

# **STAFF SPECIALISTS**

## **DETERMINATION 2010**

### **INDEX**

<b>1</b>	<b>DEFINITIONS</b>
<b>2</b>	<b>PRIVATE PRACTICE ARRANGEMENTS</b>
<b>3</b>	<b>LEAVE ENTITLEMENTS ON TERMINATION OF EMPLOYMENT</b>
<b>4</b>	<b>INFRASTRUCTURE CHARGES</b>
<b>5</b>	<b>IMPLEMENTATION OF GST</b>
<b>6</b>	<b>ABNORMAL WORKING HOURS AND RECALL</b>
<b>7</b>	<b>TRAINING, EDUCATION AND STUDY LEAVE</b>
<b>8</b>	<b>ISSUE RESOLUTION</b>

## 1. DEFINITIONS

- (a) The Definitions which appear in Clause 2 of the Staff Specialists (State) Award also apply to this Determination.
- (b) In addition to the definitions referred to in sub-clause (a), the following definitions also apply to this Determination.

"Annual infrastructure charge" means the amount of the residual monies remaining in the No 1 Account to the credit of the account in the name of a Staff Specialist, or an agreed group/tax partnership of Staff Specialists, at the end of the financial year after deduction of the monthly infrastructure charges for the Public Health Organisation, approved costs where applicable (accounting costs for partnerships and the reimbursement of medical indemnity costs) and drawings to the Staff Specialist, or agreed group or tax partnership of Staff Specialists, with the addition of 10% to cover GST.

"Arrangement" means a right of private practice level arrangement.

"Award" means the Staff Specialists (State) Award.

"GST" means the goods and services tax imposed under Commonwealth legislation including *A New Tax System (Goods and Services Tax) Act 1999*;

"Monthly infrastructure charge" is as defined at clause 4(b) of this Determination;

"No 1 Account" means the ledger account which all public health organisations establish in their Special Purpose & Trust Account, into which is paid the revenue derived from the private patient and other billable services provided by Staff Specialists who have elected Levels 2 to 5 rights of private practice arrangements, and which contains sub-ledger accounts in the names of individual Staff Specialists, or agreed groups or tax partnerships of Staff Specialists;

"No 2 Account" means the ledger account which all public health organisations establish in their Special Purpose & Trust Account into which is paid the annual infrastructure charge;

"Public health organisation" is as defined in section 7 of the *Health Services Act 1997*.

## 2. RIGHTS OF PRIVATE PRACTICE ARRANGEMENTS (not applicable to Postgraduate Fellows)

### (a) General Provisions

- (i) Upon commencement of employment, a Staff Specialist shall elect to participate in a level arrangement ie either Level 1, 2, 3, 4 or 5. A Staff Specialist may, if he/she so chooses, elect prior to 30 June each year to change his/her level arrangement to commence on 1 July of the following financial year. This election cannot be changed during the year unless by the mutual agreement of the Staff Specialist and the Public Health

Organisation. A Staff Specialist is under no compulsion to alter the level arrangement under which he/she works. A summary table of the private practice arrangements is provided in Schedule 1 of this Determination

Current Scheme "D" Staff Specialists may only make an election in accordance with the provisions of subclause (d) below.

- (ii) The salaries referred to in Schedule 2, Column 2 of this Determination, as varied from time to time to reflect the Award, shall be paid to Staff Specialists subject to the level arrangement elected. The salaries shall be paid during paid absences on approved leave and shall be paid where the monetary value of leave is paid on termination of employment. These salaries include the Award salary and the special allowance (17.4% of Award salary). PAYE deductions are to be made from these payments.
- (iii) The allowances referred to in Schedule 2, Column 3 of this Determination shall be paid during paid absences on approved leave, where the monetary value of leave is paid on termination of employment and for superannuation and voluntary redundancy purposes. PAYE deductions are to be made from these payments.
- (iv) Subject to subclause (v) below, the drawing rights applicable to Levels 2 to 5 (refer Schedule 2, Column 4) shall be payable during paid absences on workers compensation (subject to a maximum of six months), approved annual, sick, long service, parental, and training education and study leave but shall not be paid where the monetary value of leave is paid out on termination of employment. The drawing rights shall not be taken into account for the calculation of any entitlements or public sector superannuation purposes. PAYE deductions are not to be made from these payments.
- (v) Staff Specialists working pursuant to part-time agreements, or taking long service leave or maternity leave at half pay, are entitled to drawing rights on a pro rata basis. Staff Specialists on leave without pay (including maternity/paternity leave) are not entitled to drawing rights.
- (vi) The revenue derived from Staff Specialists exercising rights of private practice who elect either Level 2, 3, 4 or 5 will be paid into the relevant sub-ledger of the No 1 Account, and the arrangements set out in subclauses (vii) to (xii) shall apply.
- (vii) An agreed group can elect to share all benefits of the No 1 Account to the limit of their entitlement amongst the agreed group, irrespective of the length of service of any member of the agreed group.
- (viii) An agreed group for the purpose of this clause means a group of Staff Specialists (whether an individual, in partnership or other approved legal entity) who elect to form a group for the purpose of a sub-ledger of the No 1 Account.

