



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Ivfaustralia Pty Ltd T/A Ivfaustralia
(AG2022/1387)

IVF AUSTRALIA PTY LTD NURSING ENTERPRISE AGREEMENT 2021

Health and welfare services

COMMISSIONER P RYAN

SYDNEY, 16 JUNE 2022

Application for approval of the IVF Australia Pty Ltd Nursing Enterprise Agreement 2021

[1] IVF Australia Pty Ltd T/A IVF Australia (the Applicant) has made an application for approval of an enterprise agreement known as the *IVF Australia Pty Ltd Nursing Enterprise Agreement 2021* (the Agreement) pursuant to s.185 of the *Fair Work Act 2009* (the Act). The Agreement is a single enterprise agreement.

Single Interest Employers

[2] The Agreement is expressed to cover four employers: the Applicant, Alexandria Specialist Day Hospital Pty Ltd, North Shore Specialist Day Hospital Pty Ltd, and City West Specialist Day Hospital Pty Ltd ATF the City West Day Surgery Unit Trust.

[3] The application included company details extracts issued by the Australian Securities and Investments Commission (ASIC) for each entity. Those documents confirm the Applicant, Alexandria Specialist Day Hospital Pty Ltd and North Shore Specialist Day Hospital Pty Ltd are related bodies corporate. Accordingly, I am satisfied that those employers are single interest employers (see s.172(5)(b) of the Act).

[4] In relation to City West Specialist Day Hospital Pty Ltd ATF the City West Day Surgery Unit Trust, the Applicant submitted that it was engaged in a common enterprise with this employer. In support of this submission, the Applicant provided supporting documentary material and relied on the definition of common enterprise as expressed by Mason J (as he then was) in *Australian Softwood Forest Pty Ltd v Attorney-General (NSW); Ex Rel Corporate Affairs Commission*¹, in which his Honour stated:

¹ (1981) 148 CLR 121.

“An enterprise may be described as common if it consists of two or more closely connected operations on the footing that one part is to be carried out by A and the other by B, each deriving a separate profit from what he does, even though there is no pooling or sharing of receipts of profits. It will be enough that the two operations constituting the enterprise contribute to the overall purpose that unites them. There is then an enterprise common to both participants and, accordingly, a common enterprise.”²

[5] Having regard to the materials filed and the submissions made by the Applicant, I am satisfied that the Applicant and City West Specialist Day Hospital Pty Ltd ATF the City West Day Surgery Unit Trust are employers engaged in a common enterprise (see s.172(5)(a) of the Act).

Notice of Employee Representational Rights

[6] The Notice of Employee Representational Rights (NERR) was issued on 29 April 2021 and described the proposed coverage of the proposed agreement as *“employees that are currently covered by the IVF Australia Pty Ld [sic] Nursing Enterprise Agreement 2018 excluding the position of Director of Nursing.”* (emphasis added)

[7] The Agreement included within its classification structure the position of Director of Nursing. My chambers raised this issue with the Applicant who confirmed that while the classification of Director of Nursing was initially excluded from the scope of the proposed agreement, the scope was later expanded to include that classification.

[8] My chambers then sent further correspondence to the Applicant seeking the date the proposed coverage was expanded, the date that the NERR was issued to employees falling within the scope of the expanded coverage, and a copy of any document evidencing distribution of the NERR. The Applicant’s attention was drawn to the decision of a Full Bench in *Australian Manufacturing Workers’ Union v Broadspectrum (Australia) Pty Ltd* [2018] FWCFB 6556.

[9] In response to that correspondence, the Applicant confirmed the scope of coverage was expanded on 16 September 2021 and that there were two employees falling within the expanded scope at that time. The Applicant confirmed those employees received the NERR as part of the distribution of that document on 29 April 2021. The Applicant also advised that a third person falling within the scope of the expanded coverage was employed on 29 September 2021.

[10] The Applicant submitted that to the extent the failure to issue the NERR to the two employees within 14 days of 16 September 2021 was an error, it was a minor procedural error.³

[11] The Applicant further submitted the two employees had participated in bargaining either directly or indirectly through their bargaining representative, the Australian Nursing and Midwifery Federation (ANMF), and in the case of one of the employees, they had

² Ibid at p.133.

³ *Huntsman Chemical Company Australia Pty Ltd T/A RMAX Rigid Cellular Plastics & Others* [2019] FWCFB 318 (Huntsman).

attended every bargaining meeting. The Applicant submitted in these circumstances the employees have not been disadvantaged by the error. A statement from each employee was submitted confirming these matters.

[12] The decision to expand the coverage of the proposed agreement triggered an additional notification time, requiring the issuing of a NERR to any employees falling within the expanded scope of coverage.⁴

[13] It is clear from the materials filed that the employees received the NERR, albeit prior to the relevant notification time, and that they actively participated in bargaining or were represented by their bargaining representative.

[14] I am satisfied having regard to the Applicant's submissions, the materials filed, and the decision of the Full Bench in *Huntsman* that this constitutes a minor technical or procedural error for the purposes of s.188(2)(a) of the Act, and that the two employees were not likely to have been disadvantaged by the error.

[15] As a result, I am satisfied that the Agreement has been genuinely agreed within the meaning of s.188(2) of the Act.

[16] For completeness, I note the third person falling within the scope of the expanded coverage was employed on 29 September 2021. However, as that person was not an employee at the notification time of 16 September 2021, there was no requirement to issue the NERR to that employee.⁵

Section 190 Undertakings

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

Section 186, 187, 188 and 190

[18] 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.

Section 183 Bargaining Representatives

[19] The 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.

[20] In accordance with s.201(2), I note that the Agreement covers the ANMF.

Approval

⁴ *Appeal by Uniline Australia Limited* [2016] FWCFB 4969 at [113]; *Australian Manufacturing Workers' Union v Broadspectrum (Australia) Pty Ltd* [2018] FWCFB 6556 at [23]-[26].

⁵ s.173(1)(b) of the Act; *Re Walter Wright Cranes* [2013] FWC 4168 at [17].

[21] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 23 June 2022. The nominal expiry date of the Agreement is 16 June 2025.



COMMISSIONER

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IVF AUSTRALIA PTY LTD
(which includes City West Specialist Day Hospital, Alexandria
Specialist Day Hospital and North Shore Specialist Day Hospital)

NURSING ENTERPRISE AGREEMENT

2021

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 this agreement.

ENTERPRISE AGREEMENT

1. ARRANGEMENT

The Agreement is arranged as follows:

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2. NAME OF THE AGREEMENT

This Agreement will be called *IVF Australia Pty Ltd Nursing Enterprise Agreement 2021* (**'this Agreement'**).

3. COVERAGE AND SCOPE

This Agreement will cover:

- (i) IVF Australia Pty Ltd as per Schedule 3 (**'the Employer'**); and
- (ii) Nursing Employees of the Employer as classified in Schedule 1 of this Agreement (**'the Employees'**).

Application for Coverage:

- (iii) This Agreement is made under section 172 of the Act (**'Act'**). The Employer will take the necessary steps to seek approval of this Agreement under section 186 of the Act.
- (iv) The Employer will formally advise the Australian Nursing and Midwifery Federation New South Wales Branch (ANMF NSW) when the Agreement is made in order for the ANMF to apply under section 183 of the Act to be covered by the Agreement.
- (v) It is the intention of this Agreement that the ANMF NSW will be covered by this Agreement.

4. DATE AND PERIOD OF OPERATION

This Agreement will commence operation from the 7th day after the agreement is approved by the Fair Work Commission (FWC) and will remain in force until 3 years after the approval of this Agreement by the Fair Work Commission and thereafter in accordance with the Act.

The parties to this Agreement agree that discussions will commence for a new agreement no later than six months prior to the expiry date of the Agreement.

5. POSTING OF THE AGREEMENT

A copy of this Agreement will be displayed in a conspicuous and convenient place at the workplace so as to be easily read by all Employees.

