

**HOMESTYLE AGED CARE SERVICES,
ANMF and HSU
ENTERPRISE AGREEMENT 2021 - 2023**

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Wickro Pty Ltd T/A Homestyles Aged Care Services
(AG2021/8490)

HOMESTYLE AGED CARE SERVICES, ANMF AND HSU ENTERPRISE AGREEMENT 2021 - 2023

Aged care industry

COMMISSIONER LEE

MELBOURNE, 10 JANUARY 2022

Application for approval of the Homestyle Aged Care Services, ANMF and HSU Enterprise Agreement 2021 - 2023

[1] An application has been made for approval of an enterprise agreement known as the *Homestyle Aged Care Services, ANMF and HSU Enterprise Agreement 2021 - 2023* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Wickro Pty Ltd T/A Homestyles Aged Care Services. The Agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement. The undertakings are taken to be a term of the agreement.

[3] Subject to the undertakings referred to above, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

[4] The Health Services Union and Australian Nursing and Midwifery Federation being bargaining representatives for the Agreement, have given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) I note that the Agreement covers the organisations.

[5] I observe that the following provisions are likely to be inconsistent with the National Employment Standards (NES):

- Clause 50.2 - Amount of Paid Personal/Carer's Leave.
- Clause 53.18(d) - Request to Return to Work Part-time.

However, noting clause 5.1 of the Agreement, I am satisfied the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[6] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 17 January 2022. The nominal expiry date of the Agreement is 31 May 2023.



COMMISSIONER

Printed by authority of the Commonwealth Government Printer

<AE514547 PR737344>

Annexure A

IN THE FAIR WORK COMMISSION

Fair Work Act 2009 (Cth) ("FW Act")

Matter number:

AG2021/8490

Employer:

Wickro Pty Ltd ATF the Belmont Property Unit Trust trading
as Homestyle Aged Care Services

Application:

Section 185 – Application for approval of a single enterprise
agreement, namely the *Homestyle Aged Care Services,
ANMF and HSU Enterprise Agreement 2021 - 2023*

Undertaking-Section 190

I, Tim Humphries, Chief Executive Officer for Wickro Pty Ltd ATF the Belmont Property Unit Trust trading as Homestyle Aged Care Services, give the following undertaking with respect to the *Homestyle Aged Care Services, ANMF and HSU Enterprise Agreement 2021 - 2023* (the **Agreement**).

I have the authority given to me by Wickro Pty Ltd to provide this undertaking in relation to the application before the Fair Work Commission.

Undertaking

1. Clause 23.6(b) of the Agreement will be amended to read as follows:

A casual Employee will be paid for all work performed in accordance with the rates set out in the table below, which are calculated on the ordinary hourly rate appropriate to the Employee's classification and are inclusive of the 25% casual loading. The overtime rates will apply where a casual Employee is required by the Employer to work in excess of 10 hours in a day or 76 hours in a fortnight. For the purpose of this clause, each day or shift shall stand alone.

| Employee type | Monday to Friday (inclusive) | Monday to Friday (inclusive) Overtime | Saturday | Saturday Overtime | Sunday | Sunday Overtime | Public Holiday | Public Holiday Overtime |
|--------------------|------------------------------|---|----------|---|--------|---|----------------|-------------------------|
| Registered Nurse | 125% | 125% for the first 2 hours of overtime, and 200% thereafter | 187.5% | 187.5% | 187.5% | 187.5% for the first 2 hours of overtime, and 200% thereafter | 275% | 275% |
| Enrolled Nurse | 125% | 125% for the first 2 hours of overtime, and 200% thereafter | 200% | 200% | 200% | 200% | 200% | 250% |
| Aged Care Employee | 125% | 150% for the first 2 hours of overtime, and 250% thereafter | 175% | 175% for the first 2 hours of overtime, and 225% thereafter | 191% | 225% | 263% | 295% |

2. The ordinary hours of work for a day worker Registered Nurse / Enrolled Nurse will be between 6.30am and 6.00pm Monday to Friday. Provided further that a day worker Registered Nurse / Enrolled Nurse may agree to work an additional shift or additional hours outside the span of 6.30am and 6.00pm Monday to Friday at the ordinary hourly rate (with shift allowances and weekend and public holiday penalties as applicable), and such agreed additional hours will be treated and paid

1

as ordinary hours, subject to the provisions of Undertaking 1 in relation to casual Employees, and clauses 42.2 and 42.3 for a permanent day worker Registered Nurse / Enrolled Nurse (as the case may be). A day worker Registered Nurse / Enrolled Nurse will not be directed to work ordinary hours outside of 6.30am and 6.00pm Monday to Friday at the ordinary hourly rate.

3. Clause 43.1 of the Agreement will be amended to read as follows:


(a) All ordinary hours performed by full-time and part-time Employees between midnight on Friday and midnight on Sunday shall be paid for as follows, calculated on the ordinary hourly rate:

| Employee type | Saturday | Sunday day shift | Sunday AM/PM shift | Sunday night shift |
|--|----------|------------------|--------------------|--------------------|
| Part-Time Registered Nurse Grade 1 (Grad Year) | 150% | 167% | 150% | 150% |
| Full-Time / Part-Time Registered Nurse (all other classifications) | 150% | 150% | 150% | 150% |
| Full-Time / Part-Time Enrolled Nurse | 150% | 150% | 150% | 150% |
| Part-Time Aged Care Employee (Wage Skill Group 1 Year 1) | 150% | 167.2% | 157% | 150% |
| Full-Time Aged Care Employee (Wage Skill Group 1 Year 1) | 150% | 167.2% | 150% | 150% |
| Part-Time Aged Care Employee (all other classifications) | 150% | 167% | 157% | 150% |
| Full-Time Aged Care Employee (all other classifications) | 150% | 167% | 150% | 150% |

(b) For the purpose of subclause 43.1(a):

- (i) "Sunday day shift" means a shift worked between midnight Saturday and midnight Sunday that does not attract the payment of the AM/PM shift allowance or night shift allowance (ad hoc or permanent) in clause 45;
- (ii) "Sunday AM/PM shift" means a shift worked between midnight Saturday and midnight Sunday that attracts the payment of the AM/PM shift in clause 45.1;
- (iii) "Sunday night shift" means a shift worked between midnight Saturday and midnight Sunday that attracts the payment of the ad hoc night shift allowance or the permanent night shift allowance in clause 45.2.

This undertaking is provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

| | |
|--|---|
| Date signed: | 4.1.2022 |
| For and on behalf of the Employer by: [In accordance with s.190(5) of the FW Act] | Tim Humphries |
| Signature: |  |

ENTERPRISE AGREEMENT

PART A – APPLICATION AND OPERATION

1 TITLE

This Agreement shall be called the *Homestyle Aged Care Services, ANMF and HSU Enterprise Agreement 2021 - 2023* ('Agreement').

2 ARRANGEMENT

This Agreement shall be arranged as follows:

| | |
|--|----|
| PART A – APPLICATION AND OPERATION | 2 |
| 1 Title..... | 2 |
| 2 Arrangement | 2 |
| 3 Coverage of the Agreement | 4 |
| 4 Scope of the Agreement..... | 4 |
| 5 Relationship to NES..... | 4 |
| 6 Date and Period of Operation..... | 5 |
| 7 Definitions | 5 |
| 8 Agreement Flexibility | 8 |
| 9 Anti Discrimination | 10 |
| PART B – WAGES AND ALLOWANCES | 11 |
| 10 Wages | 11 |
| 11 Payment of Wages | 11 |
| 12 Salary Packaging..... | 12 |
| 13 Statutory Superannuation..... | 13 |
| 14 Qualifications Allowance..... | 16 |
| 15 Nauseous Allowance and Dirty and Offensive Work allowance | 19 |
| 16 Leader Allowance – Aged Care Employees and Enrolled Nurses | 20 |
| 17 Uniforms and Laundry | 21 |
| 18 Meal Allowance | 21 |
| 19 Travelling, Transport and Fares | 22 |
| 20 Tool and Telephone Allowance | 22 |
| 21 Occasional Interpreters' Allowance | 22 |
| 22 On Call Allowance..... | 22 |
| PART C – TYPES OF EMPLOYMENT, TERMINATION OF EMPLOYMENT, STAFFING AND WORKLOAD..... | 23 |
| 23 Modes of Employment..... | 23 |
| 24 Staff Replacement..... | 26 |
| 25 Workload Management and Filling of Vacancies..... | 26 |
| 26 Police Checks..... | 27 |
| 27 Letter of Appointment and Service and Training Certificate..... | 27 |
| 28 Additional Shifts | 28 |
| 29 Nurse/Personal Carer Bank..... | 28 |
| 30 Director of Nursing / Clinical Services Manager / Clinical Care Coordinator / Registered Nurse Cover .. | 28 |
| 31 Enrolled Nurse – In Charge of Facility Allowance | 30 |
| 32 Termination of Employment..... | 30 |
| 33 Redundancy | 32 |
| PART D – CAREER STRUCTURE | 35 |
| 34 Classifications..... | 35 |
| 35 Registered and Enrolled Nurses | 36 |
| 36 Aged Care Employees..... | 37 |
| 37 Trainees..... | 37 |
| PART E – EDUCATION AND PROFESSIONAL DEVELOPMENT | 37 |
| 38 Education and Professional Development | 37 |

| | | |
|----|--|------------|
| 39 | Professional Development Leave..... | 38 |
| 40 | Internal/Compulsory Education and Training..... | 39 |
| | PART F – HOURS OF WORK, ROSTERS AND RELATED MATTERS | 40 |
| 41 | Hours of Work | 40 |
| 42 | Overtime | 42 |
| 43 | Saturday and Sunday Work | 45 |
| 44 | Rosters | 46 |
| 45 | Shift Work | 47 |
| 46 | Meal Breaks | 50 |
| 47 | Rest Intervals | 50 |
| 48 | Higher Duties..... | 50 |
| | PART G – LEAVE AND PUBLIC HOLIDAY ENTITLEMENTS | 51 |
| 49 | Annual Leave..... | 51 |
| 50 | Personal/Carer’s Leave | 57 |
| 51 | Family Violence Leave..... | 60 |
| 52 | Compassionate Leave | 63 |
| 53 | Parental Leave..... | 64 |
| 54 | Long Service Leave | 73 |
| 55 | Public Holidays..... | 77 |
| 56 | Community Services Leave and Ceremonial Leave | 80 |
| | PART H – ANCILLARY AND DISPUTE SETTLEMENT..... | 81 |
| 57 | Dispute Resolution Procedure..... | 81 |
| 58 | Disciplinary Procedure..... | 82 |
| 59 | Notice Board..... | 83 |
| 60 | Consultation | 83 |
| 61 | Accident Pay | 86 |
| | APPENDIX A – WAGE RATES | 90 |
| | APPENDIX B – CLASSIFICATION DEFINITIONS | 96 |
| | APPENDIX C - LETTER OF APPOINTMENT..... | 118 |
| | APPENDIX D – ACCIDENT PAY | 119 |

3 COVERAGE OF THE AGREEMENT

This Agreement will cover:

- 3.1 Wickro Pty Ltd ATF the Belmont Property Unit Trust trading as Homestyle Aged Care Services with regards to its operations in the State of Victoria ('the Employer');
- 3.2 Any aged care facilities in Victoria, acquired by the Employer, or which may open for trading during the term of this agreement, subject to the transfer of business provisions of the *Fair Work Act 2009* (Cth) ('Fair Work Act'); and
- 3.3 Employees employed by the Employer in the classifications set out at Appendix B of this Agreement in the Employer's aged care facilities in Victoria ('Employees').
- 3.4 The Employer will formally advise the Australian Nursing and Midwifery Federation ('ANMF') and the Health Services Union ('HSU') when the Agreement is made in order for the ANMF and HSU to apply under s.183 of the Fair Work Act to be covered by the Agreement.
- 3.5 It is the intention of this Agreement that the ANMF and HSU will be covered by this Agreement. The Australian Nursing and Midwifery Federation will be covered by the Agreement in respect to Registered Nurses, Enrolled Nurses and Personal Care Workers. The Health Services Union will be covered in respect to Enrolled Nurses and Aged Care Employees including Personal Care Workers. However, the ANMF and HSU will only be covered by this Agreement if notice is provided in accordance with section 183 of the Fair Work Act.

4 SCOPE OF THE AGREEMENT

This Agreement sets out the minimum terms and conditions of employment for Employees covered by this Agreement.

5 RELATIONSHIP TO NES

- 5.1 This Agreement contains terms that are also matters under the National Employment Standards ('NES') of the Fair Work Act. It is not the intention of the parties to exclude the NES or any provision of the NES and it is acknowledged that such terms can only operate in the manner and to the extent prescribed by s.55 of the Fair Work Act. Where this Agreement also has provisions regarding matters dealt with under the NES and the provisions in the NES set out in the Fair Work Act are more favourable to an Employee in a particular respect than those provisions, then the NES will prevail in that respect and the provisions dealing with that matter in this Agreement will have no effect in respect of that Employee. The provisions in this Agreement otherwise apply.

6 DATE AND PERIOD OF OPERATION

This Agreement shall come into operation on the seventh day after the Agreement is approved by Fair Work Commission (FWC) and shall remain in force until 31 May 2023 and thereafter in accordance with the Fair Work Act.

7 DEFINITIONS

7.1 Other

Aged Care Employee refers to an Employee whose employment is covered by the classifications set out in Appendix B, Wage Skill Groups 1 to 11.

The **'Allowance rate' or 'base rate'** for Enrolled Nurses is the weekly rate for Pay Point 1 unless otherwise specified.

The **'Allowance rate' or 'base rate'** for Aged Care Employees is the weekly rate for Wage Skill Group 5, Year 1 unless otherwise specified.

The **'Allowance rate' or 'Base rate'** for Registered Nurses is the weekly rate for Grade 2 Year 1 unless, except in respect to shift allowances when the allowance rate will be the relevant percentage of Grade 1.

Authorised Enrolled Nurse has the same meaning as an Enrolled Nurse authorised by the Nursing and Midwifery Board of Australia to administer medications.

Casual Employee means a casual Employee in accordance with section 15A of the Fair Work Act.

Employee means an Employee employed by the Employer in the classifications set out at Appendix B of this Agreement in the Employer's aged care facilities.

Enrolled Nurse shall mean a person who has a current practising certificate issued by the NMBA entitling them to practice as an Enrolled Nurse.

Experience for the purposes of progression within Grades, between Pay Points or between Year Levels for all Registered Nurses and Enrolled Nurses means where an Employee has worked an average of 24 hours or more per week, or an average of three shifts or more per week, in a year. A Registered Nurse or Enrolled Nurse who has worked less than an average of 24 hours per week or three shifts per week in a year shall be required to work a further twelve months before being eligible for advancement to the next succeeding experience increment (if any), within the grade or sub-grade in which the Employee is employed.

Experience for the purposes of appointment or progression for Aged Care Employees means experience at any such work (in accordance with the classifications of this Agreement) within the last five years in a residential aged care facility in Victoria, excluding any leave. Provided that an Aged Care Employee shall, prior to commencing employment with the Employer

or within four weeks of commencing employment, provide suitable documentary evidence to the Employer of their experience (as defined). Where an Aged Care Employee fails to provide such evidence to the Employer, until such time as the Employee provides such evidence to the Employer, the Employee shall be paid at the level / pay point / year of experience for which documentary evidence was provided. No back payment will be made based on documentary evidence provided after the first four weeks from commencement of employment.

Experience for the purposes of appointment for Enrolled Nurses means all relevant training, experience and skills as an enrolled nurse other than such experience predating any break of five or more consecutive years shall be counted for the purposes of determining the appropriate pay point on appointment. Provided that an Enrolled Nurse shall, prior to commencing employment with the Employer or within four weeks of commencing employment, provide suitable documentary evidence to the Employer of their experience (as defined). Where an Enrolled Nurse fails to provide such evidence to the Employer, until such time as the Employee provides such evidence to the Employer, the Employee shall be paid at the level / pay point for which documentary evidence was provided. No back payment will be made based on documentary evidence provided after the first four weeks from commencement of employment.

Experience for the purposes of appointment for Registered Nurses means - full-time service and experience following registration in a grade or sub-grade at least equal to that in which the Employee is employed (or to be employed), and shall also include that time which may elapse between the completion of training or final examination (whichever occurs last) and the formal registration as a certificated Nurse by the Nursing and Midwifery Board of Australia or its predecessors. Where an Employee previously has been employed in a higher grade or sub-grade, service and experience in such higher grade or sub-grade shall count as service and experience in the lower grade or sub-grade for the purposes of determining such Employee's experience, provided that where an Employee has not been regularly employed as a Registered Nurse, or has not actively nursed for a period of five years or more, such Employee's prior service and experience shall not be taken into account. Provided that a Registered Nurse shall, prior to commencing employment with the Employer or within four weeks of commencing employment, provide suitable documentary evidence to the Employer of their experience as defined). Where a Registered Nurse fails to provide such evidence to the Employer, until such time as the Employee provides such evidence to the Employer, the Employee shall be paid at the level / pay point / year for which documentary evidence was provided. No back payment will be made based on documentary evidence provided after the first four weeks from commencement of employment.

Fair Work Act means the *Fair Work Act 2009* (Cth).

FWC means the Fair Work Commission, the statutory body established under the Fair Work Act or any successor organisation established under

Commonwealth legislation which performs the functions of conciliation and arbitration.

Immediate family of an Employee means:

- (a) A spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Employee; or
- (b) A child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Employee;
- (c) A person related to the Employee according to Aboriginal or Torres Strait Islander kinship rules
- (d) *Spouse* includes a former spouse.
- (e) *De facto partner* of an Employee:
 - (i) Means a person who, although not legally married to the Employee, lives with the Employee in a relationship as a couple on a genuine domestic basis (whether the Employee and the person are of the same sex or different sexes); and
 - (ii) Includes a former de facto partner of the Employee.
- (f) *Child* includes step-child, adopted child, ex-nuptial child and adult child.
- (g) *Parent* includes step-parent and foster parent.

NES means the National Employment Standards prescribed in Part 2-2 of the Fair Work Act.

NMBA is the Nursing and Midwifery Board of Australia.

Ordinary hourly rate means the rate of pay set out in Appendix A, as applicable to an Employee, as adjusted in accordance with clause 10, but does not include overtime, penalty rates, allowances, shift allowances, loadings, incentives, bonuses and other ancillary payments of a like nature.

Registered Nurse shall mean a person who is registered by the NMBA as a Registered Nurse and who has a current practising certificate issued by the NMBA entitling them to practice as a Registered Nurse.

Registered health practitioner means a health practitioner registered, or licensed, as health practitioner (or as a health practitioner of a particular type) under *The National Health Practitioner Regulation National Law Act* of a State, Territory or the Commonwealth.

Service and Continuous Service is defined by s.22 of the Fair Work Act.

Unions means the ANMF Victorian Branch and the Health Services Union.

8 AGREEMENT FLEXIBILITY

8.1 An Employer and Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

- (a) The Agreement deals with one or more of the following matters:
 - (i) Arrangements about when work is performed;
 - (ii) Overtime rates;
 - (iii) Penalty rates;
 - (iv) Allowances; and
 - (v) Leave loading;
- (b) The arrangement meets the genuine needs of the Employer and Employee in relation to one or more of the matters mentioned in paragraph (a); and
- (c) The Employer and the individual Employee must have genuinely made the agreement without coercion or duress.

8.2 The Employer must ensure that the terms of the individual flexibility arrangement:

- (a) Are about permitted matters under s.172 of the Fair Work Act; and
- (b) Are not unlawful terms under s.194 of the Fair Work Act; and
- (c) Result in the Employee being better off overall than the Employee would be if no arrangement was made.

8.3 The Employer must ensure that the individual flexibility arrangement:

- (a) Is in writing; and
- (b) Includes the name of the Employer and Employee; and
- (c) Is signed by the Employer and Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and
- (d) Includes details of:
 - (i) The terms of the enterprise agreement that will be varied by the arrangement; and
 - (ii) How the arrangement will vary the effect of the terms; and
 - (iii) How the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and

- (e) States the day on which the arrangement commences.
- 8.4 The Employer must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 8.5 The Employer or Employee may terminate the individual flexibility arrangement:
- (a) By giving no more than 28 days written notice to the other party to the arrangement; or
 - (b) If the Employer and Employee agree in writing — at any time.
- 8.6 The right to request an individual flexibility arrangement under this clause is in addition to the right contained in the NES at the commencement of the Agreement of an Employee to request a change in working arrangements in accordance with s.65 of the Fair Work Act in circumstances where the Employee is:
- (a) is the parent or has the responsibility for the care of a child who is of school age or younger;
 - (b) is a carer (within the meaning of the *Carer Recognition Act 2010*);
 - (c) has a disability;
 - (d) is 55 or older;
 - (e) is experiencing violence from a member of the Employee’s family; or
 - (f) provides care or support to a member of the Employee’s immediate family, or a member of the Employee’s immediate household, who requires care or support because the member is experiencing violence from the member’s family.
- 8.7 Such a request must be in writing and set out the detailed reasons for the change. The Employer must respond in writing to the request within 21 days stating whether the request has been granted or refused. If refused the response must include details of the reasons of the refusal. The Employer may only may refuse the request only on reasonable business grounds (as defined in s. 65(5A) of the Fair Work Act). Should the NES be amended during the life of this Agreement the amended NES will apply.
- 8.8 Further to clause 8.7, if the Employer does not agree to the Employee’s request, the Employer must discuss the request with the Employee to better understand the Employee’s circumstances and then the Employer must provide available counter-proposals to the Employee in writing. Any agreed arrangement must be recorded in writing.
- 8.9 To avoid doubt, and without limiting Clauses 8.6 and 8.7, an Employee who:

- (a) is a parent, or has responsibility for the care, of a child; and
- (b) is returning to work after taking leave in relation to the birth or adoption of the child;

may request to work part-time to assist the Employee to care for the child.

8.10 The Employee is not entitled to make a request pursuant to Clause 8.6 unless:

- (a) for an Employee other than a casual Employee – the Employee has completed at least 12 months of continuous service with the Employer immediately before making the request; or
- (b) for a casual Employee – the Employee:
 - (i) is a long term casual Employee of the Employer immediately before making the request; and
 - (ii) has a reasonable expectation of continuing employment by the Employer on a regular and systematic basis.

9 ANTI DISCRIMINATION

9.1 It is the intention of the Employer to achieve the principal objects of ss.3(e) and 336 of the Fair Work Act through respecting and valuing the diversity of the work force 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.

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

9.3 Nothing in this clause is taken to affect:

- (a) Any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;
- (b) An Employee, the Employer or registered organisation, pursuing matters of discrimination in any State or Federal jurisdiction, including any application to the Human Rights and Equal Opportunity Commission; and
- (c) The exemptions in s.351(2) of the Fair Work Act.

PART B – WAGES AND ALLOWANCES

10 WAGES

- 10.1 Rates of pay (and allowances) as increased by this Agreement are set out at Appendix A.
- 10.2 Any further wage increase shall be at the discretion of the Employer, unless the ordinary hourly rate falls below the modern award ordinary hourly rate that would have applied to the Employee if the Agreement did not apply. In such circumstances the ordinary hourly rate shall default to the minimum rate prescribed in accordance with the relevant modern award rate.

11 PAYMENT OF WAGES

- 11.1 Wages will be paid fortnightly, unless otherwise mutually agreed in writing up to a maximum period of one month, not more than five days following the end of the pay period. Employees will be paid by electronic funds transfer into the bank or financial institution account nominated by the Employee.
- 11.2 Where an underpayment of wages occurs by reason of an error in calculation by the Employer involving 2.5% or more of the Employee's net weekly wage, the payment will be corrected within 24 hours at the request of the Employee. This shall not apply where the Employer and Employee are in genuine dispute as to whether the monies are owed to the Employee.
- 11.3 Wages shall be paid during working hours not later than Thursday following the end of the weekly or fortnightly pay period provided that:
 - (a) When a public holiday occurs on a Thursday or Friday, payment shall be made on the Wednesday;
 - (b) An employee who is rostered off on the Thursday pay day but who works any time after 9.00 a.m. on the Tuesday or any time on the Wednesday immediately preceding the Thursday, payment shall be made on the Tuesday or Wednesday as the case may be. This applies only where employees are paid by means other than Direct Bank Transfer.
 - (c) When an employee is paid by means other than by direct debit transfer and that employee is not rostered to work at any time between 9.00 a.m. on Monday and midnight on the Thursday, payment may be postponed upon such employee's next rostered period of duty following the Thursday but, should the employee so desire, he or she may attend and collect his or her pay on the pay day.
- 11.4 At the time of making payment to the Employee, the Employer shall provide to each Employee a statement detailing the following information: name and classification of the Employee; the period the pay relates to and the date of payment; the hourly rate of pay; the amount of payment

including allowances; the amount of pay deductions; amounts of occupational superannuation contributions; and details of funds into which contributions are being paid.

11.5 **Payment of Wages following Termination**

- (a) When notice of termination of employment has been given by an Employee in accordance with clause 32.2(a), or an Employee's services have been terminated by an Employer who has provided them with notice in accordance with 32.1(a), payment of all wages and other monies owing to an Employee under the Agreement and the NES shall be made to the Employee within 24 hours of the day on which the Employee's employment terminates. In all other cases of termination, payment will be made within three business days of the day on which the Employee's employment terminates.
- (b) Termination payments will include the payment of leave loading as per the provisions of Clause 52.
- (c) In respect to Enrolled Nurses and Aged Care Employees only, where payment is made later than three business days after termination:
 - (i) If an Employee is kept waiting for more than three business days, such Employee shall be paid overtime rates for the duration of the period until such monies owing are paid with a minimum payment of two hours and a maximum payment of seven hours and 36 minutes per day.
 - (ii) Notwithstanding the above, this subclause will not come into effect if the payment of wages or other monies owed falls on a Bank Holiday or declared public holiday. This clause will come into effect upon the expiration of such a Bank Holiday or declared public holiday.
 - (iii) This subclause will not come into effect if a circumstance outside the control of the Employer frustrates the Employer's ability to meet the requirements of this subclause.

12 **SALARY PACKAGING**

- 12.1 By agreement with the Employee, an Employee's pay may be salary packaged.
- 12.2 The Employee shall compensate the Employer from within their base remuneration for any FBT incurred as a consequence of any salary packaging arrangement the Employee has entered into. Where the Employee chooses not to pay any of the costs associated with their salary packaging, the Employer may cease the Employee's salary packaging arrangements.