- (ix) All accounts for services rendered to patients by a Staff Specialist exercising rights of private practice, irrespective of the private practice level elected, are to be issued by the Public Health Organisation acting as the agent for the Staff Specialist.
- (x) The Public Health Organisation must obtain, in writing, authority from each Staff Specialist to issue accounts in his/her name.
- (xi) A Staff Specialist shall exercise his/her right of private practice subject to:
  - (1) the provisions of Clause 14 of the Award; and
  - (2) the private practice occurring within the hospitals, institutions or other health services conducted by the relevant Public Health Organisation or otherwise occurring in the course of the staff specialist's employment; and
  - (3) the income arising from the exercise of such right of private practice being paid into the relevant sub-ledger of the No 1 Account.

The provisions of this clause do not apply to "Outside Practice" pursuant to Clause 15 of the Award.

- (xii) Payment of drawing rights up to the maximum prescribed (refer Schedule 2, Column 4) averaged over the year to date is to be made calendar monthly, subject to there being sufficient funds available in the relevant sub-ledger of the No 1 Account.

**(b) Level Arrangements**

**(i) Level I**

- (1) A Staff Specialist who elects a Level 1 arrangement pursuant to this Clause, will be paid the salary referred to in Schedule 2, Column 2 of this Determination.
- (2) A Staff Specialist who elects Level 1 shall be entitled to an allowance of 20% of salary (refer Schedule 2, Column 3) in return for the assignment of the billings from the Staff Specialist's private practice to the Public Health Organisation.
- (3) Receipt of a Level 1 allowance requires a Staff Specialist to have signed an undertaking to exercise his or her rights of private practice to the fullest extent possible (consistent with legislative requirements) with compliance being assessed annually. This undertaking requires the Staff Specialist to provide the information necessary to allow the relevant Public Health Organisation to bill private patients for all billable services provided by him or her, i.e. services to admitted private patients, to privately referred non-admitted patients and to private patients admitted by another doctor. It is agreed that this undertaking is not intended to be used

to impose a financial target on a Staff Specialist, but to maximise private practice revenue.

**(ii) Level 2**

- (1) A Staff Specialist who elects a Level 2 arrangement pursuant to this Clause will be entitled to salary referred to in Schedule 2, Column 2 of this Determination.
- (2) A Staff Specialist who elects Level 2 shall be entitled to an allowance of 14% of salary (refer Schedule 2, Column 3).
- (3) A Staff Specialist who elects a Level 2 arrangement will have drawing rights (to be made calendar monthly) up to a maximum of 24% of the full time salary applicable for a Level 4 arrangement for a Staff Specialist as referred to in Schedule 2, Column 2 of this Determination. Drawing rights are subject to sufficient individual or agreed group contributions being available in the relevant sub-ledger of the No 1 Account.
- (4)
  - A. For a Staff Specialist who has elected Level 2 arrangement, where individual or agreed group contribution are not sufficient to permit drawings of up to 11% of salary (as provided in Schedule 2, Column 2) averaged over the year to date, supplementation equalling the difference between the drawings and 11% of salary will be made monthly by the Public Health Organisation from that proportion of the infrastructure charges that would otherwise have been appropriated as infrastructure charges paid to the Public Health Organisation by Staff Specialists.
  - B. Where an individual Staff Specialist has elected a Level 2 arrangement and individual or agreed group contributions are sufficient to permit drawings of 11% of salary (as provided in Schedule 2, Column 2) averaged over the year to date but not sufficient to permit drawings of 18% of salary averaged over the year to date, supplementation equalling the difference between the drawings and 18% of salary will be made monthly by the Public Health Organisation. The Public Health Organisation supplementation is therefore up to 7% of salary, where this subclause applies.

**(iii) Level 3**

- (1) A Staff Specialist who elects a Level 3 arrangement pursuant to this clause will be entitled to salary referred to in Schedule 2, Column 2 of this Determination.
- (2) A Staff Specialist who elects Level 3 shall be entitled to an allowance of 8% of salary (refer Schedule 2, Column 3).

