



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

FHMC Pty Ltd
(AG2018/2830)

FHMC PTY LTD AND ANMF PRACTICE NURSES ENTERPRISE AGREEMENT 2018

Health and welfare services

DEPUTY PRESIDENT MASSON

MELBOURNE, 30 OCTOBER 2018

Application for approval of the FHMC Pty Ltd and ANMF Practice Nurses Enterprise Agreement 2018.

[1] An application has been made for approval of an enterprise agreement known as the FHMC Pty Ltd and ANMF Practice Nurses Enterprise Agreement 2018 (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by FHMC Pty Ltd. 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.

[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 Australian Nursing and Midwifery Federation (ANMF) being a bargaining representative for the Agreement, has 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 organisation.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 6 November 2018. The nominal expiry date of the Agreement is 30 June 2021.



DEPUTY PRESIDENT

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Annexure A

FAIR WORK COMMISSION

MATTER NO: AG2018/2562 – Application for Approval of the *FHMC Pty Ltd and ANMF Practice Nurses Enterprise Agreement 2018 (the Agreement)*

UNDERTAKINGS

FHMC Pty Ltd agrees to provide the below undertakings pursuant to section 190 of the *Fair Work Act 2009*.

1. **Parental leave – concurrent leave** – in relation to clause 38.9.2, this sub-clause shall be amended to provide that the period of concurrent leave must be for a period of 8 weeks or less.
2. **Parental leave – unpaid special maternity leave** – FHMC confirms that unpaid special maternity leave will not count as part of an employee's period of parental leave period (up to 52 weeks).
3. **Redundancy entitlements** – FHMC confirms that the second bullet point of clause 22.9, namely the exclusions to redundancy clause, shall be replaced with 'an employee whose period of continuous service with the employer is less than 12 months'.
4. **Recall to duty** – FHMC confirms that in the event that an employee is recalled to work the employee will be paid for a minimum three hours work at the appropriate overtime rate. Where the employee is not on call and is recalled, the time worked on a recall shall include the time spent travelling to and from the place of duty.
5. **TOIL** – FHMC confirms that clause 29.2 will be amended to include a new sub-clause 29.3 as follows:

If on termination of employment time off for overtime worked by the employee to which this sub-clause applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

Richard LeQuesne
Group Human Resources Manager
FHMC Pty Ltd

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.

FHMC Pty Ltd
and
ANMF, PRACTICE NURSES
ENTERPRISE AGREEMENT 2018

PART A – APPLICATION AND OPERATION

1. TITLE

This Agreement shall be called the FHMC Pty Ltd and ANMF Practice Nurses Enterprise Agreement 2018 ('Agreement').

2. ARRANGEMENT

This Agreement shall be arranged as follows:

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3. VARIATION OF AGREEMENT

- 3.1. Subject to the requirements of the Fair Work Act 2009 ('the Act') an application to vary the terms of the Agreement can be made under Chapter 2-Pt2-4-Div 7 of the Act.
- 3.2. Such application must be in writing and agreed to by the parties.

4. COVERAGE AND PARTIES TO THE AGREEMENT

This Agreement will be binding on the following parties:

- 4.1. FHMC Pty Ltd with regards to the operation of medical clinics and centres (including general practice and skin clinics) in all states and territories ('the Employer'); and
- 4.2. Any medical clinics and centres acquired by or commenced by FHMC Pty Ltd which may open for trading during the term of this agreement, subject to the transfer of business provisions of the Fair Work Act.
- 4.3. Nursing staff employed by FHMC Pty Ltd as classified in Appendix B of this Agreement.
- 4.4. The employer will formally advise the Australian Nursing and Midwifery Federation ('ANMF') when the Agreement is made in order for the ANMF to apply under section 183 of the *Fair Work Act 2009* to be covered by the Agreement.
- 4.5. It is the intention of this Agreement that the ANMF will be covered by this Agreement.

5. SCOPE OF THE AGREEMENT

This Agreement contains all the terms and conditions of employment for employees covered by the agreement and shall apply to all employees employed pursuant to the classifications listed in this Agreement employed by FHMC Pty Ltd.

6. DATE AND PERIOD OF OPERATION

- 6.1. This Agreement shall come into operation on the seventh day after the Agreement is approved by the Fair Work Commission (FWC) and shall remain in force until 30 June 2021 and thereafter in accordance with the *Fair Work Act 2009*.
- 6.2. Discussions shall commence for a new Agreement no later than four months prior to the expiry date of the Agreement.

7. NO FURTHER CLAIMS & SAVINGS CLAUSE

7.1. The Employees and Employer bound by this Agreement acknowledge that this Agreement settles all claims in relation to the terms and conditions of employment of the Employees to whom it applies and agree that they will not pursue any extra claims during the term of this Agreement.

7.2. Subject to the Employer meeting its obligations to consult including those arising under this Agreement or a contract of employment binding on that Employer, it is not the intent of this provision to inhibit, limit or restrict the Employer's right or ability to introduce change at the workplace.

7.3. Savings Clause

No Employee shall suffer any loss or diminution of wages or entitlements (whether accrued or otherwise) or terms and conditions of employment in place immediately prior to the commencement of this Agreement by reason only of the coming into force of this Agreement.

8. DEFINITIONS

For the purposes of this Agreement:

8.1. **Registered Nurse** means a person registered as such, or as a Midwife, with the Nursing and Midwifery Board of Australia as defined in the *Health Practitioners Regulations National Law Act 2009*

8.2. **Enrolled Nurse** means a person registered as such with the Nursing and Midwifery Board of Australia as defined in the *Health Practitioners Regulations National Law Act 2009*

8.3. **Base rate** for the purposes of calculating allowances provided for registered and enrolled nurses in this Agreement, the expression base rate shall mean the ordinary weekly rate of pay for a Registered Nurse Level 1 Pay Point 1 classification.

8.4. Experience means:

8.4.1 For the purposes of appointment within a classification such work in any workplace as a registered or enrolled nurse, in the last five years, excluding any leave periods prescribed under this Agreement.

8.4.2 For the purposes of progression between years or pay points within a classification, a year of experience means an employee has worked 1796 hours. As soon as the employee completes 1796 hours at a Pay Point they will automatically progress to the next pay Point..

8.5. **Tribunal** means Fair Work Commission or any successor body.

8.6. **Fair Work Commission** means the body established by the *Fair Work Act 2009*.

- 8.7. **Registered Health Practitioner** means a health practitioner registered, or licensed, as a health practitioner (or as a health practitioner of a particular type) under the *Health Practitioners Regulations National Law Act 2009*.
- 8.8. **Immediate Family** means a spouse or partner (of either sex including a former spouse, de facto spouse and a former de facto spouse), children (includes stepchildren, adopted children and ex-nuptial children and adult children), parents (includes step-parents, foster parents and partners' parents), grandparents, grandchildren, partners' grandparents or grandchildren or siblings of the employee or spouse.
- 8.9. **NES** means National Employment Standards.
- 8.10. **FWA** means the Fair Work Act 2009.
- 8.11. **National Employment Standards (“NES”)** refers to the legislated standards for workplace conditions established under the *Fair Work Act 2009*
- 8.12. For the purpose of incorporated leave provisions **Service and Continuous Service** is defined by section 22 of the *Fair Work Act 2009*, which will apply to the extent of any inconsistency.
- 8.13. **NMBA** is the Nursing and Midwifery Board of Australia.
- 8.14. **Union** means the Australian Nursing and Midwifery Federation

9. AGREEMENT FLEXIBILITY

- 9.1. An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
- 9.1.1 The agreement deals with 1 or more of the following matters:
- (a) arrangements about when work is performed;
 - (b) overtime rates;
 - (c) penalty rates;
 - (d) allowances; and
 - (e) leave loading
- 9.1.2 the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph 10.1.1 and
- 9.1.3 the employer and the individual employee must have genuinely made the agreement without coercion or duress.
- 9.2. The employer must ensure that the terms of the individual flexibility arrangement:
- 9.2.1 are about permitted matters under section 172 of the *Fair Work Act 2009*; and
- 9.2.2 are not unlawful terms under section 194 of the *Fair Work Act 2009*; and

- 9.2.3 result in the employee being better off overall than the employee would be if no arrangement was made.
- 9.3. The employer must ensure that the individual flexibility arrangement:
- 9.3.1 is in writing; and
- 9.3.2 includes the name of the employer and employee; and
- 9.3.3 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 10.3.4 includes details of:
- (a) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (b) how the arrangement will vary the effect of the terms; and
 - (c) 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
 - (d) states the day on which the arrangement commences.
- 9.4. The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 9.5. The employer or employee may terminate the individual flexibility arrangement:
- 9.5.1 by giving no more than 28 days written notice to the other party to the arrangement; or
- 9.5.2 if the employer and employee agree in writing — at any time.

PART B – WAGES AND ALLOWANCES

10. WAGES

The minimum base hourly rate payable to employees for each classification of work are set out in Appendix A to this Agreement. During the term of this Agreement, no employee will be paid less than the rates contained in Appendix A.

Payment of Wages

- 10.1. Wages will be paid fortnightly, unless otherwise mutually agreed in writing up to a maximum period of one month. Wages will be paid on a day no later than the Thursday after the end of the pay period, except when a public holiday occurs during this period in which case the payment of wages may be delayed to the Friday. Employees will be paid by cash, cheque or electronic funds transfer, as

determined by the employer, into the bank or financial institution account nominated by the employee.

