by leave of the employer, or on account of injury arising out of or in the course of his/her employment not covered by 31.2.5(d).

**31.2.6** In calculating the period of continuous service of any Biomedical Engineer; any interruption or absence of a kind mentioned in 31.2.5(a) to 31.2.5(e) of the last preceding subclause shall be counted as part of the period of his/her service, but any

interruption or absence of a kind mentioned in 31.2.5(f) to 31.2.5(j) of the said subclause shall not be counted as part of the period of service unless it is authorised in writing by the employer.

**31.2.7** The onus of providing a sufficient aggregate of service to support a claim for any long service leave entitlement shall at all times rest upon the Biomedical Engineer concerned. A certificate in the following form shall constitute acceptable proof.

#### Certificate of Service

.....  
(Name of Institution) (Date)

This is to certify that.....  
(Name of Biomedical Engineer)

has been employed by this Institution/Society/Board, for a period  
of.....(Years/Months/etc.)

from.....to.....(Dates).

Specify hereunder full details of paid or unpaid leave or absences including periods represented by payment made in lieu of leave on termination:-

.....  
.....

Specify hereunder full details of long service leave granted during service or on termination:-

.....  
.....

Signed .....

(Stamp of Institution) .....

**31.2.8** Every employer shall keep or cause to be kept a long service leave record for each Biomedical Engineer containing particulars of service, leave taken and payments made.

#### **31.3 Payment in lieu of long service leave on the death of a Biomedical Engineer**

Where a Biomedical Engineer who has completed at least ten years service dies while still in the employ of the employer, the employer shall pay to such Biomedical Engineers personal representative a sum equal to the pay of such Biomedical Engineer for 1/30th of the period of the Biomedical Engineers continuous service in respect of which leave has not been allowed or payment made immediately prior to the death of the Biomedical Engineer.

#### **31.4 Payment for period of leave**

**31.4.1** Payment to a Biomedical Engineer in respect of long service leave shall be made in one of the following ways:

**31.4.1(a)** in full in advance when the Biomedical Engineer commenced his leave; or

**31.4.1(b)** at the same time as payment would have been made if the Biomedical Engineer has remained on duty; in which case payment shall, if the Biomedical Engineer in writing so requires, be made by cheque posted to a specified address; or

**31.4.1(c)** in any other way agreed between the employer and the Biomedical Engineer.

**31.4.2** Where the employment of a Biomedical Engineer is for any reason terminated before he/she takes any long service leave to which he/she is entitled or where any long service leave accrues to a Biomedical Engineer pursuant to 31.1.2(b) the Biomedical Engineer shall subject to the provisions of 31.4.3 be entitled to pay in respect of such leave as at the date of termination of employment.

**31.4.3(a)** Where any long service leave accrues to a Biomedical Engineer pursuant to 31.1.2(c) the Biomedical Engineer shall be entitled to pay in respect of such leave as at the date of termination of employment.

**31.4.3(b)** Provided in the case of a Biomedical Engineer of an Institution or Statutory Body who accrues entitlement pursuant to 31.1.2(c) and who intends to be re-employed by another Institution or Statutory Body.

**31.4.3(b)(i)** Such a Biomedical Engineer may in writing request payment in respect of such leave to be deferred until after the expiry of the Biomedical Engineer's allowable period of absence from employment provided in 31.2.5(i).

**31.4.3(b)(ii)** Except where the Biomedical Engineer gives the employer notice in writing that the Biomedical Engineer has been employed by another Institution or Statutory Body the employer shall make payment in respect of such leave at the expiry of the Biomedical Engineer's allowable period of absence from employment.

**31.4.3(b)(iii)** Where the Biomedical Engineer gives the employer notice in writing that the Biomedical Engineer has been employed by another Institution or Statutory Body the employer is no longer required to make payment to the Biomedical Engineer in respect of such leave.

**31.4.4** Where an increase occurs in the ordinary time rate of pay during any period of long service leave taken by the Biomedical Engineer, the Biomedical Engineer shall be entitled to receive payment of the amount of any increase in pay at the completion of such leave.