- (3) A Staff Specialist who elects a Level 3 arrangement will have drawing rights (to be made calendar monthly) up to a maximum of 36% of the full time salary applicable for a Level 4 arrangement for a Staff Specialist as referred to in Schedule 2, Column 2 of this Determination. Drawing rights are subject to sufficient individual or agreed group contributions being available in the relevant sub-ledger of the No 1 Account.
- (4) For a Staff Specialist who has elected Level 3, where individual or agreed group contributions are not sufficient to permit drawings of up to 17% of salary (as provided in Schedule 2, Column 2) averaged over the year to date, supplementation equalling the difference between the drawings and 17% of salary will be made monthly by the Public Health Organisation from that proportion of the infrastructure charges that would otherwise have been appropriated as infrastructure charges paid to the Public Health Organisation by Staff Specialists.

**(iv) Level 4**

- (1) A Staff Specialist who elects a Level 4 arrangement pursuant to this Clause will be entitled to salary referred to in Schedule 2, Column 2 of this Determination.
- (2) A Staff Specialist who elects a Level 4 arrangement will have drawing rights (to be made calendar monthly) up to a maximum of 50% of the full time salary applicable for a Level 4 arrangement for a Staff Specialist as referred to in Schedule 2, Column 2 of this Determination. Drawing rights are subject to sufficient individual or agreed group contributions being available in the relevant sub-ledger of the No 1 Account.
- (3) For a Staff Specialist who has elected Level 4, where individual or agreed group contributions are not sufficient to permit drawings of up to 25% of salary (as provided in Schedule 2, Column 2) averaged over the year to date, supplementation equalling the difference between the drawings and 25% of salary will be made monthly by the Public Health Organisation from that proportion of the infrastructure charges that would otherwise have been appropriated as infrastructure charges paid to the Public Health Organisation by Staff Specialists.

**(v) Level 5**

- (1) A Staff Specialist who elects a Level 5 arrangement pursuant to this Clause will be entitled to salary which represents 75% of the rate applicable for a Level 4 arrangement for a Staff Specialist (refer Schedule 2, Column 2 of this Determination).

- (2) A Staff Specialist who elects a Level 5 arrangement will have drawing rights (to be made calendar monthly) to a maximum of 100% of the full time salary applicable for a Level 4 arrangement for a Staff Specialist as referred to in Schedule 2, Column 2 of this Determination. Drawing rights are subject to sufficient individual or agreed group contributions being available in the relevant sub-ledger of the No 1 Account.
- (3) The 75% of salary referred to in subclause (1) above reflects the fact that leave without pay is permitted for 25% of the full-time commitment in that speciality. No private practice is to be undertaken during the 75% of time for which a salary is payable (this relates to aggregated time and means that participating specialist must not spend more than an average of 25% of his/her total working time in the treatment of private patients).

**(c) Postgraduate Fellow**

A Senior Medical Practitioner appointed as a Postgraduate Fellow pursuant to Clause 16 of the Award has no entitlement to any Private Practice Arrangement.

**(d) Preserved Arrangement . Scheme D**

- (i) A Staff Specialist who is already on a Scheme D arrangement is entitled to 50% of the award salary plus the 17.4% special allowance, as varied from time to time. PAYG taxation deductions are to be made in respect of these payments.

The general terms and conditions will be those previously applying under Scheme D (refer to Departmental Circular 90/39).

- (ii) Where a Staff Specialist's current arrangement is Scheme D then:

(A) the Staff Specialist can only move to another private practice Level (ie Private Practice Arrangement) by agreement with the Public Health Organisation; and

(B) upon moving to another private practice arrangement, he or she cannot move back to Scheme D.

- (iii) The Scheme D arrangement as provided for in Departmental Circular 90/39 is not available to any Staff Specialist who is not already employed under Scheme D.

**(e) Outside Practice (ie not as an employee of the Public Health Organisation)**

- (i) Income generated by a Staff Specialist while engaged in practice pursuant to Clause 15 of the Award, will be retained exclusively by the Staff Specialist. The Staff Specialist is under no obligation to provide records regarding the income generated pursuant to Clause 15 of the Award. The Staff Specialist

will be liable for all expenses incurred while engaged in practice including professional indemnity insurance, administration, facility costs and any other expenses arising from the conduct of such practice.

- (ii) The use of any of a Public Health Organisation's employees, equipment or other resources in conducting outside practice is not permitted unless approved by the Chief Executive.