- 10.2. 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.
- 10.3. 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.
- 10.4. When notice of termination of employment has been given by an employee or an employee's services have been terminated by an employer, payment of all wages and other monies owing to an employee shall be made to the employee, within 3 working days.

11. CONSULTATION REGARDING MAJOR WORKPLACE CHANGE

11.1. Consultation regarding major workplace change

11.1.1 Employer to notify

- (i) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (ii) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

11.1.2 Employer to discuss change

- (i) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 11.1.1, the effects the changes are likely to have on employees

and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.

- (ii) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 11.1.1.
- (iii) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

11.2. Consultation about changes to rosters or hours of work

11.2.1 Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.

11.2.2 The employer must:

- (i) provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee's regular roster or ordinary hours of work and when that change is proposed to commence);
- (ii) invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
- (iii) give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.

11.2.3 The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.

11.2.4 These provisions are to be read in conjunction with other award provisions concerning the scheduling of work and notice requirements.

12. DISPUTE RESOLUTION

- 12.1. In the event of a dispute about a matter under this Agreement, or a dispute in relation to the NES, (including a matter under sections 65(5) or 76(4) of the Act) in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 12.2. If a dispute about a matter arising under this Agreement or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 12.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 12.3. FWC will attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation, and where the matter in dispute remains unresolved arbitration.
- 12.4. An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 12.5. While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

13. OCCUPATIONAL 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*. 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 in accordance with the requirements of the legislation. 'The Fund' for the purpose of this Agreement shall mean:
 - 13.2.1 HESTA established and governed by a trust deed, as may be amended from time to time, and includes any superannuation scheme which may be made in succession thereto;
 - 13.2.2 or any other complying superannuation fund provided the fund is an eligible choice fund and is a fund that offers a MySuper product.

And the employer shall participate in accordance with the trust fund deeds.

- 13.3. Upon commencement of employment, the employer shall provide each employee with a choice of fund form for their preferred fund and the employee shall forward the completed membership forms for the employee's choice of fund to FHMC Pty Ltd within 28 days. In the event that the employee had not completed an application form within 28 days, the employer shall forward contributions and employee details to HESTA.
- 13.4. Superannuation contributions will be paid in respect to all ordinary hours worked, regardless of the monthly earnings or age of the employee (subject to Fund compliance).
- 13.5. Superannuation contributions will be paid on the employee's ordinary time earnings as defined in the *Superannuation Guarantee (Administration) Act 1992 (Cth)* and include any additional amounts consistent with the rules of the superannuation fund.
- 13.6. Superannuation fund payments will be made in accordance with trust fund deeds.
- 13.7. The employer must remit all compulsory employer and voluntary employee superannuation payments monthly to the nominated or default superannuation fund as applicable.
- 13.8. Where an employee salary packages their wages in accordance with this Agreement, superannuation shall be paid on the pre-packaged wages.
- 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 in accordance with legislation.
- 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 a maximum of twice in each year in February and August unless otherwise by mutual agreement between the employee and the FHMC Pty Ltd Corporate Office.
- 13.12. Salary Sacrifice (Superannuation Only)
- 13.13. An employee may make an agreement with the employer for salary sacrifice.
 - 13.13.1 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").

- 13.13.2 The salary sacrifice will be deducted from the employee's salary and contributed by the employer to the Fund each month.
 - 13.13.3 The employer will continue to calculate the contributions required by clause 13.2 above and the *Superannuation Guarantee (Administration) Act 1992* on the basis of the employee's ordinary time earnings before the salary sacrifice is deducted
 - 13.13.4 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.
 - 13.13.5 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 i.e. the pre-sacrifice rate.
 - 13.13.6 The employee may revoke the salary sacrifice agreement or alter the amount to be deducted on no more than two occasions in February and August of each calendar year from the commencement of this Agreement.
- 13.14. 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. UNIFORMS AND LAUNDRY

- 14.1. 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.
- 14.2. Instead of the provision of such uniforms, the employer may, by agreement with the employee, pay such employee a uniform allowance as set out in Appendix A per shift or part thereof on duty or the uniform allowance per week as set out in Appendix A, whichever is the lesser amount.
- 14.3. Where such employee's uniforms are not laundered by or at the expense of the employer, the employee will be paid a laundry allowance as set out in Appendix A per shift or part thereof on duty or the laundry allowance per week as set out in Appendix A, whichever is the lesser amount.
- 14.4. The allowances shall be paid during all absences on leave, except absence on long service leave and absence on sick leave beyond 21 days. 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.
- 14.5. Where an Employer provides an Employee with uniforms, all articles so provided remain the property of the Employer.

15. MEAL ALLOWANCE

- 15.1. An employee will be supplied with an adequate meal where an employer has adequate cooking and dining facilities or be paid a meal allowance in the following circumstances:
- 15.1.1 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 - a meal allowance of \$12.62 at the commencement of this agreement.
 - 15.1.2 provided that where such overtime work completed by an employee exceeds four hours a further meal allowance of \$11.37 will be paid.
 - 15.1.3 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 paragraph 15.1.1 and a further amount as specified in paragraph 15.1.2 when required to work more than nine hours on such day.
- 15.2. The meal allowance will be paid as part of the next pay cycle.

16. TRAVELLING, TRANSPORT AND FARES

- 16.1. An employee required and authorised to use their own motor vehicle in the course of their duties will be paid the rate as specified in accordance with the ATO mileage allowance for a vehicle engine size of 1601cc – 2600cc.
- 16.2. 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 receipted account(s) or other evidence acceptable to the employer.
- 16.3. An employee who leaves the medical centre and is recalled to duty will be reimbursed all reasonable fares and expenses actually incurred, including the ATO per kilometre rate, when he or she uses a motor car in those circumstances.
- 16.4. Provided further that the employee will not be entitled to reimbursement for expenses referred to in clause 16.2 which exceed the mode of transport, meals or the standard of accommodation agreed with the employer for these purposes.

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

17. MODES OF EMPLOYMENT

- 17.1. Employment categories

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

- (i) full-time;
- (ii) part-time; or
- (iii) casual.

At the time of engagement an employer will inform each employee whether they are employed on a full-time, part-time or casual basis. An 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.

17.2. 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 26 of this Agreement.

17.3. Part-time employment

17.3.1 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 whose hours of work are reasonably predictable.

17.3.2 Before commencing part-time employment, the employer and employee will agree in writing the guaranteed minimum number of hours to be worked and the rostering arrangements which will apply to those hours.

17.3.3 The terms of the agreement may be varied by agreement and recorded in writing.

17.3.4 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.

17.4. Annual review of part-time hours

17.4.1 At the written request of an employee, the hours worked by the employee will be reviewed annually. Where the employee is regularly working more than their specified contract hours then such contract hours shall be adjusted by mutual agreement, to reflect the hours regularly worked. The hours worked in the following circumstances will not be incorporated in the adjustment:

- (a) 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

- (b) if the increase in hours is due to a temporary increase in hours only due, for example, to the specific needs of a patient.

17.4.2 Any adjustment to the contracted hours resulting from a review will, however, only occur by agreement between the employee and the Employer. The Employer shall not unreasonably withhold agreement. However, agreement will be based on the business needs. The changes shall be such as to readily reflect roster cycles and shift configurations utilised at the workplace. It is understood that every effort will be made to adjust hours as close as possible to those regularly worked but an exact reflection of those additional average hours may not be possible depending on the shift configurations and roster cycles.

17.5. Casual employment

17.5.1 A casual employee is an employee engaged in relieving work or work of a casual nature and whose engagement is terminable by an Employer in accordance with the Employer's requirements without the requirement of prior notice by either party. As such casual employees are employed on an hourly basis. It is not intended that casual employees will be employed on a regular or systematic basis.

17.5.2 A casual employee will be paid an hourly rate equal to 1/38th of the weekly rate appropriate to the employee's classification plus a casual loading of 25%. In addition, a casual employee shall be entitled to receive the appropriate uniform and other allowances prescribed herein.

17.5.3 A casual employee will be paid a minimum of three hours pay for each engagement.

17.5.4 The Annual Leave, paid Personal Leave, paid Compassionate Leave and Termination of Employment provisions shall not apply in the case of a casual employee.

17.5.5 Where a casual employee has continuous service as defined by the Fair Work Act or State/Territory Long Service Leave legislation, such employee may be entitled to long service leave in accordance with the relevant legislation.

17.6. Fixed term employment contracts

17.6.1 Fixed term employment will only be used for genuine fixed term arrangements.

17.6.2 Genuine fixed term arrangements' include, but are not limited to, employment in graduate Nurse positions, replacement of Employees on maternity leave, long term Work Cover, parental leave or long service leave, employment in special projects, re-fresher courses, supervised practise for re-registration and postgraduate training.

17.7. Minimum engagement

The minimum engagement on any one day shall be five hours for a full-time employee, four hours for a part-time employee and three hours for casual employee.

17.8. Casual Employment - Caring responsibilities

17.8.1 Subject to the evidentiary and notice requirements in clause 37 casual employees are entitled to not be available to attend work, or to leave work:

(a) if they need to care for or support 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, or the birth of a child; or

(b) upon the death of an immediate family or household member.