6. RELATIONSHIP TO THE NATIONAL EMPLOYMENT STANDARDS

Entitlements in accordance with the National Employment Standards (**'NES'**) are provided for under the Act. Where this Agreement also has provisions regarding matters dealt with under the NES and the provisions in the NES set out in the Act are more favourable to an Employee in a particular respect than those provisions, then the NES will prevail in that respect and the provisions dealing with that matter in this Agreement will have no effect in respect of that Employee. The provisions in this Agreement otherwise apply.

7. TRANSFER OF BUSINESS

Transfer of business will be in accordance with the provisions of the Act, as amended from time to time.

A qualifying or probationary period, however titled, will not apply to a transferring Employee.

8. DEFINITIONS

Unless the context otherwise indicates or requires the several expressions hereunder defined will have the respective meanings assigned to them:

- (i) **'The Act'** means *Fair Work Act 2009* (Cth), as amended;
- (ii) **'Board'** means the Nursing and Midwifery Board of Australia and will also be taken to mean a reference to the Australian Health Practitioner Regulation Authority as appropriate/applicable.
- (iii) **'Employee'** means a nurse employed by the Employer as classified in Schedule 1 of this Agreement.
- (iv) **'Employer'** means the entities set out at Schedule 3 of this Agreement;
- (v) **'FWC'** means the Fair Work Commission or its successor.
- (vi) **'immediate family'** of an Employee means:
 - (a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Employee; or
 - (b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Employee.
 - (c) **'spouse'** includes a former spouse.
 - (d) **'de facto partner'** of an Employee:
 - (1) means a person who, although not legally married to the Employee, lives with the Employee in a relationship as a couple on a genuine domestic basis (whether the Employee and the person are of the same sex or different sexes); and
 - (2) includes a former de facto partner of the Employee.
- (vii) **'NES'** means the National Employment Standards, as contained in the Act.
- (viii) **'Ordinary rate of pay'** means the rate of pay set out in Appendix 1 as applicable to an Employee, as adjusted in accordance with clause 11 but does not include overtime, penalty rates, allowances, loadings, shift penalties, incentives, bonuses and other ancillary payments of a like nature.

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- (ix) **'Registered Nurse'** for the purposes of this Agreement includes registered nurses and registered midwives.
 - (x) **'Service'**, for the purpose of Appendix 1, means service before or after the commencement of this Agreement in New South Wales or elsewhere as a Registered Nurse, Enrolled Nurse or Assistant in Nursing, as the case may be.

9. CONSULTATION REGARDING CHANGE

- (i) This term applies if the Employer:
 - (a) has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and the change is likely to have a significant effect on Employees of the Employer; or
 - (b) proposes to introduce a change to the regular roster or ordinary hours of work of Employees.
- (ii) The Employer must consult the Employees to whom the agreement applies about:
 - (a) a major workplace change that is likely to have a significant effect on the Employees; or
 - (b) a change to their regular roster or ordinary hours of work.
- (iii) The relevant Employees may appoint a representative, which may be a union representative, for the purposes of the procedures in this term.
- (iv) If:
 - (a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - (b) the Employee or Employees advise the Employer of the identity of the representative,the Employer must recognise the representative.
- (v) As soon as practicable after making its decision, the Employer must:
 - (a) discuss with the relevant Employees:
 - (1) the introduction of the change; and
 - (2) the effect the change is likely to have on the Employees; and
 - (3) measures the Employer is taking to avert or mitigate the adverse effect of the change on the Employees; and

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- (b) for the purposes of the discussion — provide, in writing, to the relevant Employees:
 - (1) all relevant information about the change including the nature of the change proposed; and
 - (2) information about the expected effects of the change on the Employees; and
 - (3) any other matters likely to affect the Employees.
 - (c) Subject to (v)(a) and (b), for a change to the Employees’ regular roster or ordinary hours of work, the Employer is required to:
 - (1) to provide information to the Employees about the change; and
 - (2) to invite the Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities); and
 - (3) to consider any views given by the Employees about the impact of the change.
 - (d) However the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
 - (vi) The Employer must give prompt and genuine consideration to matters raised about the major change and changes to an employee’s regular roster or ordinary hours of work, by the relevant Employees.
 - (vii) If a term in the enterprise agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in subclauses (ii),(iii) and (v) are taken not to apply.
 - (viii) In this term, a major change is ‘**likely to have a significant effect on Employees**’ if it results in the termination of the employment of Employees; or major change to the composition, operation or size of the Employer’s workforce or to the skills required of Employees; or the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or the alteration of hours of work; or the need to retrain Employees; or the need to relocate Employees to another workplace; or the restructuring of jobs.
 - (ix) In this term, ‘**relevant Employees**’ means the Employees who may be affected by the major change.

10. DISPUTE RESOLUTION PROCEDURE

- (i) In the event of a dispute in relation to a matter arising under this agreement or the NES, in the first instance the parties will attempt to resolve the matter at the workplace by discussions between the Employee or Employees concerned and the relevant supervisor

and, if such discussions do not resolve the dispute, by discussions between the Employee or Employees concerned and more senior levels of management as appropriate.

- (ii) A party to the dispute may appoint another person, organisation or association to accompany or represent them in relation to the dispute.
- (iii) If a dispute in relation to a matter arising under the agreement or the NES is unable to be resolved at the workplace, and all agreed steps for resolving it have been taken, the dispute may be referred to the FWC for resolution by conciliation and, where the matter in dispute remains unresolved, arbitration.
- (iv) It is a term of this agreement that while the dispute resolution procedure is being conducted work will continue normally unless an Employee has a reasonable concern about an imminent risk to their health or safety.

11. WAGES

- (i) The minimum hourly rates of pay will be as set out in Table 1 – Monetary Rates, of Appendix 1. The parties have agreed that the following wage increases will apply:
 - (a) 1.3% from the beginning of the first full pay period to commence on or after 1 July 2021;
 - (b) 2.3% from the beginning of the first full pay period on or after the approval of the Agreement by the Fair Work Commission;
 - (c) 2.2% from the beginning of the first full pay period on or after the 1st anniversary of the approval of the Agreement by the Fair Work Commission; and
 - (d) 2.2% from the beginning of the first full pay period on or after the 2nd anniversary of the approval of the Agreement by the Fair Work Commission.
- (ii)
 - (a) An Enrolled Nurse who is endorsed to administer medication will be classified and paid as an Enrolled Nurse – Medication Endorsement from the commencement of the first full pay period following the issuing by the Board of their Letter of Endorsement to Administer Medication or Authority to Practice Certificate, Enrolled Nurse including Endorsement to Administer Medication, whichever is issued earlier.

Provided that an Enrolled Nurse – Medication Endorsement 1st year will not progress to Enrolled Nurse – Medication Endorsement 2nd year until completion of twelve months' service at the 1st year rate (or for part time Employees the full time equivalent of 1,982 hours), and to the 3rd year rate until completion of twelve months' service at the 2nd year rate (or for part time Employees the full time equivalent of 1,982 hours), and so on throughout the scale.

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- (b) An Enrolled Nurse graduating as a Registered Nurse will commence on the 2nd Year pay point of the Registered Nurse pay scale.
 - (c) An Enrolled Nurse with a Diploma level qualification will commence on the 2nd Year pay point of the Enrolled Nurse - Medication endorsed pay scale.
 - (d) An Enrolled Nurse who upgrades their enrolment qualifications to Diploma level will automatically advance one increment within their relevant classification.
 - (e) An Endorsed Enrolled Nurse graduating as a Registered Nurse will commence on the 3rd Year pay point of the Registered Nurse pay scale.
- (iii) Any further wage increase will be at the discretion of the Employer, unless the rate of pay falls below the Modern Award rate, in such circumstances the rate of pay will default to the minimum rate prescribed in accordance with the relevant Modern Award rate.

