

Explaining the effect of the terms – Cost of Living Adjustments Payments

Summary

The proposed *Schedule 9 – Conditions of employment – Department of Education – State School Registered Nurses* (proposed Schedule) of the proposed *Nurses and Midwives (Queensland Health and Department of Education) Certified Agreement (EB11) 2022 (proposed agreement)* includes a cost of living adjustment (COLA) payments clause 5.4.

The COLA payments clause effectively provides a top-up payment to eligible employees if the annual consumer price index (CPI) percentage for Brisbane in the relevant March period is greater than the wage increase provided under the agreement, for each of the three years of the agreement. The top-up payment is calculated as the difference between the wage increase percentage under the agreement and the CPI percentage, capped at 3%, applied to the individual employee's base wages for that agreement year (as if the agreement wage increase was not applied for that year).

An individual's base wages will reflect the periods they actually worked during the agreement year, so will be pro-rata based on things like part-time and casual employment, periods of leave on half-pay, leave without pay, etc. Base wages will also include higher duties under the agreement and the casual loading for casual employees. Base wages will not include any other payments such as disability allowances or special rates, all-purpose allowances, overtime payments, shift penalties, weekend penalties, public holiday penalties, aggregated penalties or allowances, any payments of accrued leave where the leave is not taken; any payments for TOIL where the TOIL is not taken, COLA payments from previous periods, etc.

Eligible employees who are employed under the proposed agreement at the end of each agreement year, also called the 'calculation date' (i.e. on 31 March each year) will automatically have their COLA payment calculated and paid to them. Employees don't have to actually work on the calculation date to receive their payment. For example – if you are a part-time employee and don't work on 31 March you will still automatically receive your payment if you are still employed under the agreement. The COLA payment for these employees will occur within a two-month period of the calculation date, or the release of the CPI information by the Australian Bureau of Statistics (ABS), whichever is later.

If you were employed under the proposed agreement during a relevant agreement year, but you are no longer employed under the agreement at the calculation date and remain a Queensland government employee on the *calculation date*, you will be still eligible to receive a COLA payment for the period you worked under the agreement. However, you must provide notice including relevant details of your employment as at the particular calculation date to receive the payment. This is because the Department of Education does not know where you are employed after ceasing to be covered by this agreement and require evidence to show the employee was still a Queensland government employee on the calculation date. The COLA payment for these employees will occur within a two-month period of the employee providing advice of their employment as a Queensland government employee at the calculation date to the agency.

COLA payments are one-off, do not form part of base salary and will be taxed.

Individual employee's may need to consider their own individual financial situations with respect to the treatment of COLA payments.

COLA Payments

An eligible employee covered by the proposed agreement could receive up to three payments under an applicable COLA clause:

- COLA Payment Year 1;
- COLA Payment Year 2; and
- COLA Payment Year 3.

COLA Payment Year 1 will be calculated by first determining the 'COLA payment percentage' for that year. The COLA payment percentage is calculated by comparing if the Brisbane Consumer Price Index (all groups, March quarter annual percentage change from the March quarter of the previous year), for March 2023 as published by the Australian Bureau of Statistics (ABS), is greater than the wage increase under the Agreement on 1 March 2022 of 4%. However, the percentage of the difference is capped at 3.0%.

For example, if the CPI figure for Brisbane in March 2023 is 6.5%, the difference to the wage increase will be 2.5%. However, if the CPI figure was 7.5%, the difference will be 3.5% but is capped at 3.0%

For **COLA Payment Year 2**, the comparison will occur between the CPI figure for March 2024 and the wage increase under the Agreement on 1 March 2023 of 4%.

And finally, for **COLA Payment Year 3**, the comparison will occur between the CPI figure for Brisbane from March 2025 and the wage increase under the Agreement on 1 March 2024 of 3%.

For each COLA Payment, if the relevant CPI figure is equal to, or less than, the relevant wage increase percentage, then no COLA Payment will be paid that year.

The relevant COLA payment percentage for the year is then applied to the employee's 'base wages' for the agreement year, after the 'base wages' are adjusted by the wage increase that was payable at the beginning of that agreement year. This final figure is the COLA Payment payable to the individual employee.

Base wages

Base wages is defined as the salary actually payable to the particular employee in the relevant agreement year for work covered by the Agreement and includes higher duties performed by the employee under this Agreement and includes the casual loading where applicable.

The relevant agreement year is the period of 12 months from 1 April in one year to 31 March in the following year that includes a calculation date. For example, the agreement year for the first COLA Payment Year 1 will be 1 April 2022 to 31 March 2023.

