

38. RESTRICTION DUTY

Entitlement

38.1 An employee may be directed to be contactable and to be available to perform extra duty outside of the employee's ordinary hours of duty, subject to payment under this by-law.

38.2 Payment will be made subject to the following conditions:

- (a) Unless otherwise approved by the Commissioner, an employee in a classification the minimum salary of which exceeds the maximum salary of the classification of Administrative Officer 6 is not eligible to receive payment;
- (b) The restriction situation is imposed by prior written direction, or is subsequently approved in writing;
- (c) The provisions of Emergency Duty as described in by-law 37 will not apply where an employee is recalled to duty while restricted;
- (d) An employee who does not maintain a required degree of readiness while restricted will not be eligible to receive payment.

38.3 Payment rates

- (a) An employee who is required to remain contactable and available to perform extra duty outside of the employee's ordinary hours of duty will, subject to by-law 38.2, be paid an allowance in addition to salary at a rate for the type of restriction as follows:

- (i) On call

An employee who is instructed prior to ceasing ordinary duty to be on restriction duty will be paid at the rate as determined by the Commissioner.

- (ii) Stand by

An employee who is instructed prior to ceasing ordinary duty to be on restriction duty and to remain at the employee's home and available for immediate recall to duty: 50% of the employee's ordinary rate of salary for the proportion of the period of restriction calculated in accordance with by-law 38.3(b).

- (iii) Home duty

An employee who is required to stand by at home to perform intermittent duties at home normally involving receiving and/or making telephone calls, and who may be required to perform

restriction duty: 75% of the employee's ordinary rate of salary, or not less than 50% or more than 100% of ordinary salary as approved by the Commissioner, for the proportion of the period of standing by calculated in accordance with 38.3(b), provided that the rate on Sundays is single ordinary rate of salary and the rate on public holidays is 125% of ordinary rate of salary.

(iv) Passive duty

An employee who is instructed to remain at work outside the employee's ordinary hours of duty until released or required to perform duty, and is not provided with accommodation and amenities for sleeping or other personal activities during overnight attendance: single ordinary rate of salary for the period. The rate on Sundays is 133% of the employee's ordinary rate of salary and the rate on public holidays is 166% of ordinary rate of salary for the period.

(v) Duty Employee

An employee who is required to remain at work overnight and/or over a non-working day and may be required to perform certain tasks periodically or on an ad hoc basis, and who is provided with accommodation and amenities for sleeping or other personal activities during overnight attendance: where overtime is paid - at the rate provided for in by-law 38.3(a)(iv) for the proportion of the period calculated in accordance with by-law 38.3(b); and where overtime is not paid - 125% of the employee's ordinary rate of salary, or a proportion of not less than 100% or more than 150% of ordinary salary as approved by the Commissioner, for the proportion of the period of standing by calculated in accordance with by-law 38.3(b). The rate on Sundays is 166% of the employee's single ordinary rate of salary and the rate on public holidays is 200% of ordinary rate of salary for the period.

(b) Payment for the rates in by-laws 38.3(a)(ii), 38.3(a)(iii),38.3(a)(v) will only be made:

- (i) in relation to three quarters of whichever is the lesser: either, the time of restrictive duty that occurs within the first 14 hours after the employee's normal commencement on ordinary time; or, the time of restrictive duty that occurs after the time at which the employee last commenced ordinary time;
- (ii) where restrictive duty occurs after the 14 hours referred to in by-law 38.3(g) but in the same 24 hour period, payment is to be made in relation to only one quarter of the time of restrictive duty.

- (c) The restricted duty allowance is payable for each hour or part hour the employee is restricted outside the employee's ordinary hours of duty.
- (d) Any part of a period of restriction for which the employee receives another payment (e.g. pay for overtime or excess travelling time) will not be included for calculating restricted duty allowance.
- (e) An employee who is restricted and who is required to perform duty, but is not required to be recalled to a place of work, will be paid overtime, subject to a one hour minimum payment.
- (f) An employee who is restricted and who is recalled to duty at a place of work, will be paid in accordance with the relevant overtime provisions, subject to a three hour minimum payment.
- (g) Notwithstanding these payment rate provisions, an employee who is placed in a restriction situation outside of the employee's ordinary hours of duty may be paid at an alternative rate approved by the Commissioner, having regard to the circumstances of the restriction situation.

38.4 Salary rate

- (a) An employee's salary for the purposes of calculation of the restriction duty allowance will include higher duties allowance and any other allowances in the nature of salary.
- (b) Where approval has been made for payment under this by Law to an employee in a classification the minimum salary of which exceeds the maximum salary of the classification of Administrative Officer 6, the annual salary component of the formula at by-law 38.4(c) will be the maximum annual salary payable to an Administrative Officer 6.
- (c) The hourly rate of payment will be calculated as follows:

$$\frac{\text{Annual Salary}}{313} \times \frac{6}{\text{Prescribed weekly hours before overtime is payable}} \times \% \text{ of salary as prescribed in by-law 38.4(a)}$$