Recognition of service

- (iv) For the purposes of identifying an employee's service for the purposes of the definition in clause 8(x) (which deals with service for the purposes of appendix A) the following provisions will apply:
- (a) An employee has three months after the commencement of their employment to provide evidence of service, as defined in Clause 8 (x) Definitions, to the Employer.
 - (b) Until the employee furnishes the evidence contemplated in (a) above, the employee will be paid at the level for which evidence has been provided.
 - (c) If within three months of commencing employment an employee provides evidence of previous service, the Employer will pay the employee at the rate supported by the additional evidence with effect from the commencement of the employment.
 - (d) If an Employee provides evidence of other previous service after the three months period, the nurse will be paid the rate supported by the additional evidence but only from the date the evidence was provided to the employer.
 - (e) An Employee who is working as a nurse for more than one organisation will notify the Employer within one month of the end of each quarter of their hours of service worked with the other employer/s in the last quarter.
 - (f) An Employee who is entitled to progress to the next year of service (by reason of hours worked with another employer/s) at a particular date must provide evidence of that entitlement within three months of the entitlement arising.
 - (g) If that proof is provided, the nurse will be paid at the higher rate as and from the particular date. If the evidence is provided outside that three-months, the

Employee will be paid at the higher rate only from the date the proof is provided to the Employer.

- (h) For the purposes of this clause, where other documentary evidence is not available, evidence may take the form of a statutory declaration.

12. SUPERANNUATION

- (i) 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.
- (ii) **'The Fund'** for the purpose of this Agreement will mean:
- (a) Health Employees' Superannuation Trust of Australia (**'HESTA'**) established and governed by a trust deed 23 July 1987, as may be amended from time to time, and includes any superannuation scheme which may be made in succession thereto;
- (b) an existing fund of the employee; or
- (c) any other complying superannuation fund which is nominated by the Employee.
- (iii) In addition to the Employer's statutory contributions to the Fund an Employee may make additional contribution from their salary, and on receiving written authorisation from the Employee the Employer must commence making contributions to the Fund in accordance with the *Superannuation Guarantee Charge Act 1992*.
- (iv) Upon commencement of employment, the organisation will provide each worker with a membership form for their preferred fund and will forward the completed membership form for the worker's choice of fund within 28 days. In the event that the Employee had not completed an application form within 28 days, the Employer will forward contributions to any existing fund of the employee. If the Employee does not have a fund the Employer will forward contributions to HESTA (**'Default fund'**). The Default fund offers a MySuper product.
- (v) Superannuation fund payments will be made in accordance with trust fund deeds and applicable legislation.
- (vi) Where an Employee salary packages their wages in accordance with this Agreement, superannuation will be paid on the pre-packaged wages.

13. HOURS OF WORK

- (i) Ordinary hours of work (for those employees performing day work):

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- (a) will not exceed an average of 38 per week;
 - (b) will be between 6:00am and 6:00pm Monday to Friday;
 - (c) will be on a continuous basis except for meal breaks; and
 - (d) will not involve more than one shift per day without the payment of overtime as prescribed in the overtime clause of this Agreement.
- (ii) The arrangement of the 38 hour week may be any one of the following:
- (a) by Employees working less than 8 ordinary hours each day; or
 - (b) by Employees working less than 8 ordinary hours on one or more days each week; or
 - (c) by Employees working less than a 10 hour day, four (4) days per week; or
 - (d) by Employees working a combination of hours, up to a maximum of 10 hours in a day, working 38 hours per week; or
 - (e) circumstances may arise where different method of implementation of a 38 hour week apply to various groups or sections of Employees.
 - (f) For registered nurses or enrolled nurses who participate in a 12 hour shift roster Schedule 2 applies.
- (iii) The arrangement of the 38 hour week may be varied by agreement between the Employer and the Employee(s) concerned.
- (iv) Where agreement cannot be reached, the Disputes procedure as provided for under this Agreement will apply.
- (v) Shift Workers – Where an employee is undertaking shift work the employee's ordinary hours will not exceed:
- (a) 38 hours per week; or
 - (b) 76 hours per fortnight; or
 - (c) 114 hours in 21 consecutive days; or
 - (d) 152 hours in 28 consecutive days;
 - (e) Except at regular changeover of shifts an Employee will not be required to work more than one shift in each twenty-four hours without payment of overtime as prescribed in clause - Overtime, of this Agreement.
 - (f) The ordinary hours of shift workers will be worked continuously except for meal breaks.
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(vi) Shift Penalties

- (a) Employees working afternoon or night shift will be paid the following percentages in addition to the ordinary rate of pay for such shift provided that those who work less than 38 hours per week will only be entitled to the additional rates where their shifts commence prior to 6.00 am or finish subsequent to 6.00 pm.

Afternoon shift commencing at 10.00 am and before 1.00 pm - 10%

Afternoon shift commencing at 1.00 pm and before 6.00 pm - 12.5%

Night shift commencing at 6.00 pm and before 4.00 am – 20%

Night shift commencing at 4.00 am and before 6.00 am - 10%

- (b) For the purposes of this clause day, afternoon and night shifts will be defined as follows:

'Day Shift' means a shift which commences at or after 6.00 am and before 10.00 am.

'Afternoon shift' means a shift which commences at or after 10.00 am and before 6.00 pm

'Night Shift' means a shift which commences at or after 6.00 pm and before 6.00 am on the day following.

(vii) Breaks between shifts (except as outlined in schedule 2 for 12 hour shifts)

- (a) An Employee will be allowed a rest break of 10 hours between the completion of one ordinary work period or shift and the commencement of another work period or shift. By mutual agreement between the Employer and employee the 10 hour rest break may be reduced to 8 hours.
- (b) If, on the instruction of the Employer, an employee resumes or continues to work without having had 10 consecutive hours off duty (or 8 as agreed) they will be paid 200% of their Ordinary Rate of Pay until released from duty for such period.

14. MEAL HOURS AND MEAL ALLOWANCES

- (i) Each Employee will be allowed a unpaid break of not less than thirty minutes and not more than sixty minutes for each meal occurring on duty. Schedule 2 provides for specific arrangements in regard to 12 hour shifts.
- (ii) Where practicable, Employees will not be required to work more than 5 hours without a meal break. Provided that where practicable an Employee engaged to work for 5 hours or less in any one shift may elect not to take a meal break as otherwise provided for by

this subclause without penalty to the Employer. The term 'where practicable' encompasses regard being paid to the service requirements of the Employer.

- (iii) Two separate paid ten-minute rest intervals (in addition to meal breaks) will be allowed each Employee on duty during each ordinary shift of 8 or 10 hours as the case may be. Subject to agreement between the Employer and the Employee, such paid rest intervals may alternatively be taken as one twenty-minute paid rest interval, or by one 10-minute paid rest interval with the Employee allowed to proceed off duty 10 minutes before the completion of the normal shift finishing time without deduction in pay. Such interval(s) will count as paid working time.
- (iv) An Employee required to work approved overtime for more than one and a half hours after their usual ceasing time of duty will be supplied with a meal, free of cost, or if this is not possible the Employee will be paid an allowance in accordance with Appendix 1.

15. PART TIME EMPLOYMENT

- (i) A permanent part-time Employee is one who is permanently appointed by the Employer to work a specific number of ordinary hours which are less than those prescribed for a full-time Employee. Before commencing part-time employment, the Employer and the Employee will agree the guaranteed number of hours to be worked and the rostering arrangements which will apply to those hours and with the agreement to be recorded in writing which may be via electronic means. The hours of work can be changed by agreement with the employee in writing which may be via electronic means.
- (ii) Employees engaged under this clause will be paid the appropriate ordinary rate of pay prescribed in Appendix 1, with a minimum payment of two hours for each start and will not be entitled to an additional day off or part thereof as prescribed by subclause (ii)(e) of Clause 13 - Hours of Work.
- (iii) The provisions of clause - Annual Leave, and clause - Annual Leave Loading, of this Agreement will apply to Employees engaged under this clause upon the same ratio as the number of hours worked in each week bears to 38.
- (iv) Ordinary pay, for the purposes of personal/carer's leave and annual leave, will be based on their hours rostered or the average hours worked over the prior 12 months whichever is greater.
- (v) Employees engaged in accordance with this clause will be entitled to all other benefits of this Agreement not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.
- (vi) A part time Employee will be engaged and entitled to a minimum payment of three hours.