## **31.5 Taking of leave**

**31.5.1** Where a Biomedical Engineer becomes entitled to long service leave such leave shall be granted by the employer within six months from the date of the entitlement, but the taking of such leave may be postponed to such date as is mutually agreed, or in default of agreement as is determined by the Australian Industrial

Relations Commission: provided that no such determination shall require such leave to commence before the expiry of six months from the date of such determination.

**31.5.2** Any long service leave shall be inclusive of any public holiday occurring during the period when the leave is taken.

**31.5.3** If the employer and a Biomedical Engineer so agree:

**31.5.3(a)** the first six months long service leave to which a Biomedical Engineer becomes entitled under this determination may be taken in two or three separate periods; and

**31.5.3(b)** any subsequent period of long service leave to which the Biomedical Engineer becomes entitled may be taken in two separate periods,

but save as aforesaid long service shall be taken in one period.

**31.5.4** An employer may by agreement with a Biomedical Engineer grant long service leave to the Biomedical Engineer before the entitlement to that leave has accrued, provided that such leave shall not be granted before the Biomedical Engineer has completed ten years service.

**31.5.5** Where the employment of a Biomedical Engineer who has taken long service leave in advance is subsequently terminated for serious and wilful misconduct before entitlement to long service leave has accrued, the employer may, from whatever remuneration is payable to the worker upon termination, deduct and withhold an amount equivalent to the amount paid to the Biomedical Engineer in respect of the leave in advance.

## **31.6 Definitions**

For the purpose of this clause, the following definitions apply:

**31.6.1 Pay** means remuneration for a Biomedical Engineer's normal weekly hours of work calculated at the Biomedical Engineer's ordinary time rate of pay provided in clause 14 - Salaries, at the time the leave is taken or (if he/she dies before the completion of leave so taken) as at the time of his/her death; and shall include the amount of any increase to the Biomedical Engineer's ordinary time rate of pay which occurred during the period of leave as from the date such increase operates.

**31.6.2 Month** shall mean a calendar month.

**31.6.3 Institution** shall mean any hospital or benevolent home, community health centre, Society, or Association registered and subsidised pursuant to the *Health Services Act*, the Cancer Institute constituted under the *Cancer Act* or the Fairfield Hospital Board or the Bush Nursing Association (Inc.).

**31.6.4 Statutory body** means the former Hospitals and Charities Commission (Vic) and its successors, the Department of Human Services and its predecessors, and/or the Nurses Board of Victoria.

**31.6.5 Transmission** includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and **transmitted** has a corresponding interpretation.

## **32. PARENTAL LEAVE**

Subject to the terms of this clause Biomedical Engineers are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child.

The provisions of this clause apply to full-time, part-time and eligible casual Biomedical Engineers, but do not apply to other casual Biomedical Engineers.

An **eligible casual Biomedical Engineer** means a casual Biomedical Engineer:

- (a) employed by an employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least 12 months; and
- (b) who has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.

For the purposes of this clause, continuous service is work for an employer on a regular and systematic basis (including any period of authorised leave or absence).

An employer must not fail to re-engage a casual Biomedical Engineer because:

- (a) the Biomedical Engineer or Biomedical Engineer's spouse is pregnant; or
- (b) the Biomedical Engineer is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual Biomedical Engineers are not affected, other than in accordance with this clause.

### **32.1 Definitions**

**32.1.1** For the purposes of this clause, **child** means a child of the Biomedical Engineer under the age of one year except for adoption of a child where child means a person under the age of five years who is placed with the Biomedical Engineer for the purposes of adoption, other than a child or step child of the Biomedical Engineer or the spouse of the Biomedical Engineer or a child who has lived continuously with the Biomedical Engineer for a period of six months.

**32.1.2** Subject to 32.1.3, in this clause spouse includes a de facto or former spouse.

**32.1.3** In relation to 32.5 spouse includes a de facto spouse but does not include a former spouse.

### **32.2 Basic entitlement**

**32.2.1** After twelve months of continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or

adoption of their child. For females, maternity leave may be taken and for males, paternity leave may be taken. Adoption leave may be taken in the case of adoption.