17.8.2 The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

17.8.3 An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

18. WORKLOAD MANAGEMENT AND FILLING OF VACANCIES

18.1. The parties acknowledge that management and employees have a responsibility to maintain a balanced workload and recognise the adverse affects that excessive workloads have.

18.2. To ensure best practice care, it is important that any excessive or unreasonable workloads are identified after which discussions will occur at a local level to reach a satisfactory resolution.

18.3. All disputes arising from the interpretation or application of this clause shall be dealt with in accordance with clause 12 of this Agreement.

19. POLICE CHECKS

19.1. All employees employed prior to the date of operation of this Agreement and who are required to satisfy the employer of his or her police record, the employer shall

pay for or reimburse the employee for any reasonable expenses associated with procuring the police record.

- 19.2. Where the employer has received the police check and is satisfied that the employee is neither precluded nor unable to meet the inherent requirements of the role, the employee shall be advised that the check has been completed and the police check/result securely stored.
- 19.3. Where the employer in relation to the police check believes that the employee is either precluded or is not satisfied that the employee can meet the inherent requirements of the role, the employee will be provided with an opportunity to respond prior to any decision being made regarding the employment. Where this occurs the employee may seek the assistance of their chosen representative.
- 19.4. If the employer holds a copy of the police check/result, then upon request by the employee the employer will provide a copy of the police check/result that is held on the file to the employee.

20. LETTER OF APPOINTMENT AND SERVICE AND TRAINING CERTIFICATE

- 20.1. Each permanent and casual employee, upon initial engagement, 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. Nothing in this clause shall limit the ability of a part time employee to agree to work additional shifts at ordinary rates, save for any other limits prescribed by this Agreement.
- 20.2. Upon termination of employment, howsoever occurring, the employer shall provide the employee with a Service and Training Certificate upon a request by the employee, as specified in Appendix C, detailing the following:
 - 20.2.1 The employee's classification at the time of termination,
 - 20.2.2 The employee's training including in-service training, self directed learning packages or other training on the employee's file,
 - 20.2.3 The period of the employee's service,
 - 20.2.4 The relevant contact point at the employer to verify the information contained in the certificate.
- 20.3. Prior to acceptance of an offer of employment by the employee, 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:
 - 20.3.1 The employee providing the employer with a copy of the Certificate,
 - 20.3.2 The issuing employer verifying the contents to the employer upon request of the employer (such verification may be verbal or written).

21. TERMINATION OF EMPLOYMENT

21.1. Notice of termination by the employer

21.1.1 At the time of termination the employer must provide four (4) weeks notice to all employees (other than casual employees and those employees within their probationary period in which case the notice will be one week). A shorter notice period may be provided by mutual agreement between the Employer and the Employee.

21.1.2 An employee over 45 years of age is entitled to 1 extra weeks' notice if the employee has completed at least 2 years of continuous service.

21.1.3 Casuals are to be given notice to the end of their current shift worked.

21.2. Notice of termination by the employee

21.2.1 At the time of termination the employee must provide to the employer the same periods of notice as listed in clause 21.1 (except that there is no requirement on the employee to give additional notice based on the age of the employee concerned).

21.2.2 Casual employees shall only be required to give notice to the end of their current shift worked.

21.2.3 If the 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 an amount not exceeding the employee's ordinary rate of pay for the notice period, subject to the provisions of section 324(1)(b) of the Act. This amount may only be withheld with the written consent of the employee.

21.2.4 The employer may, without notice, summarily dismiss an employee at any time for serious misconduct or wilful disobedience. Payment is made up to the time of dismissal only.

21.3. Payment of wages

21.3.1 If the employer gives notice of termination to an employee, termination payments will be made by way of Electronic Funds Transfer within three business days.

21.3.2 If an employee gives notice of termination to the employer, termination payments will be made by way of Electronic Funds Transfer in the next pay cycle immediately following the end of the termination pay period. In unforeseen circumstances however the employer will review the date the termination payment will be made.

21.3.3 Termination payments will include the payment of annual leave loading.

21.3.4 The employer will give the employee a statement of service signed by the employer stating the period of employment and when the employment was terminated.

21.4. Job search entitlement

Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

22. REDUNDANCY

22.1. Definitions

22.1.1 **Business** includes trade, process, business or occupation and includes part of any such business.

22.1.2 **Redundancy** occurs where an 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.

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

22.1.4 **Week's pay** means the ordinary time rate of pay for the employee concerned.

Provided that such rate shall exclude:

- overtime; penalty
- rates; disability
- allowances; shift
- allowances; special
- rates;
- fares and travelling time allowances;
- bonuses; and
- any other ancillary payments of a like nature.

22.2. An employee is entitled to be paid redundancy pay by the employer if the employee's employment is terminated:

22.2.1 at the employer's initiative because the employer no longer required the job to be done by the employee to be done by anyone, except where this is due to the ordinary and customary turnover of labour; or

22.2.2 because of the insolvency or bankruptcy of the employer.

22.3. Transfer to lower paid duties

Where an employee is transferred to lower paid duties, 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 will make a payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing. This subclause must be read in conjunction with s389 of the Fair Work Act which provides that the redeployment must be reasonable in all of the circumstances.

22.4. Severance pay

22.4.1 Severance pay -

In addition to the period of notice prescribed for termination, an employee whose employment is terminated (whether in whole or in part) for reasons set out in paragraph (a) shall be paid the following amount of severance pay in respect of a period of continuous service. An Employee is entitled to be paid pro rata severance pay by the employer in proportion to the hours or wages lost as a result of the redundancy:

| Period of continuous | Severance pay service |
|--------------------------------|-----------------------|
| 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 22.1.4.

22.4.2 For the purposes of this clause, continuity of service shall be calculated in the manner prescribed by the relevant state Long Service Leave legislation.

22.5. 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 21 - Notice of Termination. 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.

22.6. Alternative Employment

- 22.6.1 Where the Employer obtains other acceptable employment for the Employee severance payment is not payable by the employer, subject to an order by FWC.
- 22.6.2 On application by the employer, FWC may determine that the amount of redundancy pay is reduced to a specified amount (which may be nil) that FWC considers appropriate.
- 22.6.3 The amount of redundancy pay to which the employee is entitled under section 119 is the reduced amount specified in the determination.
- 22.6.4 Acceptable alternative employment shall include, but is not limited to, a position which is at the same base rate of pay; the same job level; within a reasonable commuting distance and which recognises previous service for all purposes.

22.7. Employee leaving during notice period

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to any payment in lieu of any remaining notice.

22.8. Job search entitlement

- 22.8.1 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.
- 22.8.2 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, produce proof 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.

22.9. Employees exempted

This clause does not apply to:

- employees terminated as a consequence of serious misconduct that justifies dismissal without notice;
- probationary employees;
- trainees to whom a training arrangement applies and whose employment is for a specified period of time or is for any reason limited to the duration of the training arrangement;
- employees engaged for a specific period of time or for a specified task or tasks; or
- casual employees.

22.10. Transfer of business

22.10.1 The provisions of this clause are not applicable where a business is before or after the date of this agreement, transmitted from an employer (in this subclause called the **old employer**) to another employer (in this subclause called the **new employer**), in any of the following circumstances:

- (a) Where the employee accepts employment with the old employer which recognises the period of continuous service which the employee had with the old employer and any prior old employer to be continuous service of the employee with the new employer; or
- (b) Where the employee rejects an offer of employment with the new employer:
 - 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 old employer; and
 - which recognises the period of continuous service which the employee had with the old employer and any prior old employer to be continuous service of the employee with the old employer.

22.10.2 The Commission may vary 22.10.1(b) if it is satisfied that this provision would operate unfairly in a particular case.

22.11. Incapacity to pay

The Commission may vary the severance pay prescription on the basis of an employer's incapacity to pay. An application for variation may be made by an employer or a group of employers.

PART D – CAREER STRUCTURE

23. CLASSIFICATIONS

- 23.1. The classifications, wage rates and allowances are set out in Appendix A. Definitions of all classifications under this agreement are set out in Appendix B.

REGISTERED AND ENROLLED NURSES

Registered Nurses

Level 3 – Nurse Practitioner

Level 2 – Clinical Nurse Specialist

Level 1 – Registered Practice Nurse

Enrolled Nurses

Enrolled Practice Nurse

- 23.2. Disputes in relation to the classification of an employee shall be progressed through Clause 12 Dispute Resolution.

PART E – EDUCATION AND PROFESSIONAL DEVELOPMENT

24. PROFESSIONAL DEVELOPMENT

- 24.1. Professional development leave is to enhance the knowledge and practice skills of nurses. While in most cases the course, conference or seminar will be directly relevant to the role of practice nurse this will not always be the case as part of the purpose of professional development is to expand the professional knowledge of the nurse.
- 24.2. Each full-time employee is entitled to a maximum of five (5) days of paid professional development leave per calendar year to update their skills. Unused professional development does not accumulate to the next year. Part-time staff are entitled to paid professional development leave on a pro-rata basis. FHMC commits to providing paid leave to support professional development on a needs basis provided the education/training is relevant to the work of the employee and subject to the organisational requirements. FHMC will not unreasonably withhold agreement.
- 24.3. An application must be made at least 5 weeks before the date of the proposed conference, seminar or course and the employer must deal with the application

within 10 days from the date the application is lodged. An application will not be unreasonably refused, subject to the criteria in 24.2 being met.