16. CASUAL EMPLOYMENT

- (i) A casual Employee means an Employee who is engaged and paid by the hour.

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- (ii) A casual Employee working ordinary hours will be paid by the appropriate ordinary rate of pay plus 25%. A casual Employee will be paid shift penalties calculated on the ordinary rate of pay excluding the casual loading with the casual loading component then added to the penalty rate of pay.
 - (iii) A casual Employee will be entitled to Saturday, Sunday and Public Holiday penalties in accordance with Clause 20(i)(a) and Overtime in accordance with Clause 18(vi).
 - (iv) A casual Employee will be entitled to a minimum payment of three hours.
 - (v) Casual Conversion - Background
 - (a) A casual may become a permanent employee (either part-time or full time) in accordance with the NES. The following provisions summarise the main aspects of the NES as at the date this agreement is approved by the Fair Work Commission. The full detail can be found in the Act in sections 66A-66).
 - (vi) Employer offer
 - (a) The Employer must make an offer to a casual Employee for the Employee to convert to permanent employment (either part time or full time) if:
 - (1) The Employee has been employed for a period of 12 months beginning the day the employment started;
 - (2) During the last 6 months of that period, the Employee has worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the Employee could continue to work as a full-time employee or a part-time Employee; and
 - (3) There are no reasonable grounds (as defined in section 66C of the Act) to not make the offer. Reasonable grounds must be based on facts that are known or reasonably foreseeable at the time of the decision.
 - (b) The offer will be for the Employee to convert to a full time employment if they have worked the equivalent or full time hours during the 6 months (referred to in subclause a(ii)) or to part time employment if they have worked less than the equivalent of full time hours during the 6 months) referred to in subclause a(ii)).
 - (c) The Employer must give the offer to the Employee in writing within 21 days after the end of the 12-month period in subclause a(i). The offer will include an explanation that should the employee not reply within 21 days, the Employee will be taken to decline the offer.
 - (d) The Employer is also required to advise a casual Employee who has been employed for the 12 months (referred to in subclause a(i)) to whom the Employer has decided not to make an offer because there are reasonable grounds not to make the offer or the Employees does not meet the requirements in subclause a(ii).
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- (e) Within 21 days of the end of the 12 month period, the Employer will give the Employee a written notice of the Employer's decision not to offer permanent employment and giving the Employer's reasons for not making the offer.

(vii) Employee Request

- (a) An Employee may request in writing that the Employer convert their employment to full or part time permanent employment if:
 - (1) the Employee has been employed for at least 12 months; and
 - (2) for 6 months prior to request, the employee has worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to work as a full-time or a part-time Employee; and
 - (3) the request is not made within 21 days after the end of the 12-month period in subclause (i)); and
 - (4) the requirements of section 66F (c)(i)-(iii) of the Act are met.
- (b) The Employer will give the employee a written response to their request within 21 days of the request, stating whether the request is accepted or refused, and giving reason(s) if the request has been refused.
- (c) The Employer will not refuse the request unless:
 - (1) the Employer has consulted the Employee; and
 - (2) there are reasonable grounds to refuse the request; and
 - (3) the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of refusing the request.
- (d) The Employer will not reduce or vary an Employee's hours of work, or terminate an Employee's employment, in order to avoid any right or obligation under this clause.

(viii) Dispute

Any dispute over the application of the NES casual conversion provisions may be dealt with in accordance with the Dispute Resolution Procedure in this Agreement.

17. TELEPHONE ON CALL

- (i) Where an Employee is required to be on call the applicable allowance set out at Appendix 1 will be payable for such on call period. The telephone on call service is intended for patients that are experiencing an emergency in relation to their treatment outside of normal business hours.

- (ii) Where a staff member is on call the Employee may be required to undertake telephone attendances during such on call period. The applicable on call allowance compensates the Employee for undertaking telephone attendances during the on call period, up to the capped time as set out in the below table:

On call Period	Capped time for undertaking telephone attendances
Monday to Friday (5:00pm - 10:00pm)	Up to 1.5 hours
Saturday (2:00pm - 10:00pm)	Up to 2 hours
Sunday (12:00pm - 10:00pm)	Up to 2 hours
Public Holiday Week Day (5:00pm - 10:00pm)	Up to 2 hours
Public Holiday Weekend (12:00pm - 10:00pm)	Up to 2 hours
Public Holiday (Boxing Day, Christmas Day and New Years Day) (8:00am - 10:00pm)	Up to 2 hours

- (iii) Where such telephone attendances exceed the capped time set out above, the Employee will be paid at the relevant overtime penalty rate for such time in excess of the capped time.
- (iv) For clarity “telephone attendance” in the preceding sub-clause includes all time taken to deal with contact from patients while on-call. It includes the time directly communicating with patients, any preparation or follow-up required and all related record keeping (for example, logging the call, noting the medical records system and making necessary follow-up appointments etc.). Communication with patients can be through a range of electronic means – for example, phone call, text message, email and emerging technologies etc.

18. OVERTIME

- (i) Where the Employee (full time, part time and casual) is required to work in excess of the following hours:
- (a) 8 hours or 10 hours if rostered for a 10 hour shift, in a day. In the case of 12 hour shifts (Schedule 2 refers) overtime will not apply until the hours are in excess of 12 hours in a day;
 - (b) Hours worked in excess of rostered hours on a weekend;
 - (c) 76 hours in a fortnight;
 - (d) 152 hours per four week period; or
 - (e) Outside the hours of 6:00am to 6:00pm Monday to Friday (for a day worker);
- the Employee will be paid as follows:
- (f) Monday to Friday (inclusive): time and a half for the first two hours and double time thereafter;

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- (g) Saturday and Sunday: double time; and
 - (h) Public Holidays: double time and a half.
 - (ii) For the purpose of calculating overtime each day or shift will stand alone. An employee working overtime past midnight on Sunday or public holiday is not required to recommence the overtime at midnight; they will not be required to work the first two hours of overtime at time and a half.
 - (iii) An Employee is to attain approval from their relevant manager prior to overtime being worked. All overtime must be authorised by the relevant manager.
 - (iv) Subject to the following subclauses, an Employer may require an Employee to work reasonable overtime at overtime rates or as otherwise provided for under this Agreement:
 - (a) An Employee may refuse to work overtime in circumstances where working of such overtime would result in the Employee working hours which are unreasonable.
 - (b) For the purpose of this subclause, what is reasonable or otherwise will be determined having regard to:
 - (1) the risk to the Employees health and safety;
 - (2) the Employees personal circumstances including any family or carer responsibilities;
 - (3) the needs of the workplace or enterprise;
 - (4) the notice (if any) given by the Employer of the overtime and by the Employee of their intention to refuse it; and
 - (5) any other relevant matter.
 - (v) Time Off in Lieu of Payment of Overtime
 - (a) An Employee may elect, with the consent of the Employer, to take time off in lieu of payment for overtime at a time or times agreed with the Employer within 6 months of the election. Any unused time off in lieu accrued in accordance with this clause will be paid to the Employee on termination.
 - (b) Overtime taken as time off during ordinary time hours will be taken at the ordinary time rate, that is, an hour for each hour worked.
 - (c) If, having elected to take time off in lieu in accordance with paragraph (a) of this subclause, the leave is not taken for whatever reason, payment for time accrued at the applicable overtime penalty rate when worked will be made:

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- (1) at the expiry of the 6 month period;
 - (2) or on termination of employment for whatever reason; or
 - (3) at the request of the Employee at any time including within the 6 months period (with payment to be made in the next pay period following the request).
- (d) Where no election is made in accordance with paragraph (a), the Employee will be paid overtime rates in accordance with this Agreement.
- (vi) All overtime worked by a casual Employee will be paid as prescribed in subclause (i) in lieu of payment of the casual loading.

Rest period after overtime

- (vii) 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.
- (viii) 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.
- (ix) 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.