- 12.3 The parties agree that in the event that salary packaging ceases to be an advantage to the Employee (including as a result of subsequent changes to FBT legislation), the Employee may elect to convert the amount packaged to salary. Any costs associated with the conversion to salary shall be borne by the Employee and the Employer shall not be liable to make up any benefit lost as a consequence of an Employee's decision to convert to salary.
- 12.4 The Employee shall be responsible for all costs associated with the administration of their salary packaging arrangements, provided that such costs shall be confined to reasonable commercial charges as levied directly by the external salary packaging provider and/or in-house payroll service (as applicable), as varied from time to time.
- 12.5 The parties recommend to Employees who are considering salary packaging that they seek independent financial advice. The Employer shall not be held responsible in any way for the cost or outcome of any such advice and furthermore, the parties agree that the Employee shall pay for any costs associated with salary packaging.
- 12.6 Superannuation contributions paid by the Employer into an approved Fund will be calculated on the Employee's pre-packaged rate of pay.

13 STATUTORY SUPERANNUATION

- 13.1 The subject of superannuation is dealt with extensively by legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993* (the **Superannuation Legislation**). This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.
- 13.2 The Employer shall make occupational superannuation contributions to the Fund. 'The Fund' for the purpose of this Agreement shall mean:
- (a) Health Employees Superannuation Trust of Australia ('HESTA') established and governed by a trust deed 23 July 1987, as may be amended from time to time, and includes any superannuation scheme which may be made in succession thereto;
 - (b) Health Super (a division of First State Superannuation Scheme), or
 - (c) The Employee's 'stapled' fund; or
 - (d) Any other complying fund upon a request from the Employee and with the consent of the Employer.
- 13.3 The Employer shall participate in accordance with the trust fund deeds. The Employer shall make application to the Fund to become a participating Employer in the Fund and shall become a participating Employer upon acceptance by the Trustee of the Fund.

- 13.4 Where a new Employee does not choose a complying super fund within 28 days, the Employer will contact the ATO to confirm if the Employee has a ‘stapled’ fund. If the Employee has a ‘stapled’ fund, the Employer will make contributions into that account, unless and until an Employee nominates an alternative complying fund. If the Employee does not have a ‘stapled fund’ and does not choose a complying super fund within 28 days of commencing employment, the Employer will create an account for the Employee using the Employer’s default fund, HESTA (“**Default Fund**”). The Default Fund offers a MySuper Product.
- 13.5 Each Employee shall be eligible to receive contributions from the date of eligibility.
- 13.6 The Employer will contribute to the Fund, on behalf of each Employee, the percentage of ordinary time earnings required by legislation, calculated to the nearest ten cents (any fraction below five cents shall be disregarded). Contributions will be made monthly on behalf of each Employee regardless of the Employee’s age in any month.
- 13.7 ‘Ordinary time earnings’ are currently defined by the legislation and includes allowances for ordinary hours of work. Such allowances include those such as shift, qualification and leader allowances. However, they do not include those that arise during overtime (such as meal allowance) other than in circumstances required by legislation and will not include allowances paid with the expectation that they will be spent in the course of employment (such as travel allowances, laundry and uniform). In respect to what constitutes ‘ordinary hours’, Superannuation Guarantee Contributions will be paid in respect to each hour worked which is paid at ordinary time (including all hours which are additional to contracted hours). The parties acknowledge that the legislative definition of ‘ordinary time earnings’ may vary and, in that event, the legislative definition shall apply.
- 13.8 Where an Employer makes an application for an exemption from monthly payments to the Fund, the Employees shall be notified in writing prior to the application being made. Upon request from an Employee, the Employer must provide a copy of the remittance receipt from the Fund showing the contributions made on the Employee’s behalf or make it available for inspection, save that the Employee shall be entitled to take a copy. The Employer shall contribute all superannuation contributions in accordance with the Trust Deed, save that late payment for reasons beyond the control of the Employer and non-allocation by the Fund shall not constitute a breach of this Agreement.
- 13.9 Any dispute regarding superannuation contributions, including but not limited to the frequency of contribution, shall be addressed under the Dispute Resolution Procedure of this Agreement.

Voluntary Contributions

- 13.10 Where an Employee wishes to make voluntary contributions to the Fund, the Employee may authorise the Employer to deduct from the Employee’s

wages an amount or percentage specified by the Employee. Voluntary contributions deducted under this provision will be forwarded to the Fund by the Employer at the same time as the Employer's contributions. Where the Employer receives written authorisation from an Employee, it must commence making payments into the Fund on behalf of the Employee within fourteen days of receiving the authorisation.

- 13.11 An Employee may vary his or her additional contributions by a written authorisation and the Employer must alter the additional contributions within fourteen days of receiving the authorisation. An Employee may only vary his or her additional contributions once each month.

Salary Sacrifice

- 13.12 An Employee may make an agreement with the Employer for salary sacrifice.

- (a) The Employee must specify an amount or a percentage of ordinary time earnings by which his or her salary is to be reduced ("the salary sacrifice").
- (b) The salary sacrifice will be deducted from the Employee's salary and contributed by the Employer to the Fund each month.
- (c) The Employer will continue to calculate the superannuation guarantee contributions required by the *Superannuation Guarantee (Administration) Act 1992* on the basis of the Employee's ordinary time earnings before the salary sacrifice is deducted
- (d) Salary sacrifice deductions will be made during a period of paid leave and the Employee will receive the rate of pay specified under this agreement less the salary sacrifice deduction.
- (e) Calculation of salary for the purpose of leave accruals and other payments due on termination of employment shall be calculated on a rate of pay which includes the salary sacrifice contributions.
- (f) The Employee may revoke the salary sacrifice agreement or alter the amount to be deducted on no more than two occasions in each calendar year.

- 13.13 The name of the Fund and the amount of any contributions remitted to the fund, whether superannuation guarantee contributions, salary sacrifice contributions or voluntary contributions must be included in pay slips provided by the Employer to each Employee.

14 QUALIFICATIONS ALLOWANCE

Qualifications Allowance – Registered Nurse

14.1 A Registered Nurse will be entitled to a qualification allowance set out below, subject to the following:

- (a) A Registered Nurse holding more than one qualification is only entitled to one qualification allowance, being the allowance for the highest qualification held. It must be demonstrated that the qualification is relevant to residential aged care, specifically one of the following areas:
 - (i) Gerontological nursing, or
 - (ii) Management, or
 - (iii) Other qualification with a component that has application to nursing in Aged Care.

In the case of qualifications regarding Management, such qualifications will be deemed relevant where the Employee is classified at Grade 3 or above.

- (b) In considering whether a component of the qualification is relevant, the nature of the qualification and the current area of practice of the qualification holder are the main criteria. Other considerations may include:
 - (i) The clinical or other area of work of the Registered Nurse;
 - (ii) The classification and position description of the Registered Nurse;
 - (iii) Whether the qualification would assist the Registered Nurse in performing her or his role and/or assist in maintaining quality patient care and/or assist in the administration of the ward/unit/area in which the Registered Nurse is employed.
- (c) ‘Applicable rate’ under this clause shall be defined as 1/38th of the full-time weekly rate (based on the ordinary hourly rate) applicable to an Employee at the Registered Nurse Grade 2 Year 1 classification level.
- (d) A Registered Nurse claiming entitlement to a qualification allowance must provide to the Employer evidence of that Registered Nurse holding the qualification for which the entitlement is claimed. Payment shall be from the first pay period on or after evidence of the relevant qualification is submitted to the Employer (including where the Employee submits evidence of

the qualification as part of the recruitment process) or the date the qualification is obtained, whichever is the later.

- (e) For the avoidance of doubt, a qualification allowance cannot be claimed by a Registered Nurse in respect of that Employee's base qualification leading to registration as a Registered Nurse with the exception of:
 - (i) A Hospital Certificate or Graduate Certificate;
 - (ii) Postgraduate Diploma;
 - (iii) An Honours Degree;
 - (iv) A double Degree;
 - (v) A Masters Degree; or
 - (vi) A Doctorate.
- (f) Certificates obtained from training or education facilities (e.g. infection control certificates from the Mayfield Centre) shall be recognised provided that the programmes are equivalent to a University Graduate Certificate and the training/education facility verifies that in writing.
- (g) A Registered Nurse who holds a Hospital Certificate or Graduate Certificate (or equivalent) shall be paid, in addition to their salary, the qualification allowance (Hospital/Grad Certificate) prescribed in Appendix A, calculated as 4.0% of the 'applicable rate'.
- (h) A Registered Nurse who holds a Post-Graduate Diploma or a Degree (or equivalent), other than a nursing undergraduate degree, an honours degree or a double degree, shall be paid, in addition to her or his salary, the qualification allowance (Post Grad Dip/Degree) prescribed in Appendix A, calculated as 6.5% of the 'applicable rate'.
- (i) A Registered Nurse who holds a Masters Degree (including a Masters Degree completed prior to, or that leads to, registration), shall be paid, in addition to their salary, the qualification allowance (Masters Degree) prescribed in Appendix A, calculated as 7.5% of the 'applicable rate'.
- (j) A Registered Nurse who holds a Doctorate, shall be paid, in addition to their salary, the qualification allowance (Doctorate) prescribed in Appendix A, calculated as 8.5% of the 'applicable rate'.
- (k) The above allowances are to be paid during all periods of paid leave except personal leave taken (either in individual periods or consecutively) beyond a total of 21 days in any twelve month period and long service leave. In the case of annual leave, these allowances are added to those components detailed at Clause 49.7(a)(i)(B) of this Agreement. For the avoidance of doubt, the Employee would not receive the allowance in addition to leave

loading calculated on a projected roster basis, but will receive it in addition to a loading paid as a flat 17.5% at Clause 49.7(a)(i)(A).

- (l) The above allowances are to be paid on a pro-rata basis for non-full-time Employees, including casuals.

Qualifications Allowance – Enrolled Nurse

14.2 An Enrolled Nurse will be entitled to a qualification allowance as set out below.

- (a) An Enrolled Nurse who holds a certificate or qualification (which is in addition to the minimum qualification held by the Nurse for registration by the NMBA) in which it is demonstrated that a component of the qualification is applicable to her/his area of practice and/or work in aged care shall be paid the following allowance:
 - (i) A certificate or qualification, excluding those enabling administration of medications by all routes, (or at least two certificates of attainment for units of competency toward the Diploma or Advanced Diploma of Nursing) totalling a minimum of 140 nominal classroom hours (or a course of a minimum six months duration), at the rate of 4% of their applicable weekly Pay Point rate for all hours worked as prescribed in Appendix A.
 - (ii) A certificate or qualification (or at least three certificates of attainment for units of competency toward the Diploma or Advanced Diploma totalling a minimum of 280 nominal classroom hours (or a course of a minimum twelve months duration) – at the rate of 7.5% of their applicable weekly Pay Point rate for all hours worked as prescribed in Appendix A.
- (b) Provided that only one allowance is payable to each eligible Enrolled Nurse, being the allowance for the highest qualification or greater number of certificates held, and provided that the certificate or certificates of attainment or qualification is relevant to the work performed.
- (c) An Enrolled Nurse claiming entitlements to a qualification allowance must provide the Employer with evidence of that Enrolled Nurse holding the certificate/s or qualification for which the entitlement is claimed. Payment shall be from the first pay period on or after evidence or the qualification is submitted to the Employer (including where the Employee submits evidence of the qualification as part of the recruitment process) or the date the qualification is obtained, whichever is the later.

- (d) For the avoidance of doubt, a qualification allowance cannot be claimed by an Enrolled Nurse in respect of that person's base qualification leading to registration as an Enrolled Nurse, nor can it be claimed where the education provided at pre or post registration level is to enable endorsement with the NMBA to administer medications because the ordinary hourly rates for Enrolled Nurses in Appendix A applying from the first full pay period on or after 1 July 2021 incorporate payment of the qualification allowance to Enrolled Nurses endorsed with the NMBA to administer medications. Therefore, no separate qualification allowance is payable to Enrolled Nurses by reason of holding a certificate / qualification enabling administration of medications.
- (e) The above allowances are to be paid during all periods of paid leave except personal leave taken (either in individual periods or consecutively) beyond a total of 21 days in any twelve month period and long service leave. In the case of annual leave, these allowances are added to those components detailed at Clause 49.7(a)(i)(B) of this Agreement. For the avoidance of doubt, the Employee would not receive the allowance in addition to leave loading calculated on a projected roster basis, but will receive it in addition to a loading paid as a flat 17.5% at Clause 49.7(a)(i)(A).
- (f) The above allowances are to be paid on a pro-rata basis for non-full-time Employees.

15 NAUSEOUS ALLOWANCE AND DIRTY AND OFFENSIVE WORK ALLOWANCE

- 15.1 Employees who are engaged in handling linen of a nauseous nature other than linen sealed in airtight containers shall be paid an allowance as contained in Appendix A per hour or part thereof in addition to the rates prescribed elsewhere in this Agreement for all time during which they are engaged in such work. Provided that any Employee who is entitled to be paid an allowance under this clause shall be paid no less than the minimum sum per week as set out in Appendix A. The allowance does not apply to Registered Nurses and Aged Care Employees in Wage Skill Groups 4, 5, 7 and 9.
- 15.2 An allowance as prescribed in Appendix A shall be paid to an Employee (except for a Registered Nurse) in any classification for work which is of an unusually dirty or offensive nature having regard to the duty normally performed by such Employee in such classification, provided that any Employee who is paid an allowance under Clause 15.1 shall not be entitled to be paid an allowance under Clause 15.2 for the same work.

16 LEADER ALLOWANCE – AGED CARE EMPLOYEES AND ENROLLED NURSES

- 16.1 An Aged Care Employee or Enrolled Nurse who is appointed as a ‘Leader’ (however titled) will have his/her classification preceded by the term ‘Leader’ and will be paid an allowance of 10%, to be calculated upon the actual ordinary hourly rate payable to the Employee under this Agreement.
- 16.2 Appointment of an Aged Care Employee or Enrolled Nurse to a classification preceded by the term ‘Leader’ will only be made where the work performed by such person represents a net addition to the work value of the substantive role required of the Aged Care Employee or Enrolled Nurse employed in a similar area within the workplace. Examples of a net addition duties or functions include the assignment of a special project or an increased emphasis on the performance of the core functions already undertaken by an Aged Care Employee or an Enrolled Nurse.
- 16.3 For the avoidance of doubt, the absence of supervisory responsibility or a designated ‘team’ shall not preclude the Employee from obtaining the allowance, consistent with the examples in this clause, where the criteria set out at clause 16.4 below are satisfied.
- 16.4 A net addition to the work value of the substantive role required of an Aged Care Employee or Enrolled Nurse would be characterised by:
- (a) The additional functions or duties are a regular and on-going requirement; and
 - (b) Experience in the role commensurate with this clause, coupled with on the job training where provided by the Employer; and
 - (c) The necessity for additional training in a particular aspect of the role above that required to fulfil the role of an Aged Care Employee or Enrolled Nurse employed in a similar area of areas; and
 - (d) A greater level of judgment is required from the Aged Care Employee or Enrolled Nurse whereby the Employee is capable of making independent decisions to a degree not generally expected of an Aged Care Employee or Enrolled Nurse employed in a similar area or areas; and
 - (e) A higher degree of accountability is expected for work undertaken, such that the Aged Care Employee or Enrolled Nurse is clearly performing at a level above that of her or his peers employed in a similar area or areas within the Employer’s facility.

16.5 PCW Medication Awareness and Assistance Allowance

Where an appropriately trained Personal Care Worker (PCW) is required by the Employer and agrees to assist residents to take their medication, which will only occur:

- (a) In clinically appropriate circumstances; and
- (b) After the PCW has completed the required education module; and
- (c) When the PCW is deemed competent by a Registered Nurse,

then the PCW will be paid an allowance of 3% of the relevant base / allowance rate for all hours of the rostered shift, irrespective of the amount of time taken to assist with medications. Such allowance will be paid in addition to any other allowance payable.

17 UNIFORMS AND LAUNDRY

- 17.1 Employees required by the Employer to wear uniforms will be supplied with an adequate number of uniforms appropriate to the occupation free of cost to Employees. Such items are to remain the property of the Employer and be laundered and maintained by such Employer free of cost to the Employee.
- 17.2 Instead of the provision of such uniforms in accordance with clause 17.1, the Employer may pay such Employee a uniform allowance per week or per day at the rate prescribed in Appendix A, whichever is the lesser amount. Where such Employee's uniforms are not laundered by or at the expense of the Employer, the Employee will be paid a laundry allowance per week or per day as prescribed in Appendix A, whichever is the lesser amount.
- 17.3 The uniform allowance, but not the laundry allowance, shall be paid during all absences on paid leave, except absence on long service leave and absence on personal leave taken (either in individual periods or consecutively) beyond a total of 21 days in any twelve month period. Where, prior to the taking of leave, an Employee was paid a uniform allowance other than at the weekly rate, the rate to be paid during absence on leave will be the average of the allowance paid during the four weeks immediately preceding the taking of leave.
- 17.4 Where the Employer provides an Employee with uniforms, all articles so provided remain the property of the Employer.

18 MEAL ALLOWANCE

- 18.1 An Employee will be supplied with an adequate meal where the Employer has adequate cooking and dining facilities or be paid a meal allowance, in addition to any overtime payment at the rate prescribed in Appendix A of this Agreement, in the following circumstances:
 - (a) When required to work after the usual finishing hour of work beyond one hour or, in the case of shift workers, when the overtime work on any shift exceeds one hour.
 - (b) Provided that where such overtime work completed by an Employee exceeds four hours a further meal allowance at the rate set out in Appendix A will be paid.

- (c) When required to work more than five hours overtime on a Saturday or on a Sunday, or more than five hours by a shift Employee on her/his rostered day off – the amount provided in Appendix A and a further amount as specified in Appendix A when required to work more than nine hours on such day.

18.2 The meal allowance will be paid as part of the next pay cycle.

19 TRAVELLING, TRANSPORT AND FARES

- 19.1 An Employee required and authorised by the Employer to use their own motor vehicle in the course of their duties will be paid the allowance as specified in Appendix A.
- 19.2 When an Employee is involved in travelling on duty, if the Employer cannot provide the appropriate transport, all reasonably incurred expenses in respect to fares, meals and accommodation will be met by the Employer on production of receipts or other evidence acceptable to the Employer.
- 19.3 An Employee who leaves the facility and is recalled to duty will be reimbursed all reasonable fares and expenses actually incurred, including the per kilometre rate in the relevant Appendix of this Agreement, when he or she uses a car in those circumstances.
- 19.4 An Employee will not be entitled to reimbursement for the expenses referred to in Clauses 19.2 and 19.3 which exceed the mode of transport, meals or the standard of accommodation agreed with the Employer for these purposes.

20 TOOL AND TELEPHONE ALLOWANCE

- 20.1 A tool allowance as prescribed in Appendix A for the supply and maintenance of tools will be paid to chefs and cooks who are not provided with all necessary tools by the Employer.
- 20.2 Where the Employer requires an Employee to install and/or maintain a telephone for the purposes of being on call the Employer shall refund the installation costs and subsequent three-monthly rental charges on production of receipted accounts.

21 OCCASIONAL INTERPRETERS' ALLOWANCE

An Employee not employed as an accredited interpreter who is required to perform occasional interpreting duties shall receive an additional amount in accordance with Appendix A.

22 ON CALL ALLOWANCE

Employees required to be on-call shall be paid an on-call allowance as specified in Appendix A per twelve hour period or part thereof.

PART C – TYPES OF EMPLOYMENT, TERMINATION OF EMPLOYMENT, STAFFING AND WORKLOAD

23 MODES OF EMPLOYMENT

23.1 Employment Categories

Employees under this Agreement will be employed in one of the following categories:

- (a) Full-time;
- (b) Part-time; or
- (c) Casual.

At the time of engagement the Employer will inform each Employee whether they are employed on a full-time, part-time or casual basis. The Employer may direct an Employee to carry out such duties that are within the limits of the Employee's skill, competence and training, consistent with the respective classification.

23.2 Full-time Employment

A full-time Employee is one who is engaged to work 38 hours per week or an average of 38 hours per week pursuant to Clause 41 of this Agreement.

23.3 Part-time Employment

- (a) A part-time Employee is an Employee who is engaged to work less than full-time hours of an average of 38 hours per week and has reasonably predictable hours of work.
- (b) A part-time Employee will be rostered for a minimum of two hours on any shift. This minimum engagement excludes recall to work (Clause 42) and attendance at meetings and mandatory training (Clause 40).
- (c) Unless otherwise stated, the terms of this Agreement will apply on a pro rata basis to part-time Employees on the basis that the ordinary weekly hours for full-time Employees are 38.

23.4 Subject to the rostering provisions of Clause 44, before commencing employment, the Employer and Employee will agree in writing on a regular pattern of work including the number of actual contracted hours to be worked in each week or fortnight, the pattern of days and times of the week the Employee will work and the starting and finishing times of each shift each day. The terms of the agreement may be varied by written agreement.

23.5 Review of Part-time Hours

- (a) Where a part-time Employee has been rostered, and works more than the original contracted hours on a regular and systematic basis over 26 weeks (provided that the rostering pattern has not resulted from coverage for extended absences such as parental leave, long service leave, personal/carer's leave, workers compensation leave, or temporary flexible work arrangement), the Employee has the right to request in writing the rostered hours be increased on a permanent basis and that request will not be unreasonably refused.
- (b) Hours worked in the following circumstances will not be incorporated to any adjustment made:
 - (i) If the increase in hours is as a direct result of an Employee being absent on leave, such as for example, annual leave, long service leave, maternity leave, workers compensation; and/or
 - (ii) If the increase in hours is due to a temporary increase in hours only due, for example, to the specific needs of a resident.
- (c) Any adjusted contracted hours resulting from a review by the Employer should however, be such as to readily reflect roster cycles and shift configurations utilised at the workplace.

23.6 Casual Employment

- (a) A casual Employee is an Employee engaged as such on an hourly basis in relieving work or work of a casual nature. It is intended that casual employment will only be utilised as bank staff to assist with genuine peaks and troughs or shortages of labour where permanent staff are not available. It is not intended that casual Employees will be employed on a regular or systematic basis. If this is the case, then Clause 23.7 will apply.
- (b) A casual Employee will be paid for all work performed in accordance with the rates set out in the table below, which are calculated on the ordinary hourly rate appropriate to the Employee's classification and are inclusive of the 25% casual loading:

| Employee type | Monday to Friday (inclusive) | Saturday | Sunday | Weekday Public Holiday | Weekend Public Holiday |
|--------------------|------------------------------|----------|--------|------------------------|------------------------|
| Registered Nurse | 125% | 187.5% | 187.5% | 275% | 275% |
| Enrolled Nurse | 125% | 200% | 200% | 200% | 200% |
| Aged Care Employee | 125% | 175% | 175% | 175% | 175% |

- (c) In addition, a casual Employee shall be entitled to receive the appropriate uniform and other allowances prescribed herein, except where otherwise stated.
- (d) The Annual Leave, paid Personal/Carer's Leave, paid Compassionate Leave and Termination of Employment provisions shall not apply in the case of a casual Employee as the casual loading is paid in compensation of such entitlements.
- (e) Where a casual Enrolled Nurse or Aged Care Employee, including Personal Care Workers, has continuous service in accordance with Clause 54.2 of this Agreement, such Employee shall not be excluded from the long service leave provisions prescribed in Clause 54. A casual Registered Nurse is not entitled to long service leave under this Agreement but the entitlement to long service leave shall be in accordance with the *Long Service Leave Act 2018* (Vic).

23.7 Casual Conversion

- (a) A casual Employee may have a pathway to permanent employment in accordance with the NES. Unless, in accordance with the NES, there are reasonable grounds for the Employer not to make the offer, the Employer must make an offer of permanent employment to a casual Employee under this subclause if:
- (i) The Employee has been employed by the Employer for a period of at least 6 months beginning the day the employment started; and
 - (ii) During at least the last 6 months of that period, the Employee has worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the Employee could continue to work as a full-time Employee or a part-time Employee (as the case may be).
- (b) A casual Employee is also able to request their Employer convert their employment to full or part time (permanent) in some circumstances.

- (c) Any dispute over the application of the NES casual conversion provisions may be dealt with in accordance with Clause 57, Dispute Resolution Procedure in this Agreement.
- (d) The further details of casual conversion will be in accordance with the NES.

23.8 Fixed or Maximum Term Employment Contracts

- (a) Fixed or Maximum term employment will only be used for genuine fixed or maximum term arrangements.
- (b) 'Genuine fixed or maximum term arrangements' include, but are not limited to, employment in graduate Nurse positions, replacement of Employees on maternity leave, long term WorkCover, parental leave or long service leave, employment in special projects, re-fresher courses, supervised practise for re-registration and post-graduate training.

23.9 Minimum Engagement

The minimum engagement on any one day shall be four hours for full-time Employees, and two hours for all part-time and casual Employees, provided that the minimum engagement for recall to work (Clause 42) is three hours (nurses) and four hours (Aged Care Employees).

24 STAFF REPLACEMENT

- 24.1 The Employer is committed to ensuring efficient flexible rostering of Employees dependent on the service requirements of the residents.
- 24.2 Replacement of staff is determined on resident requirements. Replacement will occur when the Employee in charge of the shift, in consultation with the supervisor, determines that replacement is required. The final decision in respect to staff replacement is the responsibility of management.
- 24.3 Where staff replacement is required, as determined above, the Employer shall endeavour to fill the position as soon as practicable. Where required, the position shall be advertised as soon as practicable from the time the Employer determines that replacement is required.

25 WORKLOAD MANAGEMENT AND FILLING OF VACANCIES

- 25.1 The Employer is committed to ensuring that staffing levels are appropriate, thus ensuring the delivery of quality resident care and keeping within the accreditation principles which take into account the level of care appropriate for the assessed needs of the resident.
- 25.2 Should any Employee feel the workloads are unreasonably heavy on a regular basis, then they have a responsibility to discuss their concerns with their Manager. If appropriate action is not taken to address the workload

issues, the Employee may utilise the Dispute Resolution Procedure of this Agreement.

- 25.3 Where a vacancy arises in the Employer's staffing or where a change to either resident needs or numbers occurs, the Employer will consider staffing requirements based on factors including but not limited to the assessed needs of the residents.