- 24.4. In addition to the provision of leave for training and education. An employee may seek financial support to cover the enrolment, course fees and/or related expenses for relevant development activities. Any applications for financial support should be made in writing to the relevant manager and will be assessed on their merit. Financial support for training and education activities will be at the discretion of FHMC.
- 24.5. As part of the above provision, both full and part time employees will be entitled to use approved paid professional development leave to attend external education or conferences relevant to the nursing profession including the ANMF Annual Conference Professional Day/s (however titled).

25. INTERNAL/COMPULSORY EDUCATION AND TRAINING

- 25.1. 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 and infection control provided by the employer in each twelve month period or as required.
- 25.2. Where the employee attends compulsory training other than during the course of a rostered shift, 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. However, where the training has not been scheduled at the start or finish of a shift for which the employee is rostered and the employee has to make a separate trip to the facility the payment will be the length of the training or an hour and a half (1.5) hours whichever is the greater. At nights or on week-ends appropriate shift, weekend or over-time penalties will be paid in accordance with this agreement on all hours in compulsory education.
- 25.3. Attendance at any training course other than those referred to at clause 25.1 may be supported by the employer in accordance with specific initiatives. In particular, the parties acknowledge that it is highly desirable for employees to attend training provided by the employer.

E-Learning

- 25.4. 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.
- 25.5. E-learning modules will normally be completed within the ordinary working hours in the workplace. With prior approval from the Nurse Manager and the agreement of the employee, modules can be completed outside of working hours.

- 25.6. The employer will allocate an amount of time for the completion of each core module. When an employee completes a module outside of working hours, the employee will be paid at their ordinary rate of pay for the allocated time taken to complete the module.
- 25.7. 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:
- 25.7.1 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
 - 25.7.2 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
 - 25.7.3 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).

PART F – HOURS OF WORK, ROSTERS AND RELATED MATTERS

26. HOURS OF WORK

- 26.1. The ordinary hours of work for a full-time employee will be 38 hours per week, 76 hours per fortnight or 152 hours over 28 days.
- 26.2. The shift length or ordinary hours of work per day will be a maximum of 10 hours exclusive of meal breaks.
- 26.3. Each employee must be free from duty in respect to ordinary hours of work for not less than two full days in each week or four full days in each fortnight or eight full days in each 28-day cycle. Where practicable, such days off must be consecutive.
- 26.4. The hours of work on any day will be continuous except for meal breaks.

27. SPAN OF HOURS

- 27.1. The ordinary hours of work for a day worker will be between 6.00 am and 6.00 pm Monday to Friday.
- 27.2. A shiftworker is an employee who is regularly rostered to work their ordinary hours of work outside the ordinary hours of work of a day worker as defined in clause 27.1.

28. REST BREAKS BETWEEN ROSTERED WORK

An employee will be allowed a rest break of eight hours between the completion of one ordinary work period or shift and the commencement of another ordinary work period or shift.

29. OVERTIME

29.1. Overtime penalty rates

29.1.1 Hours worked in excess of the ordinary hours on any day or shift prescribed in clause 26 (Ordinary Hours of Work) are to be paid as follows:

- (a) Monday to Saturday (inclusive) – time and a half for the first two hours and double time thereafter;
- (b) Sunday – double time;
- (c) Public holidays – double time and a half.

29.1.2 Overtime penalties as prescribed in clause 29.1.1 do not apply to nurses classified at Level 3.

29.1.3 Overtime rates under this clause will be in addition to the shift premiums prescribed in clause 32 Shiftwork.

29.1.4 Part-time employees

All time worked by part-time employees in excess of the rostered daily ordinary full-time hours will be overtime and will be paid as prescribed in clause 29.1.1.

29.2. Time off instead of payment for overtime

29.2.1 By agreement between the employer and employee, an employee may take time off instead of receiving payment for overtime at a mutually agreed time.

29.2.2 The employee may take one hour of time off for each hour of overtime plus a period of time equivalent to the overtime penalty incurred.

29.3. Rest period after overtime

29.3.1 When overtime work is necessary, it will, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive days or shifts, including overtime.

29.3.2 An employee, other than a casual employee, who works so much overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on the next day, that they have not had at least 10 consecutive hours off duty between those times, will be released after completion of such overtime, until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

29.3.3 If, on the instruction of the employer, an employee resumes or continues to work without having had 10 consecutive hours off duty, they will be paid at the rate of double time until released from duty for such period. The employee will then be entitled to be absent until they have had 10 consecutive hours off duty without loss of pay for rostered ordinary hours occurring during the absence.

29.4. Rest break during overtime

An employee working overtime will take a paid rest break of 20 minutes after each four hours of overtime worked if required to continue to work after the break.

30. SATURDAY AND SUNDAY WORK

30.1. Where an employee is rostered to work ordinary hours between midnight Friday and midnight Saturday, the employee will be paid a loading of 50% of their ordinary rate of pay for the hours worked during this period.

30.2. Where an employee is rostered to work ordinary hours between midnight Saturday and midnight Sunday, the employee will be paid a loading of 75% of their ordinary rate of pay for the hours worked during this period.

30.3. This clause shall not apply to nurses classified at Level 3.

31. ROSTERS

31.1. Employees will work in accordance with a weekly or fortnightly roster fixed by the employer.

31.2. The roster will set out employees' daily ordinary working hours and starting and finishing times and will be displayed in a place conveniently accessible to employees at least seven days before the commencement of the roster period.

31.3. Unless the employer otherwise agrees, an employee desiring a roster change will give seven days notice except where the employee is ill or in an emergency.

31.4. Seven days' notice of a change of roster will be given by the employer to an employee. Except that, a roster may be altered at any time to enable the functions of the practice to be carried out where another employee is absent from work due to illness or in an emergency. Where any such alteration requires an employee working on a day which would otherwise have been the employee's day off, the day off instead will be as mutually arranged.

31.5. Daylight Saving

- 31.5.1 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).
- 31.5.2 No overtime is payable for the additional hour worked because of daylight saving.

32. SHIFT WORK

32.1. Shift penalties

- 32.1.1 Where an employee works a rostered afternoon shift the employee will be paid a loading of 12.5% of their ordinary rate of pay.
- 32.1.2 Where an employee works a rostered night shift the employee will be paid a loading of 15% of their ordinary rate of pay.
- 32.1.3 The provisions of this clause do not apply where an employee commences their ordinary hours of work after 12.00 noon and completes those hours at or before 6.00 pm on that day.
- 32.1.4 For the purposes of this clause:
- (a) **Afternoon shift** means any shift commencing not earlier than 12.00 noon and finishing after 6.00 pm on the same day; and
 - (b) **Night shift** means any shift commencing on or after 6.00 pm and finishing before 7.30 am on the following day.
- 32.1.5 The shift penalties prescribed in this clause will not be paid in addition to the additional weekend and public holiday performed by an employee on Saturday, Sunday or public holiday where the extra payment prescribed by clause 30 (Saturday and Sunday work) and clause 40 (Public Holidays) applies.
- 32.1.6 The provisions of this clause will not apply to nurses classified at Level 3.

33. BREAKS

33.1. Meal breaks

- 33.1.1 An employee who works in excess of five hours (but not more than 8 hours) will be entitled to one unpaid meal break of not less than 30 minutes and not more than 60 minutes, to be taken within the first five hours of duty. By agreement the nurse and manager may agree to a shorter unpaid meal break provided it is not less than 20 minutes (but such agreement will not apply to more than one of the meal breaks in a 12 hour shift).
- 33.1.2 Where an employee is required to remain available or on duty during a meal break, the employee will be paid overtime for all time worked until the meal break is taken.
- 33.2. Tea breaks
 - 33.2.1 Every employee will be entitled to a paid 10 minute tea break in each four hours worked, or part thereof greater than one hour, at a time to be agreed between the employee and employer.
 - 33.2.2 Subject to agreement between the employer and employee, such breaks may alternatively be taken as one 20 minute tea break.
 - 33.2.3 Tea breaks will count as time worked.
- 33.3. The employee is to be paid for all breaks where they are unable to leave the practice due to not being relieved from duty or required to be available.
- 33.4. Paid Meal Interval

An employee on evening or night duty who is not relieved from duty (and "on call") during a rostered meal interval shall be granted a meal interval of not less than twenty minutes to be commenced after completing three hours and not more than five hours of duty. Such time is to be counted as time worked.

34. HIGHER DUTIES

- 34.1. An employee, who is required to relieve another employee in a higher classification than the one in which they are ordinarily employed will be paid at the higher classification rate for the whole shift provided the relieving is for 2 hours or more.
- 34.2. Higher duties allowance does not apply to Registered Nurses Level 3 and above.
- 34.3. An employee who holds a qualification, or skill equivalent to that qualification in excess of the classification level for which that employee is paid, and that employee is required to exercise skills at a higher classification level on an infrequent basis, then the employee will be paid at the higher classification rate for the whole of the shift in which that work is performed.