19. CONTINUING EDUCATION ALLOWANCE

- (i) An Employee employed in the classification of Registered Nurse (years 1 to 8), Clinical Nurse Specialist, Unit Nurse Manager and above (who satisfies the Employer that she/he is engaged in clinical work for more than 50% of her/his time) who holds a continuing education qualification in a clinical field, in addition to the qualification leading to registration, will be paid a continuing education allowance, subject to the following conditions set out below:
 - (a) the allowance is only payable where the qualification is accepted by the Employer to be directly relevant to the competency and skills used by the nurse in the duties of the position;
 - (b) an Employee holding more than one relevant qualification is only entitled to one allowance, being the allowance of the highest monetary value;

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- (c) the Employee claiming entitlement to a qualification allowance must provide evidence to the Employer that they hold that qualification.
 - (ii) Subject to the provisions in subclause (i) of this clause, an Employee who holds a post-registration hospital certificate as recognised by the Employer and relevant to the Employee's current role will be paid an allowance as set out in Appendix 1 per week.
 - (iii) Subject to the provisions in subclause (i) of this clause, an Employee who holds a post-graduate certificate will be paid an allowance as set out in Appendix 1 per week.
 - (iv) Subject to the provisions in subclause (i) of this clause, an Employee who holds a post-graduate diploma or degree (other than an undergraduate nursing degree) will be paid an allowance as set out in Appendix 1 per week.
 - (v) Subject to the provisions in subclause (i) of this clause, an Employee who holds a masters degree or doctorate will be paid an allowance as set out in Appendix 1 per week.
 - (vi) An enrolled nurse, who holds a relevant Certificate IV or equivalent continuing education qualification in a clinical field, or Advanced Diploma of Nursing (Enrolled/Division 2 Nursing) in addition to the qualification leading to enrolment, will be paid a continuing education allowance, subject to the following conditions set out below:
 - (a) the allowance is only payable where the qualification is accepted by the Employer to be directly relevant to the competency and skills used by the enrolled nurse in the duties of the position;
 - (b) an Employee holding more than one relevant qualification is only entitled to one allowance, being the allowance of the highest monetary value;
 - (c) the Employee claiming entitlement to a qualification allowance must provide evidence to the Employer that they hold that qualification.
 - (vii) Subject to the provisions in subclause (vi) of this clause, an enrolled nurse who holds a Certificate IV qualification will be paid an allowance as set out in Appendix 1 per week.
 - (viii) Subject to the provisions in subclause (vi) of this clause, an enrolled nurse who holds an Advanced Diploma of Nursing (Enrolled/Division 2 Nursing) qualification will be paid an allowance as set out in Appendix 1 per week.
 - (ix) A Clinical Nurse Educator who holds a post graduate diploma, degree, Masters or Doctorate in education or a clinical field in addition to the qualification leading to registration will be paid a continuing education allowance, subject to the following conditions set out below:
 - (a) the allowance is only payable where the qualification is accepted by the Employer to be directly relevant to the competency and skills used by the registered nurse in the duties of the position;
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- (b) an Employee holding more than one relevant qualification is only entitled to one allowance, being the allowance of the highest monetary value;
 - (c) the Employee claiming entitlement to a qualification allowance must provide evidence to the Employer that they hold that qualification.
 - (x) Subject to the provisions in subclause (ix) of this clause, a Clinical Nurse Educator who holds a post graduate diploma, degree, Masters or Doctorate in education or a clinical field, or a who holds a post graduate diploma, degree, Masters or Doctorate in a clinical field, will be paid the relevant allowance as set out in Appendix 1 Post Graduate Diploma or Degree) or the allowance set out in Appendix 1 (Masters Degree or Doctorate) per week.
 - (xi) The above allowances are not to be included in the Employee's ordinary rate of pay. The allowances are payable during periods of paid leave taken by an Employee.
 - (xii) Where a dispute arises concerning the eligibility for payment of a Continuing Education Allowance, this matter should be dealt with under the dispute resolution procedure of Clause 10 of this Agreement.
 - (xiii) The rates prescribed in this clause will be increased in accordance with the percentage increases prescribed at Clause 11 of this Agreement.
 - (xiv) Subject to the terms of this clause, payment of a continuing education allowance will be on the first full pay period on or after the date evidence of such qualification is provided by the Employee to the Employer.

Example: Examples of types of qualifications which may trigger this allowance include but are not limited to Master of Nursing and Certified Midwife (Certificate, Diploma and Masters) and Masters /Certificates in Fertility or Reproductive Medicine.

20. SATURDAY, SUNDAY AND HOLIDAY RATES OF PAY

- (i) Shift Work
 - (a) Employees who are required to work ordinary hours on a Saturday, Sunday or public holiday will be paid for such time worked on Saturdays at the rate of time and a half (150%), and on Sundays at the rate of time and three quarters (175%) and on public holidays at the rate of double time and a half (250%). This payment will be in lieu of any percentage addition by reason of the fact that an Employee is a casual Employee.
 - (b) Where shifts commence between 11.00pm and midnight on a Sunday or public holiday, the time so worked before midnight will not entitle the Employee to the Sunday or public holiday rate.
- (ii) Employees required to work on Saturdays, Sundays or public holidays will be paid for a minimum of three hours' work.

21. PUBLIC HOLIDAYS

- (i) Employees, other than casual employees, will be entitled to be absent on the following public holidays without loss of pay: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, or such other day as is generally observed in the locality as a substitute for any of the said days, respectively, together with all proclaimed public holidays throughout the State.
- (ii) In addition to the holidays specified in this clause there will be added one other day be observed as a public holiday which will be observed annually during the period between Christmas and New Year. The Employer will notify Employees of the relevant day to be observed as the public holiday prior to 1 July of each year.
- (iii) For the purposes of Clause 21(ii)(a), the one day holiday observed between Christmas and New Year will be recognised on the next weekday after Boxing Day except where "additional day(s)" are gazetted in which case the one day public holiday will be recognised on the next weekday after the additional public holidays.
- (iv) Every Employee, other than a casual employee, entitled to be absent on a day that is a public holiday specified herein will be deemed to have worked in the week in which the public holiday falls the number of ordinary hours that the Employee would have worked had the day not been a holiday.
- (v) In determining whether a part-time Employee who works a rotating roster (i.e. a roster whereby the days on which the employee's ordinary hours of work are worked, vary between rosters) is entitled to receive payment for a particular public holiday not worked, the Employer will determine this by reviewing the roster pattern of the individual over the preceding twelve months. If the rosters show that the Employee has worked 50% or more on the days on which a particular public holiday falls, the Employee will be entitled to receive payment for that public holiday at the ordinary rate of pay based on the average hours worked on that particular day over the preceding 12 months. This clause will not apply to Employees that have less than 6 months service. This clause will not apply where an Employee has had a variation to their contract of employment which excludes that Employee from working on the day on which a public holiday falls.

Provided that any Employee whose roster is changed with the intent of avoiding or reducing payment due or the benefit applicable under this clause and who would, but for the change of roster, have been entitled otherwise to a payment or benefit for a public holiday or holidays will be paid for such holiday or holidays as if the Employee's roster had not been changed.

22. ANNUAL LEAVE

- (i) Permanent employees will be entitled to annual Leave in accordance with the NES and will be paid for annual leave based on the ordinary rate of pay. The entitlement to annual leave is as follows:

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- (a) 4 weeks for all full time and part time Employees.
 - (b) Additional leave for shift workers in accordance with sub-clauses 22(vii) and (viii);
 - (c) Such annual leave accrues progressively during a year of service according to the Employee's ordinary hours of work and accumulates from year to year.
- (ii) Paid annual leave must be taken for a period agreed between the Employer and an Employee. The Employer must not unreasonably refuse to agree to a request by an Employee to take paid annual leave. Notwithstanding the provisions of this subclause, an Employer may direct an Employee to take a period of annual leave in accordance with subclauses (ix) and (x).
 - (iii) The Managing Director and Employee may agree in writing to an Employee taking a period of paid annual leave before the Employee has accrued an entitlement to the leave. The agreement must be in writing and specify the amount of leave to be taken in advance and the date on which the leave is to commence. If on termination of the Employee's employment, the Employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with this subclause, the Employer may deduct from any money due to the Employee on termination an amount equal to the amount that was paid to the Employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued subject to an employee's written agreement.
 - (iv) An Employee going on leave, will be paid for the period of leave at the ordinary rate of salary to which he/she is entitled under this Agreement on a fortnightly basis.
 - (v) Except as provided for in subclause (vi) and (viii) of this clause, payment will not be made nor accepted in lieu of annual leave.
 - (vi) On the termination of their employment, an Employee will be paid their untaken annual leave and pro rata leave.
 - (vii) In addition to the annual leave prescribed at 22(i), consistent with the NES, a shiftworker (as defined herein) is entitled to an additional week of annual leave on the same terms and conditions. For this, and only this purpose a shiftworker is defined as an Employee who:
 - (a) is regularly rostered over seven days of the week; and
 - (b) regularly works on weekends.