**(f) Privately Referred Non-admitted Patients**

- (i) The charging arrangements for privately referred patients of staff specialists exercising rights of private practice remain unaltered.
- (ii) The charging arrangements do not affect those patients who are admitted patients or non-admitted patients of a public hospital, but apply to privately referred non-admitted patients referred to a staff specialist who satisfy the following conditions.
  - (A) The referral must be to the doctor by name and not to the hospital or the outpatient department, except in those circumstances where the Medicare Benefits Schedule permits referrals to be other than to a named doctor or where a referral is not required under the Medicare Benefits Schedule.
  - (B) The referral must be made by a doctor in private practice (including a Staff Specialist or visiting medical officer exercising a right of private practice); it must not be made by an intern, resident medical officer, career medical officer, registrar or medical superintendent.
  - (C) No patient who presents at the emergency department or an outpatient clinic is to be privately referred for treatment of, or examination relating to, the episode of illness which caused him/her to present at the emergency department or the outpatient clinic, unless such a referral is permitted under the provisions of the health care agreement between the Commonwealth and New South Wales.
  - (D) At the time the appointment is being made, patients are to be advised that they will not be treated as non-admitted patients of the hospital, and that they will be charged by the attending Staff Specialist/s as well as for diagnostic services ordered by that Staff Specialist.
  - (E) Referrals are to be genuine referrals made at "arm's length", ie the referral letter should be completed before the patient's first appointment is made for an examination, treatment or consultation.

**3. LEAVE ENTITLEMENTS ON TERMINATION OF EMPLOYMENT**

On the termination of employment of a Staff Specialist, the calculation of any paid out annual leave and long service leave entitlements will be based on

average remuneration arrangements for the Staff Specialist for the previous three years, not at time of termination, except where there is an unforeseen medical imperative which has caused the termination. The calculation of average salary (ie comprised of award salary, special allowance and any private practice allowance) will be based on the last private practice arrangement election prior to the date of termination and the elections covering the previous two financial years before the most recent election, but reflect the remuneration for those levels as at the date of termination. (These provisions therefore have no application to Staff Specialists who have not changed their private practice levels over the previous two financial years or during the financial year during which termination occurred.)

#### **4. INFRASTRUCTURE CHARGES**

- (a) All fees received from the rendering of accounts to private patients seen by Staff Specialists employed in a Level 2, 3, 4 or 5 arrangement pursuant to Clause 2, Private Practice Arrangements of this Determination shall be paid into the relevant sub-ledger in the No 1 Account.
- (b) From the fees paid into the No 1 Account, monthly infrastructure charges (to compensate for the provision of services and the use of facilities used in generating such private practice fees), as a percentage of the gross fees received, shall be paid to the Public Health Organisation as a first charge against the funds in the No 1 Account.
- (c) The payments of monthly infrastructure charges from the No 1 Account are to be in accordance with the procedures about GST treatment of those payments set out at Schedule 3 of this Determination.
- (d) The facility fees paid in accordance with authorised arrangements as at the date of this Determination shall continue to apply without variation until the review outlined in subclause (e) below is completed. For the purposes of this clause, "authorised arrangements" shall mean Department of Health Circular No. 1977/15 (as amended by 1978/236), or schedules of fees attached to enterprise agreements approved by the Director-General, or any specific variations to facility fees approved by the Director-General.
- (e) The parties agree that a review of facility fees will be completed within 12 months of the making of this Determination. Upon completion and implementation of the review, the infrastructure charges identified in the review will apply to all Staff Specialists.
- (f) The funds derived from the annual infrastructure charge are to be paid into the relevant No 2 Account.

## 5 IMPLEMENTATION OF GST

**NOTE: Schedule 3 to this Determination can be found at Attachment 2 in PD2005\_598.**

- (a) Clauses 1, 2, 4 and 7 of this Determination are to be read subject to this clause. In the event of any inconsistency between this clause and any other provision of the Determination this clause is to prevail.
- (b) The Public Health Organisation and Staff Specialists are to comply with the Procedures Document at Schedule 3 of the Determination, as varied from time to time by further determination.
- (c) The annual and monthly infrastructure charges under Clause 4 are required to have 10% added to cover GST which the Public Health Organisation is required to include in its GST calculation.
- (d) Any amounts required to be calculated in accordance with this Determination are to take account of the respective GST liabilities and rights to GST input tax credits of the Public Health Organisation and Staff Specialists.