PART G – LEAVE AND PUBLIC HOLIDAY ENTITLEMENTS

35. ANNUAL LEAVE

35.1. Quantum of annual leave

35.1.1 In addition to the entitlements in the NES, an employee is entitled to an additional week of annual leave on the same terms and conditions.

35.1.2 For the purpose of the additional weeks annual leave provided by the NES, a shiftworker is defined as an employee who:

- (a) is regularly rostered over seven days of the week; and
- (b) regularly works on weekends.

35.1.3 To avoid any doubt, this means that an employee who is not a shiftworker for the purposes of clause 35.1.2 above is entitled to five weeks of paid annual leave for each year of service with their employer, and an employee who is a shiftworker for the purposes of clause 35.1.2 above is entitled to six weeks of paid annual leave for each year of service with their employer.

35.2. Taking of leave .

35.2.1 Paid annual leave may be taken for a period agreed between an employee and his or her employer.

35.2.2 The employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

35.2.3 Excessive Annual Leave

Where an employee has accrued more than 10 weeks' paid annual leave (or 12 weeks' paid annual leave for shiftworkers (as defined at clause 35.1.2) such employee has an excessive leave accrual (**Excess Leave**). Notwithstanding the provisions of this subclause, the Employer may direct an employee to take a period of annual leave in accordance with subclause 35.6.

(1) In the circumstances of Excess Leave, the Employer may direct the employee to take a period of annual leave (**Direction**) by giving not less than 8 weeks and not more than 12 months' notice to the employee (**Notice**), subject to the following:

- (a) the Employee will first be given a reasonable opportunity to submit a plan to reduce their total annual leave accrued balance to not more than six weeks within a period of six months (**leave reduction plan**);
- (b) the Employer will not unreasonably refuse to agree to an Employee's annual leave reduction plan which includes saving leave for an extended vacation within 12 months of the date of

agreement to the leave reduction plan. The agreement is to be in writing and signed by both the Employer and Employee.

- (c) the Direction can not result in the Employee being directed to reduce the accrued leave to less than six weeks.

35.3. Public Holidays during annual leave

If any public holiday falls within an employees period of annual leave , the period of leave will be extended by one day for each public holiday, provided the public holiday is a day on which the employee would normally have worked.

35.4. Payment for annual leave

Before going on annual leave, an employee will be paid the amount of wages they would have received for ordinary time worked had they not been on leave during that period.

35.5. Annual leave loading

35.5.1 In addition to their ordinary pay, an employee, other than a shiftworker, will be paid an annual leave loading of 17.5% of their ordinary pay on a maximum of 152 hours/four weeks annual leave per annum.

35.5.2 Shiftworkers, in addition to their ordinary pay, will be paid the higher of:

- (i) an annual leave loading of 17.5% of ordinary pay; or
- (ii) the weekend and shift penalties the employee would have received had they not been on leave during the relevant period.

35.6. Payment of annual leave on termination

35.6.1 On the termination of their employment, an employee will be paid their untaken annual leave and pro rata leave.

35.6.2 Annual leave loading will be paid on termination or resignation.

35.7. Close down periods

35.7.1 The employer may temporarily close a practice not more than twice every 12 months for a period not exceeding two weeks. During such a close down, an employee may be required to take paid annual leave during part or all of this period. Where an employee does not have sufficient accrued annual leave for this period, they may take annual leave in advance.

35.7.2 FHMC Pty Ltd will give a minimum of one months notice in writing of the temporary closure to the affected employees.

35.7.3 An employee, instead of taking annual leave or annual leave in advance, may elect to utilise the following alternative options for dealing with the shutdown:

- (a) by mutual agreement an employee may elect to be temporarily reassigned to another adjacent FHMC Pty Ltd facility. During any such agreed temporary re-assignment, the employee will be covered by the relevant classification and the conditions applicable in this agreement; and/or
- (b) an employee where mutually agreed may elect to bank hours and/or accrued time off in lieu for the purpose of covering likely shutdown period. Where an employee proposes to bank hours or accrued time off in lieu to cover the shutdown period, FHMC Pty Ltd will agree to such arrangements wherever possible; and/or
- (c) an employee where mutually agreed may seek to take another form of leave during a period of close down including a period of leave without pay.

35.8. Where an employee becomes sick whilst on annual leave on any days on which she/he would otherwise have worked, and immediately forwards to the employer a certificate of a registered health practitioner, then the day or days specified in the certificate shall be deducted from any sick leave entitlement standing to the employee's credit, and shall be re-credited to her/his annual leave entitlement.

35.9. Cashing out of annual leave

35.9.1 An employee may "cash out" an amount of annual leave credited to the employee (in lieu of the amount of annual leave) subject to the following:

- (a) On each occasion the employee wishes to "cash out" an amount of annual leave, the employee must advise the Employer in writing, of the employee's election to "cash out" an amount of annual leave and the amount of annual leave to be "cashed out"; and
- (b) Any annual leave that is "cashed out" will be paid at the rate ordinarily paid for annual leave; and
- (c) Superannuation contributions will be paid by the employer in relation to the amount 'cashed out'; and
- (d) No more than 10 days accrued annual leave may be "cashed out" in any 12 month period; and
- (e) Notwithstanding the above, an employee's "bank" of annual leave accrued must never fall below twenty (20) days.
- (f) An employee who elects to cash out annual leave in accordance with (a) above, shall be paid annual leave loading in accordance with the annual leave clause.

36. PERSONAL LEAVE

The provisions of this clause apply to full-time and regular part-time employees (on a pro rata basis) but do not apply to casual employees. The entitlements of casual employees are set out in the casual clause of this Agreement.

36.1. Subject to the following limitations and conditions, a full time employee is entitled to personal/carers leave of 10 (ten) days for each completed year of service as follows:

36.2. Accrual of leave

An employee's entitlement to paid personal/carer's leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.

36.3. Taking paid personal/carer's leave

An employee may take paid personal/carer's leave if the leave is taken:

36.3.1 because the employee is not fit for work because of a personal illness, or personal injury, affecting the employee; or

36.3.2 to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of: (a) a personal illness, or personal injury, affecting the member; or (b) an unexpected emergency affecting the member.

The notice and evidence requirements of clause 36.8 must be complied with.

36.4. Employee taken not to be on paid personal/carer's leave on public holiday

If the period during which an employee takes 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 personal/carer's leave on that public holiday.

36.5. Payment for paid personal/carer's leave

If an employee takes a period of paid personal/carer's leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.

36.6. Entitlement to unpaid carer's leave

An employee is entitled to 2 days of unpaid carer's leave for each occasion (a *permissible occasion*) when a member of the employee's immediate family, or a member of the employee's household, requires care or support because of:

(a) a personal illness, or personal injury, affecting the member; or

(b) an unexpected emergency affecting the member.

36.7. Taking unpaid carer's leave

- 36.7.1 An employee may take unpaid carer's leave for a particular permissible occasion if the leave is taken to provide care or support as referred to in clause 36.6.
- 36.7.2 An employee may take unpaid carer's leave for a particular permissible occasion as:
- (a) a single continuous period of up to 2 days; or
 - (b) any separate periods to which the employee and his or her employer agree.
- 36.7.3 An employee cannot take unpaid carer's leave during a particular period if the employee could instead take paid personal/carer's leave.
- 36.7.4 The notice and evidence requirements of clause 36.8 must be complied with.

36.8. Notice and evidence requirements

Notice

- 36.8.1 An employee must give his or her employer notice of the taking of leave under this clause by the employee.
- 36.8.2 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.

Evidence

- 36.8.3 An employee who has given his or her employer notice of the taking of leave must, if required by the employer, give the employer evidence that would satisfy a reasonable person that:
- (a) if it is paid personal/carer's leave—the leave is taken for a reason specified in clause 36.3, or
 - (b) if it is unpaid carer's leave—the leave is taken for a permissible occasion in circumstances specified in clause 36.7.1; or
 - (c) if it is compassionate leave—the leave is taken for a permissible occasion in circumstances specified in clause 37.

- 36.8.4 The employee shall, if required, establish, either by production of a certificate from a registered health practitioner or statutory declaration, that the leave was taken to provide care or support of the person concerned and that the illness/ injury or unexpected emergency is such as to require care or support by another person.
- 36.8.5 All periods of personal illness or injury shall be certified by a registered health practitioner (as defined), including but not limited to a chiropodist/podiatrist, chiropractor, dentist, optometrist, osteopath, physiotherapist or psychologist or by a Statutory Declaration.
- 36.8.6 An employee may take 3 single day uncertificated absences per year.
- 36.8.7 The employer may dispense with the requirements of a certificate from a registered health practitioner where, in the employer's opinion, the circumstances are such as not to warrant such requirement.
- 36.8.8 The employee shall, wherever practicable, give the employer notice, prior to the absence, of the intention to take leave, the name of the person requiring care or support and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity after the leave has started, preferably on the day of absence.

Compliance

- 36.9. An employee is not entitled to take leave unless the employee complies with clause 36.8.
- 36.10. Personal information given to an employer under this section may be regulated under the *Privacy Act 1988*.
- 36.11. Discretionary paid carer's leave
- 36.12. The employer may, in its discretion, grant paid leave 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'.
- 36.13. No maximum Carer's Leave

For the avoidance of doubt, there is no maximum amount of paid personal leave that an employee may take as carer's leave in any one year, provided the employee has accrued sufficient personal leave to take the carer's leave absences as paid leave.