26 POLICE CHECKS

- 26.1 Where an Employee is required by the Employer to satisfy the Employer of his or her police record, the Employee is responsible for the reasonable expenses associated with procuring the police record.
- 26.2 If the Employer holds a copy of the police check, then upon request by the Employee the Employer will provide a copy of the police check that is held on the file to the Employee.

27 LETTER OF APPOINTMENT AND SERVICE AND TRAINING CERTIFICATE

- 27.1 Each Employee, other than a casual Employee, shall receive a Letter of Appointment, as specified in Appendix C, stating the place of work, his or her guaranteed weekly hours, classification, job title and name of this Agreement. For the avoidance of doubt, the Employer may include such matters as it deems necessary in the Letter of Appointment, provided that the matters outlined in Appendix C are also included.

Nothing in this clause shall limit the ability of a part time Employee to agree to work additional shifts on days they would not otherwise be rostered at the ordinary hourly rate, save for any other limits prescribed by this Agreement.

- 27.2 Upon termination of employment, howsoever occurring, the Employer shall provide the Employee with a Service and Training Certificate, as specified in Appendix C, detailing the following:
- (a) The Employee's classification at the time of termination,
 - (b) The Employee's training including in-service training, self-directed learning packages or other training on the Employee's file,
 - (c) The period of the Employee's service, and
 - (d) The relevant contact point at the Employer to verify the information contained in the certificate.
- 27.3 Upon commencement of employment, the Employer will accept a Service and Training Certificate from the Employee for the purpose of determining the appropriate classification or experience increment, subject to the following:

- (a) The Employee providing the Employer with a copy of the Certificate; and
- (b) The issuing employer verifying the contents to the Employer upon request of the Employer (such verification may be verbal or written).

28 ADDITIONAL SHIFTS

- 28.1 The Employer is committed to maximising its permanent workforce in line with its occupancy levels. The Employer will always offer additional shifts in the first instance to its permanent part-time staff where practicable. It will then offer additional shifts to its casual or bank staff, where applicable.
- 28.2 The realisation of this objective will require high levels of co-operation from Employees in ensuring the objectives of maximising the use of permanent part-time Employees and, when required, relevant bank staff.

29 NURSE/PERSONAL CARER BANK

- 29.1 The Employer shall consider the feasibility of introducing a Nurse Bank or Personal Carer Bank having regard for its operational requirements as well as the commitments given at Clause 28 (Additional Shifts) above of this Agreement.

30 DIRECTOR OF NURSING / CLINICAL SERVICES MANAGER / CLINICAL CARE COORDINATOR / REGISTERED NURSE COVER

Registered Nurse - Director of Nursing (DON)

- 30.1 Each facility must employ a full-time Director of Nursing (DON) or the equivalent. Where there is no Director of Nursing appointed or the position becomes vacant, the Employer shall employ a full-time Registered Nurse as Director of Nursing, Clinical Services Manager or Clinical Care Coordinator as defined in this Agreement, (however titled or styled), in each facility. Regardless of the title, the Employee shall be paid at the rate of Director of Nursing as prescribed by this Agreement.
- 30.2 Where the Employer has endeavoured to appoint a full time DON or Clinical Care Coordinator or Clinical Services Manager but has not been able to, the Employer shall fill such position/s to one (1) EFT.
- 30.3 Where, after making a reasonable effort, the Employer cannot obtain a suitably qualified DON or Clinical Services Manager or Clinical Care Coordinator, the Employer may notify the other parties to the Agreement. Where this occurs, nothing in this Agreement shall prevent the parties from reaching agreement regarding staffing on a temporary basis in satisfaction of Clauses 30.1 and 30.2.

Registered Nurse - After Hours Nursing Coordinator

- 30.4 An After Hours Coordinator must be rostered in each facility in the out of hours of the DON (howsoever titled).
- 30.5 In a residential aged care facility of 61 beds or more, a Registered Nurse will be appointed to be in-charge of the facility during the off-duty periods of the Director of Nursing (PM, night and weekend shifts), and be classified as After Hours Coordinator, Grade 5, adjusted bed capacity (50-200 beds) or the applicable Grade 4 rate, whichever is the higher. Provided that where a Registered Nurse is not willing to assume the responsibility of being in charge of the facility that Nurse will not be entitled to be paid Grade 5.
- 30.6 In facilities of 60 beds or less, the applicable Grade will be the Grade 4 rate.
- 30.7 In a residential aged care facility of 61 beds or more, where more than one Registered Nurse is engaged during an off-duty period of the DON, only one Registered Nurse will be appointed and paid as the After Hours Coordinator at any one time.

30.8 Provision of Nursing Services

The Employer will make every practical effort to ensure that an additional Registered Nurse is employed to work on each shift in each facility. Such 'practical efforts' are to include:

- (a) **Unplanned Vacancies** (e.g. personal/carer's leave)
- (i) The vacant shift/s will be first offered to existing Registered Nurse Employees as additional shifts; and if not filled
 - (ii) The vacant shift/s will be offered to existing Registered Nurse casual Employees; and if not filled
 - (iii) Contact will be made with at least one nursing agency and where a Nurse is available to fill the vacancy, at a cost of the defined rate or less, the position will be filled by an agency Registered Nurse.

 "Defined Rate" means the rate of pay applicable to a Casual Registered Nurse employed under the terms of this Agreement at the classification applicable under the Agreement, plus a margin of not more than 40%. Nothing in this provision precludes an Employer choosing to fill the position through an Agency at the rate charged by the Agency.
 - (iv) The vacant shift/s will only be offered to an existing senior Enrolled Nurse Employee in accordance with clause 31 below and only after the above steps have been taken.

(b) Long Term Vacancies

- (i) Advertising the position internally in the first instance within two weeks of the Employer becoming aware that the position is being vacated; and if not filled
- (ii) Advertising the position externally within four weeks of the Employer becoming aware that the position is being vacated.

30.9 Where the Employer follows the 'practical efforts' noted at Clause 30.8 above, they shall not be in breach of this provision.

31 ENROLLED NURSE – IN CHARGE OF FACILITY ALLOWANCE

Where the Employer has made every practical effort in accordance with Clause 30 but no Registered Nurse is available to be rostered on a shift, then an Enrolled Nurse Employee will be appointed in the absence of the Director of Nursing or other Registered Nurse and will be paid an In Charge of Facility Allowance as set out in Appendix A in addition to all other allowances (where applicable). During the affected shift a Registered Nurse must be rostered on call to assist the Enrolled Nurse.

32 TERMINATION OF EMPLOYMENT**32.1 Notice of Termination by the Employer**

- (a) Subject to Clauses (b) to (f) below, at the time of termination by the Employer, the Employer must provide the following periods of notice to all Employees other than casuals:

| <u>Period of Continuous Service</u> | <u>Minimum Period of Notice</u> |
|---|---------------------------------|
| Not more than 1 year | 1 week |
| More than 1 year but not more than 3 years | 2 weeks |
| More than 3 years but not more than 5 years | 3 weeks |
| More than 5 years | 4 weeks |

- (b) A Registered Nurse with less than three years' service shall be entitled to no less than two weeks' notice.
- (c) In addition to the minimum period of notice prescribed at clause 32.1(a), an Employee over 45 years of age is entitled to an additional one week's notice, provided the Employee has completed at least two years of continuous service at the end of the day the notice is given.
- (d) In the case of casual Employees, the casual Employee will be provided with the notice period of one hour or the time between

providing notice and the end of the Employee's shift worked, whichever is the greater period.

- (e) The Employer may elect to make payment in lieu of notice prescribed in clauses 32.1(a) to 32.1(c) above, provided that an Employee's employment may also be terminated by provision of part of the period of notice specified and part payment in lieu thereof. The required amount of payment in lieu of notice must equal or exceed the amount that the Employer would have been liable to pay the Employee at the full rate of pay (as defined by the Fair Work Act) for the hours the Employee would have worked had the employment continued until the end of the required minimum notice period.
- (f) This clause does not apply to:
 - (i) cases of dismissal for serious misconduct;
 - (ii) An Employee employed for a specified period of time; or
 - (iii) To trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement.

32.2 **Notice of Termination by the Employee**

- (a) At the time of termination by the Employee, the Employee must provide to the Employer the same periods of notice as listed in Clause 32.1, except that there shall be no additional notice based on the age of the Employee concerned. Casual Employees shall only be required to give notice to the end of their current shift worked, or one hour's notice, whichever is the greater period.
- (b) If the full-time or part-time Employee fails to give notice or fails to work their allocated notice period the Employer may withhold any monies due to the Employee on termination under this Agreement, other than amounts due to the Employee under the NES, an amount not exceeding the Employee's ordinary rate of pay for the notice period required to be given but not provided/worked, in accordance with the requirements of section 324 of the Fair Work Act.

32.3 **Transfer of Employment**

Where there is a transfer of employment from one employer to another, in accordance with the Fair Work Act, the period of continuous service that the employee had with the first employer (the old employer) is deemed to be service with the second employer (the new employer) and taken into account when calculating notice of termination. However, an employee shall not be

entitled to notice of termination or payment in lieu of notice for any period of continuous service in which notice has already been given or paid for.

33 REDUNDANCY

33.1 Definitions

- (a) **Business** includes trade, process, business or occupation and includes part of any such business.
- (b) **Redundancy** occurs where the Employer has made a definite decision that the Employer no longer wishes the job the Employee has been doing done by anyone and that decision leads to the termination of employment of the Employee, except where this is due to the ordinary and customary turnover of labour (**Redundant** has a corresponding meaning).
- (c) **Week's pay** means an Employee's weekly rate of pay calculated according to the Employee's ordinary hours of work at their ordinary hourly rate (**weeks' pay** has a corresponding meaning). For the avoidance of doubt, an Employee's week's pay excludes:
 - (i) Overtime;
 - (ii) Penalty rates;
 - (iii) Disability allowances;
 - (iv) Shift allowances;
 - (v) Special rates;
 - (vi) Fares and travelling time allowances;
 - (vii) Bonuses; and
 - (viii) Any other ancillary payments of a like nature.

33.2 An Employee is entitled to be paid redundancy pay by the Employer if the Employee's employment is terminated:

- (a) At the Employer's initiative because the Employee's position is Redundant; or
- (b) Because of the insolvency or bankruptcy of the Employer.

33.3 Transfer to Lower Paid Duties

Where an Employee is transferred to lower paid duties by reason of Redundancy, the same period of notice must be given as the Employee would have been entitled to if the employment had been terminated, and the Employer may, at the Employer's option, make a payment instead of an amount equal to the difference between the former ordinary hourly rate and the new ordinary hourly rate for the number of weeks of notice still owing.

33.4 Severance Pay

- (a) In addition to the period of notice prescribed for termination in this Agreement, an Employee whose employment is terminated by

reason of Redundancy shall be paid the following amount of severance pay in respect of a period of continuous service:

| <u>Period of continuous service</u> | <u>Severance pay</u> |
|-------------------------------------|----------------------|
| Less than 1 year | Nil |
| 1 year and less than 2 years | 4 weeks' pay* |
| 2 years and less than 3 years | 6 weeks' pay |
| 3 years and less than 4 years | 7 weeks' pay |
| 4 years and less than 5 years | 8 weeks' pay |
| 5 years and less than 6 years | 10 weeks' pay |
| 6 years and less than 7 years | 11 weeks' pay |
| 7 years and less than 8 years | 13 weeks' pay |
| 8 years and less than 9 years | 14 weeks' pay |
| 9 years and less than 10 years | 16 weeks' pay |
| 10 years and over | 12 weeks' pay |

* **Week's pay** is defined in Clause 33.1(c)

- (b) For the purposes of this clause, continuity of service shall be calculated in accordance with s.22 of the Fair Work Act.
- (c) Application for an order of the FWC may be made for variation of the severance pay provided for in this clause in a particular Redundancy situation as per Clause 33.6 or 33.10.

33.5 **Employee Leaving during Notice Period**

An Employee given notice of termination in circumstances of Redundancy may terminate his/her employment during the period of notice set out in Clause 32 – Termination of Employment. In this circumstance the Employee will be entitled to receive the benefits and payments they would have received under this clause had they remained with the Employer until the expiry of the notice, but will not be entitled to payment in lieu of notice for any part of the notice period remaining after the Employee ceased employment.

33.6 **Alternative Employment**

- (a) Where the Employer offers or obtains acceptable alternative employment which is rejected by an Employee, no severance pay is payable by the Employer, subject to an order by FWC.
- (b) On application by the Employer, FWC may determine that the amount of severance pay is reduced to a specified amount (which may be nil) that FWC considers appropriate.
- (c) The amount of severance pay to which the Employee is entitled under s.119 of the Fair Work Act (as set out above) is the reduced amount specified in the determination.

33.7 Job Search Entitlement

- (a) An Employee given notice of termination in circumstances of Redundancy must be allowed up to one day's time off without loss of ordinary pay during each week of notice for the purpose of seeking other employment.
- (b) If the Employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the Employee must, at the request of the Employer, reasonable evidence of attendance at an interview or they will not be entitled to payment for any time absent. For this purpose a statutory declaration is sufficient.

33.8 Employees Exempted

Clause 33 of this Agreement does not apply to:

- (a) Employees terminated as a consequence of serious misconduct that justifies dismissal without notice;
- (b) Trainees;
- (c) Employees engaged for a specific period of time or for a specified task or tasks; or
- (d) Casual Employees.

33.9 Transfer of employment

- (a) An Employee is not entitled to severance pay in relation to the termination of his or her employment with the Employer where:
 - (i) The Employee is offered and accepts employment with a new employer (**new employer**) which recognises the period of service which the Employee had with the Employer to be service of the Employee with the new employer, and there is a transfer of employment in relation to the Employee for the purposes of the Fair Work Act; or
 - (ii) The Employee rejects an offer of employment with the new employer:
 - (A) In which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the Employee at the time of ceasing employment with the Employer; and
 - (B) Which recognises the period of service which the Employee had with the Employer to be service of the Employee with the new employer.

- (b) The FWC may vary paragraphs (a)(i) or (a)(ii) if it is satisfied that this provision would operate unfairly in a particular case.

33.10 Incapacity to Pay

The FWC may vary an Employee's entitlement to severance pay on the basis of the Employer's incapacity to pay. An application for variation may be made by the Employer.

33.11 Redundancy Disputes

- (a) Clauses (b) and (c) below impose additional obligations on an employer where an employer contemplates termination of employment due to redundancy and a dispute arises (a **redundancy dispute**). These additional obligations do not apply to employers who employ fewer than 15 employees.
- (b) Where a redundancy dispute arises, and if it has not already done so, an employer must provide affected employees and the relevant union or unions (if requested by any affected employee) in good time, with relevant information including:
 - (i) the reasons for any proposed redundancy;
 - (ii) the number and categories of workers likely to be affected; and
 - (iii) the period over which any proposed redundancies are intended to be carried out.
- (c) Where a redundancy dispute arises and discussions occur in accordance with this clause the employer will, as early as possible, consult on measures taken to avert or to minimise any proposed redundancies and measures to mitigate the adverse effects of any proposed redundancies on the employees concerned.

PART D – CAREER STRUCTURE

34 CLASSIFICATIONS

- 34.1 The wage rates and allowances for the classifications are set out in Appendix A. The classification definitions and appointment and progression criteria are set out in Appendix B.
- 34.2 Amendments to classifications and classifications in grades made by previous versions of the Agreements have been incorporated into Appendix A of this Agreement.
- 34.3 The experience payments for Aged Care Employees have been incorporated into the ordinary hourly rates set out in the wages schedule in Appendix A.

- 34.4 All prior experience in the industry (subject to the definitions of 'experience' in clause 7) will be recognised by the Employer in relation to both Aged Care Employees and Registered and Enrolled Nurses as defined.

35 REGISTERED AND ENROLLED NURSES

Registered Nurses

- 35.1 The classification structure for Registered Nurses is set out in Appendix A.

35.2 Registered Nurse Entry Level

An Enrolled Nurse who completes an undergraduate course which leads to registration and is subsequently registered as a Registered Nurse will be paid at the Grade 2 Year level immediately above the ordinary hourly rate applicable to that Enrolled Nurse (inclusive of Seniors and Qualification Allowance where applicable) effective from commencement of employment as a Registered Nurse.

35.3 Registered Nurse Grade 2

A Registered Nurse may only be classified and paid as a Grade 2 in circumstances where:

- (a) On AM shift the Registered Nurse is the second or subsequent Registered Nurse rostered on the shift (in addition to the Director of Nursing and/or Clinical Care Coordinator however titled) i.e. there is at least one other Registered Nurse classified at Grade 4 or Grade 5 nurse rostered on the floor, in addition to the Director of Nursing and/or Clinical Care Coordinator; and
- (b) On PM, night and weekend shifts the Registered Nurse works under the direct supervision of a more experienced Registered Nurse who is in charge of the same section or unit within which the Registered Nurse Grade 2 is working (i.e. the Registered Nurse Grade 2 is not in charge of or responsible for a section or unit of the facility but works under direct supervision).

35.4 Registered Nurse Grade 4A Structure

The parties agree that where a Registered Nurse is appointed as a Nurse Unit Manager (NUM) or Charge Nurse (CN) and paid Grade 4A, they shall be entitled to automatic transition to Grade 4B upon the completion of two years' experience as a NUM or CN.

35.5 Registered Nurse Grade 5

In the event the base salary for the Grade 4 classification exceeds the base salary for the Grade 5 classification the Grade 5 Employee shall be paid no less than the Grade 4 rate.

Enrolled Nurses

35.6 The classification structure for Enrolled Nurses is set out in Appendix B. An Enrolled Nurse will progress from Pay Point to Pay Point, subject only to the prescribed experience requirements as set out in Appendix B.

35.7 Enrolled Nurse Entry Level

(a) An Employee who completes a Diploma in Nursing that entitles the Employee to register as an Enrolled Nurse shall enter at Pay Point 3 of the salary structure in Appendix A.

36 AGED CARE EMPLOYEES

36.1 Personal Care Worker ('PCW') Structure

Included at Appendix B is the staffing structure for personal care workers, however titled, within aged care facilities. Reference to a 'Wage Skill Group' refers to the Wage Skill Group Structure outlined in Appendix B.

36.2 The classification structure and definitions for Activities/Lifestyle/Diversional Therapists and other Aged Care Employees are also outlined in Appendix B.

36.3 An Aged Care Employee claiming entitlement to a particular classification because of a qualification must provide to the Employer evidence that they hold the qualification for which the classification is claimed. Payment shall be from the first pay period on or after evidence of the relevant qualification is submitted to the Employer (including where the Employee submits evidence of the qualification as part of the recruitment process) or the date the qualification is obtained, whichever is the later.

37 TRAINEES

The pay rates for Enrolled Nurse Trainees and Aged Care Trainees are included in the pay rates provided in Appendix A. The Enrolled Nurse trainee rate is at 95% of Pay Point 1 and the Aged Care Trainee rate is at WSG 1 for all trainees other than a Personal Care Worker who shall be paid at WSG 3 Year 1. In all other respects the terms and conditions of trainees are provided by this Agreement.

PART E – EDUCATION AND PROFESSIONAL DEVELOPMENT

38 EDUCATION AND PROFESSIONAL DEVELOPMENT

38.1 All full time Employees shall be entitled to three (3) days paid study / examination / conference leave per annum for the purposes of attending courses, conferences and/or undertaking or preparing for examinations in a relevant course of study relevant to their work at the facility and is conducted by a recognised institution or training organisation. Part time Employees who work not less than four (4) shifts per fortnight shall be entitled to leave under this clause, on a pro rata basis.

- 38.2 Leave entitlements pursuant to this clause shall not accumulate from year to year.
- 38.3 Study Leave shall be taken at a time that is mutually agreed between the Employer and the Employee. The Employer shall not unreasonably withhold approval for such leave. A 'day' of leave for the purposes of this clause is the number of ordinary contracted hours that the Employee would have worked but for undertaking the professional development activity (or 7.6 hours if they were not rostered to work). An Employee may also apply for professional development or study leave on a day or days that they are not rostered to work and such leave will not be unreasonably refused
- 38.4 Registered Nurses, are entitled to a further three (3) days of paid examination or assessment leave per year where they are undertaking studies relevant to their work and/or career progression. This leave can be used for undertaking assessments, assignments, course attendance, seminars or conferences.

Enrolled Nurses and Personal Care Workers are also entitled to use this additional examination leave but only when they undertake assessment in a course that leads to registration as an Enrolled Nurse or Registered Nurse. The three days examination leave pursuant to this clause 38.4 shall:

- (a) Not accumulate from year to year.
- (b) Be available to full and part time Employees who are employed to work on average for at least three shifts or 24 hours per week over the previous year.
- (c) Be subject to the Employee having been employed by the facility or network for eighteen months immediately prior to the taking of examination leave.
- (d) Be available in a block or as single days to prepare for examinations or assessment or undertake such exams or assessment.
- (e) Be granted for studies which are related to the classification duties in the Agreement, relevant to advancement through the career structure and to employment at the establishment and would normally be undertaken in a tertiary or TAFE Institute or similar institution. For the avoidance of doubt this includes an Enrolled Nurse or Personal Care Worker undertaking a degree or diploma studies in nursing.

39 PROFESSIONAL DEVELOPMENT LEAVE

The Employer shall ensure that operating budgets make reasonable provision for the ongoing professional development of full time nursing staff. The Employer will encourage staff to attend relevant seminars and conferences on a regular basis. Costs for the Employee's attendance at such seminars and conferences, and approval for

the Employee to be absent from work to attend a relevant seminar or conference, will be at the discretion of the Employer.

40 INTERNAL/COMPULSORY EDUCATION AND TRAINING

- 40.1 All Employees have a responsibility to maintain and upgrade their skills commensurate with the requirements of their position. In particular every Employee must attend training required to meet statutory responsibilities including but not limited to: fire and emergency training, manual handling training, infection control, food handling provided by the Employer in each twelve month period or as required.
- 40.2 Where an Employee has failed to maintain and/or upgrade these mandatory modules which are required to meet statutory obligations, in so far as they have failed to attend the prescribed mandatory training, the Employee will be suspended from duty without pay until such time as they attend and complete the required training and are deemed competent. Suspension will not occur unless the Employer has provided the Employee with at least 4 weeks' notice of the required training. The Employer will provide the Employee with timely access to paid training as soon as possible after the suspension. Provided further that nothing in this clause prevents or limits the Employer's right to take disciplinary action against the Employee for the Employee's failure to maintain and/or complete prescribed mandatory training.
- 40.3 Where the full-time or part-time Employee attends compulsory training other than during the course of a rostered shift (to a maximum of six hours in a year, paid at the Employee's ordinary hourly rate), the minimum payment shall be the length of the training or one hour whichever is the greater, where that training is scheduled continuous with the commencement or end of a rostered shift for that Employee. Compulsory training completed outside of a full-time or part-time Employee's rostered hours and is beyond six hours in a year will be paid at the applicable overtime rates.
- 40.4 Attendance at any training course other than those referred to in Clause 40.1 above may be supported by the Employer in accordance with specific policy initiatives. In particular, the parties acknowledge that it is highly desirable for Employees to attend training provided by the Employer.
- 40.5 Where the Employer has implemented or is participating in a no lift training program every Employee must attend the training required.
- 40.6 **E-Learning**
- (a) The Employer may require Employees to complete core modules through e-learning and will pay Employees for the approved time taken to complete this training.
 - (b) E-learning modules will normally be completed within the ordinary working hours in the workplace. With prior approval

from the manager and the agreement of the Employee, modules can be completed outside of working hours (to a limit of four hours in any year).

- (c) The Employer will allocate an amount of time and adequate computer resources for the completion of each core module. When an Employee completes a module outside of working hours, with the prior approval from the manager, the Employee will be paid at their ordinary hourly rate for the allocated time taken to complete the module (but a minimum of 30 minutes). E-learning completed outside of a full-time or part-time Employee's ordinary working hours with the prior approval of the manager which is in excess of four hours in a year will be paid at the applicable overtime penalty.
- (d) Where an Employee finds that it takes more than the allocated time to complete a module, they should log out of the training (which will save it automatically) and bring this to the attention of their manager. The manager will take steps to ensure the Employee is able to complete the training by:
 - (i) Arranging for the module to be completed in working hours in the workplace and ensuring access to IT resources to allow this to occur; and/or
 - (ii) Approving payment for additional time required to complete the module outside working hours. If an Employee is still unable to complete the module after the additional time, they should again bring this to the attention of the manager; and / or
 - (iii) Taking steps to assist the Employee to complete the modules (for instance by providing training on computer literacy or on increased proficiency in reading the English language).

40.7 The time involved in such mandatory training (whether face to face or e-learning will not count as "time worked" and not be taken into account for the purposes of clause 42– Overtime. However, if the mandatory training is not rostered at least 7 days in advance or the hours are beyond the 76 hours per fortnight, then such mandatory training completed will attract overtime penalties.

PART F – HOURS OF WORK, ROSTERS AND RELATED MATTERS

41 HOURS OF WORK

41.1 The ordinary hours for an ordinary week's work shall be 38, or be an average 38 per week in a fortnight or in a four week period, and shall be structured either:

- (a) In a week of five days in shifts of not more than eight hours each; or
- (b) By mutual agreement in a week of four days in shifts of not more than ten hours each; or
- (c) In 76 hours per fortnight to be worked as not more than ten days of not more than eight hours each; or
- (d) In 152 hours per four week period to be worked as nineteen days each of eight hours; or
- (e) Other than in accordance with any one of the arrangements prescribed in subclauses (a) to (d) above by agreement, provided that the length of any ordinary shift shall not exceed 10 hours (exclusive of meal breaks).

41.2 Subject to the roster provision Clause 44 – Rosters, not more than 48 ordinary hours are to be worked in any week, within a fortnight of 76 ordinary hours.

41.3 With the exception of time occupied in having meals (which shall be a period of not less than 30 minutes for each meal), the work of each shift shall be continuous.

Day/s Off in Each Week

41.4 Employees shall receive at least one clear day off in each week or two clear days off in a fortnight. in the case of day-shift Employees, and one clear night in each week or two clear nights in each fortnight in the case of night-shift Employees.

41.5 Provided that during any working period not exceeding three consecutive weeks, the day or night off may, with the approval of the Director of Nursing, be allowed to stand over, and be taken at a time mutually agreed upon in any one consecutive period equivalent to one day or night, as the case may be, for each week in the period concerned.