### **Staff Specialists Levels 2- 5**

- (e) Drawings for Staff Specialists Levels 2, 3, 4 and 5 under Clause 2 are to be varied in accordance with following subclauses:

#### ***Staff Specialists not in a Private Practice Partnership with a monthly charge of less than 90%***

- (i) The above Staff Specialists' drawings are to be reduced by an amount equal to their net GST credits referable to private practice activities (exclusive of annual infrastructure GST effects) in accordance with the procedures set out at Schedule 3.

#### ***Staff Specialists in a Private Practice partnership with a monthly charge of less than 90%***

- (ii) The partnership, on behalf of the above Staff Specialists, is to pay into the No 1 Account an amount equivalent to its net GST credits referable to private practice activity (exclusive of annual infrastructure GST effects) in accordance with the procedures set out at Schedule 3.
- (iii) The partnership will pay these amounts into the No 1 Account, on a quarterly basis, by the date required by and in accordance with the procedures at Schedule 3. If the partnership has not paid such amounts then drawings of the Staff Specialist members of the partnership, on a pro-rated basis, are to be reduced by such amounts in that month and successive months as required, in accordance with the Procedures set out at Schedule 3.

**Staff Specialists (whether individually or in partnership) with a monthly charge of 90% or more**

- (iv) The above Staff Specialists are to pay into the No 1 Account an amount equivalent to their net GST credits referable to private practice activity (exclusive of annual infrastructure GST effects) in accordance with the procedures set out at Schedule 3.
- (v) If such a Staff Specialist does not pay such amount to the No 1 Account by the date required by and in accordance with the procedures set out at Schedule 3, then the Staff Specialist's drawings are to be reduced by such amount in that month and successive months as required, in accordance with the procedures set out at Schedule 3.

**Annual Infrastructure Charge**

- (vi) Staff Specialists or a Staff Specialist partnership on behalf of its members are to pay to the No.1 Account an amount equivalent to 1/11th of the annual infrastructure charge by the date required by and in accordance with the procedures at Schedule 3.
- (vii) If a Staff Specialist, or a Staff Specialist partnership on behalf of its members does not pay to the No 1 Account an amount equivalent to 1/11th of the annual infrastructure charges by the date required by and in accordance with the procedures set out at Schedule 3, then the Staff Specialist's drawings are to be reduced by such amount in that month and successive months as required, in accordance with the procedures set out at Schedule 3.

**Staff Specialists changing to Level 1**

- (f) The right, under Clause 2, to a change of election to Level 1 is conditional upon a Staff Specialist paying to the No 1 Account all outstanding amounts relating to infrastructure charges for the period prior to changing to Level 1. A change of election to Level 1 may only be effected where the relevant Staff Specialist has paid the requisite amount to the No 1 Account or provided the Public Health Organisation with an irrevocable written authority to deduct from his/her drawings and/or salary the requisite amount and pay it into the No 1 Account. The Public Health Organisation is to give a Staff Specialist seven days' notice of its intention to make deductions in accordance with this authority.

**Termination of employment**

- (g) Staff Specialists are to provide to the Public Health Organisation an irrevocable written authority for the Public Health Organisation to deduct from termination payments (including annual leave and long service leave payouts) an amount to meet all outstanding liabilities they may have in relation to infrastructure charges arising from the exercise of their rights of private practice. The Public Health Organisation is to give a Staff Specialist seven

days' notice, where practicable, of its intention to make a deduction in accordance with this authority. In the event that payments are not made in accordance with the procedures set out at Schedule 3.

- (h) Staff Specialists commencing employment are to provide such written authorisation to the Public Health Organisation on commencement of employment.

## **6 ABNORMAL WORKING HOURS AND RECALL**

- (a) It is acknowledged and recognised that Staff Specialists are required to be available for reasonable on call and recall outside of their Normal Duties and that there is a component within the salary which reflects this.
- (b) The parties agree that some Staff Specialists may be required to work in excess of Normal Duties and reasonable on call/recall to provide direct patient care.
- (c) Where a Staff Specialist is required to work in excess of Normal Duties and reasonable on call/recall to provide direct patient care, the Public Health Organisation, in conjunction with the affected Staff Specialist, will review the work pattern of the Staff Specialist to reduce the number of hours. The review will attempt to reduce the number of hours worked by the Staff Specialist to conform with sub-clause (a) and the reduction may be achieved by means of time in lieu or other variations in Normal Duties as agreed between the Staff Specialist and the Public Health Organisation.
- (d) In the first instance every effort should be made to reduce the number of hours. However, in those exceptional circumstances where the hours worked by the Staff Specialist cannot be reduced in accordance with sub-clause (c) and this work:
  - is required by the Public Health Organisation, and
  - relates to direct patient care, and
  - occurs in accordance with subclause (e) below,the hours may be determined to be abnormal and an additional payment may be authorised by the Chief Executive.
- (e) Subclause (d) above only applies when a Staff Specialist is regularly required by the Public Health Organisation to work abnormal hours over a six month period. In these circumstances, a payment of up to 5% of the rate applicable to a Staff Specialist under a Level 1 arrangement (including the Special Allowance and allowance for the assignment of Private Practice earnings), as provided for in Clause 2 of this Determination, may be authorised. Any such payment will be subject to review every six months. The review should again attempt to reduce the number of hours worked by the Staff Specialist to conform with subclause (a).