For the purposes of this clause an Employee is entitled to the additional week of leave if they work 10 or more weekends in the 12-month accrual period (being the 12 months from September to September). An Employee will have worked a weekend for the purpose of the 10 weekend calculation when they work one day on a weekend and/or a public holiday immediately adjacent to a Saturday or Sunday. For avoidance of doubt, where an employee works a Saturday and a Sunday on one weekend this will count as 2 weekends for the purposes of the calculation. Where an Employee works on a public

holiday adjacent to this or another weekend it will count as an additional weekend. For the further avoidance of doubt, where an employee works on Saturday, Sunday and a public holiday Monday this will count as 3 weekends for the purposes of the calculation.

- (viii) If an Employee becomes entitled to the additional leave in clause (vii), above, the employee will also be entitled to the below additional annual leave if they work the number of specified weekends during the year in which their annual leave accrues, as follows:

Additional annual leave to be added to an employee's accrued entitlement	
Employee who works 15 or more but less than 20 weekends	15.2 hours
Employee who works 20 or more weekends	7.6 hours

An Employee will have worked a weekend for the purpose of the calculation of this additional leave when they work one day on a weekend and/or a public holiday immediately adjacent to a Saturday or Sunday. For avoidance of doubt, where an employee works a Saturday and a Sunday on one weekend this will count as 2 weekends for the purposes of the calculation. Where an employee works on a public holiday adjacent to this or another weekend it will count as an additional weekend. For the further avoidance of doubt, where an employee works on Saturday, Sunday and a public holiday Monday this will count as 3 weekends for the purposes of the calculation.

- (ix) Cashing out an amount of annual leave
- (a) Upon receipt of a written request by an Employee, the Employer may, in a separate written agreement, authorise the Employee to cash out an amount of annual leave.

- (1) Paid annual leave must not be cashed out if the cashing out would result in the Employee's remaining accrued entitlement to paid annual leave being less than 4 weeks; and
- (2) Where an Employee forgoes an entitlement to take an amount of annual leave, the Employee must be paid at least the full amount that would have been payable to the Employee had the Employee taken the leave that the Employee has forgone.

- (x) Taking of leave

- (a) Where an Employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for shiftworkers) (as defined at clause 22(vii)) such Employee has an excessive leave accrual (**'Excess Leave'**) and the Employer may direct an Employee to take a period of annual leave in accordance with this subclause.

- (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 cannot result in the Employee being directed to reduce the accrued leave to less than six weeks and the Employee cannot be directed to take any period of annual leave of less than one week.

(xi) Annual Shut Down

- (a) It is the Employer's normal practice to shut down part or all of its operations for the period between Christmas and New Year or a period nominated by the Employer over this period.
- (b) This period will not normally exceed 12 business days (excluding public holidays). However, in the case of Wollongong TFC, the period will not normally exceed 15 business days (excluding public holidays).
- (c) The Employer will provide a minimum of two months' notice in writing of the temporary Annual closure to Employees. Options for the shutdown period will be discussed with the relevant Employees.
- (d) Full time and part time Employees are required to take accrued annual leave or accrued time off in lieu during this period. Alternatively, the Employee may elect at their option to take leave without pay during this period.
- (e) Notwithstanding the provisions at Clause 22(ii), the provisions set out for the Annual Close Down Provision will apply.

23. ANNUAL LEAVE LOADING

- (i) Annual leave loading is to be calculated at the rate of 17.5% of the appropriate ordinary rate of pay prescribed by this Agreement for the classification in which the Employee was employed immediately before commencing his/her annual leave.
- (ii) No loading is payable to an Employee who takes an annual leave wholly or partly in advance in accordance with subclause (iii) of the Annual Leave clause of this Agreement, provided that, if the employment of such an Employee continues until the day when they would have become entitled to the annual leave, the loading then becomes

payable in respect of the period of such leave and is calculated in accordance with subclause (i) of this clause applying to the Agreement rates payable on that day.

24. LONG SERVICE LEAVE

An Employee's entitlement to long service leave will be in accordance with the *Long Service Leave Act 1955* as amended.

25. PERSONAL LEAVE

(i) Amount of paid personal leave

An Employee, other than a casual Employee, is entitled to accrue 10 days of paid personal/carer's leave per annum in accordance with the NES. Under the NES, an Employee's entitlement to paid personal leave accrues progressively during a year of service according to the Employee's ordinary hours of work and accumulates from year to year. Payment for personal leave will be in accordance with the employee's rostered ordinary hours for the day.

(ii) Immediate family or household

(a) The entitlement to use personal leave to provide care or support for immediate family or household members is subject to the person being either a member of the Employee's immediate family or a member of the Employee's household.

(b) The term immediate family is as defined in Clause 8 of this Agreement.

(iii) Personal leave for personal injury or sickness

(a) An Employee is entitled to use the full amount of their personal leave entitlement including accrued leave for the purposes of personal illness or injury. Provided that such illness/ injury of two or more consecutive days is certified by a qualified registered health practitioner or where this is not reasonably practicable is evidenced by the production of a statutory declaration within 24 hours of the commencement of such absence.

(b) Notwithstanding (a), a medical certificate or other evidence satisfactory to the Employer will be required for the following absences:

- (1) All sick leave taken on the day(s) immediately before the commencement of a period of annual leave or any day(s) immediately following the conclusion of a period of annual leave;
- (2) For sick leave taken the day prior to and/ or after public holidays/ weekends;
- (3) The Employer may dispense with the requirements to provide evidence as set out at (1) and (2) above where such absence is the first

instance by the Employee in a twelve month period.

- (c) Leave taken by an Employee under (iii)(a) is deducted from the amount of personal leave under (i).
- (iv) Personal leave to care for immediate family or household members
 - (a) An Employee is entitled to use up their personal leave, including accrued leave, to provide care or support for members of their immediate family or household who are ill/ injured and require care or support or who require care or support due to an unexpected emergency. Leave may be taken for part of a single day.
 - (b) Evidence supporting claim
 - (1) When taking leave to provide care or support for members of their immediate family or household who are ill/ injured and require care or support, the Employee must, if required by the Employer, establish by production of a medical certificate, the illness/injury of the person concerned, the relationship of the person to the Employee and that the illness/ injury is such as to require care or support by another.
 - (2) When taking leave to care for members of their immediate family or household who require care or support due to an unexpected emergency, the Employee must, if required by the Employer, establish by production of documentation acceptable to the Employer or statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care or support by another.
 - (3) The Employee must, where 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 their 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 must notify the Employer by telephone of such absence at the first opportunity on the day of absence or as soon as reasonably practicable.
 - (4) Each day or part of a day personal leave taken in accordance with (v)(a) is to be deducted from the amount of personal leave provided in (i).
- (v) Unpaid carer's leave

Where an Employee has exhausted all paid personal leave entitlements, they is entitled to take unpaid personal leave for members of their immediate family or household who are ill or injured and require care or support or who require care or support due to an unexpected emergency. The Employer and the Employee will agree on the period. In the

absence of agreement, the Employee (including a casual Employee) is entitled to take up to two days of unpaid leave per occasion, provided the requirements of (v)(b) are met.