Day/s Off in Each Week - Enrolled Nurses and Aged Care Classifications only

41.6 Other than by mutual agreement, and at the written request of the Employee, no Employee shall be required to work more than six consecutive periods of ordinary duty without 24 hours off duty.

- (a) Provided further that notwithstanding anything else contained in this part, where the Employer requires an Employee to work more than six consecutive periods of ordinary duty without 24 hours off duty shall be paid for the seventh and any further consecutive period of ordinary duty worked at the rate of treble time until he/she has been given 24 hours off duty.

- (b) For the purposes of this clause, the working week shall commence at midnight on a Sunday.
- (c) Provided that an Employee who requests in writing to work a seventh or subsequent shift on a voluntary basis or who puts their name on a roster or availability list to work a seventh or subsequent shift will not receive overtime payments (unless they have worked beyond 76 hours in the fortnight or the fulltime rostered shift length in any day).

41.7 Where necessary an Enrolled Nurse or Aged Care Employee shall be entitled to cease work ten minutes before his/her rostered finishing time to enable him/her to wash or to change his/her clothes.

42 OVERTIME

42.1 Only authorised overtime will be paid, except in emergency situations. Overtime must be authorised by a nominated representative of the Employer in accordance with the designated process, except in cases where the matter is urgent and it is impracticable to obtain such authorisation. Where the matter is urgent and it is impracticable for the Employee to obtain such authorisation in advance of the overtime being worked, the overtime will be paid provided that the Employee must notify a nominated representative of the Employer of the overtime worked as soon as practicable prior to leaving the facility on the day in question, and the Employee receives authorisation from the nominated representative of the Employer.

42.2 Registered Nurses

Except in the case of a Director of Nursing where a Deputy or Assistant Director of Nursing / Clinical Services Manager is also employed, all work done by a full-time or part-time Registered Nurse in excess of the ordinary hours as set out below:

- (a) 8 hours in a day, where rostered for a shift of up to 8 hours;
- (b) Except where subclause (c) applies, the Employee's rostered hours on any day, provided that such shift is in excess of 8 hours and up to 10 hours in duration; or
- (c) The agreed additional hours where the Employee has agreed to work in excess of their rostered ordinary hours in a day, up to a maximum of 10 hours; or
- (d) 76 hours in a fortnight,

Shall be overtime and be paid at the rate set out of time and a half for the first two hours and double time thereafter, or otherwise in accordance with the table below, calculated on the ordinary hourly rate. For the purpose of this Clause each day or shift shall stand alone.

Update ordinary hours for day worker in Undertaking 2 - Page 127/8

| Registered Nurses | | |
|--------------------------|----------------------|-------------------|
| Day | First 2 Hours | Thereafter |
| Weekday | Time and a Half | Double Time |
| Weekend | Double Time | Double Time |
| Public Holidays | Double Time. | Double Time |
| Weekend Public Holiday | Double Time | Double Time |

42.3 **Enrolled Nurses and Aged Care Staff**

A full-time or part-time Enrolled Nurse or Aged Care Employee, shall be paid for all work done in excess of the ordinary hours as set out below:

- (a) 8 hours in a day, where rostered for a shift of up to 8 hours;
- (b) Except where subclause (c) applies, the Employee's rostered hours on any day, provided that such shift is in excess of 8 hours and up to 10 hours in duration; or
- (c) The agreed additional hours where the Employee has agreed to work in excess of their rostered ordinary hours in a day, up to a maximum of 10 hours; or
- (d) 76 hours in a fortnight,

Shall be overtime and be paid at the rate in accordance with the table below, calculated on the ordinary hourly rate:

| Enrolled Nurses and Aged Care Employees | | |
|--|-------------------------|------------------------|
| Day | First 2 Hours | Thereafter |
| Weekday | Time and a Half | Double Time |
| Weekend | Double Time | Double Time |
| Public Holiday | Double Time and a Half. | Double Time and a Half |
| Weekend Public Holiday | Double Time and a half | Double Time and a half |

42.4 No part-time Employee shall be directed to work in excess of their rostered ordinary hours at the ordinary hourly rate.

42.5 **All Employees: Rest Periods - Affected by Overtime (Including Saturdays and Sundays)**

- (a) When overtime work (including recall to duty) is necessary it shall, wherever reasonably practicable, be so arranged that Employees have at least ten hours continuously off duty between the work of successive shifts.
- (b) An Employee (other than a casual Employee) who works so much overtime between the termination of her/his last previously rostered ordinary hours of duty and the commencement of her/his

next succeeding rostered period of duty that she/he would not have had at least ten hours continuously off duty between those times, shall subject to this subclause, be released after completion of such overtime worked until she/he has ten hours continuously off duty without loss of pay for rostered ordinary hours occurring during such an absence.

- (c) If on the instructions of the Employer such an Employee resumes or continues work without having had such ten hours continuously off duty she/he shall be paid at the rate of double time the ordinary hourly rate until she/he is released from duty for such rest period and she/he shall be entitled to be absent until she/he has had ten hours continuously off duty without loss of pay for rostered ordinary hours occurring during such an absence.
 - (d) In the event of an Employee finishing any period of overtime or recall at a time when reasonable means of transport are not available for the Employee to return to her/his place of residence the Employer shall provide adequate transport free of cost to the Employee.
- 42.6 Any period of overtime involving a recall to duty during an off duty period and which is not continuous with the next succeeding rostered period of duty shall be paid at a minimum of three hours at the appropriate overtime rate.
- 42.7 The Employer may require any Employee to work reasonable overtime at overtime rates and such Employee shall work overtime in accordance with such requirement. An Employee is entitled to refuse a request to work additional hours where that request is unreasonable taking into account the factors identified in s.62(3) of the Fair Work Act, including any risk to Employee health and safety, personal circumstances, family responsibilities, notice given by either party and the Employee's role and level of responsibility.
- 42.8 In lieu of receiving payment for overtime worked in accordance with this clause, Employees may, with the consent of the Employer, be allowed to take time off for a period of time equivalent to the period worked in excess of ordinary rostered hours of duty, plus a period of time equivalent to the overtime penalty incurred. Such time in lieu shall be taken as mutually agreed between the Employer and Employee, provided that accrual of such leave shall not extend beyond a 28 day period. Where such time has not been taken within the 28 day period, or on termination of employment, or at the request of the Employee, such time shall be paid in accordance with this clause at the rate of pay which applied on the day the overtime was worked. Where payment is requested by the Employee, the payment will be made in the next pay period following the request.
- 42.9 For the purposes of this clause, in accruing or calculating payment for overtime, each period of overtime shall stand alone.

42.10 Recall to Duty

- (a) An Employee, whether required to be on call or not, and who is recalled to work after leaving the Employer's premises will be paid for a minimum of three hours work at the appropriate overtime rate in the case of a nursing Employee, and four hours in the case of an Aged Care Employee.
- (b) Notwithstanding subclause 42.10(a), where the Employee is recalled to duty, within three hours of the commencement time of their ordinary rostered shift (or within four hours in the case of an Aged Care Employees), such Employee shall be paid for such recall up to the commencement of their ordinary shift at the applicable overtime rate and thereafter will be paid at their ordinary hourly rate (plus any applicable shift allowance or weekend penalty) for such time worked during their ordinary rostered shift. In such circumstances the minimum recall amount prescribed at 42.10(a) shall not apply
- (c) The time spent travelling to and from the place of duty will be deemed to be time worked. Except that, where an Employee is recalled within three hours of their rostered commencement time, and the Employee remains at work, only the time spent in travelling to work will be included with the actual time worked for the purposes of the overtime payment.
- (d) An Employee who is recalled to work will not be obliged to work for three hours if the work for which the Employee was recalled is completed within a shorter period. However, where the Employee undertakes a second or subsequent recall within the initial three hour recall period (or within the initial four hour period in the case of an Aged Care Employees) such Employee shall not be entitled to a further minimum recall payment, and shall be paid for such recall work, in excess of the minimum recall payment period, at the applicable overtime rate of pay.
- (e) If an Employee is recalled to work, the Employee will be provided with transport to and from their home or will be refunded the cost of such transport.

43 SATURDAY AND SUNDAY WORK

- 43.1 All ordinary hours performed by full-time and part-time Employees between midnight on Friday and midnight on Sunday shall be paid for as follows, calculated on the ordinary hourly rate.

| Employee type | Saturday | Sunday day shift* | Sunday non-day shift |
|--|----------|-------------------|----------------------|
| Part-Time Registered Nurse Grade 1 (Grad Year) | 150% | 167% | 150% |
| Full-Time / Part-Time Registered Nurse (all classifications) | 150% | 150% | 150% |
| Full-Time / Part-Time Enrolled Nurse | 150% | 150% | 150% |
| Full-Time / Part-Time Aged Care Employee (Wage Skill Group 1 Year 1) | 150% | 167.2% | 150% |
| Full-Time / Part-Time Aged Care Employee (all other classifications) | 150% | 167% | 150% |

*A Sunday day shift is a shift worked between midnight Saturday and midnight Sunday that does not attract the payment of the AM/PM shift allowance or night shift allowance in clause 45.

- 43.2 Where applicable, the rates in clause 43.1 are in addition to, and not in substitution of, the relevant shift allowance in clause 45.

44 ROSTERS

44.1 Publication

- (a) A roster of at least fourteen days duration setting out Employees' daily ordinary working hours and commencing and finishing times shall be published at least fourteen days before it comes into operation in each facility and provided to Employees by electronic means. The fortnightly roster will be available to representatives of the ANMF and HSU on request, to a limit of not more than once every quarter.

- 44.2 Except as in emergency situations seven days' notice shall be given of a change in roster.

- 44.3 Where the Employer requires an Employee, without seven days' notice and outside the excepted circumstances prescribed in Clause 44.2 above, to perform ordinary duty at other times than those previously rostered, the Employee shall be paid in accordance with the hours worked, with the addition of a daily allowance equal to the following:

- (a) For Aged Care Employees – 2.5 per cent of the weekly base rate of pay for the Wage/Skill Group 5 as prescribed in Appendix A.
- (b) For Registered Nurses and Enrolled Nurses – 2.5 per cent of the weekly base rate of pay as defined and as prescribed in Appendix A.

- (c) Provided that a part-time Employee who agrees to work shift(s) in addition to those already rostered will not be entitled to the above specified allowance for the additional shift(s) worked.
- 44.4 An Employee, by making a request in writing to the Employer and subject to clause 44.4(a), may have their roster fixed by the provisions of paragraph (b) below, in lieu of Clauses 44.1 to 44.3.
- (a) Rosters shall be fixed by mutual agreement, subject to the provisions of this Agreement.
 - (b) An Employee may rescind any such request at any time, by giving written notice to the Employer. In such a case the roster for the Employee shall be fixed according to the provisions of Clauses 44.1 to 44.3, from the commencement of the next full roster period being not less than five clear days after such repudiation is received in writing by the Employee.
- 44.5 The roster or rosters shall be drawn up so as to provide at least eight hours between successive ordinary shifts. Provided further that the Employer will not be in breach of this provision where an Employee is offered and agrees to work an additional ordinary shift which commences less than 8 hours after the conclusion of the last previous ordinary shift.
- 44.6 This clause shall not apply to casual Employees, Directors of Nursing or Deputy Directors of Nursing / Clinical Services Managers.
- 44.7 **Daylight Saving**
- (a) If an Employee works on a shift during which time changes because of the introduction of, or cessation to, daylight saving, that Employee shall be paid for the actual hours worked at the ordinary time rate of pay (including any shift penalties or allowances ordinarily payable in respect of this shift).
 - (b) No overtime is payable for the additional hour worked because of daylight saving.

45 SHIFT WORK

45.1 AM/PM Shift

In addition to any other rates prescribed elsewhere in this Agreement, an Employee whose rostered hours of ordinary duty finish after 6.00 p.m. and at or before 8.00 a.m. or commence at or after 6.00 p.m. and before 6.30 a.m. shall be paid an amount (as set out in Appendix A (AM/PM shift)) equal to 2.5 per cent of the relevant base or allowance rate as defined per such rostered period of duty.

45.2 **Night shift**

Provided that in the case of an Employee where the majority of rostered hours of ordinary duty finish on the day after commencing duty or the majority of rostered hours are worked after midnight and before 5.00 a.m (“night shift”). they shall be paid for any such periods of duty an amount (as set out in Appendix A (night shift – ad hoc)) equal to 4 per cent of the relevant base or allowance rate per rostered period of duty for any such period of duty worked. Provided further that in the case of an Employee permanently working on a night shift, any such rostered hours of ordinary duty shall be paid, in lieu of the aforementioned amount, an amount (as set out in Appendix A (night shift - permanent)) equal to 5 per cent of the relevant base or allowance rate per such rostered period of duty for any such period of duty worked.

Permanently working shall mean working for any period in excess of four consecutive weeks.

45.3 **Change of shift** (Enrolled Nurse and Aged Care Employees)

Provided that in the case of an Enrolled Nurse or Aged Care Employee 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 ("change of shift") he or she shall be paid an amount equal to 4 per cent of the relevant allowance rate (and as set out in Appendix A) on the occasion of each such change in addition to any amount payable under the preceding provisions of this clause ("change of shift allowance").

45.4 Notwithstanding the provisions of Clause 45.3 above the change of shift allowance is not payable in the following circumstances:

- (a) Where the Employer agrees to a request in writing made on behalf of one or more Employees for changes in shifts;
- (b) Where there is an intervening period of more than 48 hours off duty, inclusive of all leave, weekends, rostered days off and public holidays;
- (c) In the case of an Aged Care Employee, where an Employee is a regular part-time Employee and a change of shift arises from an agreement made in accordance with this clause of the Agreement.
- (d) In the case of an Enrolled Nurse, such Employee at the time of engagement or subsequently has agreed in writing on the same hours worked each day, on the same days of the week, and the same starting and finishing hours as those of the roster which require a change of shift.
- (e) Where an Employee has been employed for at least 3 months on the same hours worked each day, on the same days of the week,

and the same starting and finishing hours, as those of the roster which require a change of shift.

- (f) The provisions of paragraphs (c), (d) and (e) shall not apply to an Employee who, immediately prior to the date of operation of this Agreement, has been paid a change of shift allowance in respect of changes of shifts to which paragraphs (c), (d) and (e) would otherwise apply.
- (g) Where an Employee requests to be recorded on a list of staff willing and available to work specified additional shifts in the next roster period, and a change of shift arises from that Employee working any shift filled from that list.
- (h) In circumstances other than those applying in paragraphs (c)-(g) inclusive, where an Employee is required by a roster posted in accordance with Clause 45.1 to work a change of shift.
 - (i) Notwithstanding sub-paragraph (h) herein, an Employee may notify the Employer in writing within 24 hours of the next shift to be worked by that Employee following the posting of such a roster that the Employee does not agree to a change of shift for that Employee proposed in that roster.
 - (ii) Where an Employee notifies the Employer in accordance with sub-paragraph (i), the Employer may:
 - (A) Reach agreement with the Employee on working a different shift or shifts on that roster in which case the Employee shall not be paid a change of shift allowance; or
 - (B) Require the Employee to work an amended roster which reduces or eliminates changes of shifts but provides no fewer shifts and hours than the original proposed roster in which case the Employee shall only be paid a change of shift allowance in respect of any change of shift required by the amended roster; or
 - (C) Require the Employee to work a change of shift, in which case the Employee shall be paid a change of shift allowance.
- (i) From the date of operation of this sub-clause no term of any contract of employment or other instrument shall require an Employee to make a request, or constitute a request, for the purposes of paragraphs (a) or (e).

46 MEAL BREAKS

- 46.1 An Employee who works in excess of five hours will be entitled to an unpaid meal break of not less than 30 minutes and not more than 60 minutes which must be taken before the completion of five hours work at a mutually agreed time. Employees are entitled to leave the ward/unit and facility during their meal break.
- 46.2 Where an Employee is required to remain available or on duty during a meal break (including that they are advised that they are unable to leave the ward/unit or facility) or is interrupted during that meal break, the Employee will continue to be paid at the ordinary rate until such time as the meal break is taken by the Employee free from duty, or the Employee's shift ends, (whichever occurs first).
- 46.3 Where an Employee is regularly unable to take his or her meal break then a "crib time" arrangement should operate so that the Employee is granted a paid meal interval of not less than twenty minutes to be commenced after completing three hours and not more than five hours of duty.
- 46.4 Provided that at the request of the Employee, and with the agreement of the Employer, where shifts of 6 hours or less duration are worked, an Employee may, in lieu of meal break and crib time provisions, either:
- (a) Finish the shift 30 minutes earlier; or
 - (b) Work and be paid for the six hours (or lesser duration), choosing to take only the 2 x 10 minute tea breaks or a single 20 minute break.

47 REST INTERVALS

- 47.1 Two separate 10 minute rest intervals (in addition to meal breaks) will be allowed to each Employee on duty during each ordinary shift of 7.6 hours or more.
- 47.2 Where less than 7.6 ordinary hours are worked, Employees will be allowed one 10 minute interval in each four hour period.
- 47.3 Subject to agreement between the Employer and Employee, where an Employee is entitled to two rest intervals in accordance with clause 47.1, such intervals may alternatively be taken as one 20 minute interval.
- 47.4 Rest intervals will count as time worked.

48 HIGHER DUTIES

- 48.1 Any Employee (except a Deputy Director of Nursing / Clinical Services Manager) engaged in any one day or shift for more than two hours on duties carrying a higher rate than the classification in which she/he is ordinarily employed shall be paid for the full day or shift at the minimum rate for the lowest year of experience at that higher classification as set out in Appendix

A, but if so engaged for two hours or less only the time so worked shall be paid for at that higher rate.

- 48.2 A Deputy Director of Nursing / Clinical Services Manager who is called upon to relieve an Employee in a higher classification for a period in excess of five days, shall be paid at the minimum of that higher classification (at the lowest year experience) as set out in Appendix A for the entire period of relief.

PART G – LEAVE AND PUBLIC HOLIDAY ENTITLEMENTS

49 ANNUAL LEAVE

The provisions of this clause apply to full-time and part-time Employees (on a pro rata basis) but do not apply to casual Employees.

49.1 Basic Entitlement

- (a) All Registered Nurse Employees are entitled to five weeks of annual leave (190 hours for full-time Employees) for each year of service (pro-rata for part-time Employees) on ordinary pay as defined in Clause 49.7(a). This leave entitlement is inclusive of the base NES annual leave entitlement and the additional week under the NES for a ‘shiftworker’ as defined. A ‘shiftworker’ for the purposes of this clause and the NES is a Registered Nurse Employee who is regularly rostered over seven days of the week and regularly works weekends.
- (b) All Enrolled Nurse and Aged Care Employees are entitled to four weeks (152 hours for full-time Employees) of annual leave for each year of service (pro-rata for part-time Employees) on ordinary pay as defined in Clause 49.7(a).
- (c) An Employee’s entitlement to annual leave will accrue progressively during a year of service according to the Employee’s ordinary hours of work (including ordinary additional hours of work, but not overtime), and such leave will accumulate from year to year.
- (d) Annual Leave accruals will be displayed on each Employee’s pay slip.

49.2 Shift Work

In addition to the leave prescribed in clause 49.1, an Employee who is a ‘shift worker’ (as defined in subclauses 49.2(a) to 49.2(c) below), whether full-time or part-time, will be entitled to an additional week of annual leave (38 hours for full-time Employees, pro-rata for part-time Employees). For the avoidance of doubt, this is a sixth week of annual leave for Registered Nurses and a fifth week of annual leave for Enrolled Nurses and Aged Care Employees. An Employee is to be regarded as a shift worker for the purposes

of accruing this additional week of annual leave if, during any part of the relevant twelve months period of service, the Employee is:

- (a) A Registered Nurse who is required to work and worked ordinary hours on weekdays and on weekends; or
- (b) An Enrolled Nurse who:
 - (i) Works for more than four ordinary hours on 10 or more weekends; and/or
 - (ii) Regularly works outside the hours of a day worker (i.e. PM or night shift with start and finish times outside the ordinary span of hours - 6.30am to 6pm); and/or
 - (iii) Is regularly rostered over seven days of the week and regularly works weekends.
- (c) An Aged Care Employee who:
 - (i) Works for more than four ordinary hours on 10 or more weekends; and/or
 - (ii) Is regularly rostered to work their ordinary hours outside the span of 6:00am to 6:00pm Monday to Friday; and/or
 - (iii) Regularly works outside the hours of a day worker (i.e. PM or night shift with start and finish times outside the ordinary span of hours - 6.30am to 6pm).

For the purposes of subclauses 49.2(b)(ii) and 49.2(c)(iii) only, 'regularly' worked means at least 60 PM and/or night shifts in the Employee's anniversary year (pro-rata for part-time).

49.3 **Public Holidays and Personal Leave occurring during Annual Leave**

- (a) Where any public holiday occurs during any period of annual leave, the Employee is entitled to receive payment for that public holiday and to have the annual leave that was to be taken on that day re-credited. However, the Employee may instead elect to receive an additional sum equal to a day's ordinary pay for such day rather than having it re-credited.
- (b) Where on annual leave an Employee needs to take, or needed to take personal leave due to personal illness or injury on any days on which he or she would otherwise have worked had the Employee not been on annual leave, and notifies and forwards to the Employer, as soon as practicable, a certificate from a registered health practitioner, then the day or days specified in the certificate shall be deducted from any paid personal/carer's leave entitlement standing to the Employee's credit, and the annual leave day(s) shall be re-credited to his or her annual leave entitlement.

49.4 Effect of Termination on Annual Leave

- (a) If, when the employment of an Employee ends, the Employee has a period of untaken accrued annual leave, the Employer will pay the Employee the amount that would have been payable to the Employee had the Employee taken the period of annual leave, together with annual leave loading applicable to that leave.
- (b) Where annual leave has been taken in advance and:
 - (i) The employment of the Employee is terminated before she/he has accrued an entitlement to paid annual leave sufficient to cover the period of annual leave taken; and
 - (ii) The sum paid by the Employer to the Employee as ordinary pay for the annual leave period so taken in advance exceeds the sum which the Employer is required to pay to the Employee under paragraph (a),
 - (iii) The Employer shall not be liable to make any payment to the Employee under paragraph (a) and shall be entitled to deduct the amount of such excess from any remuneration payable to the Employee upon termination of employment.

49.5 Taking of Leave

- (a) An Employee must provide the Employer with four weeks' notice of the date from which the Employee proposes to commence his or her annual leave, unless otherwise mutually agreed upon between the parties concerned.
- (b) Paid annual leave may be taken for a period agreed between an Employee and the Employer, provided that the Employee complies with the Employer's notification and approval requirements. The Employer will not unreasonably refuse to agree to a request by the Employee to take paid annual leave. Notwithstanding the provisions of this subclause, the Employer may direct an Employee to take a period of annual leave in accordance with subclause 49.6 below.
- (c) The Employer has an expectation that each Employee will take at least two weeks of annual leave in each year and reserves the right to discuss the taking of leave and fatigue issues where an Employee has not taken any leave for a period longer than six months and does not have leave planned / approved by the Employer.
- (d) On application by the Employee and by agreement with the Employer annual leave may be taken as single days in each year of employment. These single days may be taken consecutively. Annual leave so taken shall be exempt from the payment in

advance requirements below and shall be paid in the next pay period.

49.6 Excessive Annual Leave Accruals

- (a) The Employer may direct an Employee to take one or more periods of annual leave after not less than eight weeks' and not more than 12 months' written notice to the Employee, where the Employee has accrued excessive annual leave. "Excessive annual leave" is defined as accrued leave in excess of 150% of an Employee's annual entitlement to annual leave (e.g. in excess of 7.5 weeks leave for an Employee who has an entitlement to 5 weeks' leave per year as a Registered Nurse or as a "shift worker" Aged Care Employee or Enrolled Nurse). Provided further that:
- (i) The Employee will first be given three weeks to submit a plan to reduce their total accrued annual leave balance to not more than 150% of their annual entitlement to annual leave, within a period of three months (**leave reduction plan**);
 - (ii) The Employer will not unreasonably refuse to agree to a leave reduction plan which includes saving leave for an extended holiday within 12 months of the date of agreement, provided the plan will not result in the Employee continuing to have an excessive leave balance taking in to account future accruals between agreeing to the leave reduction plan and the taking of the leave;
 - (iii) The direction must not result in the Employee's accrued annual leave being reduced to less than six weeks, unless agreed otherwise between the Employer and Employee;
 - (iv) The direction must relate to a minimum period of leave of one week;
 - (v) The direction must not be inconsistent with any leave arrangement agreed between the Employer and Employee.

49.7 Payment for Annual Leave

- (a) Employees shall receive their ordinary pay during all periods of paid annual leave and, before going on leave, and may elect to be paid in advance for the period of such leave. **Ordinary pay** for the purposes of annual leave means the Employee's ordinary hours of work during the period over which annual leave is taken, multiplied by their ordinary hourly rate, provided that:

- (i) In addition to the ordinary pay, as defined in this Clause, all Employees shall receive the higher of either (A) or (B) below:

(A) A loading of 17.5% calculated on the ordinary hourly rate for the ordinary hours of work in the period of annual leave taken:

- (1) Provided that for a Registered Nurse such loading shall be on a maximum of 152 hours in respect of any year of service;
- (2) Provided further that an Employee whose weekly salary is or exceeds the weekly rate provided for in this Agreement for a Registered Nurse, Grade 5, 51-200 beds (Threshold Rate) shall receive, in lieu of the 17.5% loading, an amount equal to: Threshold Rate x 17.5% x 4 (weeks), in respect of a period of 152 hours or a proportionate amount in respect of a lesser period or periods;

or

(B) In respect of each week of leave granted an amount comprising the following that the Employee would have received had they not been on leave during the relevant period:

- (1) Shift work allowances according to roster or projected roster;
- (2) Saturday and Sunday penalty rates according to roster or projected roster;
- (3) Qualification allowances; and
- (4) Uniform allowances.

49.8 **Calculation of service and continuous service**

For the purposes of this Clause 49, the meaning of service and continuous service shall be in accordance with section 22 of the Fair Work Act.

Where an Employee reduces their working hours by agreement with the Employer, any accrued hours of leave will be preserved as at the time of the reduction. On each subsequent period of annual leave, and at the request of the Employee and not otherwise, the Employee may elect to be paid annual leave at the pre-reduction accrual rate and may continue to so elect until the preserved hours are exhausted. All payments of such accrued preserved leave will be paid annual leave loading of 17.5%. However, where the

accrued annual leave exceeds 152 hours, before the reduction in contracted working hours occurs the Employer may direct that up to half of the accrued annual leave is taken by the Employee.