37. COMPASSIONATE LEAVE

- 37.1. Entitlement to compassionate leave

An employee is entitled to 2 days of compassionate leave for each occasion (a *permissible occasion*) when a member of the employee's immediate family, or a member of the employee's household:

- 37.1.1 contracts or develops a personal illness that poses a serious threat to his or her life; or
 - 37.1.2 sustains a personal injury that poses a serious threat to his or her life; or
 - 37.1.3 dies.
- 37.2. Taking compassionate leave
- An employee may take compassionate leave for a particular permissible occasion if the leave is taken:
- 37.2.1 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, referred to in clause 37.1; or
 - 37.2.2 after the death of the member of the employee's immediate family or household referred to in clause 37.1.
- 37.3. An employee may take compassionate leave for a particular permissible occasion as:
- 37.3.1 a single continuous 2 day period; or
 - 37.3.2 2 separate periods of 1 day each; or
 - 37.3.3 any separate periods to which the employee and his or her employer agree.
- 37.4. If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the employee may take the compassionate leave for that occasion at any time while the illness or injury persists. The notice and evidence requirements of clause 36.8 must be complied with.
- 37.5. Payment for compassionate leave (other than for casual employees)
- If, in accordance with this Subdivision, an employee, other than a casual employee, takes a period of compassionate leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.
- For casual employees, compassionate leave is unpaid leave.

38. PARENTAL LEAVE

- 38.1. Subject to the terms of this clause employees are entitled unpaid parental leave and to work part-time in connection with the birth or adoption of a child.
- 38.2. The provisions of this clause apply to full-time, part-time and eligible casual employees, but do not apply to other casual employees.

- 38.3. An eligible casual employee means a casual employee:
- 38.3.1 employed by an 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
 - 38.3.2 who has a reasonable expectation of ongoing employment, but for the pregnancy or the decision to adopt,
- 38.4. For the purposes of this clause, continuous service is work for an employer on a regular and systematic basis (including any period of authorised leave or absence).
- 38.5. An employer must not fail to re-engage a casual employee because:
- 38.5.1 the employee or employee's spouse is pregnant; or
 - 38.5.2 the employee is or has been immediately absent on parental leave.
- 38.6. The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.
- 38.7. Definitions
- 38.7.1 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 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.
 - 38.7.2 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.
- 38.8. Basic entitlement

Employees, who have or will have completed at least twelve months continuous service, are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child.

Where an employee becomes pregnant or adopts again they will be entitled to request a new period of unpaid parental leave and be entitled to a new period of parental leave in accordance with this clause.

38.8.1 An employee who will be the primary care giver of an adopted child or who is responsible for a child as the primary carer as defined under the Commonwealth Paid Parental Leave Scheme or is a permanent carer under a permanent care order made by the Children's or Family Court and who commences adoption or primary carer leave is, subject to the above continuity of service requirements, entitled to any unpaid leave from the date that the child is placed with the employee.

38.8.2 employees who already receive maternity/parental leave payments in excess of those above shall not suffer any disadvantage.

38.9. Employee Couple – Concurrent Leave

38.9.1 Parental leave is to be available to only one parent at a time in a single unbroken period. However, both parents may simultaneously take:

- (a) in the case of paternity/partner leave an employee shall be entitled to a total of up to 52 weeks unpaid leave in connection with the birth of a child for whom he or she has accepted responsibility which may be commenced 1 week prior to the expected date of birth; and
- (b) in the case of adoption leave for the secondary care giver up to 52 weeks' unpaid leave which may be commenced at the time of placement.

38.9.2 Subject to subclause 38.15 the total concurrent leave must be for a period of 3 weeks or less. Where the employer agrees the employee may start concurrent leave earlier or end concurrent leave later than provided for in 38.10.1

38.10. Maternity leave

38.10.1 An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:

- (a) 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
- (b) of the date on which the employee proposes to commence maternity leave and the period of leave to be taken - at least four weeks.

38.10.2 When the employee gives notice under 38.10.1(a) the employer may require the employee to provide a statutory declaration stating particulars of any period of paternity/partner leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.

- 38.10.3 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.
- 38.10.4 Subject to sub-clause 38.8 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.
- 38.10.5 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 leave under 38.16.2 an employer may require the employee to provide a certificate from a registered health practitioner that she is fit for work in her present position. The employer may require the employee to start maternity leave if the employee:
- (a) does not give the employer the requested certificate within 7 days after the request; or,
 - (b) within 7 days after the request for the certificate, gives the employer the medical certificate stating that the employee is unfit to work.
- 38.10.6 Where leave is granted under 38.10.4 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.

38.11. Personal illness leave and special maternity leave

- 38.11.1 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 any unpaid parental leave provided by this Agreement.
- 38.11.2 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:
- (a) 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 illness leave entitlements in accordance with the relevant personal leave provisions
 - (b) where the pregnancy terminates after the completion of 20 weeks, during the notified period/s the employee is entitled to unpaid special maternity leave
- 38.11.3 If an employee takes leave for a reason outlined in sub-paragraphs 38.11.2(a) and 38.11.2(b), the employer may require the employee to provide evidence that would satisfy a reasonable person or a certificate from a registered medical practitioner.

38.11.4 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 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, provided that the aggregate of, paid sick leave, unpaid sick leave and maternity leave shall not exceed the period to which the employee is entitled under clause 38.7.

38.11.5 For all purposes of this Agreement, maternity leave shall include special maternity leave and Pregnancy Related Sick Leave.

38.12. Partner leave

38.12.1 An employee will provide to the employer at least ten weeks prior to each proposed period of partner leave, with:

- (a) 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
- (b) written notification of the dates on which he or she proposes to start and finish the period of paternity leave; and (c) a statutory declaration stating:
 - (i) except in relation to leave taken simultaneously with the child's mother under clause 38.10 or clause 38.14.1(a) that he or she will take the period of paternity/partner leave to become the primary care-giver of a child;
 - (ii) particulars of any period of maternity leave sought or taken by his or her spouse; and
 - (iii) that for the period of partner leave he or she will not engage in any conduct inconsistent with his or her contract of employment.

38.12.2 The employee will not be in breach of 38.12.1 if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

38.13. Adoption leave

38.13.1 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.

- 38.13.2 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.
- 38.13.3 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:
- (a) 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
 - (b) 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.
- 38.13.4 Generally the employee must apply for leave to the employer at least ten weeks before the date when long adoption leave begins and the period of leave to be taken or 14 days in advance for adoption leave for a partner (secondary caregiver). An employee may commence adoption leave before providing such notice where, through circumstances beyond the control of the employee, the adoption of a child takes place earlier.
- 38.13.5 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:
- (a) 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.
 - (b) except in relation to leave taken simultaneously with the child's other adoptive parent under sub-clause 38.10 that the Employee is seeking adoption leave to become the primary care-giver of the child;
 - (c) particulars of any period of adoption leave sought or taken by the employee's spouse; and
 - (d) that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.
- 38.13.6 An employee must provide the employer with confirmation from the adoption agency of the start of the placement.
- 38.13.7 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.

38.13.8 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.

38.13.9 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.

38.13.10 Where paid leave is available to the employee the employer may require the employee to take such leave instead.

38.14. Right to request

38.14.1 An employee entitled to parental leave pursuant to the provisions of sub-clause 38.8 may request the employer to allow the employee:

- (a) to extend the period of concurrent unpaid parental leave provided for in sub-clause 38.9 up to a maximum of eight weeks;
- (b) to extend the period of unpaid parental leave provided for in subclause 38.8 by a further continuous period of leave not exceeding 12 months;
- (c) to return from a period of parental leave on different working arrangements until the child reaches school age; 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.

38.14.2 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 grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

38.14.3 Employee's request and Employer's decision to be in writing

The employee's request and the employer's decision made under subparagraphs 38.14.1(b) and 38.14.1(c) 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.

38.14.4 Request to return to work part-time

A request under sub-paragraph 38.14.1(c) 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.

38.14.5 Variation of period of parental leave

Unless agreed otherwise between the employer and employee, where an employee takes leave under sub-clause 38.8 and sub-paragraph 38.15.1(b) an employee may apply change the period of parental leave by giving two weeks notice in writing to the employer, unless such notice is not practicable.

Parental leave and other entitlements

38.14.6 An employee may in lieu of or in conjunction with parental leave access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks or a longer period as agreed under sub-clause 38.14.

38.14.7 Where a public holiday occurs during a period of unpaid parental leave the public holiday is not to be regarded as part of the unpaid parental leave and the employer will grant the employee a day off in lieu to be taken by the employee immediately following the period of unpaid parental leave.

38.15. Transfer to a safe job

38.15.1 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.

38.15.2 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:

- (a) 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
- (b) 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.

38.16. Returning to work after a period of parental leave

38.16.1 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.

38.16.2 Subject to clause 38.16.3 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 38.15 the employee will be entitled to return to the position they held immediately before such transfer.

38.16.3 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.

38.17. Replacement Employees

38.17.1 A replacement employee is an employee specifically engaged or temporarily promoted or transferred as a result of an employee proceeding on parental leave.

38.17.2 Before an 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.

38.18. Consultation and Communication during Parental leave

38.18.1 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:

- (a) 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
- (b) 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.