- (f) Where the six monthly review identifies an exceptionally high level of abnormal hours that cannot be reduced, the Chief Executive may submit all relevant details of that individual case to the Director-General. The submission should include evidence of how the allowance can be demonstrated to be cost neutral. In such cases, the Chief Executive may recommend payment of up to 10% of the rate applicable to a Staff Specialist under a Level 1 arrangement (including the Special Allowance and allowance for the assignment of Private Practice earnings), as provided for in Clause 2 of this Determination.

In making the application the Chief Executive may recommend that payment of the allowance should commence from a time agreed between the Staff Specialist and the Chief Executive .

This recommendation must include details of the cost neutral basis of such a payment. This payment would be made instead of, not in addition to, the payment described in subclause (e) above.

- (g) The payments provided under (e) and (f) above shall not be paid to more than 10% of the Staff Specialists employed by the Public Health Organisation at any one time without the written approval of the Director-General. Chief Executives who believe that the 10% figure is inappropriate because they employ only a small number of Staff Specialists should make a written submission to the Director-General about appropriate parameters for the payment of the allowance.
- (h) The payments provided under (e) and (f) above shall not count as salary for the purposes of calculating any entitlement.

## **7 TRAINING, EDUCATION AND STUDY LEAVE –TESL (not applicable to Postgraduate Fellows)**

- (a) The Parties agree that the Health System has a responsibility to ensure that all Staff Specialists employed in the Health System have appropriate and equitable access to Training, Education and Study Leave that is relevant to both the Staff Specialist and the Public Health Organisation.
- (b) Leave Entitlement - The parties agree that Staff Specialists are entitled to 25 calendar days of Training, Education and Study Leave each year.
- (c) Funding entitlement -
  - (i) The parties agree that Staff Specialists are entitled to funding for the purpose of Training, Education and Study Leave. Such entitlement shall accumulate to a maximum of the dollar value of two years of entitlement unless otherwise approved by the Chief Executive.
  - (ii) Based on the approved travel and leave arrangements, funds will be paid to the Staff Specialist on application.

- (iii) The entitlement for Level 1 Staff Specialists is outlined in subclause (l) below. The entitlement for Staff Specialists employed under Levels 2 to 5 arrangements is outlined in subclause (e) below.
- (iv) Funding will be based on a dollar value to be determined by a committee representative of the parties. The committee will use the formula contained in subclause (l).

**(d) Staff Specialists (Fractional Appointments)**

- (i) The entitlement to leave and funding for Staff Specialists who are working pursuant to a Part Time Working Arrangement is pro rata based on the full-time entitlement.
- (ii) Staff Specialists working pursuant to a Part Time Working Arrangement may accumulate the same maximum dollar value as a full-time Staff Specialist ie accrue two years full time equivalent entitlement as provided for in subclause (c).
- (iii) The Chief Executive may require a Staff Specialist who is working pursuant to a Part Time Working Arrangement to take Training, Education and Study Leave at the full-time equivalent daily rate. Alternatively, by agreement with the Chief Executive, a Staff Specialist who is working pursuant to a Part Time Working Arrangement may take Training, Education and Study Leave at the same part-time daily rate of pay, provided that his/her leave entitlement is not exceeded. Agreement will not be unreasonably withheld. Full-time Staff Specialists shall take Training, Education and Study Leave, however accrued, at the fulltime equivalent daily rate.
- (iv) Payment of the per diem element of the available funding should match the rate at which Training, Education and Study Leave is taken, eg. a part-time Senior Medical Practitioner who takes Training, Education and Study Leave at the full-time daily rate of pay should also be paid the per diem funding at the full-time daily rates, provided that his/her entitlement is not exceeded.