49.9 **Purchased Leave**

- (a) Purchased Leave enables Employees, by mutual agreement with their Employer, to access up to 20 working days paid additional leave in a twelve month period, with salary deductions authorised by the Employee, for the nominated period(s) averaged over the whole 12-month period rather than at the time the leave is taken. The amount deducted will correspond with the amount of Purchased Leave.
- (b) Purchased Leave may be taken in conjunction with other types of leave. Purchased Leave may not be used to break a period of Long Service Leave.
- (c) Purchased Leave must be used in the twelve month period in which it is purchased.
- (d) Purchased Leave and associated salary deductions will be based on the Employee's average daily hours (7 hours 36 minutes for full time Employees) and the Employee's substantive salary at the appropriate classification at the relevant increment point contained in Appendix B.
- (e) The Employer may grant Purchased Leave, subject to operational requirements. Once approval has been granted, the arrangement may only be varied or cancelled in extraordinary circumstances, or by agreement.
- (f) Where the arrangement, because of extraordinary circumstances, has been varied or cancelled and requires a refund of salary deductions, the refund will be made as a lump sum no later than two pay periods following notification of the variation or cancellation.
- (g) Where the Employee's employment terminates prior to the taking of some or all of the Purchased Leave, deductions made for Purchased Leave not yet taken will be repaid.
- (h) Where the Employee's employment terminates and the amount of Purchased Leave taken exceeds the amount deducted, the Employer may deduct a sum equal to the negative balance from any remuneration payable to the Employee upon termination of employment.

49.10 **Cashing out annual leave**

- (a) Upon receipt of a written request by an Employee, the Employer may, in writing, authorise the Employee to receive pay in lieu of an amount of annual leave, subject to the following:
 - (i) Paid annual leave must not be cashed out if the cashing out would result in the Employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
 - (ii) Where an Employee forgoes an entitlement to take an amount of paid annual leave, the Employer will pay the Employee the amount that would have been payable to the Employee had the Employee taken the leave that the Employee has forgone, including any leave loading that would have otherwise been payable.
 - (iii) Each cashing out of a particular amount of annual leave must be by a separate written agreement between the Employer and Employee.

50 **PERSONAL/CARER'S LEAVE**

The paid personal/carer's provisions of this clause apply to full-time and part-time Employees (on a pro rata basis) but do not apply to casual Employees. Casual Employees are entitled to unpaid carer's leave as set out in this Clause.

50.1 **Access to Paid Personal/Carer's Leave**

- (a) Subject to compliance with the notice and evidence requirements prescribed in this Clause 50, paid personal/carer's leave is available to an Employee, when they are absent:
 - (i) Due to personal illness or injury; or
 - (ii) For the purposes of providing care or support for an immediate family or household member who is ill or injured and requires the Employee's care or support or who requires care or support due to an unexpected emergency.
- (b) The Employer may, in its discretion, grant paid leave consistent with the provisions for carer's leave to provide care or support for a person who is not a member of the Employee's household or who does not fall within the scope of the term 'immediate family'.

50.2 **Amount of Paid Personal/Carer's Leave**

- (a) The amount of personal/carer's leave to which a full-time Employee is entitled depends on how long they have worked for the Employer and accrues as follows:

- (i) Up to 7 hours and 36 minutes, for each month of service in the first year of service (provided that where an Employee works regular shifts of 9.1 paid hours or longer the Employee will receive 7.6 hours per month of service or 10 days leave, whichever provides the greater benefit);
 - (ii) Up to 106 hours and 24 minutes in each year in the second, third and fourth years of service; and
 - (iii) Up to 159 hours and 36 minutes in the fifth and following years of service.
- (b) Part-time Employees are entitled to accrue a pro-rata amount of the full-time entitlement to paid personal/carer's leave set out in clause 50.2(a) above, calculated on a pro rata basis according to the Employee's ordinary hours of work.

50.3 **Accrual of Personal/Carer's Leave**

- (a) The balance of Personal/Carer's Leave entitlements which have not been taken in any year shall be cumulative from year to year.
- (b) To the extent that this Agreement provides for part days, notice, certification, and pro rata accruals of personal/carer's leave the provisions shall apply to this clause.
- (c) In respect to Nurses only, where the one day absences referred to in Clause 50.7(b) are not taken for a period of 5 years, an additional 38 hours personal/carer's leave shall be added to the Employee's accrued entitlement.

50.4 **Personal/Carer's Leave to Care for an Immediate Family or Household Member**

- (a) An Employee is entitled to use accrued paid personal/carer's leave to provide care or support for members of their immediate family or household who are ill or injured and require care or support or who require care or support due to an unexpected emergency, subject to the conditions set out in this clause. Leave may be taken for part of a single day. Each day or part of a day of personal/carer's leave taken is to be deducted from the amount of personal/carer's leave provided in Clause 50.1.
- (b) Where an Employee has exhausted all paid personal/carer's leave entitlements, or in the case of a casual Employee, they are entitled to take unpaid personal/carer's leave to provide care or support for members of their immediate family or household who are ill or injured and require care or support or who require care or support due to an unexpected emergency. The Employer and the Employee shall agree on the period. In the absence of agreement, the

Employee is entitled to take up to two days for each permissible occasion, provided the evidentiary requirements are met.

- (c) The Employee must, if required by the Employer, establish by production of a medical certificate or statutory declaration, the reason for taking such leave and the relationship of the person concerned to the Employee.

50.5 Notification Requirements for the Taking of Personal/Carer's Leave

- (a) The Employee must, where practicable, give the Employer:
 - (i) Notice prior to the absence of the intention to take leave;
 - (ii) The reasons for taking such leave;
 - (iii) The estimated length of absence; and
 - (iv) The relationship of the person concerned to the Employee (in the case of carer's leave).
- (b) It is an expectation of the Employer that the Employee gives notice of their absence of at least four hours before the time they are rostered to commence duty on the day of the absence. If it is not practicable for the Employee to give prior notice of absence of at least 4 hours, the Employee must notify the Employer by telephone of such absence, including of the matters listed in subclause (a), as soon as practicable.

50.6 Personal Leave to Attend Appointment

Where an Employee is absent from duty on account of or required to attend a registered health practitioner for an appointment, the Employee shall be granted out of personal leave entitlements leave of absence for a period not exceeding five working days in aggregate in any personal/carers leave accrual year.

50.7 Evidence Supporting Claim

- (a) In the event of an Employee becoming ill or injured and:
 - (i) Certified as such by a registered health practitioner; or
 - (ii) On the production of a statutory declaration signed by the Employee (limited to not more than three occasions in each year in respect to absences not exceeding three consecutive working days duration on each occasion),

He or she shall be entitled to personal leave at the ordinary hourly rate for their ordinary hours of work during the period of absence.

- (b) Provided that any Employee may be absent through illness or injury for one day without furnishing evidence of such illness or injury as provided in paragraph (a), on not more than three occasions in any one year of service. However, a certificate from a registered health practitioner must be provided where the Employee was sick or injured during annual leave in order for the personal leave to be paid.
- (c) When taking leave to provide care or support for a member of their immediate family or household who requires care or support due to an unexpected emergency, the Employee must, if required by the Employer, establish by production of documentation acceptable to the Employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care or support by the Employee.
- (d) Where an Employee is absent on the grounds of personal/carer's leave, the Employee must give the Employer notice of such absence in accordance with this Clause 50.7(d).
 - (i) The notice must be given to the Employer as soon as reasonably practicable (which may be at a time that is before or after the period of personal/carer's leave has started).
 - (ii) The notice must be to the effect that the Employee requires (or required) leave during the period:
 - (A) Because of a personal illness, or injury, of the Employee; or
 - (B) To provide care or support to a member of the Employee's immediate family, or a member of the Employee's household who requires (or required) care or support because of an illness or injury affecting that member, or an unexpected emergency affecting the member.
 - (iii) This clause 50.7(d) does not apply to an Employee who could not comply with it because of circumstances beyond the Employee's control.

51 FAMILY VIOLENCE LEAVE

- (a) This clause applies to all Employees, including casuals.
- (b) Definitions
 - (i) In this clause:
 - (A) Family and domestic violence means violent, threatening or other abusive behaviour by a family member of an Employee

that seeks to coerce or control the Employee and that causes them harm or to be fearful.

(B) Family member means:

- (1) A spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Employee; or
- (2) A child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Employee; or
- (3) A person related to the Employee according to Aboriginal or Torres Strait Islander kinship rules.
- (4) A reference to a spouse or de facto partner in the definition of family member above includes a former spouse or de facto partner.

(c) Entitlement to leave

- (i) A full-time or part-time Employee is entitled to 5 days' paid leave and 5 days' unpaid leave, and a casual Employee is entitled to 10 days' unpaid leave, to deal with family and domestic violence, as follows:
 - (A) The leave is available in full at the start of each 12 month period of the Employee's employment; and
 - (B) The leave does not accumulate from year to year; and
 - (C) Is available in full to part-time and casual Employees.
- (ii) A period of leave to deal with family and domestic violence may be less than a day by agreement between the Employee and the Employer.

(d) Taking leave to deal with family and domestic violence

- (i) An Employee may take leave to deal with family and domestic violence if the Employee:
 - (A) Is experiencing family and domestic violence; and
 - (B) Needs to do something to deal with the impact of the family and domestic violence and it is impractical for the Employee to do that thing outside their ordinary hours of work.
- (ii) The reasons for which an Employee may take leave include making arrangements for their safety or the safety of a family member (including relocation), attending urgent court hearings, or accessing police services.

(e) Service and continuity

The time an Employee is on unpaid leave to deal with family and domestic violence does not count as service but does not break the Employee's continuity of service. Paid leave will count as service.

(f) Notice and evidence requirements

(i) Notice

An Employee must give the Employer notice of the taking of leave by the Employee under this clause. The notice:

- (A) Must be given to the Employer as soon as practicable (which may be a time after the leave has started); and
- (B) Must advise the Employer of the period, or expected period, of the leave.

(ii) Evidence

- (A) An Employee who has given the Employer notice of the taking of leave under this clause must, if required by the Employer, give the Employer evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause 51(d).
- (B) Depending on the circumstances such evidence may include a document issued by the police service, a court, a doctor, a district nurse or maternal and child health nurse, or a family violence support service or a lawyer, or a statutory declaration.

(g) Confidentiality

- (i) The Employer must take steps to ensure information concerning any notice an Employee has given, or evidence an Employee has provided under clause 51(f), is treated confidentially, as far as it is reasonably practicable to do so.
- (ii) Nothing in clause 51 prevents the Employer from disclosing information provided by an Employee if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the Employee or another person.
- (iii) The Employer acknowledges that information concerning an Employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the Employee. The Employer and Employee may consult about the handling of sensitive information.

(h) Compliance

An Employee is not entitled to take leave under clause 51 unless the Employee complies with clause 51.

52 COMPASSIONATE LEAVE

- 52.1 An Employee is entitled to two (2) days compassionate leave for each occasion (a *permissible occasion*) when:
- (a) A member of the Employee's immediate family or a member of the Employee's household:
 - (i) Dies; or
 - (ii) Contracts or develops a personal illness, or sustains a personal injury, that poses a serious threat to their life; or
 - (b) A child is stillborn, where the child would have been a member of the Employee's immediate family, or a member of the Employee's household, if the child had been born alive.
- 52.2 An Employee may take compassionate leave for a particular permissible occasion if the leave is taken:
- (a) To spend time with the member of the Employee's immediate family or household who has contracted or developed the personal illness or sustained the personal injury; or
 - (b) After the death of the member of the Employee's immediate family or household, or the stillbirth of the child.
- 52.3 Leave may be taken for a particular permissible occasion as a continuous two day period, or in two separate periods of one day each, or any separate periods to which the Employer and Employee agree. If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the Employee may take compassionate leave for that occasion at any time while the illness or injury persists.
- 52.4 If, in accordance with this clause, an Employee, other than a casual, takes a period of compassionate leave, the Employer must pay the Employee at the Employee's ordinary hourly rate for the Employee's ordinary hours of work in the period. For casual Employees, compassionate leave is unpaid.
- 52.5 An Employee must give the Employer notice of the taking of leave under this clause by the Employee. This notice must be given to the Employer as soon as practicable (which may be a time after the leave has started) and must advise the Employer of the period, or expected period, of leave.
- 52.6 Proof of death or evidence of injury or illness that poses a serious threat to life must be provided to the satisfaction of the Employer, if requested.
- 52.7 An Employee may take additional unpaid compassionate leave by agreement with the Employer.

53 PARENTAL LEAVE

- 53.1 Subject to the terms of this Clause and the NES, Employees are entitled to paid and/or unpaid parental leave and to request to work part-time in connection with the birth or adoption of a child.
- 53.2 The provisions of this clause 53 apply to full-time and part-time Employees, and to eligible casual Employees (unless expressed otherwise).
- 53.3 Employees are entitled to parental leave in accordance with the provisions of the NES, as amended from time to time.
- 53.4 Full-time and part-time Employees eligible for parental leave in accordance with the NES shall be entitled to access one of the following forms of paid parental leave for each birth or placement of a child for adoption:
- (a) Three weeks' paid primary carer where the eligible permanent Employee will be the child's primary carer at the time of the birth / placement (in the case of adoption) of the child;
 - (b) One week paid secondary carer where the eligible permanent Employee will not be the child's primary carer at the time of the birth / placement (in the case of adoption) of the child.
- 53.5 For the avoidance of doubt, the paid parental leave referred to in clause 53.4 is in addition to the value of the publicly funded paid parental leave (however titled or styled) provided by the Commonwealth Government.
- 53.6 An Employee who is the primary carer of a child in accordance with this clause may take all accrued annual leave and any long service leave (where entitled) prior to a return to work from parental leave.
- 53.7 Parental leave available under this Agreement, unless otherwise agreed, is summarised in the following table:

| Type of Leave | Paid Leave | Unpaid Leave | Total combined paid and unpaid leave |
|---|------------|--------------|--------------------------------------|
| Maternity Leave – Primary Carer | 3 weeks | 49 weeks | 52 |
| Maternity Leave – Secondary carer | 1 week | 51 weeks | 52 |
| Paternity/Partner Leave – Primary Carer | 3 weeks | 49 weeks | 52 |
| Paternity/Partner Leave – Secondary Carer | 1 week | 51 weeks | 52 |
| Adoption Leave – Primary Carer | 3 weeks | 49 weeks | 52 |
| Adoption Leave - Secondary Carer | 1 week | 51 weeks | 52 |

53.8 An eligible casual Employee means a casual Employee:

- (a) Employed by the Employer on a regular and systematic basis for a sequence of 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 a reasonable expectation of ongoing employment, but for the pregnancy or the decision to adopt.

53.9 For the purposes of clause 53.8, continuous service is work for the Employer on a regular and systematic basis (including any period of authorised leave or absence).

53.10 The Employer must not fail to re-engage a casual Employee because:

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

53.11 The rights of the Employer in relation to engagement and re-engagement of casual Employees are not affected, other than in accordance with this Clause.

53.12 **Definitions**

- (a) For the purpose of this Clause, **child** means a child of the Employee under school age except for adoption of an eligible child where 'eligible child' means a person under the age of 16 years at the day or expected day of placement who is placed with the Employee for the purposes of adoption, other than a child or step-child of the Employee or of the spouse of the Employee or a child who has previously lived continuously with the Employee for a period of six months or more as at the day or expected day of placement.
- (b) For the purposes of this Clause, **spouse** includes a de facto spouse, former spouse or former de facto spouse. The Employee's 'de facto spouse' means a person who lives with the Employee as husband, wife or same sex partner on a bona fide domestic basis, although not legally married to the Employee.

53.13 **Members of an Employee Couple who intend to take Concurrent Parental Leave**

- (a) Two Employees are an **Employee couple** if each of the Employees is the spouse or de facto partner of the other.
- (b) An Employee couple may simultaneously take concurrent parental leave if the concurrent leave complies with the following requirements:

- (i) The concurrent leave must not be longer than 8 weeks in total;
- (ii) The concurrent leave may be taken in separate periods, but, unless the Employer agrees, each period must not be shorter than 2 weeks;
- (iii) Unless the Employer agrees, the concurrent leave must not start before:
 - (A) If the leave is birth-related leave – the date of birth of the child; or
 - (B) If the leave is adoption-related leave – the day of placement of the child.
- (c) Concurrent leave taken by an Employee is an exception to the rule that the Employee must take his or her leave in a single continuous period, and is an exception to the rules about when the Employee's period of parental leave must start.

53.14 **Maternity Leave**

- (a) An Employee must provide notice to the Employer in advance of the expected date of commencement of parental leave. The notice requirements are:
 - (i) Of the expected date of confinement (the Employer may require the Employee to provide evidence that would satisfy a reasonable person or a certificate from a registered medical practitioner stating that the Employee is pregnant) - at least ten weeks; and
 - (ii) Of the date on which the Employee proposes to commence maternity leave and the period of leave to be taken - at least four weeks.
- (b) An Employee 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.
- (c) Subject to the other provisions in Clause 53, and unless agreed otherwise between the Employer and Employee, an Employee may begin parental leave at any time within six weeks immediately prior to the expected date of birth.
- (d) Where an Employee continues to work within the six week period immediately prior to the expected date of birth of the child or is on paid no safe job leave, an Employer may require the Employee to provide a certificate from a registered health practitioner stating whether the Employee is fit to work in their present position and, if the Employee is fit to work and in the context of the Employee

continuing to work within the six week period before the expected date of birth, whether it is inadvisable for the Employee to continue working because of illness, or risks, arising out of the pregnancy, or hazards connected with the position.

- (e) The Employer may require the Employee to start maternity leave if the Employee:
 - (i) Does not give the Employer the requested certificate within 7 days after the request; or
 - (ii) Within 7 days after the request for the certificate, gives the Employer the medical certificate stating that the Employee is unfit to work.
- (f) Where leave is granted under subclause (e) during the period of leave, an Employee may return to work at any time as agreed between the Employer and the Employee, provided that time does not exceed four weeks from the recommencement date desired by the Employee.

53.15 Personal Illness Leave and Special Maternity Leave

- (a) An Employee who gives birth to a stillborn child (at or after 20 weeks gestation) or who gives birth to a live baby who subsequently dies, during or before the period of intended leave, will be entitled to the full amount of paid primary carer leave provided by this Agreement. In either of these circumstances, paid partner leave/primary carer leave under clause 53.4 will also apply.
- (b) The Employee must as soon as practicable give notice to the Employer of the taking of leave advising the Employer of the period, or expected period, of the leave in accordance with the following:
 - (i) Where the pregnancy terminates during the first 20 weeks, during the notified period/s the Employee is entitled to access any paid and/or unpaid personal / carer's leave entitlements in accordance with the relevant personal / carer's leave provisions.
 - (ii) Where the pregnancy terminates after the completion of 20 weeks, during the notified period/s the Employee is entitled to paid special maternity leave not exceeding the amount of paid primary carer leave available under clause 53.4 and thereafter, to unpaid special maternity leave.
- (c) If an Employee takes leave for a reason outlined in paragraphs (b)(i) and (b)(ii), the Employer may require the Employee to provide evidence that would satisfy a reasonable person or a certificate from a registered medical practitioner.

- (d) Where an Employee not then on maternity leave is suffering from an illness whether related or not to pregnancy, the Employee may access accrued paid personal/carer's leave to which she is then entitled and such further unpaid leave as a registered health practitioner certifies as necessary before her return to work prior to commencing maternity leave.

53.16 **Paternity/Partner Leave**

- (a) An Employee will provide to the Employer at least ten weeks prior to each proposed period of paternity/partner leave, with:
 - (i) Evidence (the Employer may require the Employee to provide evidence that would satisfy a reasonable person or a certificate from a registered health practitioner) which names his or her spouse and states that she is pregnant and the expected dated of confinement or states the date on which the birth took place; and
 - (ii) Written notification of the dates on which he or she proposes to start and finish the period of paternity leave.
- (b) The Employee will not be in breach of paragraph (a) 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.

53.17 **Adoption Leave**

- (a) The Employee shall be required to provide the Employer with written notice of their intention to apply for adoption leave as soon as is reasonably practicable after receiving a placement approval notice from an adoption agency or other appropriate body.
- (b) The Employee must give written notice of the day when the placement with the Employee is expected to start as soon as possible after receiving a placement notice indicating the expected placement day.
- (c) The Employee must give the following written notice of the first and last days of any period of adoption leave they intend to apply for because of the placement:
 - (i) Where a placement notice is received within the period of 8 weeks after receiving the placement approval notice – before the end of that 8 week period; or
 - (ii) Where a placement notice is received after the end of the period of 8 weeks after receiving the placement approval notice – as soon as reasonably practicable after receiving the placement notice.

- (d) Subject to the other provisions in Clause 53, an Employee must begin parental leave on the day of placement of the child.
- (e) Before commencing adoption leave, an Employee will provide the Employer with a statement from an adoption agency of the day when the placement is expected to start and a statutory declaration stating that the child is an eligible child, whether the Employee is taking short or long adoption leave or both and the particulars of any other authorised leave to be taken because of the placement.
- (f) An Employee must provide the Employer with confirmation from the adoption agency of the start of the placement.
- (g) Where the placement of child for adoption with an Employee does not proceed or continue, the Employee will notify the Employer immediately. The Employer will then nominate a time, not exceeding four weeks from receipt of notification, for the Employee's return to work.
- (h) An Employee 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.
- (i) An Employee seeking to adopt a child is, on the production of satisfactory evidence if required, entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations necessary to the adoption procedure. The Employee and the Employer should agree on the length of the unpaid leave. Where agreement cannot be reached the Employee is entitled to take up to two days unpaid leave.
- (j) Where paid leave is available to the Employee the Employer may require the Employee to take such leave instead.

53.18 **Right to Request**

- (a) An Employee entitled to parental leave in accordance with the NES may request the Employer to allow the Employee:
 - (i) To extend the period of parental leave provided for in Clause 53.7 by a further continuous period of leave not exceeding 12 months; or
 - (ii) To return from a period of parental leave on different working arrangements while the child is of school age or younger, or is under 18 and has a disability;

To assist the Employee in reconciling work and parental responsibilities. "**Different working arrangements**" may include changes in hours of work, patterns of work or location of work.

- (b) The Employer shall consider the request having regard to the Employee's circumstances and provided the request is genuinely based on the Employee's parental responsibilities may only refuse the request on reasonable business grounds. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

(c) **Employee's Request and Employer's Decision to be in Writing**

The Employee's request and the Employer's decision made under paragraphs (a) and (b) must be in writing. The Employer's response, including details of the reasons for any refusal, must be given as soon as practicable and no later than 21 days after the request is made.

(d) **Request to Return to Work Part-time**

A request under clause 53.18(a)(ii) must be made as soon as possible but no less than seven weeks prior to the date upon which the Employee is due to return to work from parental leave.

(e) **Variation of Period of Parental Leave**

Unless agreed otherwise between the Employer and Employee, where an Employee takes leave as summarised under Clause 53.7 and/or Clause 53.18(a)(i), an Employee may apply to their Employer to change the period of parental leave on one occasion, subject to sections 75, 76 and 77 of the Fair Work Act. Any such change must be notified in writing at least four weeks prior to the start of the changed arrangements.

53.19 Parental Leave and Other Entitlements

- (a) Subject to section 79 of the Fair Work Act, an Employee may access other paid leave entitlements which they have accrued, such as annual leave or long service leave, while on a period of unpaid parental leave under section 70 of the Fair Work Act, or longer as agreed.
- (b) Where a public holiday occurs during a period of paid primary carer / non-primary carer leave the public holiday is not to be regarded as part of the paid primary carer / non-primary carer leave and the Employer will grant the Employee a day off in lieu to be taken by the Employee immediately following the period of paid primary carer / non-primary carer leave.

53.20 Transfer to a Safe Job

- (a) Where an Employee is pregnant and provides evidence that would satisfy a reasonable person that she is fit for work but it is inadvisable for her to continue in her present position during a stated period because of illness or risks arising out of the

pregnancy or hazards connected with the work assigned to the Employee, the Employee will, if the Employer deems it practicable, be transferred to a safe job with no other change to the Employee's terms and conditions of employment until the commencement of maternity leave. The Employer may require the evidence referred to above to be a medical certificate. The Employer will make all practical efforts to remedy an unsafe situation to allow the Employee to work until her estimated date of confinement.

- (b) If the Employer does not think it reasonably practicable to transfer the Employee to a safe job, the Employee may take paid no safe job leave, or the Employer may require the Employee to take paid no safe job leave immediately for a period which ends at the earliest of either:
 - (i) When the Employee is certified unfit to work during the six week period before the expected date of birth by a registered medical practitioner; or
 - (ii) When the Employee's pregnancy results in the birth of a living child or when the Employee's pregnancy ends otherwise than with the birth of a living child.

The entitlement to no safe job leave is in addition to any other leave entitlement the Employee has.

- (c) If the Employee has not qualified for unpaid parental leave (i.e. has not had 12 months continuous service) and (a) and (b) above apply and the Employer cannot find the Employee a safe job, then the Employee is entitled to take unpaid no safe job leave in accordance with the NES.

53.21 Returning to Work after a Period of Parental Leave

- (a) An Employee will notify their intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.
- (b) Subject to paragraph (c) below an Employee will be entitled to the position which they held immediately before proceeding on parental leave. In the case of an Employee transferred to a safe job pursuant to Clause 53.20 the Employee will be entitled to return to the position they held immediately before such transfer.
- (c) Where such position no longer exists but there are other positions available which the Employee is qualified for and is capable of performing, the Employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

53.22 Replacement Employees

- (a) A replacement Employee is an Employee specifically engaged or temporarily promoted or transferred as a result of an Employee proceeding on parental leave.
- (b) Before the Employer engages a replacement Employee the Employer must inform that person of the temporary nature of the employment and of the rights of the Employee who is being replaced as required under section 84A of the Fair Work Act.

53.23 Consultation and Communication during Parental Leave

- (a) Where an Employee is on parental leave and a definite decision has been made that will have a significant effect on the status, pay or location of the Employee's pre-parental leave position, the Employer shall take reasonable steps to:
 - (i) Make information available in relation to any significant effect the change will have on the status or responsibility level of the position the Employee held before commencing parental leave; and
 - (ii) Provide an opportunity for the Employee to discuss any significant effect the change will have on the status or responsibility level of the position the Employee held before commencing parental leave.
- (b) The Employee shall take reasonable steps to inform the Employer about any significant matter that will affect the Employee's decision regarding the duration of parental leave to be taken, whether the Employee intends to return to work and whether the Employee intends to request to return to work on a part-time basis.
- (c) The Employee shall also notify the Employer of changes of address or other contact details which might affect the Employer's capacity to comply with this clause.