38.18.2 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.

38.18.3 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 subclause 38.18.1.

38.19. 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 carer's leave credit. The employee must give the employer prior notice of the employee's intention to take such leave.

39. LONG SERVICE LEAVE

39.1. Entitlement

39.1.1 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 their pre-Fair Work Act award derived entitlement, or the relevant state long service leave legislation, whichever provides the greater benefit.

39.1.2 The amount of such entitlement for each jurisdiction is summarised at Appendix D. The definition of continuous service, the rate of accrual and the details concerning payment and taking of long service leave is governed by the relevant pre-Fair Work Act award derived entitlement or state/territory legislation as amended.

39.1.3 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.

39.2. Other matters

39.2.1 Notwithstanding the above, the parties agree that an employee, by mutual agreement with the employer, may elect to take half of the period of their accrued long service leave at double pay or, alternatively, double the period of their accrued long service leave at half pay providing that it is in accordance with the relevant State legislation.

39.2.2 Applications under this clause shall be at the initiative of the employee and shall be in writing.

39.2.3 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.

39.2.4 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 sub-clause 39.2.1 The employer shall not be responsible for the decision made by the employee as a result of this information.

39.3. Employees shall be entitled to take long service leave pro-rata on completion of 7 years service and to be paid long service leave pro-rata on termination.

40. PUBLIC HOLIDAYS

40.1. Public holidays are provided for in the NES. This clause contains additional provisions.

40.2. Payment for work done on public holidays

All work done by an employee during their ordinary shifts on a public holiday, including a substituted day, will be paid at 250% of their ordinary rate of pay.

40.3. Public holiday substitution

An employer and the employees may, by agreement, substitute another day for a public holiday.

40.4. An employee shall be entitled to a minimum of eleven (11) public holidays in accordance with the public holidays gazetted or prescribed in the relevant state or federal legislation or regulations, including the following days:

New Year's Day, Australia Day, Labour Day, Anzac Day, Good Friday, Easter Saturday, , Easter Monday, Queen's Birthday, Christmas Day, Boxing Day and other days as determined in the state/territory or locality.

40.5. Holidays in lieu

40.5.1 When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.

40.5.2 When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.

40.5.3 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.

40.5.4 When Anzac Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on the next Monday.

40.5.5 Save for employees working on either the Saturday or Sunday where the public holidays fall shall be granted and/or remunerated for that day as a public holiday.

40.5.6 Where public holidays are declared or prescribed on days other than those set out in clauses 40.4 and 40.5 above, those days shall constitute additional holidays for the purpose of this Agreement and public holiday penalty rates and rostered-off benefit provisions shall apply on that additional day.

40.6. Work Performed on 25 December

Where 25 December is a Saturday or Sunday, an employee required to work on that day is to receive the Saturday or Sunday payment (as appropriate).

40.7. Casual Public Holiday Rates

A casual employee required to work on a public holiday shall be paid for all work done on a public holiday the casual loading of 25% plus an additional 100% in addition to ordinary rate, together with shift and penalty allowances.

40.8. Public holidays occurring on rostered days off

Employees shall receive a sum equal to a day's ordinary pay for public holidays that occur on a day on which they are rostered off, excepting holidays falling on Saturday or Sunday with respect to employees who work Monday to Friday only.

40.9. Public holidays occurring during annual leave

Where any public holiday for which an employee is entitled to payment under this Agreement occurs during any period of annual leave taken by an employee, the period of the annual leave shall be increased by one day in respect of that public holiday.

40.10. Part-time employees

40.10.1 Where a public holiday occurs on a day that a part-time employee would normally work, but the employee is not required by the employer to work, the part-time employee is entitled to receive the public holiday benefit prescribed by the Award for a full-time employee. 'Normally work' means that in the last six months the employee was rostered to work on 50% or more of that particular day on which the public holiday in question occurred.

40.10.2 Despite clause 40.12.1, 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 unless he/she is required to work on the public holiday.

41. 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.

42. COMMUNITY SERVICES LEAVE

42.1. Blood Donors Leave

FHMC Pty Ltd will release full-time employees upon request on a maximum of two occasions per year to donate blood in paid time at a nominated time where a mobile collection unit or donor collection centre is located within ten kilometres of the medical centre. Employees will give at least seven days notice to the employer and such release will take into account the staffing and workload needs of the clinic.

42.2. Emergency Service Leave

In addition to the requirements of the NES (which enable an employee to be absent on unpaid leave to engage in eligible community service activity such as emergency management and jury service), but subject to operational requirements and what is reasonable in a particular circumstance, FHMC Pty Ltd will release an employee who is a member of a voluntary emergency relief organization such as the, Country Fire Authority, Red Cross, St John Ambulance or the State Emergency Service from normal duty without loss of pay (up to a maximum of three shifts per year) to assist in regard to a critical incident where a local, state or inter-state emergency situation arises that requires the attendance of the employee.

42.3. Jury Service

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 as required by state legislation) for the period during which attendance at court is required (whether or not he/she ultimately serves as a juror).

42.3.1 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.

42.3.2 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.

42.3.3 This clause excludes casual employees.

PART H – ANCILLARY**43. NOTICE BOARD**

The employer shall make available a Notice Board in the work location accessible to employees, for the purpose of local employee union delegate or the ANMF posting information relating to the observance, application and operation of the Agreement and in relation to union events or meetings.

SIGNING CLAUSE

DATED this 21st day of JUNE 2013 2018


[Signature on behalf of FHMC Pty Ltd]

..STEVEN HARVEY - MANAGING
Print Name DIRECTOR

I declare that I am authorised to sign this Agreement on behalf of the named Employer

..LOWER GROUND FLOOR, 183 MELBOURNE ST., NORTH ADELAIDE
[Address] SA 5006

DATED this day of 2013


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

Andrew McCauley - A/g Senior
Federal Industrial office

I declare that I am authorised to sign this Agreement on behalf of the named Bargaining Representative

Level 1, 365 Queen Street, Melbourne

DATED this 25th day of June 2017 2018

..1/365 Queen Street, Melbourne, Victoria 3000

APPENDIX A - WAGE RATES

| Existing Classifications: | Hourly rate: | New Classification Structure: | Hourly rate: | FFPOA | FFPOA | FFPOA |
|--|--------------|--|--------------|-----------|-----------|-----------|
| | 1/07/2017 | | 1/07/2017 | 1/07/2018 | 1/07/2019 | 1/07/2020 |
| | | | | 2.50% | 2.50% | 2.50% |
| EN Level 1 | | Enrolled Practice Nurse | | | | |
| | \$ | | \$ | \$ | \$ | \$ |
| EN Yr 1 | 23.71 | EN Yr 1 | 23.71 | 24.30 | 24.91 | 25.53 |
| EN Yr 2 | 24.32 | EN Yr 2 | 24.32 | 24.93 | 25.55 | 26.19 |
| EN Yr 3 | 25.03 | EN Yr 3 | 25.03 | 25.66 | 26.30 | 26.95 |
| EN Level 2 | | | | | | |
| EN Med Yr 1 | 25.90 | EN Yr 4 | 25.90 | 26.55 | 27.21 | 27.89 |
| EN Med Yr 2 | 26.54 | EN Yr 5 | 26.54 | 27.20 | 27.88 | 28.58 |
| EN Med Yr 3 | 27.32 | EN Yr 6 | 27.32 | 28.00 | 28.70 | 29.42 |
| | | | | | | |
| RN Level 3 (Treatment Room) | | Registered Practice Nurse (Level 1) | | | | |
| RN Yr 1 | 31.44 | RPN Yr 1 | 31.44 | 32.23 | 33.03 | 33.86 |
| RN Yr 2 | 32.22 | RPN Yr 2 | 32.22 | 33.03 | 33.85 | 34.70 |
| RN Yr 3 | 33.17 | RPN Yr 3 | 33.17 | 34.00 | 34.85 | 35.72 |
| RN Yr 4 | 34.18 | RPN Yr 4 | 34.18 | 35.03 | 35.91 | 36.81 |
| RN Yr 5 | 35.20 | RPN Yr 5 | 35.20 | 36.08 | 36.98 | 37.91 |
| RN Yr 6 | 36.26 | RPN Yr 6 | 36.26 | 37.17 | 38.10 | 39.05 |
| RN Level 4 Advanced Practice Nurse (CDM PN, Specialised PN or Senior Nurse) | | Clinical Nurse Specialist (Level 2) | | | | |
| RN Adv Yr 1 | 39.70 | CNS Yr 1 | 39.70 | 40.69 | 41.71 | 42.75 |
| RN Adv Yr 2 | 40.90 | CNS Yr 2 | 40.90 | 41.92 | 42.97 | 44.04 |
| RN Adv Yr 3 | 42.12 | CNS Yr 3 | 42.12 | 43.17 | 44.25 | 45.36 |
| RN Adv Yr 4 | 43.40 | CNS Yr 4 | 43.40 | 44.49 | 45.60 | 46.74 |
| RN Level 5 | | | | | | |
| Nurse Practitioner | 54.38 | Nurse Practitioner (Level 3) | 54.38 | 55.74 | 57.13 | 58.56 |

Translation Arrangements:

Employees employed immediately before the commencement of the agreement under the “existing classifications” column of Appendix A will translate to the corresponding classification (and appropriate year level) in the ‘new classification structure’ column.

| Allowances | Current | 1/07/2018 | 1/07/2019 | 1/07/2020 |
|-------------------|----------------|------------------|------------------|------------------|
| | | 2.50% | 2.50% | 2.50% |
| Uniform per week | 8.30 | 8.51 | 8.72 | 8.94 |
| Uniform per shift | 1.66 | 1.70 | 1.74 | 1.79 |
| Laundry per week | 6.00 | 6.15 | 6.30 | 6.46 |
| Laundry per shift | 1.20 | 1.23 | 1.26 | 1.29 |
| | | | | |
| Meal Allowance A | 12.62 | 12.94 | 13.26 | 13.59 |
| Meal Allowance B | 11.37 | 11.65 | 11.95 | 12.24 |

APPENDIX B – CLASSIFICATION DEFINITIONS

CLASSIFICATION DEFINITIONS

Enrolled Practice Nurse

Responsibilities:

- Provision of high standard of evidence based nursing care to individuals/patients of varying ages and cultural groups
- Provision of education, support and guidance to individuals/patients
- Under the direct/indirect supervision of a Registered Nurse (RN)
- Collaborate with other nursing staff and General Practitioners.