**32.2.2** Subject to 32.3.6, parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:

**32.2.2(a)** for maternity and paternity leave, an unbroken period of one week at the time of the birth of the child;

**32.2.2(b)** for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.

### **32.3 Maternity leave**

**32.3.1** A Biomedical Engineer must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:

**32.3.1(a)** the expected date of confinement (included in a certificate from a registered medical practitioner stating that the Biomedical Engineer is pregnant) - at least ten weeks;

**32.3.1(b)** of the date on which the Biomedical Engineer proposes to commence maternity leave and the period of leave to be taken - at least four weeks.

**32.3.2** When the Biomedical Engineer gives notice under 32.3.1(a) the Biomedical Engineer must also provide a statutory declaration stating particulars of any period of paternity leave sought or to be taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.

**32.3.3** A Biomedical Engineer will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date.

**32.3.4** Subject to 32.2.1, and unless agreed otherwise between the employer and Biomedical Engineer, a Biomedical Engineer may commence parental leave at any time within six weeks immediately prior to the expected date of birth.

**32.3.5** Where a Biomedical Engineer continues to work within the six week period immediately prior to the expected date of birth, or where the Biomedical Engineer elects to return to work within six weeks after the birth of the child, an employer may require the Biomedical Engineer to provide a medical certificate stating that she is fit to work on her normal duties.

**32.3.6** Where the pregnancy of a Biomedical Engineer terminates after 28 weeks and the employee has not commenced maternity leave, the Biomedical Engineer may take unpaid special maternity leave of such period as a registered medical practitioner certifies as necessary, except that where a Biomedical Engineer is suffering from an illness not related to the direct consequences of the confinement, a Biomedical Engineer may be entitled to paid sick leave in lieu thereof, or in addition to, special maternity leave.

**32.3.7** Where leave is granted under 32.3.4, during the period of leave a Biomedical Engineer may return to work at any time, as agreed between the employer and the Biomedical Engineer provided that time does not exceed four weeks from the recommencement date desired by the Biomedical Engineer.

#### **32.4 Paternity leave**

**32.4.1** A Biomedical Engineer will provide to the employer at least eight weeks prior to each proposed period of paternity leave with:

**32.4.1(a)** a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place; and

**32.4.1(b)** written notification of the dates on which he proposes to start and finish the period of paternity leave; and

**32.4.1(c)** a statutory declaration stating;

**32.4.1(c)(i)** he will take that period of paternity leave to become the primary care giver of a child;

**32.4.1(c)(ii)** particulars of any period of maternity leave sought or taken by his spouse; and

**32.4.1(c)(iii)** that for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

**32.4.2** A Biomedical Engineer shall not be in breach of 32.4.1 if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child or other compelling circumstances. The Biomedical Engineer shall immediately notify the employer of any change to the information provided to the employer pursuant to 32.4.1.

#### **32.5 Adoption leave**

**32.5.1** The Biomedical Engineer will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. A Biomedical Engineer may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the Biomedical Engineer, the adoption of a child takes place earlier.

**32.5.2** Before commencing adoption leave, a Biomedical Engineer will provide the employer with a statutory declaration stating:

**32.5.2(a)** the Biomedical Engineer is seeking adoption leave to become the primary care giver of the child;

**32.5.2(b)** particulars of any period of adoption leave sought or taken by the Biomedical Engineer's spouse; and

**32.5.2(c)** that for the period of the adoption leave the Biomedical Engineer will not engage in any conduct inconsistent with their contract of employment.

**32.5.3** An employer may require a Biomedical Engineer to provide confirmation of the appropriate government authority of the placement.

**32.5.4** Where the placement of the child for adoption with a Biomedical Engineer does not proceed or continue, the Biomedical Engineer will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the Biomedical Engineer's return to work.

**32.5.5** A Biomedical Engineer will not be in breach of this clause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of a spouse, or other compelling circumstances.

**32.5.6** A Biomedical Engineer seeking to adopt a child is entitled to take unpaid leave for the purposes of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The Biomedical Engineer and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the Biomedical Engineer is entitled to take up to two days unpaid leave. Where paid leave is available to the Biomedical Engineer, the employer may require the Biomedical Engineer to take such leave instead.

### **32.6 Variation of period of parental leave**

Unless otherwise agreed between the employer and Biomedical Engineer, a Biomedical Engineer may apply to their employer to change the period of parental leave on one occasion. Any such change to be notified at least four weeks prior to the commencement of the changed arrangements.