53.24 Pre-natal Appointments or Parenting Classes

If an Employee is required to attend pre-natal appointments or parenting classes and such appointments or classes are only available or can only be attended during the ordinary rostered shift of an Employee, then on production of satisfactory evidence of attendance at such appointment or class, the Employee may access his or her accrued personal/carer's leave. The Employee must give the Employer prior notice of the Employee's intention to take such leave.

54 LONG SERVICE LEAVE**54.1 Entitlement**

- (a) An Employee shall be entitled to long service leave with pay, in respect of continuous service with the Employer, in accordance with the provisions of this clause.
- (b) The amount of such entitlement shall be:
 - (i) On the completion by the Employee of fifteen years continuous service:
 - (A) Six months long service leave and thereafter an additional two months long service leave on the completion of each additional five years' service.
 - (B) In addition, in the case of an Employee who has completed more than fifteen years' service and whose employment terminates otherwise than by the death of the Employee, an amount of long service leave equal to one thirtieth of the period of her/his service since the last accrual of entitlement to long service leave under paragraph 54.1(b)(i)(A).
 - (ii) In the case of an Employee who has completed at least ten years' service, but less than fifteen years' service, such amount of long service leave as equals one thirtieth of the period of service.
 - (iii) In the case of an Employee who has completed at least ten years' service but less than fifteen years' service, the Employee may take pro rata long service leave. The time such leave is taken shall be by agreement between the Employee and the Employer having regard for the Employer's operational requirements, save that such agreement shall not be unreasonably withheld. In the event of any dispute over the timing of such leave, the Dispute Resolution Procedures of Clause 56 shall apply.

54.2 Transfer of Employment and Continuity of Service

- (a) Where a business is transferred from one employer (the old employer) to another employer (the new employer) either before or after this Agreement an Employee who worked with the old employer and who continues in the service of the new employer shall be entitled to count her/his service with the old employer as service with the new employer for the purposes of this clause.
- (b) For the purposes of this clause, but subject to s.22 of the Fair Work Act which will override the following provisions to the extent of

any inconsistency where it is more favourable, service shall be deemed to be continuous notwithstanding:

- (i) The taking of any annual leave, long service leave, or other paid leave approved in writing by the Employer and not covered by paragraphs 54.2(b)(ii) or 54.2(b)(iv) below.
- (ii) Any absence from work of not more than fourteen days in any year on account of illness or injury or if applicable such longer period as provided in Clause 50 (Personal/Carer's Leave) of this Agreement.
- (iii) 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;
- (iv) Any absence on account of injury arising out of or in the course of the employment of the Employee for a period during which payment is made under the accident pay provisions of this Agreement;
- (v) Any unpaid leave of absence of the Employee where the absence is authorised in advance in writing by the Employer to be counted as service;
- (vi) Any interruption arising directly or indirectly from an industrial dispute;
- (vii) Any period of absence from employment between the engagement with one facility of the Employer and another provided it is less than the Employee's allowable period of absence from employment. An Employee's 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 Employee actually received on termination or for which was paid in lieu;
- (viii) The dismissal of an Employee if the Employee is re-employed within a period not exceeding two months from the date of such dismissal;
- (ix) Any unpaid absence from work of an Employee for a period not exceeding the period allowed by the NES in respect of any pregnancy or adoption;
- (x) In the case of a Registered Nurse or Enrolled Nurse, any unpaid absence of not more than 24 months for the sole purpose of undertaking a course of study related to nursing where the written approval of the Employer is given;

- (xi) Any other absence of an Employee by leave of the Employer, or on account of injury arising out of or in the course of her/his employment not covered by paragraph 54.2(b)(iv) above.
- (c) In calculating the period of continuous service of any Employee, any interruption or absence of a kind mentioned in paragraphs 54.2(b)(ii) to 54.2(b)(v) above shall be counted as part of the period of her/his service, but any interruption or absence of a kind mentioned in paragraphs 54.2(b)(vi) to 54.2(b)(xi) shall not be counted as part of the period of service unless it is so authorised in writing by the Employer.
- (d) The Employer shall keep or cause to be kept a long service leave record for each Employee, containing particulars of service, leave taken and payments made.

54.3 Payment in Lieu of Long Service Leave on the Death of an Employee

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

54.4 Payment for Period of Leave

- (a) Payment to an Employee in respect of long service leave shall be made in one of the following ways:
 - (i) In full in advance when the Employee commenced her/his leave; or
 - (ii) At the same time as payment would have been made if the Employee had remained on duty; or
 - (iii) In any other way agreed between the Employer and the Employee.
- (b) Where the employment of an Employee for any reason terminates before she/he takes any long service leave to which she/he is entitled or where any long service leave accrues to an Employee pursuant to Clause 54.1(b)(i) the Employee shall, subject to the provisions of this Clause, be entitled to pay in respect of such leave as at the date of termination of employment.
 - (i) Where any long service leave accrues to an Employee pursuant to Clause 54.1(b)(iii) the Employee shall be entitled to pay in respect of such leave as at the date of termination of employment.

- (c) Where an increase occurs in the ordinary hourly rate during any period of long service leave taken by the Employee, the Employee shall be entitled to receive payment of the amount of any increase in pay at the completion of such leave.

54.5 Taking of Leave

- (a) When an Employee 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 a member of the Fair Work Commission; provided that no such determination shall require such leave to commence before the expiry of six months from the date of such determination.
- (b) Any long service leave shall be inclusive of any public holiday occurring during the period when the leave is taken.
- (c) If the Employer and an Employee so agree:
 - (i) The first six months long service leave to which an Employee becomes entitled under this Clause may be taken in two or three separate periods; and
 - (ii) Any subsequent period of long service leave to which the Employee becomes entitled may be taken in two separate periods;

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

- (d) The Employer may by agreement with an Employee grant long service leave to the Employee before the entitlement to that leave has accrued, provided that such leave shall not be granted before the Employee has completed ten years' service.

54.6 Definitions

- (a) For the purpose of this clause the following definitions apply:
 - (i) **Pay** means remuneration for an Employee's normal weekly hours of work calculated at the Employee's ordinary hourly rate calculated in accordance with Appendix A, based on the average hours worked (including time on authorised leave), over the last three years. Such average hours and the rate of pay are to be calculated at the time the leave is taken or is paid out, or at the time of the death of the Employee. Such pay will also include the amount of any increase to the Employee's ordinary hourly rate which occurs during the period of leave.

- (ii) **Month** shall mean a calendar month.
- (iii) **Transfer** of employment shall be interpreted in accordance with the provisions of the Fair Work Act.

54.7 **Other Matters**

- (a) Notwithstanding the above, the parties agree that an Employee, by mutual agreement with the Employer, may take double the period of their accrued long service leave at half pay.
- (b) Applications under this clause shall be at the initiative of the Employee and shall be in writing.
- (c) The parties recommend that Employees seek independent advice regarding the taxation implications of seeking payment under this sub-clause. The Employer shall not be held responsible in any way for the cost or outcome of any such advice.
- (d) The Employer, if required by the Employee, shall provide information as to the amount of tax the Employer intends to deduct where payment of long service leave is sought under this Clause. The Employer shall not be responsible for the decision made by the Employee as a result of this information.

54.8 The Employer will use its best endeavours to consult with an Employee on long service leave if there is any proposed change to the classification, pay, hours or location of the employee who is on long service leave, including the provision of information and the opportunity to discuss the impacts of the proposal.

54.9 **Transition to retirement**

- (a) Notwithstanding the above, an Employee who is 60 years or older who plans to retire in the next 24 months and who wishes to reduce their contracted hours, can apply to preserve their accrued long service leave entitlement at the number of hours currently worked for a period of not greater than 24 months.
- (b) In the event the Employee decides not to retire within 24 months, all future long service leave taken or paid out beyond that 24 month period is paid at the number of hours being worked at the time leave is taken.

55 **PUBLIC HOLIDAYS**

55.1 An Employee shall be entitled to holidays on the following days:

- (a) New Year's Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Christmas Day and Boxing Day; and

- (b) The following days, as prescribed in Victoria: Australia Day, Anzac Day, Queen's Birthday and Labour Day; and
 - (c) Melbourne Cup Day, or in lieu of Melbourne Cup Day, some other day as determined for a particular locality.
- 55.2 For full-time Monday to Friday Employees and/or part-time Employees engaged to work in wards/units, facilities or services (however styled) that operate only on a Monday to Friday basis:
- (a) When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December;
 - (b) When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December; and
 - (c) 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.
- 55.3 For all Employees other than those referred to in clause 55.2 above, including casual Employees:
- (a) Christmas Day shall be observed on 25 December;
 - (b) Boxing Day shall be observed on 26 December;
 - (c) New Year's Day shall be observed on 1 January; and
 - (d) Australia Day shall be observed on 26 January.
- 55.4 Those Employees, subject to Clause 55.3 who work on the actual public holiday will be paid penalty rates on that day in accordance with this Clause. Work performed on a substitute public holiday will be paid at the ordinary hourly rate. For example, where a shift worker works on 25 December (a Saturday) and the substitute Christmas Day is on Monday 27 December they will only be paid public holiday penalties for working on 25 December. However, a full-time Monday to Friday Employee or a part-time Employee who only works in an area that operates on a Monday-Friday basis will be paid public holiday penalty rates when they work on the substitute public holiday.
- 55.5 Where in Victoria, or a locality of Victoria, public holidays are declared or prescribed on days other than those set out in Clauses 55.1 to 55.3, those days shall constitute additional holidays and public holiday penalty rates and rostered-off benefit provisions shall apply on that additional day. For example, where Boxing Day falls on Sunday 26 December but there is an additional public holiday under the *Public Holidays Act 1993* (Vic) on Tuesday 28 December, then a shift worker who works both days will be paid public holiday penalty rates on each day.

55.6 Substitution of public holidays

An Employer and Employee may agree to substitute another day for a day that would otherwise be a public holiday under this Clause.

55.7 **Payment for ordinary hours worked on a public holiday**

- (a) Subject to the arrangements in clauses 55.1 to 55.6 above, ordinary hours worked by full-time and part-time Employees on a public holiday will be paid at the following rates, calculated on the ordinary hourly rate (see clause 23.6(b) for casual Employee public holiday rates):

| Employee type | Weekday Public Holiday | Weekend Public Holiday |
|----------------------|-------------------------------|-------------------------------|
| Registered Nurse | 200% | 250% |
| Enrolled Nurse | 250% | 250% |
| Aged Care Employee | 250% | 250% |

- (b) These rates are in substitution of any additional rate for weekend work which would otherwise be payable had the hours worked not been on a public holiday, but do not substitute for applicable shift allowances.

55.8 **Easter Saturday (Full-time Enrolled Nurses and Aged Care Employees only)**

In respect of Easter Saturday, a full-time Enrolled Nurse or Aged Care Employee who ordinarily works Monday to Friday only and who does not work on Easter Saturday, shall be entitled to one day's pay (calculated on their ordinary hourly rate) in respect of Easter Saturday or, where there is mutual consent, within four weeks following the day on which such holiday occurred the Employee may take one day off in lieu or have one day added to his/her annual leave.

55.9 **Public Holidays occurring on Rostered Days Off (Full-time Employees only)**

- (a) Registered Nurses shall receive a sum equal to a day's ordinary pay (calculated on their ordinary hourly rate) for public holidays that occur on their rostered day off, excepting holidays falling on Saturday or Sunday with respect to Monday and Friday Employees.
- (b) If such a day falls on an Enrolled Nurse or Aged Care Employee's rostered day off he/she shall be entitled to one and a half times the payment for her/his ordinary day at their ordinary hourly rate; or where there is mutual consent, within four weeks following the date on which such holiday occurred the Employee may take a day and half off in lieu or have a day and a half added to her/his annual leave.

55.10 **Public Holidays occurring during Annual Leave or Personal / Carer's Leave**

If the period during which an Employee takes paid annual leave or paid personal/carer's leave includes a day or part-day that is a public holiday in the place where the Employee is based for work purposes, the Employee is taken not to be on paid annual leave or paid personal/carer's leave on that public holiday.

55.11 **Part-time Employees**

A part-time Employee who is ordinarily not required to work on the day of the week on which a particular holiday is observed shall not be entitled to any benefit for any such public holiday.

56 **COMMUNITY SERVICES LEAVE AND CEREMONIAL LEAVE**

56.1 **Emergency Service Leave**

- (a) An Employee who is a member of a recognised voluntary emergency relief organisation (such as the Country Fire Authority, Red Cross, St John Ambulance and the State Emergency Service) is entitled to be released from duty to engage in a voluntary emergency management activity in accordance with the provisions of the Fair Work Act, subject to the Employee providing to the Employer:
 - (i) Prior notice of such attendance (unless this is not practicable due to the nature of the emergency); and
 - (ii) Evidence that would satisfy a reasonable person that the Employee has been or will be engaging in an eligible emergency management activity.
- (b) Payment for such attendance shall be restricted to a maximum of three shifts per annum (non-cumulative), at the Employee's ordinary hourly rate. Casual Employees shall not be entitled to payment under this sub-clause, but shall still have the right to be absent from work subject to complying with the notice requirements under paragraph (a).

56.2 **Jury Service**

- (a) An Employee who is required to appear as a result of a summons for jury duty or to appear and serve as a juror in any court shall be entitled to be paid for the Employee's ordinary hours of work (including any shift loadings and regular allowances) for the period during which attendance at court is required (whether or not he/she ultimately serves as a juror).
- (b) The Employer may require the Employee as soon as practicable to provide proof of their requirement to attend jury duty to their

manager. In such case the Employee shall provide a copy of the summons to attend jury duty and a record of any payments received from the courts as proof of attendance.

- (c) The Employee shall be required to reimburse to the Employer any monies payable to the Employee from the courts for such attendance (excluding expenses) which required the Employee's absence from work.
- (d) Subject to the *Juries Act 2000* (Vic), this clause excludes casual Employees.

56.3 Ceremonial Leave

An Employee who is legitimately required by Aboriginal tradition to be absent from work for Aboriginal ceremonial purposes will be entitled to up to ten working days unpaid leave in any one year, with the approval of the Employer.

PART H – ANCILLARY AND DISPUTE SETTLEMENT

57 DISPUTE RESOLUTION PROCEDURE

57.1 This Dispute Resolution Procedure will apply to any dispute relating to:

- (a) A matter arising under this Agreement; or
- (b) The National Employment Standards; or
- (c) A matter arising under section 65(5) of the Fair Work Act; or
- (d) A matter arising under section 76(4) of the Fair Work Act.

57.2 In the event of a dispute in relation to the above, in the first instance the parties will attempt to resolve the matter at the workplace by discussions between the Employee or Employees concerned and the relevant supervisor and, if such discussions do not resolve the dispute, by discussions between the Employee or Employees concerned and more senior levels of local management as appropriate.

57.3 A party to the dispute may appoint another person, organisation or association to accompany or represent them in relation to the dispute at any time.

57.4 If the grievance is still unresolved following the steps outlined in clause 57.2, the matter shall be referred to the Senior Manager of the organisation, however titled and a meeting arranged.

57.5 The above steps shall take place in a reasonable time and, where possible, within seven days.

- 57.6 If a dispute, as defined in clause 57.1, is unable to be resolved at the workplace, and all agreed steps for resolving it have been taken, the dispute may be referred to FWC for resolution by mediation and/or conciliation and, where the matter in dispute remains unresolved, arbitration. If arbitration is necessary FWC may exercise the procedural powers available to it under the Fair Work Act.
- 57.7 It is a term of this Agreement that while the Dispute Resolution Procedure is being conducted work shall continue normally according to the custom or practice existing before the change or omission that gave rise to the grievance until either the grievance is resolved or, if referred to Fair Work Commission, up to the first hearing and then subject to any direction of FWC. No party shall be prejudiced by the continuation of work. Health and safety matters are exempted from this clause.
- 57.8 The decision of Fair Work Commission will bind the parties, subject to either party exercising a right of appeal in accordance with the Fair Work Act.
- 57.9 For the avoidance of doubt, Employee grievances are included in the matters to be dealt with in accordance with the dispute resolution procedure of the Agreement.

58 DISCIPLINARY PROCEDURE

- 58.1 Where disciplinary action may be necessary, the management representative shall notify the Employee of the issues in writing and the Employee will be given an opportunity to respond to these issues. In the event that the Employee's response is unsatisfactory, a first warning in writing may be issued. This warning will be recorded on the Employee's personnel file.
- 58.2 If the problem continues, the Employee will again be notified in writing of the matter and a response requested from the Employee. If appropriate, a second warning in writing will be given to the Employee and recorded on the Employee's personnel file.
- 58.3 In the event that the problem continues, the Employee will again be notified in writing of the matter and a response requested. If appropriate, a final written warning will be issued to the Employee and recorded on the Employee's personnel file.
- 58.4 In the event of the matter recurring, then the Employee may be terminated after the matters have been investigated and is found to be substantiated.
- 58.5 Dismissal of an Employee may still occur for acts of 'serious misconduct' (as defined in the *Fair Work Act 2009*). Where an allegation of 'serious misconduct' is proven and the Employer, having considered all the circumstances does not wish to terminate the Employee's employment, a warning may be issued under Clauses 58.2 or 58.3. Where an allegation of 'serious misconduct' is made the Employee may, at the discretion of the

Employer, be suspended from duty on full pay until the matter is investigated and a finding made.

- 58.6 During all steps in the Disciplinary Procedure, the Employee has the right to representation of his or her choice, including the ANMF or HSU. The Employer may be represented by the representative of their choice.
- 58.7 Records relating to disciplinary procedures will be disregarded where a continuous period of 12 months elapses without further warning/s. Records relating to disciplinary procedures will be removed from the personnel file after a period of two (2) years where no further warning/s arise.
- 58.8 The clause shall not apply until the Employee has completed a period of employment with the Employer of at least the 'minimum employment period' as defined in the Fair Work Act. However, an Employee who has not completed at least the minimum employment period (as defined in the Fair Work Act) must be afforded procedural fairness by having any allegations or performance concerns put to them in writing and be given an opportunity to address those allegations or concerns in a timely manner. They must also be able to have a representative of their choice present at any meeting to consider the allegations and the Employee's response.

59 NOTICE BOARD

The Employer shall make available a Notice Board in the work location that is accessible to Employees, for the purpose local Employee Union delegates, or Union Organisers or other Union staff (subject to right of entry requirements under the Fair Work Act), posting information relating to the observance, application and operation of the Agreement and in relation to union events or meetings.

60 CONSULTATION

60.1 This term applies if the Employer:

- (a) Has made a definite decision to introduce in a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the Employees; or
- (b) Proposes to introduce a change to the regular roster or ordinary hours of work of Employees.

Major change

60.2 For a major change referred to in paragraph 60.1(a):

- (a) The Employer must notify the relevant Employees of the decision to introduce the major change; and
- (b) Subclauses 60.2 to 60.9 apply.

60.3 The relevant Employees may appoint a representative for the purposes of the procedures in this term.

60.4 If:

- (a) A relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
- (b) The Employee or Employees advise the Employer of the identity of the representative;

The Employer must recognise the representative.

60.5 As soon as practicable after making its decision, the Employer must:

- (a) Discuss with the relevant Employees
 - (i) The introduction of the change; and
 - (ii) The effect the change is likely to have on the Employees; and
 - (iii) Measures the Employer is taking to avert or mitigate the adverse effect of the change on the Employees; and
- (b) For the purposes of the discussion—provide, in writing, to the relevant Employees:
 - (i) All relevant information about the change including the nature of the change proposed; and
 - (ii) Information about the expected effects of the change on the Employees; and
 - (iii) Any other matters likely to affect the Employees.

60.6 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.

60.7 The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.

60.8 If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in 60.2(a) and subclauses 60.3 and 60.5 are taken not to apply.

60.9 In this term, a major change is *likely to have a significant effect on Employees* if it results in:

- (a) The termination of the employment of Employees; or

- (b) Major change to the composition, operation or size of the Employer's workforce or to the skills required of Employees; or
- (c) The elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- (d) The alteration of hours of work; or
- (e) The need to retrain Employees; or
- (f) The need to relocate Employees to another workplace; or
- (g) The restructuring of jobs.

Change to regular roster or ordinary hours of work

60.10 For a change referred to in paragraph 60.1(b):

- (a) The Employer must notify the relevant Employees of the proposed change; and
- (b) Subclauses 60.11 to 60.15 apply.

60.11 The relevant Employees may appoint a representative for the purposes of the procedures in this term.

60.12 If:

- (a) A relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
- (b) The Employee or Employees advise the Employer of the identity of the representative;

The Employer must recognise the representative.

60.13 As soon as practicable after proposing to introduce the change, the Employer must:

- (a) Discuss with the relevant Employees the introduction of the change; and
- (b) For the purposes of the discussion—provide to the relevant Employees:
 - (i) All relevant information about the change, including the nature of the change; and
 - (ii) Information about what the Employer reasonably believes will be the effects of the change on the Employees; and
 - (iii) Information about any other matters that the Employer reasonably believes are likely to affect the Employees; and

- (c) Invite the relevant Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

60.14 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.

60.15 The Employer must give prompt and genuine consideration to matters raised about the change by the relevant Employees.

60.16 In this term:


Relevant Employees means the Employees who may be affected by a change referred to in subclause 60.1.

61 ACCIDENT PAY

Accident Pay shall be in accordance with Appendix D.

SIGNING CLAUSE

DATED this 16th day of November 2021


.....

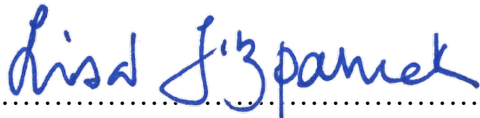
TIMOTHY DAVID HUMPHRIES

[Signature on behalf of Homestyle Aged Care Services Print Name

I declare that I am authorised to sign this Agreement on behalf of the named Employer in the capacity of Chief Executive Officer

269 Centre Road Bentleigh VIC 3207
[Address]

DATED this 17th day of November 2021



.....
Lisa Fitzpatrick

[Signature: on behalf of the Australian Nursing and
Midwifery Federation as a
Nominated Bargaining Representative]

.....
Print Name

I declare that I am authorised in accordance with the registered Rules of the organisation to sign this Agreement on behalf of the named Bargaining Representative in the capacity of

Secretary
.....

535 Elizabeth Street, Melbourne, VIC 3000
[Address]

DATED this day of 2021

.....
Signature: on behalf of the Health Services Union Print Name
as a Nominated Bargaining Representative]

I declare that I am authorised in accordance with the registered Rules of the organisation to sign this Agreement on behalf of the named Bargaining Representative in the capacity of

.....

Level 5, 222 Kings Way, South Melbourne VIC 3205
[Address]

Dean Sherriff - Submitted approval to FWC on 2 December

8. Does the Union give notice pursuant to s.183 of the Fair Work Act 2009 that it wants the Agreement to cover it?

- Yes
- No

| | | | |
|------------------|---|--------------|-------------------------------|
| Signature |  | Date: | 2 nd December 2021 |
| | | | |

APPENDIX A – WAGE RATES

| REGISTERED NURSES CLASSIFICATION | Current | 1/07/21 | 1/07/22 2% \$ |
|--|----------------|----------------|------------------------------|
| Registered Nurse Level 1 (Grad Year) Allowance rate for shift allowances | \$ 29.15 | \$ 29.74 | \$ 30.33 |
| Registered Nurse Level 2 Year 1 (Base Rate) | 31.43 | 32.05 | 32.70 |
| Year 2 | 37.43 | 38.18 | 38.94 |
| Year 3 | 40.09 | 40.89 | 41.70 |
| Registered Nurse Level 3A Year 1 | 41.02 | 41.84 | 42.68 |
| Year 2 | 41.65 | 42.48 | 43.33 |
| Registered Nurse Level 3B Year 1 | 42.58 | 43.43 | 44.30 |
| Year 2 | 43.49 | 44.36 | 45.25 |
| Registered Nurse Level 4A Year 1 | 44.66 | 45.55 | 46.46 |
| Year 2 | 45.85 | 46.76 | 47.70 |
| Registered Nurse Level 4B Year 1 | 46.90 | 47.84 | 48.80 |
| Year 2 | 48.08 | 49.04 | 50.02 |
| Registered Nurse Level 5 (In Charge) 51 - 200 Beds | 49.01 | 49.99 | 50.99 |
| Registered Nurse Level 6 (CSM) 50 - 90 Beds | 49.01 | 55.00 | 56.10 |
| 91 - 125 Beds | 50.85 | 56.50 | 57.63 |
| 126 and over beds | | 58.00 | 59.16 |
| Registered Nurse Level 7 (DON) 50 - 90 Beds (also the rate for Nurse Practitioner Year 1) | 49.01 | 55.00 | 56.10 |
| 91- 125 Beds (also the rate for Nurse Practitioner Year 2 and thereafter) | 50.85 | 56.50 | 57.63 |
| 126 and over beds | | 58.00 | 59.16 |

| ALLOWANCES | Current | 1/07/21 | 1/07/22 |
|-------------------------|----------------|----------------|----------------|
| | \$ | \$ | \$ |
| AM/PM Shift | 27.70 | 28.25 | 28.82 |
| Night Shift - ad hoc | 44.30 | 45.19 | 46.09 |
| Night Shift - permanent | 55.40 | 56.51 | 57.64 |
| On Call | 59.70 | 60.89 | 62.11 |

Qualifications Allowances (per hour up to 38 hours per week)

| | | | |
|---------------------------|-------|-------|-------|
| Hospital/Grad Certificate | 1.257 | 1.282 | 1.308 |
| Post Grad Dip/Degree | 2.042 | 2.083 | 2.126 |
| Masters Degree | 2.357 | 2.403 | 2.452 |
| Doctorate | 2.671 | 2.724 | 2.779 |

See below for other allowances

| ENROLLED NURSES | Current | 1/07/21 | 1/07/22 |
|---|----------------|----------------|----------------|
| CLASSIFICATION | \$ | 6% | 2% |
| | \$ | \$ | \$ |
| Trainee rate 95% of Pay Point 1 | 25.68 | 27.22 | 27.77 |
| Pay Point 1 (Allowance rate) | 27.03 | 28.66 | 29.23 |
| Pay Point 2 (entry point Cert IV with meds) | 27.56 | 29.22 | 29.80 |
| Pay Point 3 (entry point Diploma) | 28.07 | 29.76 | 30.35 |
| Pay Point 4 | 28.58 | 30.30 | 30.90 |
| Pay Point 5 | 29.01 | 30.75 | 31.37 |
| Pay Point 6 | 29.56 | 31.33 | 31.96 |
| Pay Point 7 | 30.07 | 31.88 | 32.52 |
| Pay Point 8 | 30.60 | 32.43 | 33.08 |

| | Current | 1/07/21 | 1/07/22 |
|-------------------------|----------------|----------------|----------------|
| | \$ | 2% | 2% |
| ALLOWANCES | \$ | \$ | \$ |
| AM/PM Shift | 25.70 | 26.21 | 26.74 |
| Night Shift - ad hoc | 41.10 | 41.92 | 42.76 |
| Night Shift - permanent | 51.35 | 52.38 | 53.42 |
| Change of Shift | 41.10 | 41.92 | 42.76 |
| On Call | 51.35 | 52.38 | 53.42 |
| In Charge of Facility | 69.55 | 70.94 | 72.36 |

Note: Enrolled Nurse Qualifications Allowance is either 4% or 7.5% of the applicable pay point rate.

| | | | |
|-----------------------------------|------|------|------|
| Nauseous Linen (per hour) | 0.49 | 0.50 | 0.51 |
| Nauseous (minimum per week) | 2.90 | 2.96 | 3.02 |
| Dirty & offensive work (per hour) | 0.56 | 0.57 | 0.58 |

Nauseous Allowance is payable to Enrolled Nurses in accordance with the Agreement.