Base wages **do not** include any other allowances or additional payments howsoever described (such as: disability allowances or special rates, all-purpose allowances, overtime payments, shift penalties, weekend penalties, public holiday penalties, aggregated penalties or allowances, any payments of accrued leave where the leave is not taken; any payments for TOIL where the TOIL is not taken, COLA payments from previous periods, etc). This is not an exhaustive list.

Because 'base wages' means the salary actually payable to the particular employee in the relevant agreement year for work covered by the Agreement, this automatically pro-ratas the COLA Payment for each individual employee, including for the following matters, where applicable to that employee:

- Part-time employment, including changes to their FTE status and additional ordinary hours during the agreement year;
- Casual employment;
- Movement between full-time, part-time and casual employment by recognising the respective periods worked in each capacity;
- Commencing employment part way during an agreement year;
- Periods of secondment into this agreement;
- Periods of no pay (e.g. leave without pay);
- Increment progression;
- Promotion or higher duties within the agreement;
- Paid leave consistent with the definition of base wages;
- Aggregate employment;
- Any increase to base wages which could occur due to the award overtaking the agreement rate during the life of the agreement, if payable.

Employees in receipt of workers compensation for lost wages will have their base wages determined by reference to the amount payable to them and the definition of base wages. For example – if the employee receives 85%, this percentage will apply to determine their base wages.

Income protection insurance payments paid to employees will not be recognised as base wages.

Base wages are the amount payable to the employee before tax and before any salary sacrifice arrangements or other distributions (where applicable) for the employee.

Work covered by the proposed agreement

Because the definition of base wages is by reference to work covered by the Agreement, it means that work covered by other agreements or other instruments is not included for the purposes of calculating any COLA payments under the proposed Agreement.

For example – if an employee takes up an opportunity to work under a different Agreement for a period of time during a relevant agreement year, the COLA payment under this Agreement will not reflect that period. However, if the employee was subject to the terms and conditions of the other Agreement and that Agreement included a COLA payment for the period while they were working, they would be eligible for the COLA payment under that Agreement where they remain a Queensland government employee on the calculation date. These arrangements will also apply where an employee is working concurrently.

Other agreements will likely have different relevant agreement years and calculation dates for COLA payments.

Employee eligibility

As described in the summary, eligible employees who are employed under the proposed agreement at the end of each agreement year, also called the 'calculation date' (i.e. on 31

March each year) will automatically have their COLA payment calculated and paid to them. Employees don't have to actually work on the calculation date to receive their payment. For example – if you are a part-time employee and don't work on 31 March you will still automatically receive your payment if you are still employed under the agreement.

The COLA payment for these employees will occur within 2 months following the calculation date, or 2 months following the release of the CPI information by the ABS, whichever is later.

If you are employed under the proposed agreement during a relevant agreement year, but you are no longer employed under the agreement at the calculation date, you will be still eligible to receive a COLA payment for the period you worked under the agreement. However, you must provide notice including relevant information confirming you remain a Queensland Government employee on the calculation date to receive the payment. This is because the Department of Education does not know where you are employed after ceasing to be covered by this agreement and require evidence to show the employee was still a Queensland government employee on the calculation date.

Employees not employed under a certified agreement on the calculation date (e.g. Senior Officers under the *Public Sector Act 2008*) are eligible as long as they are employed as a Queensland government employee.

Queensland government employees are employees employed consistent with the definition provided in the COLA clause. This definition includes all departments and the majority of statutory authorities, as well as the Queensland Police Service, Queensland Parliamentary Service and the Office of the Governor. The local government and government owned corporations are not included.

The COLA payment for these employees will occur within a two month period of the employee providing advice of their employment as a Queensland government employee at the calculation date to the agency.

Calculation dates

There are three calculation dates for this Agreement as follows:

- COLA Payment Year 1 – 31 March 2023;
- COLA Payment Year 2 – 31 March 2024;
- COLA Payment Year 3 – 31 March 2025.

Agreement years

The agreement years for each COLA Payment is as follows:

- COLA Payment Year 1 – the period 1 April 2022 to 31 March 2023;
- COLA Payment Year 2 – the period 1 April 2023 to 31 March 2024;
- COLA Payment Year 3 – the period 1 April 2024 to 31 March 2025.

Arrangements for casual employees

Casual employees who have performed work under the Agreement during the Agreement year will be eligible for the COLA payment provided they have worked within 12 weeks prior to the

calculation date, or where they remain employed as a Queensland Government employee at the calculation date and provide the required notice.

Eligible casual employees will receive a COLA payment calculated using their total base earnings under the agreement during the agreement year with reference to all earnings under the agreement (e.g. earnings as a casual, temporary or permanent employee). To ensure equitable treatment of employees engaged on a casual basis, base wages for the purposes of calculating the COLA will include earnings attributable to casual loading.