Qualifications and/or Skills- Mandatory

Current Registration with AHPRA

Adherence to the Nursing and Midwifery Board of Australia Enrolled Nurse Standards of Practice.

Knowledge and application of Infection Control Guidelines

Knowledge of sterilization guidelines

Knowledge of Medicare MBS

Current CPR Competency

Qualifications - Desirable

Qualification in Wound Management

Qualification in Ear Irrigations

Training in and/or understanding of Chronic Disease Management

Registered Practice Nurse

Responsibilities:

- Supervision of Enrolled Nurses
- Treatment room care/services
- Preparation of Chronic Disease Management plans & education of patients
- Collaboration with other nursing staff and General Practitioners

Qualifications and/or Skills:

- Current Registration as Registered Nurse with AHPRA

- Adherence to the Nursing and Midwifery Board of Australia Registered nurse standards for practice
- Knowledge and application of infection control guidelines
- Knowledge and application of sterilization guidelines
- Knowledge of Medicare MBS
- Knowledge and application of Cold Chain Management
- CPR Competency
- Chronic Disease Management
- May also have qualifications/skills in:
 - Immunisations
 - Pathology
 - Wound Management
 - Ear Irrigation

Clinical Nurse Specialist

This classification is positional – in that a nurse must be appointed to a vacancy for an approved CNS position in order to be classified at Level 2.

The classification of CNS means a Registered Nurse with relevant post-basic qualifications and 12 months' experience working in the clinical area of their specified post-basic qualification, or a minimum of four years' post-basic registration experience, including three years' experience in the relevant specialist field and who satisfies the local criteria. A Registered Nurse can be appointed to a CNS based on the criteria set out below.

Eligibility:

- Post graduate qualifications that are equivalent to or higher than a Cert III or equivalent in a field that is directly related to primary health care.
- The qualification must be used to provide higher level care/services in the clinic (i.e. appointment to Clinical Nurse Specialist classification is not automatic upon attaining post-graduate qualification, and requires demonstration of application of knowledge gained and delivery of higher level services/care)
- Has previous experience in patient and staff education.
- Current drivers license
- Nurses who meet the eligibility criteria above will be entitled to apply for a CNS vacancy at any clinic operated by FHMC.

The Nurse must demonstrate:

- Higher levels of skill in clinical decision making, in problem identification, solution, analysis, and interpretation of clinical data.

- Comprehensive knowledge of patient assessment, disease management, nursing interventions and clinical care in the primary health setting
- Mentorship to less experienced nurses, including graduate nurses.

The CNS is required to:

- Initiate and/or actively participate in at least 2 Quality Improvement Projects each year.
- Present a teaching/ education session to staff or develop a self-learning education package annually.
- Maintain best evidence practice by involvement in relevant professional bodies.
- Contribute to the establishment and updating of protocols and procedures for clinical practice

Over-riding Principles:

When considering the appointment of a nurses to a Clinical Nurse Specialist vacancy, the following must be taken into account:

- The Clinical Nurse Specialist must be demonstrably fulfilling a higher skilled and more demanding role than would generally be expected of a Registered Practice Nurse (Level 1).
- The fact that a nurse practices his/her profession in a narrow so-called "specialised" field does not make him or her a Clinical Nurse Specialist.
- Care needs to be taken to ensure that the practice of new skills or the performance of any other particular task may merely reflect changes occurring generally to all levels of nursing care and treatment which is general change in the overall standard of nursing. These general changes to nursing care and standards do not qualify an employee to be paid as a Clinical Nurse Specialist. The fact that a nurse practices "new" skills or highly technical skills does not make that nurse a Clinical Nurse Specialist.
- The fact that a nurse may be able to undertake and perform some tasks better than other nurses or that they may be considered to be "all-rounders" and therefore able to undertake all tasks competently does not justify the specialist status.

Nurse Practitioner

- Requires registration with AHPRA as Nurse Practitioner, having met and maintained the Registration Standard set by the Nursing & Midwifery Board of Australia for endorsement as a Nurse Practitioner.

APPENDIX C - LETTER OF APPOINTMENT

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

- 1 Name of Employer.
- 2 Date of commencement.
- 2 Employee's specific classification.
- 3 The workplace/campus/location where the person is to be situated.
- 4 The name of the industrial instruments (e.g. Award and Enterprise Agreement) which contains the Employee's terms and conditions of employment.
- 5 The mode of employment.
- 6 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 (permanent staff only).
7. The general pattern of the shifts expected to be worked in accordance with the roster will be identified (permanent staff only).
8. 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) (permanent staff only).
- 9 Acknowledgment (where applicable) of prior service/entitlements to sick leave, long service, etc. (permanent staff only)
- 10 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, 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 bank.
- 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 – SUMMARY OF LONG SERVICE LEAVE ENTITLEMENTS

| Jurisdiction | Legislation or Award |
|------------------------------|---|
| New South Wales | NSW Long Service Leave Act 1955 (two months leave after 10 years, accessible earlier by agreement or after five years on resignation/termination, other than for serious and wilful misconduct) |
| Victoria | Long Service Leave Act 1992 (13 weeks after 15 years, accessible at 10 years while employed and at seven years on resignation/termination, other than for serious and wilful misconduct) |
| | Mental Health Nurses – Nurses (Victorian Health Services) Award 2000 (26 weeks after 15 years, accessible after 10 years only) |
| Queensland | Industrial Relations Act 1999 (8.6667 weeks on full pay after each period of 10 years continuous service, accessible by agreement in advance and after seven years on resignation/termination, other than for serious and wilful misconduct) |
| South Australia | Long Service Leave Act 1987 (13 weeks leave after 10 years service, accessible earlier by agreement and after seven years on resignation/termination, other than serious and wilful misconduct) |
| Western Australia | Long Service Leave Act 1958 (8 $\frac{2}{3}$ weeks of paid leave after 10 years of continuous employment. Employees are entitled to a proportionate entitlement on termination/resignation/death etc, other than for serious and wilful misconduct, after seven years of continuous employment) |
| Tasmania | Long Service Leave Act 1976 (8 $\frac{2}{3}$ weeks of paid leave after 10 years of continuous employment. Employees are entitled to a proportionate entitlement on termination/resignation/illness, other than for serious and wilful misconduct, after seven years of continuous employment) |
| Australian Capital Territory | Long Service leave Act 1976 (1/5 of a month's leave for each year of service, accessible after seven years, pro rata entitlement on resignation/termination/illness, other than for serious and wilful misconduct, after five years) |
| Northern Territory | Long Service Leave Act 1987 (13 weeks leave after 10 years service, accessible earlier by agreement and after seven years on termination/illness, other than resignation or serious and wilful misconduct) |

FAIR WORK COMMISSION

MATTER NO: AG2018/2562 – Application for Approval of the *FHMC Pty Ltd and ANMF Practice Nurses Enterprise Agreement 2018 (the Agreement)*

UNDERTAKINGS

FHMC Pty Ltd agrees to provide the below undertakings pursuant to section 190 of the *Fair Work Act 2009*.

1. **Parental leave – concurrent leave** – in relation to clause 38.9.2, this sub-clause shall be amended to provide that the period of concurrent leave must be for a period of 8 weeks or less.
2. **Parental leave – unpaid special maternity leave** – FHMC confirms that unpaid special maternity leave will not count as part of an employee's period of parental leave period (up to 52 weeks).
3. **Redundancy entitlements** – FHMC confirms that the second bullet point of clause 22.9, namely the exclusions to redundancy clause, shall be replaced with 'an employee whose period of continuous service with the employer is less than 12 months'.
4. **Recall to duty** – FHMC confirms that in the event that an employee is recalled to work the employee will be paid for a minimum three hours work at the appropriate overtime rate. Where the employee is not on call and is recalled, the time worked on a recall shall include the time spent travelling to and from the place of duty.
5. **TOIL** – FHMC confirms that clause 29.2 will be amended to include a new sub-clause 29.3 as follows:

If on termination of employment time off for overtime worked by the employee to which this sub-clause applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

Richard LeQuesne
Group Human Resources Manager
FHMC Pty Ltd