Leader Allowance is 10% of the Employee's individual WSG or PP base rate

| | Current | 1/07/21 2% | 1/07/22 2% |
|---|----------------|-----------------------|-----------------------|
| Additional Allowances | | | |
| Meals – Registered Nurses | | | |
| After usual finishing beyond 1 hour, Mon-Fri | 13.10 | 13.36 | 13.63 |
| After usual finishing beyond 4 hours, Mon-Fri | 10.80 | 11.02 | 11.24 |
| Overtime beyond 5 hours, Sat-Sun | 13.10 | 13.36 | 13.63 |
| Overtime beyond 9 hours, Sat-Sun | 10.80 | 11.02 | 11.24 |
| Meal – Enrolled Nurses | | | |
| After usual finishing beyond 1 hour, Mon-Fri | 13.80 | 14.08 | 14.36 |
| After usual finishing beyond 4 hours, Mon-Fri | 10.70 | 10.91 | 11.13 |
| Overtime beyond 5 hours, Sat-Sun | 13.80 | 14.08 | 14.36 |
| Overtime beyond 9 hours, Sat-Sun | 10.70 | 10.91 | 11.13 |
| Meal – Registered Nurses (Shift Employees) | | | |
| Overtime beyond 1 hour | 13.10 | 13.36 | 13.63 |
| Overtime beyond 4 hours | 10.80 | 11.02 | 11.24 |
| Work beyond 5 hours on rostered day off | 13.10 | 13.36 | 13.63 |
| Work beyond 9 hours on rostered day off | 10.80 | 11.02 | 11.24 |
| Meal – Enrolled Nurses (Shift Employees) | | | |
| Overtime beyond 1 hour | 13.80 | 14.08 | 14.36 |
| Overtime beyond 4 hours | 10.70 | 10.91 | 11.13 |
| Work beyond 5 hours on rostered day off | 13.80 | 14.08 | 14.36 |
| Work beyond 9 hours on rostered day off | 10.70 | 10.91 | 11.13 |
| Uniform – Registered Nurses, lesser of: | | | |
| Per day | 1.42 | 1.45 | 1.48 |
| Per week | 7.32 | 7.47 | 7.62 |
| Laundry – Registered Nurses, lesser of: | | | |
| Per day | 0.39 | 0.40 | 0.41 |
| Per week | 1.87 | 1.91 | 1.95 |
| Uniform – Enrolled Nurses, lesser of: | | | |
| Per day | 1.57 | 1.60 | 1.63 |
| Per week | 7.97 | 8.13 | 8.29 |
| Laundry – Enrolled Nurses, lesser of: | | | |
| Per day | 0.38 | 0.39 | 0.40 |
| Per week | 1.91 | 1.95 | 1.99 |
| Vehicle: Per Kilometre | | | |
| | \$ | \$ | \$ |
| 35 PMU and over | 1.25 | 1.28 | 1.30 |
| Under 35 PMU | 1.06 | 1.08 | 1.10 |
| Motor Cycles | | | |
| 250cc and over | 0.60 | 0.61 | 0.62 |
| Under 250cc | 0.45 | 0.46 | 0.47 |
| Bicycle | 0.14 | 0.14 | 0.15 |
| Occasional Interpreter | | | |
| Per occasion | 1.03 | 1.05 | 1.07 |
| Per week | 12.75 | 13.01 | 13.27 |

AGED CARE EMPLOYEES

| CLASSIFICATION | Current | 1/07/21 | 1/07/22 |
|---------------------------|----------------|----------------|----------------|
| | \$ | 2% | 2% |
| | \$ | \$ | \$ |
| Wage Skill Group 1 | | | |
| 1st year of exp. | 23.16 | 23.62 | 24.09 |
| 2nd year of exp. | 23.32 | 23.78 | 24.26 |
| 3rd year of exp. | 23.49 | 23.96 | 24.43 |
| 4th year of exp. | 23.63 | 24.10 | 24.58 |
| 5th year of exp. | 23.77 | 24.25 | 24.73 |
| 6th year of exp. | 23.93 | 24.41 | 24.89 |
| Wage Skill Group 2 | | | |
| 1st year of exp. | 23.89 | 24.37 | 24.85 |
| 2nd year of exp. | 24.05 | 24.53 | 25.02 |
| 3rd year of exp. | 24.22 | 24.70 | 25.20 |
| 4th year of exp. | 24.36 | 24.85 | 25.34 |
| 5th year of exp. | 24.50 | 24.99 | 25.49 |
| 6th year of exp. | 24.66 | 25.15 | 25.65 |
| Wage Skill Group 3 | | | |
| 1st year of exp. | 24.39 | 24.87 | 25.37 |
| 2nd year of exp. | 24.55 | 25.04 | 25.54 |
| 3rd year of exp. | 24.72 | 25.21 | 25.72 |
| 4th year of exp. | 24.86 | 25.35 | 25.86 |
| 5th year of exp. | 25.00 | 25.50 | 26.01 |
| 6th year of exp. | 25.15 | 25.66 | 26.17 |
| Wage Skill Group 4 | | | |
| 1st year of exp. | 24.62 | 25.12 | 25.62 |
| 2nd year of exp. | 24.78 | 25.28 | 25.79 |
| 3rd year of exp. | 24.96 | 25.46 | 25.97 |
| 4th year of exp. | 25.10 | 25.60 | 26.11 |
| 5th year of exp. | 25.24 | 25.74 | 26.26 |
| 6th year of exp. | 25.39 | 25.90 | 26.42 |
| Wage Skill Group 5 | | | |
| 1st year of exp. | 25.21 | 25.71 | 26.23 |
| 2nd year of exp. | 25.37 | 25.88 | 26.40 |
| 3rd year of exp. | 25.54 | 26.06 | 26.58 |
| 4th year of exp. | 25.68 | 26.19 | 26.72 |
| 5th year of exp. | 25.83 | 26.34 | 26.87 |
| 6th year of exp. | 25.98 | 26.50 | 27.03 |
| Wage Skill Group 6 | | | |
| 1st year of exp. | 25.46 | 25.97 | 26.49 |
| 2nd year of exp. | 25.62 | 26.13 | 26.65 |
| 3rd year of exp. | 25.79 | 26.31 | 26.83 |
| 4th year of exp. | 25.93 | 26.44 | 26.97 |
| 5th year of exp. | 26.07 | 26.59 | 27.13 |
| 6th year of exp. | 26.23 | 26.75 | 27.29 |

| | Current | 1/07/21 | 1/07/22 |
|--|----------------|----------------|----------------|
| | 2% | 2% | 2% |
| | \$ | \$ | \$ |
| Wage Skill Group 7 | | | |
| 1st year of exp. | 25.99 | 26.51 | 27.04 |
| 2nd year of exp. | 26.16 | 26.68 | 27.22 |
| 3rd year of exp. | 26.33 | 26.86 | 27.39 |
| 4th year of exp. | 26.47 | 27.00 | 27.54 |
| 5th year of exp. | 26.61 | 27.15 | 27.69 |
| 6th year of exp. | 26.77 | 27.30 | 27.85 |
| Wage Skill Group 8 | | | |
| 1st year of exp. | 26.44 | 26.96 | 27.50 |
| 2nd year of exp. | 26.60 | 27.13 | 27.67 |
| 3rd year of exp. | 26.77 | 27.30 | 27.85 |
| 4th year of exp. | 26.91 | 27.44 | 27.99 |
| 5th year of exp. | 27.05 | 27.59 | 28.14 |
| 6th year of exp. | 27.20 | 27.75 | 28.30 |
| Wage Skill Group 9 | | | |
| 1st year of exp. | 27.03 | 27.57 | 28.12 |
| 2nd year of exp. | 27.19 | 27.73 | 28.29 |
| 3rd year of exp. | 27.36 | 27.91 | 28.46 |
| 4th year of exp. | 27.49 | 28.04 | 28.60 |
| 5th year of exp. | 27.64 | 28.19 | 28.76 |
| 6th year of exp. | 27.79 | 28.35 | 28.92 |
| Wage Skill Group 10 | | | |
| 1st year of exp. | 28.30 | 28.87 | 29.44 |
| 2nd year of exp. | 28.46 | 29.03 | 29.61 |
| 3rd year of exp. | 28.63 | 29.21 | 29.79 |
| 4th year of exp. | 28.77 | 29.35 | 29.93 |
| 5th year of exp. | 28.92 | 29.50 | 30.09 |
| 6th year of exp. | 29.07 | 29.65 | 30.25 |
| Wage Skill Group 11 | | | |
| 1st year of exp. | 29.52 | 30.11 | 30.71 |
| 2nd year of exp. | 29.68 | 30.28 | 30.88 |
| 3rd year of exp. | 29.85 | 30.45 | 31.06 |
| 4th year of exp. | 29.99 | 30.59 | 31.20 |
| 5th year of exp. | 30.14 | 30.74 | 31.35 |
| 6th year of exp. | 30.29 | 30.89 | 31.51 |
| Allowances (per shift) | | | |
| AM/PM shift | \$ 23.95 | \$ 24.43 | \$ 24.92 |
| Night Shift ad hoc (4%) | 38.30 | 39.07 | 39.85 |
| Perm Night Shift (5%) | 47.90 | 48.86 | 49.84 |
| Change of Shift | 38.30 | 39.07 | 39.85 |
| On Call Allowance (5%) | 47.90 | 48.86 | 49.84 |
| Nauseous Allowance is payable in accordance with the Agreement | | | |
| Note: Leader Allowance is 10% of the individual Employees WSG base rate | | | |
| Nauseous Allowance (NA) | 0.53 | 0.54 | 0.55 |
| Minimum weekly NA | 2.70 | 2.75 | 2.81 |
| Dirty and Offensive Linen | 0.56 | 0.57 | 0.58 |

| | Current | 1/07/21 | 1/07/22 |
|---|----------------|----------------|----------------|
| Other Allowances (per occasion) | \$ | \$ | \$ |
| Overtime beyond 1 hour, Mon-Fri | 13.40 | 13.67 | 13.94 |
| Overtime beyond 4 hours, Mon-Fri (further payment to the above) | 10.75 | 10.97 | 11.18 |
| Work beyond 5 hours on Sat-Sun or on rostered day off | 14.50 | 14.79 | 15.09 |
| Work beyond 9 hours on Sat-Sun or rostered day off (further payment to the above) | 11.60 | 11.83 | 12.07 |
| Uniform, lesser of: | | | |
| Per day | 1.76 | 1.80 | 1.83 |
| Per week | 8.93 | 9.11 | 9.29 |
| Laundry, lesser of: | | | |
| Per day | 0.45 | 0.46 | 0.47 |
| Per week | 2.12 | 2.16 | 2.21 |
| Vehicle Per kilometre | \$ | \$ | \$ |
| 35 PMU and over | 0.88 | 0.90 | 0.92 |
| Under 35 PMU | 0.72 | 0.73 | 0.75 |
| Motor cycles - | | | |
| 250 cc and over | 0.43 | 0.44 | 0.45 |
| Under 250 cc | 0.32 | 0.33 | 0.33 |
| Bicycles | 0.10 | 0.10 | 0.10 |
| Tools (Chefs & Cooks) | | | |
| \$ per week | 15.85 | 16.17 | 16.49 |
| Occasional Interpreter | | | |
| Per occasion | 1.02 | 1.04 | 1.06 |
| Per week | 12.75 | 13.01 | 13.27 |

All increases are effective from the first full pay period commencing on or after the dates specified above.

APPENDIX B – CLASSIFICATION DEFINITIONS

AGED CARE CLASSIFICATIONS

Personal Care Worker

The Personal Care Worker structure shall be as follows:

1 **Personal Care Worker Grade 1 (Wage Skill Group 3)**

Means a person employed in a Residential Aged Care Facility to provide personal care to those residents. Such an Employee does not possess any accredited training.

2 **Personal Care Worker Grade 2 (Wage Skill Group 6)**

Means a person employed in a Residential Aged Care Facility to provide personal care to those residents.

- 2.1 Such an Employee must obtain a qualification in Aged Care at Certificate 3 level that has been issued by a registered training organisation. This will normally require the actual completion of all compulsory and required elective modules, unless a recognised RPL (Recognition of Prior Learning) or recognition of existing competencies assessment has been undertaken and resulted in appropriate credits.

Where, after commencement of employment, the Employer disputes an RPL credited component of the Certificate 3 qualification, the Employer shall outline that dispute in writing, identifying the reason and proposed remedy. The Employer and Employee shall meet in accordance with Clause 56 of the Agreement and the Employee shall be advised, in writing, that they may have their chosen representative attend the meeting with them. Where no agreement is reached, either party may refer the matter to the Fair Work Commission in the manner detailed in Clause 57 to resolve whether the RPL is reasonable and, if not, what steps should be taken to rectify any concern regarding the RPL. Where additional training is proposed, agreed or required, the Employer will provide the additional training and the Employee will be required to complete the training in order to remain at Wage Skill Group 6.

- 2.2 For such an Employee, training in the following is also required:

- first aid equal to a basic first aid certificate,
- manual handling,
- infection control,
- communication skills, and
- basic personal care of residents.

- 2.3 Where the Employee does not have the training at Paragraph 2.2 above and at the request of the Employee, such training shall be provided by and at the cost of the Employer. Such training may be either internal or external. Such training will be in paid time and the completion of such training will not be a prerequisite for being paid at Personal Care Worker Grade 2 from the time of completion of the Certificate 3 in Aged Care.

3 Personal Care Worker Grade 3 (Wage Skill Group 8)

Means a person employed in Residential Aged Care Facility to provide personal care to those residents.

3.1 Such an Employee, in addition to having had not less than two years' experience as a personal care worker and the training required at a Personal Care Worker 2 classification; a relevant qualification in Aged Care at Certificate 4 level that has been issued by a registered training organisation. This will normally require the actual completion of all compulsory and required elective modules, unless a recognised RPL (Recognition of Prior Learning) or recognition of existing competencies assessment has been undertaken and resulted in appropriate credits.

Where, after commencement of employment at, the Employer disputes an RPL credited component of the Certificate 4 qualification, the Employer shall outline that dispute in writing, identifying the reason and proposed remedy. The Employer and Employee shall meet in accordance with Clause 56 of the Agreement and the Employee shall be advised, in writing, that they may have their chosen representative attend the meeting with them. Where no agreement is reached, either party may refer the matter to Fair Work Commission in the manner detailed in Clause 56 to resolve whether the RPL is reasonable and, if not, what steps should be taken to rectify any concern regarding the RPL. Where additional training is proposed, agreed or required, the Employer will provide the required additional training and the Employee will be required to complete the training in order to remain at Wage Skill Group 8.

3.2 For such an Employee, training in the following is also a requirement:

- Basic computer skills,
- Dealing with dementia,
- Monitoring care of the incontinent resident,
- Skin care,
- Simple wound monitoring,
- Diabetes awareness,
- Infection control, and
- Behaviour management.

3.3 Where the Employee does not have the training at Paragraph 3.2 above, and at the request of the Employee, such training shall be provided by and at the cost of the Employer. Such training may be either internal or external. Such training will be in paid time and the completion of such training will not be a prerequisite for being paid as a Personal Care Worker Grade 3 from the time of completion of the Certificate 4 in Aged Care.

4 Personal Care Worker Grade 4 (Wage Skill Group 11)

Means a person employed in a Residential Aged Care Facility appointed as the personal care supervisor/coordinator, and who holds the overall responsibility of managing the residents' personal care needs on a day to day basis. A PCW Grade 4 will not supervise a Registered or Enrolled Nurse in relation to any clinical or care matters.

5 **Personal Care Worker In-Charge**

Means a personal care worker who is appointed in-charge in the off-duty period of the personal care supervisor/coordinator (the PCW Grade 4) in a Residential Aged Care Facility. As prescribed by Clause 15 such a person will be entitled to be paid the Leader allowance of 10% per period of duty calculated as 10% of the total ordinary wages earned for each such period of duty. Ordinary wages do not include weekend penalty rates, public holiday rates or any other such penalties. A PCW Worker In-Charge will not supervise a Registered or Enrolled Nurse in relation to any clinical or care matters.

6 No Employee under the Agreement shall be re-classified to a lower classification as a direct or sole result of the introduction of the classification structure under the Agreement.

7 Where an Employee obtains a certificate that entitles them to a higher classification / wage skill group, the Employee shall be reclassified from the date the certificate is obtained or the date that evidence of attainment is provided to the Employer, whichever is later.

LEISURE / LIFESTYLE AND ACTIVITIES STRUCTURE

Included below is the staffing structure for Leisure and Lifestyle Assistants, however titled, within residential aged care facilities. A 'Wage Skill Group' refers to the Wage Skill Group Structure outlined in this Agreement.

The structure shall be as follows:

1. Leisure and Lifestyle Assistant Grade 1 (Wage Skill Group 3)

- 1.1 Means a person employed in a Residential Aged Care Facility, to provide activities/diversional therapy to those residents. Such an Employee would not possess any relevant accredited training.
- 1.2 Such a person assists with the planning and implementation of lifestyle enhancement programmes under direct supervision and in co-operation with other members of the aged care team.

2. Leisure and Lifestyle Assistant Grade 2 (Wage Skill Group 6)

- 2.1 Means a person employed in a Residential Aged Care Facility to provide activities/diversional therapy to those residents.
- 2.2 Such an Employee must have a Certificate 3 qualification in Leisure and Lifestyle, Diversional Therapy or other relevant qualification from a Registered Training Organisation.
- 2.3 Such a person is primarily required to assist with the planning and implementation as well as deliver lifestyle and leisure services and related client/resident enhancement programmes where required under the supervision and direction of a Lifestyle Co-ordinator, Therapist, Allied Health Professional, or other member of staff in co-operation with other members of the aged care team.

3. Leisure and Lifestyle Assistant Grade 3 (Wage Skill Group 8)

- 3.1 Means a person employed in Residential Aged Care Facility to provide activities/diversional therapy to those residents.
- 3.2 Such an Employee shall have a Certificate 4 qualification in Leisure and Lifestyle, Diversional Therapy or other relevant qualification from a Registered Training Organisation.
- 3.3 Such a person will plan and implement lifestyle enhancement programmes under limited supervision and in cooperation with other members of the aged care team. This Employee maybe required to hold a First Aid Certificate and may also be required to hold a Victorian Bus Driving Licence.

4 Leisure and Lifestyle Co-ordinator Unqualified (Wage Skill Group 10)

Means a suitably experienced and unqualified person appointed as the Leisure and Lifestyle Coordinator and who holds overall responsibility for the development, implementation, evaluation and continuous improvement of leisure and lifestyle programmes and supervision, work allocation, rostering and guidance of Lifestyle Assistants. This person may be required to hold a First Aid Certificate II and may also be required to hold a Victorian Bus Driving Licence.

5 Leisure and Lifestyle Co-ordinator Qualified (Wage Skill Group 11)

Means a suitably experienced and qualified person appointed as the Leisure and Lifestyle Coordinator and who holds overall responsibility for the development, implementation, evaluation and continuous improvement of leisure and lifestyle programmes and supervision, work allocation, rostering and guidance of Lifestyle Assistants. This person may be required to hold a First Aid Certificate II and may also be required to hold a Victorian Bus Driving Licence.

AGED CARE CLASSIFICATIONS – GENERAL

WAGE/ SKILL LEVEL AND CLASSIFICATION DEFINITIONS

WAGE/SKILL LEVELS

WAGE SKILL GROUP 1

An Employee at this level:

- Works within established routines, methods and procedures.
- Has minimal responsibility, accountability or discretion.
- Works under direct or routine supervision, either individually or in a team.
- No previous experience or training is required.

Indicative classifications at this level are:

General Services

Laundry Hand
Cleaner
Assistant Gardener
Maintenance/Handyperson (Unqualified)

Food Services

Food Services Assistant/ Kitchen Hand
Other Cook

WAGE SKILL GROUP 2

An Employee at this level:

- Works within established routines, methods and procedures.
- Has limited responsibility, accountability or discretion.
- May work under limited supervision, either individually or in a team.
- Possesses communication skills.
- Requires on-the-job training and/or specific skills training or experience.

Indicative classifications at this level are:

General Services

Cleaner cleaning windows
Housekeeper
Storeperson
Laundry Operator
Gardener (non-trade)
Gardener (non-trade)
Maintenance/Handyperson (Unqualified)

Food Services

Other Cook

WAGE SKILL GROUP 3

An Employee at this level:

- Is capable of prioritising work within established routines, methods and procedures.
- Is responsible for work performed with a limited level of accountability or discretion.
- Works under limited supervision, either individually or in a team.
- Possesses sound communication skills.
- Requires specific on-the-job training and/or relevant skills training or experience.

Indicative classifications at this level are:

General Services

Driver 1.25 tonnes or less

Food Services

Cook Employed Alone
Diet Cook

WAGE SKILL GROUP 4

An Employee at this level:

- Is capable of prioritising work within established routines, methods and procedures. (non admin/clerical)
- Is responsible for work performed with a medium level of accountability or discretion. (non admin/clerical)

- Works under limited supervision, either individually or in a team. (non admin/clerical)
- Possesses sound communication and/or arithmetic skills. (non admin/clerical)
- Requires specific on-the-job training and/or relevant skills training or experience. (non admin/clerical)
- A admin/clerical Employee who undertakes a range of basic clerical functions within established routines, methods and procedures. No or limited experience and training are required.

Indicative classifications at this level are:

General Clerk

General Clerk
Typist

WAGE SKILL GROUP 5

An Employee at this level:

- Is capable of prioritising work within established policies, guidelines and procedures.
- Is responsible for work performed with a medium level of accountability or discretion.
- Works under limited supervision, either individually or in a team.
- Possesses good communication, interpersonal and/or arithmetic skills.
- Requires specific on-the-job training, may require formal qualifications and/or relevant skills training or experience.

Indicative classifications at this level are:

General Services

Driver 1.25 tonnes to 3 tonnes

WAGE SKILL GROUP 6

An Employee at this level:

- Is capable of prioritising work and exercising discretion within established policies, guidelines and procedures.
- Is responsible for work performed with a medium level of accountability.

- Works under limited supervision, either individually or in a team.
- Requires a basic knowledge of medical terminology and/or a working knowledge of health insurance schemes. (admin/clerical)
- Possesses well developed communication, interpersonal and/or arithmetic skills.
- Requires substantial on-the-job training, may require formal qualifications and/or relevant skills training or experience.

Indicative classifications at this level are:

Admin/Clerical Services

Receptionist
Ward Clerk
Audio Typist (Other)
Client/Resident Fees Clerk
Pay Clerk

General Services

Driver over 3 tonnes

WAGE SKILL GROUP 7

An Employee at this level:

- Is capable of prioritising work and exercising discretion within established policies, guidelines and procedures.
- Is responsible for work performed with a substantial level of accountability.
- Works either individually or in a team.
- Requires a basic knowledge of medical terminology and/or a working knowledge of health insurance schemes. (admin/clerical)
- May require regular computer related duties, where those duties are an essential part of the function of the position and where the level of skill involved is multi-function administrative processing.
- Possesses well developed communication, interpersonal and/or arithmetic skills.
- Requires substantial on-the-job training, may require formal qualifications at trade or certificate level and/or relevant skills training or experience.

Indicative classifications at this level are:

Admin/Clerical

All classifications as per admin/clerical (Wage Skills Group Levels 4 & 6) with computer use.

Computer Clerk

General Services

Maintenance/Handyperson (Trade)

Gardener (Trade)

Food Services

Trade Cook

WAGE SKILL GROUP 8

An Employee at this level:

- Is capable of functioning semi autonomously, and prioritising his or her own work within established policies, guidelines and procedures.
- Is responsible for work performed with a substantial level of accountability.
- Works either individually or in a team.
- Requires a comprehensive knowledge of medical terminology and/or a working knowledge of health insurance schemes. (admin/clerical)
- May require basic computer knowledge or be required to use a computer on a regular basis.
- Possesses administrative skills and problem solving abilities.
- Possesses well developed communication, interpersonal and/or arithmetic skills
- Requires substantial on-the-job training, may require formal qualifications at trade or certificate level and/or relevant skills training or experience.

Indicative classifications at this level are:

Admin/Clerical Services

Secretary

Interpreter (Unqualified)

Food Services

Chef Grade B

WAGE SKILL GROUP 9

An Employee at this level:

- Is capable of functioning with a high level of autonomy, and prioritising his or her own work within established policies, guidelines and procedures.
- Is responsible for work performed with a substantial level of accountability and responsibility.
- Works either individually or in a team.
- May require comprehensive computer knowledge or be required to use a computer on a regular basis.
- Possesses administrative skills and problem solving abilities.
- Possesses well developed communication, interpersonal and/or arithmetic skills
- May require formal qualifications at post-trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Indicative classifications at this level are:

Admin/Clerical Services

Computer Clerk (Advanced)
Pay Clerk (Advanced)

General Services

Maintenance/Handyperson (Advanced)
Gardener (Advanced)

Food Services

A Cook or Chef with relevant qualifications.
Chef Grade A

WAGE SKILL GROUP 10

An Employee at this level:

- Is capable of functioning autonomously, and prioritising his or her own work within established policies, guidelines and procedures.
- Is responsible for work performed with a substantial level of accountability and responsibility.
- Works either individually or in a team.