### **32.7 Parental leave and other entitlements**

A Biomedical Engineer may in lieu of or in conjunction with parental leave, access other paid leave entitlements which they have accrued, such as annual leave or long service leave, subject to the total amount of leave not exceeding 52 weeks.

### **32.8 Transfer to a safe job**

**32.8.1** Where a Biomedical Engineer is pregnant and in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the Biomedical Engineer will make it inadvisable for the Biomedical Engineer to continue in her present work, the Biomedical Engineer will, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

**32.8.2** If the transfer to a safe job is not practicable, the Biomedical Engineer may elect, or the employer may require the Biomedical Engineer, to commence parental leave.

### **32.9 Returning to work after a period of parental leave**

**32.9.1** A Biomedical Engineer will notify of their intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.

**32.9.2** A Biomedical Engineer will be entitled to the position which they held immediately before proceeding on parental leave. In the case of a Biomedical Engineer transferred to a safe job pursuant to 32.8, the Biomedical Engineer will be entitled to return to the position they held immediately before such transfer.

**32.9.3** Where such position no longer exists but there are other positions available which the Biomedical Engineer is qualified for and is capable of performing, the Biomedical Engineer will be entitled to a position as nearly comparable in status and pay to that of their former position.

### **32.10 Replacement employees**

**32.10.1** A replacement Biomedical Engineer is a Biomedical Engineer specifically engaged or temporarily promoted or transferred, as a result of a Biomedical Engineer proceeding on paternal leave.

**32.10.2** A replacement Biomedical Engineer will be informed of the temporary nature of the employment and of the rights of the Biomedical Engineer who is being replaced.

## **33. EXAMINATION LEAVE**

**33.1** A Biomedical Engineer shall be granted leave with full wages in order to attend examinations necessary to obtain a qualification as specified in 14.6, provided that such examinations are held within the Commonwealth of Australia.

**33.2** The amount of such leave shall be sufficient to allow the Biomedical Engineer:

**33.2.1** to proceed to and from the place of examination; and

**33.2.2** in addition, allow three clear days prior to the oral examination and either three clear days or three single days prior to the written papers with a maximum of six days pre-examination study leave in any calendar year;

**33.2.3** any leave granted under the provision of this clause shall be in addition to the provisions of clause 29 - Annual leave.

## **34. JURY SERVICE**

**34.1** A Biomedical Engineer required to attend for jury service during his/her ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of his/her attendance for such jury service and the amount of salary he/she would have received in respect of the ordinary time he/she would have worked had he/she not been on jury service.

**34.2** A Biomedical Engineer shall notify his/her employer as soon as possible of the date upon which he/she is required to attend for jury service. Further the Biomedical Engineer shall give his/her employer proof of his/her attendance, the duration of such attendance and the amount received in respect of such jury service.

## **35. PUBLIC HOLIDAYS**

**35.1** A Biomedical Engineer shall be entitled to holidays on the following days:

**35.1.1** New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day; and

**35.1.2** The following days, as prescribed in the relevant States, Territories and localities: Australia Day, Anzac Day, Queen's Birthday and Eight Hours' Day or Labour Day; and

**35.1.3** Melbourne Cup Day or in lieu of Melbourne Cup Day, some other day as determined in a particular locality;

**35.1.4** When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December;

**35.1.5** When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December;

**35.1.6** When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof shall be observed on the next Monday.

**35.2** Where in a State, Territory or locality, public holidays are declared or prescribed on days other than those set out in 35.1, those days shall constitute additional holidays for the purpose of this award.

**35.3.1** An employer and his or her employees may agree to substitute another day for any prescribed in this clause. For this purpose, the consent of the majority of affected Biomedical Engineers shall constitute agreement.

**35.3.2** An agreement pursuant to 35.3.1 shall be recorded in writing and be available to every affected Biomedical Engineer.

**35.3.3** The union which is party to this award shall be informed of an agreement pursuant to 35.3.1 provided agreement is made with a union member.