**(e) Source of Funding**

- (i) The funding provided for in (c) above, will be funded by:
  - (1) the Public Health Organisation for Staff Specialists employed pursuant to Level 1.
  - (2) the funds in the appropriate sub-ledger of the No 2 Account for Staff Specialists employed pursuant to Levels 2 to 5 arrangements. The quantum of the funding is a matter for the trustees of the appropriate Trust Fund to determine having due regard to the payment made to Level 1 Staff Specialists. Such allocation is to be limited to the ability of the relevant sub-ledger

account in the No 2 Account to meet the allocation.

The funding provided for in (c) above is a minimum entitlement. Additional drawings for Staff Specialists employed pursuant to Levels 2 to 5 will be dependent on the monies available in the appropriate sub-ledger account in the No 2 Account.

- (ii) Where a Staff Specialist has accrued a right to Training, Education and Study Leave with the same Public Health Organisation partly under Level 1 and partly under Level 2, 3, 4 or 5, he/she shall be entitled to be paid by the Public Health Organisation's general fund 1/12th of the annual funding entitlement pursuant to subclause (c) above for each completed month of service under Level 1 (subject to subclause (c) (i) of this Determination), less any funding entitlement already taken. In the cases of Levels 2 to 5, approval must be obtained from the trustees or the body authorised by the trustees, in order for that portion of the funding entitlement accrued under Level 2, 3, 4, or 5 to be accessed.

**(f) Approval of Leave**

Training, Education and Study Leave can be taken for purposes relevant to both the Staff Specialist and the Public Health Organisation, at the discretion of the Staff Specialist, within or outside Australia, subject to approval by the Chief Executive or his/her nominee:

Approval should not be unreasonably withheld.

- (g) If a dispute occurs as to the interpretation of this Clause, the matter will be dealt with in accordance with the Issues Resolution, Clause 8 of this Determination.
- (h) The Parties agree that leave entitlements to Conference and Study Leave accrued prior to the commencement of this Determination pursuant to Circular 90/39 or any Enterprise Agreement will be transferred in full, to the entitlements accrued pursuant to this Clause.

**(i) Transfer of leave entitlement**

A Staff Specialist who transfers:

- (1) between levels pursuant to Clause 2 of this Determination; or
- (2) between Public Health Organisations in circumstances where the employment at the second Public Health Organisation immediately follows the employment at the first Public Health Organisation within the meaning of the term 'immediately follows' as used in Schedule 3A of the *Public Sector Employment and Management Act 2002*;

will have his/her leave entitlement of calendar days pursuant to subclause (b) of this clause transferred at the same time on the basis of 25/12 days for each

completed month of service, less any leave already taken.

- (j) A Staff Specialist will not be entitled to any entitlement pursuant to this Clause upon retirement, resignation (except as outlined in subclause (i) above), redundancy or dismissal.
- (k) This Clause shall not apply to Staff Specialists participating in preserved Scheme D arrangements under subclause 2(d) above, who shall receive Conference and Study Leave in accordance with Circular number 90/39 issued by the Department of Health on 23 May 1990.
- (l) Pursuant to Subclause (c)(iv) above, the funding entitlement will be determined by the committee based on the following:

**i) Airfare**

1. Total each year based on:
  - a) 3/5 of a Qantas round the world business class airfare (including departure tax); and
  - b) 1 Qantas Sydney-Perth business class airfare.
2. This money may be used to purchase any number of airfares for the Staff Specialist provided the total value is not exceeded.
3. On 30 June each year any residual will be indexed by using the average of the airfares on that date divided by the average of the airfares for 30 June of the preceding year.

**ii) Per diem**

1. Total each year based on:
  - a) Overseas: Based on sample of hotel rates and published government incidentals allowances for representative capital cities for 18 days. This should be calculated at June 30 of each year. The calculation should be based on the 10 cities most commonly visited and the 3 hotel chains most commonly used by Staff Specialists.
  - b) Local: Based on government capital city rates for 7 days available at 30 June.
2. These amounts are totalled each year and may be used in any combination of overseas or local travel.
3. If insufficient funds exist to pay for registration, airfares, or other allowable expenses then all or some of the per diem may be used for this purpose.
4. On 30 June each year any residual of the funding entitlement will be

indexed by multiplying the residual by the total of the assigned value for overseas and Australian per diems divided by the previous year's total.

**iii) Registration**

1. Based each year on:
  - a) 1 overseas conference
  - b) 1 Australian conference
  - c) 2 local continuing education meetings.
2. This money may be applied to any number of registrations provided the total entitlement is not exceeded.
3. On 30 June each year any residual will be indexed by using the assigned value for conference registration divided by the assigned value for the previous year.