- May require comprehensive computer knowledge or be required to use a computer on a regular basis.
- Possesses administrative skills and problem solving abilities.
- Possesses well developed communication, interpersonal and/or arithmetic skills
- Will most likely require formal qualifications at trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Indicative classifications at this level are:

Food Services

Chef with relevant qualifications.

WAGE SKILL GROUP 11

An Employee at this level:

- Is capable of functioning autonomously, and prioritising his or her own work and the work of others within established policies, guidelines and procedures.
- Is responsible for work performed with a substantial level of accountability and responsibility.
- May supervise the work of others, including work allocation, rostering and guidance.
- Works either individually or in a team.
- May require comprehensive computer knowledge or be required to use a computer on a regular basis.
- Possesses developed administrative skills and problem solving abilities.
- Possesses well developed communication, interpersonal and/or arithmetic skills
- May require formal qualifications at trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Indicative classifications at this level are:

Admin/Clerical Services

Private Secretary

Clerical Supervisor

Interpreter (Qualified)

General Services

General Services Supervisor

Gardener Superintendent

Food Services

Food Services Supervisor

CLASSIFICATION DEFINITIONS

Clerical/Administrative Stream Definitions

Clerical Supervisor (WSG 11)

Is a person appointed as such performing work which involves the supervision of staff within the Admin/Clerical Stream of this agreement or the supervision of staff within an Administrative/Clerical Services related department or section. Such a person would be responsible for administrative duties such as work allocation, training, rostering and guidance of staff and may assist in the recruitment of staff.

Computer Clerk (WSG 7)

Means clerical Employees in the following classifications where their employment involves regular computer related duties, where those duties are an essential part of the function of the position and where the level of skill involved is "multi-function administrative".

Computer Clerk Advanced (WSG 9)

Means an Employee required to perform more complex computer related duties that are outside the normal operating parameters of a dedicated software system (e.g. accessing the operating system, configuring or installing programs) or is required to perform advanced, responsible or complex functions within a dedicated software system (e.g. basic system maintenance or administration, security back-ups etc.)

Pay Clerk (WSG 6)

Is a person appointed as such who assists the pay officer or other responsible person to calculate time sheets and other relevant duties in the process of preparing payments to staff.

Pay Clerk Advanced (WSG 9)

Is a person who in addition to the duties of a "Pay Clerk" will be required to possess a working knowledge of relevant Industrial Awards, Enterprise Bargaining Agreements, regulations and Acts, handles complex payroll and award/agreement interpretation inquiries and be capable of functioning semi-autonomously, prioritising their own work within established policies, guidelines and procedures.

Private Secretary (WSG 11)

Is a person who in addition to possessing and using secretarial skills, (e.g. word processing, reception and typing) provides services at the senior management level including attending to organisational matters: diaries, meetings, agendas, taking of minutes, liaising with other departments or divisions and involvement with routine correspondence.

General Services Stream Definitions

Housekeeper

Means a person who performs general cleaning and housekeeping functions within a facility. This may include cleaning windows within a building.

Gardener Advanced (WSG 9)

Means a "Gardener Trade" who holds post-trade qualifications and is capable of, and required to work autonomously and is required to prioritise his or her own work with a substantial level of accountability and responsibility.

Gardener (non-trade) (WSG 2)

Means an Employee engaged in the pruning or trimming of plants or trees; or in budding, propagating, planting or plotting; or like garden related functions.

Gardener Superintendent (WSG 11)

Means a "Gardener Trade" who is responsible for the supervision, work allocation, on the job training, rostering and/or guidance of gardening staff.

Gardener Trade (WSG 7)

Means a tradesperson gardener who has satisfactorily completed the approved apprenticeship course in gardening or who has been issued with an approved trade certificate.

General Services Supervisor (WSG 11)

Is a person appointed as such performing work which involves the supervision of staff within the General Services Stream of this agreement or the supervision of staff within a General Services related department or section. Such a person would be responsible for administrative duties such as work allocation, training, rostering and guidance of staff and may assist in the recruitment of staff.

Laundry Operator (WSG 2)

Means a person employed as a sole Employee in a laundry performing the full range of duties relating to the operation of a laundry.

Maintenance/Handyperson Advanced (WSG 9)

Is a "Handyperson Trade" who holds post-trade qualifications and is capable of, and required to work autonomously, and is required to prioritise their own work with a substantial level of accountability and responsibility.

Maintenance/Handyperson Trade (WSG 7)

Means a person employed as a handyperson who has satisfactorily qualified as a tradesperson under the Industrial Training Act 1975 or holds an equivalent qualification acceptable to the Employer.

Food Services Stream Definitions

Chef:

Means a person employed as such who may be required by the Employer to supervise staff, give any necessary instruction in all the branches of cooking, preparation of food service staff rosters, assist in the planning of meals, assist in the pricing of meals for departmental budgets, assist in the requisitioning and purchasing of all stores and to assist where necessary in the preparation and supervision of the plating of meals.

- **Chef Grade A (WSG9)**

A chef employed in a facility with more than 100 beds but less than 200 beds or a kitchen providing more than 500 meals but less than 1000 meals on a daily average.

- **Chef Grade B (WSG 8)**

A chef employed in a facility with less than 100 beds or a kitchen providing less than 500 meals on a daily average.

Cook Employed Alone (WSG 3)

Means a person employed as a sole cook who does not hold trade qualifications.

Diet Cook (WSG 3)

Means an unqualified cook who produces meals for specific dietary requirements and/or other specialist meals.

Food Services Supervisor (WSG 11)

Is a person appointed as such performing work which involves the supervision of staff within the Food Services Stream of this agreement or the supervision of staff within a Food Services related department or section. Such a person would be responsible for administrative duties such as work allocation, training, rostering and guidance of fifteen or more staff and may assist in the recruitment of staff.

Trade Cook (WSG 7)

Means a cook qualified as a tradesperson under the Industrial Training Act 1975 or holding an equivalent qualification acceptable to the Employer.

Other Cook (WSG 1)

Means a person who does not hold trade qualifications, who is employed as a cook by a facility where other cooks are employed.

REGISTERED NURSES

1. **Post Graduate Student** (i.e. A Registered Nurse undergoing training for the purpose of obtaining a post-graduate qualification).

The period for which a Registered Nurse undergoes training for the purpose of obtaining a post -basic qualification shall be counted towards her/his years of experience as a Registered Nurse.

2. **Deputy Director of Nursing/Clinical Service Manager (however titled)**

Deputy Director of Nursing/Clinical Services Manager means a Registered Nurse appointed as such and who deputises for the Director of Nursing and assists in nursing administration.

Where an Employee is appointed as Deputy Director of Nursing/CSM:

- (a) The ordinary hourly rate for a Deputy Director of Nursing/CSM shall be at the Grade 6 (50-90 beds).

3. **Director of Nursing (Extended Care/ Residential Aged Care Facility)**

Director of Nursing means a Registered Nurse appointed as the principal nursing executive officer, however styled, responsible for the overall managerial, professional, clinical and regulatory aspects of the nursing service (notwithstanding that a Residential Aged Care Facility Clinical Care Coordinator might also be appointed) and who performs duties which may include, but are not confined to:

- accountability for the standards of nursing practice for the residential aged care facility and for co-ordination of its nursing service;
- participating in or having principal responsibility for the management of the residential aged care facility or part thereof, and being accountable for the development and evaluation of nursing, policy and management;
- providing leadership, direction and management of the residential aged care facility in accordance with relevant organisational policies, objectives and goals;
- management of the budget or aspects of the budget of the residential aged care facility;
- responsibility for ensuring that the nursing service meets the changing needs of residents, organisational aims and objectives through proper strategic planning; and
- complying and ensuring the compliance of others with the *Aged Care Act 1997 (Cth)* and other legal requirements pertaining the nursing service of the residential aged care facility.

The minimum ordinary hourly rate for a Director of Nursing shall be at Grade 7.

4. **Nurse Practitioner**

A Nurse Practitioner is a specialised nurse who holds additional qualification (usually a Masters Degree) in a relevant field such as gerontology or women's health and who is registered as Nurse Practitioner with the Nursing and Midwifery Board of Australia. As such the Nurse Practitioner has rights under federal legislation to prescribe medications in his or her field of expertise.

5. **Clinical Care Coordinator**

Clinical Care Coordinator means a Registered Nurse appointed as such who provides a clinical resource, clinical advisory/development role concerning the clinical and professional care of residents of a residential aged care facility (but does not have managerial responsibilities), and who, in addition to care/lifestyle planning, oversees the implementation of care/lifestyle plans and evaluation of the clinical care of residents, and performs duties which substantially include, but are not confined to:

- providing or assisting with policy advice, development and/or implementation of standards of nursing care; and/or
- providing clinical 'leadership and role modelling for less experienced and non-registered staff; and/or
- implementation and evaluation of education or staff development programs relevant to the residential aged care facility.

REGISTERED NURSE CLASSIFICATIONS

1 Grade 1

A Registered Nurse in his or her first year of experience (or “Graduate Year”) following registration as a Nurse with the Australian Health Practitioner Regulation Agency (“AHPRA”).

2 Grade 2

A Registered Nurse in the second or subsequent years of experience as a Registered Nurse and who:

- (a) On AM shift is the second or subsequent Registered Nurse rostered on the shift (in addition to the Director of Nursing and/or Clinical Care Coordinator however titled) i.e. there is at least one other RN classified at Grade 4 or Grade 5 nurse rostered on the floor, in addition to the DON and/or Clinical Care Coordinator; and
- (b) On PM, night and weekend shifts works under the direct supervision of a more experienced Registered Nurse who is in charge of the same section or unit within which the RN Grade 2 is working i.e. the RN Grade 2 is not in charge of or responsible for a section or unit of the facility but works under direct supervision.

3 Grade 3A

A Registered Nurse appointed to assist with clinical and/or managerial responsibility within a unit or section within an aged care facility in the out of hours of the DON, CSM, CCC or NUM (however titled).

Grade 3B

Grade 3B is not utilized.

4 Grade 4A

A Registered Nurse appointed as to exercise clinical and/or managerial responsibility within a unit or section within an aged care facility.

A Registered Nurse appointed as In-Charge of a facility of less than 61 beds in the out of hours of the Director of Nursing on PM, night and all weekend shifts and paid as such.

Grade 4B

A Registered Nurse appointed as a Nurse Unit Manager (however titled) and paid as such or who progresses from Grade 4A (if this Agreement so provides).

5

Grade 5

A Registered Nurse appointed as the After Hours Coordinator (or RN in Charge) for a Facility of 61 beds or more on PM, night and all weekend shifts and paid as such. The rate of pay for this classification shall be based on the relevant bed number (usually 51 - 200 beds).

A Registered Nurse appointed as a Clinical Care Coordinator in a Residential Aged Care Facility.

6 Grade 6

A Registered Nurse appointed as a Clinical Services Manager (However Titled) and paid as such. In addition, the Clinical Service Manager (However Titled) will be paid the relevant bed percentage as defined.

7 Grade 7

A Registered Nurse appointed as a Director of Nursing (however titled) and paid as such. In addition, the Director of Nursing will be paid the relevant bed percentage as defined.

A Registered Nurse appointed as a Nurse Practitioner during his/her first year of experience as a Nurse Practitioner shall be classified at Grade 7 (50-90 beds).

A Registered Nurse appointed as a Nurse Practitioner during his/her first year of experience as a Nurse Practitioner shall be classified at Grade 7 (over 91 beds).

ENROLLED NURSE CLASSIFICATIONS AND PROGRESSION

A. Pay Point Progression – General

Subject to the terms specified for Pay Point 1-3 as defined in Part B of this clause, each Enrolled Nurse shall progress to the next Pay Point (between Pay Points 1 to 8 inclusive) on the completion of each year of experience at their current Pay Point, including experience prior to the making of this Agreement, subject to and in accordance with the definition of ‘Experience’ in clause 7.

Pay Point progression is limited to Pay Point 8.

B. Pay Point Entry

EN Trainee

EN Trainee means the Level to which an Employee shall be appointed as a Trainee Enrolled Nurse where the Employee is undertaking a NMBA approved Diploma in Nursing.

1 Pay Point 1

Pay Point 1 means the Pay Point to which an Employee shall be appointed as an Enrolled Nurse where the Employee has up to but not more than 12 months’ experience.

2 Pay Point 2

Means the Pay Point to which an Employee shall progress as an Enrolled Nurse after having completed a year of experience (in accordance with, and subject to, the definition of ‘experience’ for progression in clause 7) at Pay Point 1.

Point of Entry (Medication Endorsed)

Where an Employee has satisfactorily completed a NMBA approved qualification or equivalent qualification which entitles the Employee to administer medication, the Employee shall be appointed at not less than Pay Point 2 regardless of the level of experience.

3 Pay Point 3

Means the Pay Point to which an Employee shall progress as an Enrolled Nurse after having completed a year of experience (in accordance with, and subject to, the definition of ‘experience’ for progression in clause 7) at Pay Point 2.

Point of Entry (Diploma)

Where an Employee has satisfactorily completed a NMBA approved Diploma of Nursing, the Employee shall be appointed at not less than Pay Point 3.

4 Pay Point 4

Means the Pay Point to which an Employee shall progress as an Enrolled Nurse after having completed a year of experience (in accordance with, and subject to, the definition of 'experience' for progression in clause 7) at Pay Point 3.

5 Pay Point 5

Means the Pay Point to which an Employee shall progress as an Enrolled Nurse after having completed a year of experience (in accordance with, and subject to, the definition of 'experience' for progression in clause 7) at Pay Point 4.

6 Pay Point 6

Means the Pay Point to which an Employee shall progress as an Enrolled Nurse after having completed a year of experience (in accordance with, and subject to, the definition of 'experience' for progression in clause 7) at Pay Point 5.

7 Pay Point 7

Means the Pay Point to which an Employee shall progress as an Enrolled Nurse after having completed a year of experience (in accordance with, and subject to, the definition of 'experience' for progression in clause 7) at Pay Point 6.

8 Pay Point 8

Means the Pay Point to which an Employee shall progress as an Enrolled Nurse after having completed a year of experience (in accordance with, and subject to, the definition of 'experience' for progression in clause 7) at Pay Point 7.

APPENDIX C - LETTER OF APPOINTMENT

The letter of appointment (however titled) will contain the following information:

1. Name of Employer.
2. Date of commencement.
3. Employee's specific classification.
4. The workplace/campus/location where the person is to be situated.
5. The name of this Agreement which contains the Employee's terms and conditions of employment.
6. The mode of employment.
7. The exact number of contracted weekly or fortnightly hours will be prescribed [insert actual minimum contracted hours e.g. 24] and for part time Employees the letter should indicate whether (by mutual agreement) additional shifts may be added.
8. The general pattern of the shifts expected to be worked in accordance with the roster will be identified.
9. The Employee will be advised that if they agree to work regular additional shifts then they may request that the contract of employment be varied to reflect those additional hours (subject to any provisos in this Agreement).
10. Date of commencement.
11. Acknowledgment (where applicable) of prior service/entitlements to sick leave, long service, etc.
12. Other information as required depending on the nature of the position.

CERTIFICATE OF SERVICE AND TRAINING (UPON REQUEST BY THE EMPLOYEE)

1. Name of Employer.
2. Employee's classification (e.g. Grade 2 Year 4, Grade 4B Year 1, Enrolled Nurse Pay Point 4), rate of pay and regular allowances.
3. Date of commencement and termination.
4. The workplace/campus/location where the person was situated.
5. Their mode of employment i.e. full-time, part-time or casual.
6. Fortnightly hours on commencement and on termination.
7. Summary of training (both external and in-service) undertaken during employment, including training nominal hours and indication of successful completion so far as such information is reasonably accessible to the Employer.

APPENDIX D – ACCIDENT PAY

Where an entitlement to accident make-up pay arises under this part any reference to the *Accident Compensation Act 1985* shall be deemed to include a reference to the *Workplace Injury Rehabilitation and Compensation Act 2013* and any reference to the *Workplace Injury Rehabilitation and Compensation Act 2013* shall be deemed to include a reference to the *Accident Compensation Act 1985*.

1.1 Definitions

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

1.1.1 Accident pay

1.1.1(a) Total incapacity

In the case of an Employee who is or deemed to be totally incapacitated within the meaning of the *Workplace Injury Rehabilitation and Compensation Act 2013* (hereinafter referred to as the WIRC 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 the WIRC Act for the week in question and the total 38 hour weekly rate and weekly over Agreement payment for a day Employee which would have been payable under this part for the Employee's normal classification of work for the week in question if she/he had been performing her/his normal duties provided that such latter rate shall exclude additional remuneration by way of shift premiums, overtime payments, special rates or other similar payments.

1.1.2 Partial incapacity

In the case of an Employee who is or deemed to be partially incapacitated within the meaning of the WIRC 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 the WIRC Act for the period in question together with the average weekly amount the Employee is earning or is able to earn in some suitable employment or business (as determined expressly or by implication by the Accident Compensation Conciliation Service (as it is currently known, or as agreed between the parties) and the total 38 hour weekly rate and weekly over-Agreement payment for a day Employee which would have been payable under this part for the Employee's normal classification of work for the week in question if he had been performing his normal duties provided that such latter rate shall exclude additional remuneration by way of shift premiums, overtime payments, special rates or other similar payments.

1.1.2(a) The total 38 hour weekly award rate and weekly over-award payment abovementioned shall be the same as that applying for a total incapacity provided that where an Employee receives a weekly payment under this section and subsequently such payment is reduced pursuant to the WIRC Act such reduction will not increase the liability of the Employer to increase the amount of accident pay in respect of that injury.

1.1.2(b) For the purposes of the calculation of the total 38 hour weekly award rate and weekly over-Agreement payment in 1.1.1(a) and 1.1.2 payments made to an Employee arising from a production incentive earnings scheme (whether arising from a payment by results, task or bonus scheme or however titled) shall not be taken into account.

1.1.3 Payment for part of a week

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

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

1.1.5 WIRC Act means *Workplace Injury Rehabilitation and Compensation Act 2013*, as amended from time to time, of the State of Victoria.

1.2 Qualification for payment

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

1.2.1 Accident pay shall only be payable to an Employee whilst such Employee remains in the employment of the Employer by whom she/he was employed at the time of the incapacity and then only for such period as she/he receives a weekly payment under the WIRC Act. Provided that if an Employee on partial incapacity cannot obtain suitable employment from hers/his Employer but such alternative employment is available with another Employer than the relevant amount of accident pay shall be payable.

1.2.1(a) Provided further that in the case of the termination of employment by an Employer of an Employee 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 Employee.

1.2.1(b) In order to qualify for the continuance of accident pay on termination an Employee shall if required provide evidence to his/her Employer of the continuing payment of weekly Employees compensation payments.

1.3 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 1.4 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.

- 1.3.1 Provided that as to industrial diseases contracted by a gradual process or injuries subject to recurrence, aggravation or acceleration as provided in the WIRC 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.
- 1.4 Accident pay shall not apply in respect of any injury during the first five normal working days of incapacity.
- 1.4.1 Provided however that in the case of a Registered Nurse 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.
- 1.5 An Employee 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 knowingly declared the Employer may require the Employee to forfeit her/his entitlement to accident pay under this clause.
- 1.6 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 1.1.4.
- 1.7 Absences on other paid leave
- An Employee shall not be entitled to payment of accident pay in respect of any period of other paid leave of absence.
- 1.8 Notice of injury
- An Employee upon receiving an injury for which she/he claims to be entitled to receive accident pay shall give notice in writing of the said injury to her/his Employer as soon as reasonably practicable after the occurrence thereof provided that such notice may be given by a representative of the Employee.
- 1.9 Medical examination
- 1.9.1 In order to receive entitlement to accident pay an Employee shall conform to the requirements of the WIRC Act as to medical examination.
- 1.9.2 Where in accordance with the WIRC Act a medical referee gives a certificate as to the condition of the Employee and her/his fitness for work or specifies work for which the Employee is fit and such work is made available by the Employer and refused by the Employee or the Employee fails to commence the work, accident pay shall cease from the date of such refusal or failure to commence the work.
- 1.10 Cessation of weekly payments

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

1.11 Civil damage claims

1.11.1 An Employee receiving or who has received accident pay shall advise her/his Employer of any action she/he may institute or any claim she/he may make for damages. Further the Employee 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.

1.11.2 Where an Employee obtains a judgement or settlement for damages in respect of an injury for which she/he 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 Employee shall pay to her/his Employer any amount of accident pay already received in respect of that injury by which the judgement or settlement has not been so reduced.

1.11.3 Where an Employee obtains a judgement or settlement for damages against a person other than the Employer in respect of an injury for which she/he 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 Employee shall pay to her/his Employer any amount of accident pay already received in respect of that injury by which the judgement or settlement has not been so reduced.

1.12 Insurance against liability

Nothing in this part shall require an Employer to insure against her/his liability for accident pay.

1.13 Variations in compensation rates

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

1.14 Death of an Employee

All rights to accident pay shall cease on the death of an Employee.

Matter number:

AG2021/8490

Employer:

Wickro Pty Ltd ATF the Belmont Property Unit Trust trading
as Homestyle Aged Care Services

Application:

Section 185 – Application for approval of a single enterprise
agreement, namely the *Homestyle Aged Care Services,
ANMF and HSU Enterprise Agreement 2021 - 2023*

Undertaking-Section 190

I, Tim Humphries, Chief Executive Officer for Wickro Pty Ltd ATF the Belmont Property Unit Trust trading as Homestyle Aged Care Services, give the following undertaking with respect to the *Homestyle Aged Care Services, ANMF and HSU Enterprise Agreement 2021 - 2023* (the **Agreement**).

I have the authority given to me by Wickro Pty Ltd to provide this undertaking in relation to the application before the Fair Work Commission.

Undertaking

1. Clause 23.6(b) of the Agreement will be amended to read as follows:

A casual Employee will be paid for all work performed in accordance with the rates set out in the table below, which are calculated on the ordinary hourly rate appropriate to the Employee's classification and are inclusive of the 25% casual loading. The overtime rates will apply where a casual Employee is required by the Employer to work in excess of 10 hours in a day or 76 hours in a fortnight. For the purpose of this clause, each day or shift shall stand alone.

| Employee type | Monday to Friday (inclusive) | Monday to Friday (inclusive) Overtime | Saturday | Saturday Overtime | Sunday | Sunday Overtime | Public Holiday | Public Holiday Overtime |
|--------------------|------------------------------|---|----------|---|--------|---|----------------|-------------------------|
| Registered Nurse | 125% | 125% for the first 2 hours of overtime, and 200% thereafter | 187.5% | 187.5% | 187.5% | 187.5% for the first 2 hours of overtime, and 200% thereafter | 275% | 275% |
| Enrolled Nurse | 125% | 125% for the first 2 hours of overtime, and 200% thereafter | 200% | 200% | 200% | 200% | 200% | 250% |
| Aged Care Employee | 125% | 150% for the first 2 hours of overtime, and 250% thereafter | 175% | 175% for the first 2 hours of overtime, and 225% thereafter | 191% | 225% | 263% | 295% |

2. The ordinary hours of work for a day worker Registered Nurse / Enrolled Nurse will be between 6.30am and 6.00pm Monday to Friday. Provided further that a day worker Registered Nurse / Enrolled Nurse may agree to work an additional shift or additional hours outside the span of 6.30am and 6.00pm Monday to Friday at the ordinary hourly rate (with shift allowances and weekend and public holiday penalties as applicable), and such agreed additional hours will be treated and paid

as ordinary hours, subject to the provisions of Undertaking 1 in relation to casual Employees, and clauses 42.2 and 42.3 for a permanent day worker Registered Nurse / Enrolled Nurse (as the case may be). A day worker Registered Nurse / Enrolled Nurse will not be directed to work ordinary hours outside of 6.30am and 6.00pm Monday to Friday at the ordinary hourly rate.

3. Clause 43.1 of the Agreement will be amended to read as follows:

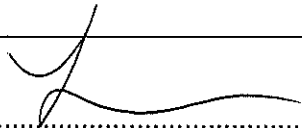
- (a) All ordinary hours performed by full-time and part-time Employees between midnight on Friday and midnight on Sunday shall be paid for as follows, calculated on the ordinary hourly rate:

| Employee type | Saturday | Sunday day shift | Sunday AM/PM shift | Sunday night shift |
|--|----------|------------------|--------------------|--------------------|
| Part-Time Registered Nurse Grade 1 (Grad Year) | 150% | 167% | 150% | 150% |
| Full-Time / Part-Time Registered Nurse (all other classifications) | 150% | 150% | 150% | 150% |
| Full-Time / Part-Time Enrolled Nurse | 150% | 150% | 150% | 150% |
| Part-Time Aged Care Employee (Wage Skill Group 1 Year 1) | 150% | 167.2% | 157% | 150% |
| Full-Time Aged Care Employee (Wage Skill Group 1 Year 1) | 150% | 167.2% | 150% | 150% |
| Part-Time Aged Care Employee (all other classifications) | 150% | 167% | 157% | 150% |
| Full-Time Aged Care Employee (all other classifications) | 150% | 167% | 150% | 150% |

- (b) For the purpose of subclause 43.1(a):

- (i) "Sunday day shift" means a shift worked between midnight Saturday and midnight Sunday that does not attract the payment of the AM/PM shift allowance or night shift allowance (ad hoc or permanent) in clause 45;
- (ii) "Sunday AM/PM shift" means a shift worked between midnight Saturday and midnight Sunday that attracts the payment of the AM/PM shift in clause 45.1;
- (iii) "Sunday night shift" means a shift worked between midnight Saturday and midnight Sunday that attracts the payment of the ad hoc night shift allowance or the permanent night shift allowance in clause 45.2.

This undertaking is provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

| | |
|--|--|
| Date signed: | 4.1.2022 |
| For and on behalf of the Employer by: [In accordance with s.190(5) of the FW Act] | Tim Humphries |
| Signature: |  |