**35.4** A Biomedical Engineer who works (excepting on recall) on any day specified in 35.1 shall:

**35.4.1** be paid for the time so worked with a minimum of four hours wages at the rate of time and a half in addition to the weekly wage prescribed herein; or

**35.4.2** be entitled to time off amounting to one and a half times the hours worked with a minimum of six hours time off without loss of pay; such time off shall be taken at a time mutually convenient to the hospital and the Biomedical Engineer within one month of the day on which the Biomedical Engineer worked - provided that where a Biomedical Engineer is entitled to a full working day off, such time off may be added to the Biomedical Engineers annual leave by mutual consent.

**35.5** A Biomedical Engineer who is recalled to duty and works on any day specified in 35.1 shall be paid from the time of receiving the recall until the time of finishing

such recall duty with a minimum of two hours' payment for each such recall at the rate of time and a half in addition to the weekly wage prescribed herein.

**35.6** Where such holiday occurs on his or her rostered day off, the Biomedical Engineer shall be entitled to receive one and a half day's pay in addition to the weekly wage or one and a half days off at a time convenient to the hospital without loss of pay in lieu thereof.

**35.7.1** Where a Biomedical Engineer is rostered to work on a public holiday and fails to do so, such Biomedical Engineer shall not be entitled to holiday pay for the holiday.

**35.7.2** Where a Biomedical Engineer who is rostered to work on a public holiday, requests and is granted the day off such Biomedical Engineer shall not be entitled to holiday pay for the holiday unless the request was made by the Biomedical Engineer at least three clear working days prior to the date of such holiday.

**35.8** In respect of Easter Saturday, a Biomedical Engineer who ordinarily works Monday to Friday only and who does not work on Easter Saturday, shall be entitled to one days pay in respect of Easter Saturday, or where there is mutual consent within four weeks following the date on which such holiday occurred the Biomedical Engineer may take one day off in lieu or have one day added to his/her annual leave.

## **PART 8 - ACCIDENT PAY, CLOTHING, EQUIPMENT AND TOOLS ALLOWANCES**

### **36. ACCIDENT PAY**

#### **36.1 Definitions**

The words hereunder shall bear the respective definitions set out herein.

##### **36.1.1 Accident pay**

**36.1.1(a) Total incapacity** - In the case of a Biomedical Engineer who is deemed to be totally incapacitated within the meaning of the Workers' Compensation Act (hereinafter referred to as the Act) and arising from an injury covered by this clause means a weekly payment of an amount representing the difference between the total amount of compensation paid under Section 9.1(b)(i) of the Act for the week in question and the total weekly award rate, as varied from time to time, and any other over award payment being paid to the Biomedical Engineer at the date of injury and which would have been payable for the Biomedical Engineer's normal classification of work for the week in question if he/she had been performing his/her normal duties provided that such latter rate shall exclude additional remuneration by way of overtime payments, shift premiums, special rates or other similar payments.

**36.1.1(b) Partial incapacity** - In the case of a Biomedical Engineer who is or is deemed to be partially incapacitated within the meaning of the Workers' Compensation Act and arising from an injury covered by this clause means a weekly payment of an amount representing the difference between the total amount of

compensation paid under Section 9.1(b)(ii) of the Act for the period in question together with the average weekly amount the Biomedical Engineer is earning or is able to earn in some suitable employment or business (as determined expressly or by implication by the Workers' Compensation Board or as agreed between the parties) and the total weekly award rate, as varied from time to time, and any weekly over award payment being paid to the Biomedical Engineer at the date of injury and which would have been payable for the Biomedical Engineer's classification for the week in question if he/she had been performing his/her normal duties provided that such latter rate shall exclude additional remuneration by way of overtime payments, shift premiums, special rates or other similar payments.

The payment abovementioned shall be the same as that applying for a total incapacity provided that where a Biomedical Engineer receives a weekly payment under this section and subsequent such payment is reduced pursuant to Section 9.6(1) of the Act, such reduction will not increase the liability of the employer to increase the amount of accident pay in respect of that injury.

### **36.1.1(c) Payment for part of a week**

Where a Biomedical Engineer receives accident pay and such pay is payable for incapacity for part of a week the amount shall be a direct pro rata.

### **36.1.2 Injury**

Injury shall be given the same meaning and application as applying under the Workers' Compensation Act, and no injury shall result in the application of accident pay unless an entitlement exists under the Act.