**(m) Air Travel for Training Education and Study Leave**

No first class international airfares are to be booked or paid for in respect of Training, Education and Study Leave travel.

**(n) Specialist Medical Administrators**

A Specialist Medical Administrator employed in accordance with Clause 25 of the Award may make a once-only election for the term of the Award to either:

- (i) accrue the Training, Education and Study Leave funding entitlement pursuant to this clause; or
- (ii) use a motor vehicle consistent with Senior Executive Service guidelines and charges.

The election must be made within one month of the date of commencement of the Award, or the commencement of employment.

If a Specialist Medical Administrator elects option (ii) above, he/she will be entitled to access an amount of Training, Education and Study Leave annual funding entitlement which represents the difference in value between (i) and (ii) above. With regard to the accumulation of the funding entitlement, a Specialist Medical Administrator who elects option (ii) above may accumulate the same dollar value as a Specialist Medical Administrator who elects option (i) above. The number of days of Training, Education and Study Leave available shall be reduced by the same proportion as the annual funding entitlement is reduced.

This provision shall not apply to Staff Specialists who are not Specialist Medical Administrators employed in accordance with Clause 25 of the Award.

- (o) In circumstances where a Staff Specialist takes more than 50 days of Training,

Education and Study Leave in the 24 months prior to resignation or retirement from his or her employment in the NSW Health Service (except where the resignation or retirement is on medical grounds), he or she will be required to pay back the remuneration received relating to the number of days of leave in excess of 50 days, unless the relevant Chief Executive determines in any particular case that this requirement should not apply.

Provided that for the period ending on 17 December 2013, this provision does not apply to retained study and conference leave entitlements accrued prior to 27 November 1997 and taken under the provisions of NSW Department of Health Circular 90/39.

- (p) On return from Training, Education and Study Leave, Staff Specialists are to provide a report, in both hard copy and electronic format, to the relevant Chief Executive dealing with the outcome/benefits of the leave.

## **8 ISSUE RESOLUTION**

Any disagreement in relation to matters contained within this Determination will be resolved in accordance with the Issue Resolution procedure provided for in Clause 3 of the Award.

## SCHEDULE 1

<b>SCHEDULE 1 – EXISTING PRIVATE PRACTICE ARRANGEMENTS</b>						
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>LEVEL</b>	<b>SALARY</b>	<b>ALLOWANCE</b>	<b>DRAWING RIGHTS</b>	<b>MAXIMUM INCOME</b>	<b>GUARENATEED SUPPLEMENTATION IF INSUFFICIENT BILLING</b>	<b>GUARANTEED SUPPLEMENTATION IF BILLING SUFFICIENT TO ACHIVE 11% OF SALARY BUT NOW 18% OF SALARY</b>
1	100	20	0	120	N/A	N/A
2	100	14	24	138	Up to 11	Up to 7
3	100	8	36	144	Up to 17	N/A
4	100	N/A	50	150	Up to 25	N/A
5	75	N/A	100	175	N/A	N/A

**NOTES**

1. All figures are expressed as a percentage of Level 4 salary.
2. For the purposed of this table, “salary” means the award salary plus the 17.4% special allowance

**SCHEDULE 2** (effective post 1 July 2010)

1	2	3	4	5
Level/ Year	Award Rate + 17.4% Special Allowance	Private Practice Allowance	Maximum Possible Drawing Rights	Maximum Possible Income
1/1	161147	32230		193377
1/2	170573	34115		204688
1/3	179988	35997		215985
1/4	189433	37886		227319
1/5	198859	39772		238631
1/Senior	217716	43543		261259
2/1	161147	22561	38676	222384
2/2	170573	23880	40938	235391
2/3	179988	25198	43197	248383
2/4	189433	26520	45464	261417
2/5	198859	27840	47726	274425
2/Senior	217716	30480	52252	300448
3/1	161147	12892	58013	232052
3/2	170573	13646	61406	245625
3/3	179988	14400	64796	259184
3/4	189433	15155	68196	272784
3/5	198859	15909	71589	286357
3/Senior	217716	17418	78378	313512
4/1	161147		80573	241720
4/2	170573		85286	255859
4/3	179988		89994	269982
4/4	189433		94716	284149
4/5	198859		99430	298289
4/Senior	217716		108858	326574
5/1	120860		161147	282007
5/2	127930		170573	298503
5/3	134991		179988	314979
5/4	142075		189433	331508
5/5	149145		198859	348004
5/Senior	163287		217716	381003