26. PAYMENT OF SALARY

- (i) All salaries and other payments due to the Employee will be paid weekly or fortnightly, provided that the payment for any overtime worked may be deferred to the pay day next following the completion of the working cycle within which such overtime is worked, but for no longer; provided further that upon the termination of the employment of an Employee by the Employer, or by the Employee upon notice in accordance with clause - Termination of Employment, of this Agreement, all salaries and other payments due to such Employee will be paid as soon as practicable after such termination. Provided further that salaries may be paid monthly by agreement between the Employer and Employee.

27. UNIFORM ALLOWANCE

- (i) Where the Employee is required to wear a uniform the Employer will provide an annual allowance for the purposes of purchasing uniforms. The allowance will be as follows:
 - (a) \$600.00 in the first year of service and \$400.00 in the second and subsequent years of service for Employees working on average 24 or more hours per week;
 - (b) \$400.00 in the first year of service and \$250.00 in the second and subsequent years of service for Employees working, on average less than 24 hours per week.
- (ii) Personnel, who are designated to work in an area requiring specialist dress requirements e.g. Operating Suite, will be provided with a uniform in compliance with the needs of their position and the allowances stated at subclause (i) above are not payable.

28. VEHICLE ALLOWANCES

An Employee who is required by his/her Employer to provide a car for the performance of their duties will be paid a travel allowance of 80 cents per kilometre.

29. COMPASSIONATE LEAVE

- (i) 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:
 - (a) contracts or develops a personal illness that poses a serious threat to their life; or
 - (b) sustains a personal injury that poses a serious threat to their life; or
 - (c) dies.

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- (ii) An Employee may take compassionate leave for a particular permissible occasion if the leave is taken:
 - (a) to spend time with the member of the Employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in subclause (i); or
 - (b) after the death of the member of the Employee's immediate family or household referred to in subclause (i).
 - (iii) An employee may also take compassionate leave of up to 2 days on each occasion in which they suffer or their partner suffers a pregnancy loss.
 - (iv) An Employee may take compassionate leave for a particular permissible occasion as a single continuous 2 day period; or 2 separate periods of 1 day each; or any separate periods to which the Employee and the Employer agree.
 - (v) 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.
 - (vi) If, in accordance with this Clause, 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.
 - (vii) The Employee, if required by the Employer, will supply relevant evidence of the requirement for such leave. Such evidence may include a requirement to supply a medical certificate.

30. PARENTAL LEAVE

- (i) Employees are entitled to parental leave in accordance with the provisions of the *Act*, as amended from time to time.
- (ii) Permanent Employees eligible for parental leave in accordance with subclause (i) will be entitled to access one of the following forms of paid parental leave:
 - (a) 12 weeks paid primary carer's leave will be given to any permanent Employee who will be a primary carer ; and
 - (b) 2 weeks' paid secondary carer's leave will be given to any permanent Employee who will be a secondary carer
 - (c) The payment provided above in subclause (a) and (b) will not be reduced in terms of its monetary value by the Commonwealth Government's scheme of paid parental leave (as per the *Paid Parental Leave Act 2010*).
 - (d) Parental leave may be taken at half pay over twice the length.

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- (iii) In accordance with s.73 of the Act, a pregnant Employee will be entitled to work during the 6 week period before the estimated date of birth of the child, provided that if requested by the Employer, the Employee will provide a statement from her medical practitioner or midwife to the effect that continuing employment until the date of confinement is not a risk to the Employee or the unborn child.

In addition, the Employee may take all accrued annual leave prior to a return to work from maternity and adoption leave and paternity leave.

(iv) Right to request

- (a) An Employee entitled to parental leave pursuant to the provisions of clause 30 may request the Employer to allow the Employee:

- (1) to extend the 52 weeks of unpaid parental leave by a further continuous period of leave not exceeding 12 months;
- (2) to return from a period of parental leave on a part-time basis while the child is of school age or younger,

to assist the Employee in reconciling work and parental responsibilities.

- (b) The Employer will 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 of 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.

- (c) Employee's request and the Employer's decision to be in writing

The Employee's request and the Employer's decision made under (iv)(a) and (b) must be recorded in writing.

- (d) Request to return to work part-time

Where an Employee wishes to make a request under (iv)(a)(2), such a request 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.

31. TERMINATION OF EMPLOYMENT

(i) Notice of termination by the Employer

- (a) In order to terminate the employment of an Employee the Employer will give to the Employee the following notice.

Period of continuous service	Period of notice
1 year or less	1 week
Over 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years	4 weeks

- (b) In addition to the notice in (i)(a) above, Employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, will be entitled to an additional week's notice.
- (c) Payment in lieu of the notice prescribed in (i)(a) and/or (i)(b) hereof will be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice, and part payment in lieu of notice.
- (d) The required amount of payment in lieu of notice must equal or exceed the total of all amounts that, if the Employee's employment had continued until the end of the required period of notice, the Employer would have become liable to pay to the Employee because of the employment continuing during that period. That total must be calculated on the basis of:
- (1) the Employee's ordinary hours of work (even if not standard hours); and
 - (2) the amounts ordinarily payable to the Employee in respect of those hours, including (for example) allowances, loading and penalties; and
 - (3) any other amounts payable under the Employee's contract of employment
- (e) The period of notice in this clause does not apply:
- (1) in the case of dismissal for serious misconduct;
 - (2) to Employees engaged for a specific period of time or for a specific task or tasks;
 - (3) to trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other

reason, limited to the duration of the agreement; or

(4) to casual Employees.

(f) Continuity of service will be in accordance with s.22 of the Act.

(ii) Notice of termination by Employee

(a) The notice of termination required to be given by an Employee will be the same as that required of the Employer, save and except that there will be no additional notice based on the age of the Employee concerned.

(b) Subject to the requirements of s.324(1)(b) of the Act, if an Employee fails to give the notice specified in (ii)(a) the Employer may, with the written authorisation of the Employee, withhold monies due to the Employee to a maximum amount equal to the amount the Employee would have received under (ii)(a), excluding any amount for notice worked by the Employee.

(iii) Job search entitlement

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

32. REDUNDANCY

(i) Where the Employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and the change is likely to have a significant effect on Employees of the Employer, the Employer will consult with affected Employees in accordance with the consultation regarding change provision of this Agreement.

Transfer to lower paid duties

(ii) Where an Employee is transferred to lower paid duties for reasons set out in subclause (i) the Employee will be entitled to the same period of notice of transfer as she/he would be entitled to if her/his employment had been terminated, and the Employer may at the Employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rates for the number of weeks' notice still owing.

Severance pay

(iii) An Employee whose employment is terminated for reasons set out in subclause (i) will be paid the following amount of severance pay in respect of a period of continuous service.

(a) If an Employee is under 45 years of age, the Employer will pay in accordance with the following scale:

Years of Service	Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

- (b) Where an Employee is 45 years of age or over, the entitlement will be in accordance with the following scale:

Years of Service	Entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

Definitions

- (iv) **'Week's pay'** means the all-purpose rate of pay for the Employee concerned at the date of termination, and will include, in addition to the ordinary rate of pay, over-agreement payments, shift penalties and uniform and laundry allowances paid in accordance with the Agreement.

Employee Leaving During Notice Period

- (v) An Employee whose employment is terminated for reasons set out in subclause (i) may terminate her/his employment during the period of notice and, if so, will be entitled to the same benefits and payments under this clause had she/he remained with the Employer until the expiry of such notice. Provided in such circumstances the Employee will not be entitled to payment in lieu of notice.

Alternative Employment

- (vi) Where the Employer offers the Employee acceptable alternative employment no severance payment is payable, subject to an order of the FWC.

Time off Period of Notice

- (vii) During the period of notice of termination given by the Employer an Employee will be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (viii) 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 will, at the request

of the Employer, produce proof of attendance at an interview or she/he will not receive payment for the time absent.

- (ix) For this purpose a statutory declaration will be sufficient.

Employees with Less Than One Year's Continuous Service

- (x) This clause does not apply to Employees with less than one year's continuous service.