### **36.1.3 Workers Compensation Act**

**36.1.3(a)** Means the *Workers' Compensation Act 1958*, as amended from time to time of the State of Victoria.

**36.1.3(b)** Where an entitlement to Accident Make-up Pay arises under this Award any reference to the *Workers Compensation Act 1958* shall be deemed to include a reference to the *Accident Compensation Act 1985* and any reference to the *Accident Compensation Act 1985* shall be deemed to include a reference to the *Workers Compensation Act 1958*.

### **36.2 Qualification for payment**

Always subject to the terms of this clause, a Biomedical Engineer covered by this Award shall upon receiving payment of compensation and continuing to receive such payment in respect of a weekly incapacity within the meaning of the Act be paid accident pay by his/her employer who is liable to pay compensation under the Act, which said liability by the employer for accident pay may be discharged by another person on his/her behalf, provided that:

**36.2.1** Accident pay shall only be payable to a Biomedical Engineer whilst such Biomedical Engineer remains in the employment of the employer by whom he/she was employed at the time of the incapacity and then only for such period as he/she

receives a weekly payment under the Act. Provided that if a Biomedical Engineer on partial incapacity cannot obtain suitable employment from the employer but such alternative employment is available with another employer then the relevant amount of accident pay shall still be payable.

**36.2.1(a)** Provided further that in the case of the termination of employment by the employer of a Biomedical Engineer who is incapacitated and who except for such termination would be entitled to accident pay, accident pay shall continue to apply subject to the provisions of this clause except in those cases where the termination is due to serious and/or wilful misconduct on the part of the Biomedical Engineer.

**36.2.1(b)** In order to qualify for the continuance of accident pay on termination a Biomedical Engineer shall, if required, provide evidence to the employer for the continuing payment of weekly workers compensation payments.

**36.2.2(a)** Accident pay shall not apply to any incapacity occurring during the first two weeks of employment unless such incapacity continues beyond the first two weeks and then, subject to 36.2.2(c) and to the maximum period of payment prescribed elsewhere herein, accident pay shall apply only to the period of incapacity after the first two weeks.

**36.2.2(b)** Provided that as to industrial diseases contracted by a gradual process or injuries subject to recurrence, aggravation or acceleration (as provided in Section 3 of the Act) such injuries or diseases shall not be subject to accident pay unless the employee has been employed with the employer at the time of the incapacity for a minimum period of one month.

**36.2.2(c)** Accident pay shall not apply in respect of any injury during the first five normal working days of incapacity. Provided however that in the case of a Biomedical Engineer who contracts an infectious disease in the course of duty and is entitled to receive Workers' Compensation therefore shall receive accident pay from the first day of the incapacity.

**36.2.2(d)** A Biomedical Engineer on engagement may be required to declare all workers' compensation claims made in the previous five years and in the event of false or inaccurate information being deliberately and knowing declared the employer may require the Biomedical Engineer to forfeit his/her entitlement to accident pay under this clause.

### **36.3 Maximum period of payment**

The maximum period or aggregate of periods of accident pay to be made by an employer shall be a total of 39 weeks for any one injury as defined in 36.1.2.

### **36.4 Absences on other paid leave**

A Biomedical Engineer shall not be entitled to payment of accident pay in respect of any period of other paid leave of absence.

### **36.5 Notice of injury**

A Biomedical Engineer upon receiving an injury for which he/she claims to be entitled to receive accident pay shall give notice in writing of the said injury to the employer as soon as reasonably practicable after the occurrence thereof: provided that such notice may be given by a representative of the Biomedical Engineer.

### **36.6 Medical examination**

**36.6.1** In order to receive entitlement to accident pay a Biomedical Engineer shall conform to the requirements of the Act as to medical examination.

**36.6.2** Where in accordance with the Act a medical referee gives a certificate as to the condition of the Biomedical Engineer and his/her fitness for work or specifies work for which the Biomedical Engineer is fit and such work is made available by the employer and refused by the Biomedical Engineer or the Biomedical Engineer fails to commence the work, accident pay shall cease from the date of such refusal or failure to commence the work.

### **36.7 Cessation of weekly payments**

Where there is a cessation or redemption of weekly compensation payments under the Act the employer's liability to pay accident pay shall cease as from the date of such cessation or redemption.

### **36.8 Civil damages claims**

**36.8.1** A Biomedical Engineer receiving or who has received accident pay shall advise the employer of any action he/she may institute or any claim he/she may make for damages. Further the Biomedical Engineer shall, if requested, provide an authority to the employer entitling the employer to a charge upon any money payable pursuant to any judgement or settlement on that injury.

**36.8.2** Where a Biomedical Engineer obtains a judgement or settlement for damages in respect of an injury for which he/she has received accident pay the employer's liability to pay accident pay shall cease from the date of such judgement or settlement: provided that if the judgement or settlement for damages is not reduced either in whole or part by the amount of accident pay made by the employer the Biomedical Engineer shall pay to the employer any amount of accident pay already received in respect of that injury by which the judgement or settlement has not been so reduced.

**36.8.3** Where a Biomedical Engineer obtains a judgement or settlement for damages against a person other than the employer in respect of an injury for which he/she has received accident pay the employer's liability to pay accident pay shall cease from the date of such judgement or settlement; provided that if the judgement or settlement for damages is not reduced either in whole or part by the amount of accident pay made by the employer the Biomedical Engineer shall pay to the employer any amount of accident pay already received in respect of that injury by which the judgement or settlement has not been so reduced.

### **36.9 Insurance against liability**

Nothing in this award shall require the employer to insure against its liability for accident pay.

### **36.10 Variations in compensation rates**

Any changes in compensation rates under the Act shall not increase the amount of accident pay above the amount that would have been payable had the rates of compensation remained unchanged.

### **36.11 Death of a Biomedical Engineer**

All rights to accident pay shall cease on the death of a Biomedical Engineer.

## **37. UNIFORM ALLOWANCE**

Where the employer requires a Biomedical Engineer to wear a uniform or protective clothing or where such uniform or protective clothing is necessary to protect the clothing or person of a Biomedical Engineer, the employer must reimburse the employee the cost of purchasing such uniform. The provisions of this clause do not apply where the uniform is paid for by the employer.

## **38. DAMAGED CLOTHING ALLOWANCE**

Where a Biomedical Engineer in the course of his or her employment suffers any damage to or soiling of clothing or other personal effects the employer must reimburse the Biomedical Engineer the cost of the replacement, repair or cleaning of such clothing or personal effects provided immediate notification is given of such damage or soiling. This clause shall not apply in the case where the damage or soiling is occasioned by the negligence of the Biomedical Engineer.

## **WGNETSTART\_DOCASSOC\_2SCHEDULE A - RESPONDENTS**

The Alfred, Commercial Road, Prahran Vic 3181  
Caulfield General Medical Centre, 260-294 Kooyong Road, Caulfield Vic 3162  
Box Hill Hospital, Thames Street, Box Hill Vic 3128  
Austin and Repatriation Medical Centre, Studley Road, Heidelberg Vic 3084  
Barwon Health, Ryrie Street, Geelong Vic 3220  
Goulburn Valley Health, Graham Street, Shepparton Vic 3630  
Latrobe Regional Hospital, Princes Highway, Morwell Vic 3840  
Western District Health Service, Foster Street, Hamilton Vic 3300  
Frankston Hospital, Hastings Road, Frankston Vic 3199  
Maroondah Hospital, 124 Mt Dandenong Road, Ringwood East Vic 3135  
Mercy Hospital for Women, Clarendon Street, East Melbourne Vic 3002  
Mildura Base Hospital, Thirteenth Street, Mildura Vic 3500  
Monash Medical Centre, 264 Clayton Road, Clayton Vic 3168  
Peter MacCallum Cancer Institute, 481 Little Bourke Street, Melbourne Vic 3000  
Royal Children's Hospital, Flemington Road, Parkville Vic 3052  
Royal Melbourne Hospital, Grattan Street, Parkville Vic 3052  
Royal Women's Hospital, 132 Grattan Street, Carlton Vic 3053  
Royal Victorian Eye and Ear Hospital, 32 Gisborne Street, East Melbourne Vic 3002  
St Vincent's Hospital, Victoria Parade, Fitzroy Vic 3065

South West Health Care, Ryot Street, Warrnambool Vic 3280  
Wangaratta District Base Hospital, Green Street, Wangaratta Vic 3677  
Western General Hospital, Footscray Vic 3011

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