Employees Exempted

- (xi) This clause will not apply where employment has been terminated because the conduct of an Employee justifies instant dismissal or in the case of casual Employees, or Employees engaged for a specific period of time or for a specified task or tasks.

33. SALARY SACRIFICE PROCEDURE (SUPERANNUATION ONLY)

- (i) Permanent Employees may be able to make voluntary pre-tax contributions or payments through a written salary sacrifice agreement between the Employer and the Employee. The Employer will pay the salary sacrifice amount in accordance with the salary sacrifice agreement.
- (ii) An Employee may apply to have their ordinary time earnings reduced by an amount nominated by them as a salary sacrifice contribution for their benefit.
- (iii) The total value of the reduced salary and the agreed value of the benefits provided will not be less than the amount that would otherwise be paid if the salary sacrifice arrangement was not in place.
- (iv) The Employer recognises the need for Employees to consider independent financial and taxation advice and recommend that Employees consider such advice prior to entering into salary sacrifice arrangements.
- (v) In the event that the law governing superannuation and/or taxation make the objective of this clause ineffective, unattainable or illegal, the Employer will advise the Employee concerned. The salary sacrifice contribution arrangement will be terminated or amended to comply with such laws.
- (vi) Unless otherwise agreed by the Employer, an Employee may revoke or vary their salary sacrifice contribution/payment by giving not less than one month's written notice, provided the terms of any other agreement relating to the salary sacrifice benefit are met.

34. FLEXIBILITY ARRANGEMENTS

- (i) The Employer and an Employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
- (a) the agreement deals with 1 or more of the following matters:

-
- (1) arrangements about when work is performed;
 - (2) overtime rates;
 - (3) penalty rates;
 - (4) allowances;
 - (5) leave loading; and
 - (b) the arrangement meets the genuine needs of the Employer and Employee in relation to one or more of the matters mentioned in subclause (a); and
 - (c) the arrangement is genuinely agreed to by the Employer and Employee.
- (ii) The Employer must ensure that the terms of the individual flexibility arrangement:
- (a) are about permitted matters under section 172 of the *Act*; and
 - (b) are not unlawful terms under section 194 of the *Act*; and
 - (c) result in the Employee being better off overall than the Employee would be if no arrangement was made.
- (iii) The Employer must ensure that the individual flexibility arrangement:
- (a) is in writing; and
 - (b) includes the name of the Employer and Employee; and
 - (c) is signed by the Employer and Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and
 - (d) includes details of:
 - (1) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (2) how the arrangement will vary the effect of the terms; and
 - (3) how the Employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
 - (e) states the day on which the arrangement commences.
- (iv) The Employer must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

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- (v) The Employer or Employee may terminate the individual flexibility arrangement:
 - (a) by giving no more than 28 days written notice to the other party to the arrangement; or
 - (b) if the Employer and Employee agree in writing — at any time.

35. PROFESSIONAL DEVELOPMENT

- (i) Each permanent full time nurse (pro rata, for part time nurses) is able to access up to 5 days paid leave for the purposes of attendance at approved conferences/ seminars/union training or conference. Each application will be assessed on its merits in the context of the applicability of the conference/ seminar, the number of other similar applications and the resources available to the Employer.
- (ii) The time and manner of taking any entitlement under this provision is to be mutually agreed between the Employer and the Employee and the course and means of dissemination of conference/seminar information is to be approved by the Managing Director.
- (iii) Reasonable travel, accommodation and registration costs may be paid by the Employer, when the Employer selects and/or approves the Employee for the conference/seminar.
- (iv) All staff granted conference/seminar leave will be required to provide an in-service to other staff on the learning from the leave and to provide a report to the Director of Nursing (with the exception of union training or conference leave).
- (v) Where an application for professional development leave is approved by the Employer covers a period that the Employee is not rostered for duty including weekends, payment for the professional development leave will be at the ordinary hourly rate of pay, provided further that if the conference or seminar occurs on a weekend day that the Employee was rostered for duty or is normally rostered for duty payment will be at the weekend rate of pay.

36. HIGHER DUTIES ALLOWANCE

- (i) An Employee who is called upon to relieve an Employee in a higher classification or is called upon to act in a vacant position of a higher classification will be entitled to receive for the period of relief or the period during which they act the minimum payment for such higher classification.
- (ii) The provisions of subclause (i) will not apply where the Employee being relieved is absent from duty for less than 1 full working day which has been rostered in advance, except where the duties of the higher position involve being in charge of the facility during the period in question.
- (iii) For avoidance of doubt, this allowance would not be payable when an employee is receiving the in charge allowance.

37. IN CHARGE ALLOWANCE

Where authorised by the Unit Manager, a registered nurse in-charge during the day, evening or night of a day hospital or an IVF clinic, in the absence of the Unit Manager, will be paid in addition to their appropriate salary, whilst so in charge, the sum per shift as stated at Appendix 1.

38. ROSTERS

(i) Clinics

- (a) Employees will work in accordance with a weekly or fortnightly roster fixed by the Employer.
- (b) 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.
- (c) 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.
- (d) 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 facility 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.

(ii) Theatres

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. A roster indicating the day of work will be available at least seven days before the commencement of the roster period. A roster indicating the starting and finishing times will be available at least 24 hours before the commencement of the roster period. Employees will be contacted regarding potential changes to posted shifts, with any changes by mutual agreement.

39. FAMILY VIOLENCE LEAVE

The Employer recognises that Employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. The Employer seeks to develop a supportive workplace in which victims of family violence can come forward for help and support.

(i) Definition of Family Violence

The Employer accepts the definition of family violence as stipulated in the relevant state legislation. The definition of family violence includes physical, sexual, financial, verbal or emotional abuse by a family member.

(ii) General Measures

- (a) Proof of family violence may be required and can be in the form of an agreed document issued by the Police Service, a Court, a Doctor, district nurse, maternal and health care nurse or a Family Violence Support Service or Lawyer.
- (b) All personal information concerning family violence will be kept confidential in line with the Employer's standard practices and relevant legislation.
- (c) An Employee experiencing family violence may raise the issue with their immediate supervisor/manager or designated person as identified by the Employer.

(iii) Individual Support

- (a) In order to provide support to an Employee experiencing family violence and to provide a safe work environment to all Employees, the Employer will approve a request from an Employee experiencing family violence for the following, providing the request is reasonable in all the circumstances:
 - (1) changes to their span of hours or pattern or hours and/or shift patterns;
 - (2) job redesign or changes to duties within their skills and capabilities;
 - (3) relocation to suitable employment within the workplace;
 - (4) a change to their telephone number or email address to avoid harassing contact;
 - (5) any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.
- (b) An Employee experiencing family violence will be offered a referral to the relevant local resources.
- (c) The Employer will make available a pack of resource information in regard to family violence and support services available. An Employee that discloses to their supervisor that they are experiencing family violence will be given a resource pack of information regarding support services.

(iv) Leave

- (a) The Employer will provide Employees who are victims of family violence and need time off work for medical or legal assistance, court appearances, counselling, relocation, or to make other safety arrangements with flexibility to use their personal/carers leave for such purposes.
- (b) In addition, the Employer will provide up to 10 paid days exceptional circumstances leave per annum. This leave may be taken as consecutive or

single days or as a fraction of a day. This leave will not be accrued.

- (c) The Employee will apply in advance for this leave wherever possible.
- (d) An Employee who supports a person experiencing family violence may take carer's leave to accompany them to court, to hospital, or to mind children.

40. REQUESTS FOR FLEXIBLE WORK ARRANGEMENTS

- (i) The NES provides rights for an Employee to request flexible working arrangements. This clause explains some of the NES provisions - see section 65 of the Fair Work Act for full details.
- (ii) An Employee may request a change in working arrangements if they:
 - (a) are a parent, or have responsibility for the care, of a child who is of school age or younger; This includes the right of an employee returning to work after parental leave to request part time work to care for the child.
 - (b) are a carer (within the meaning of the *Carer Recognition Act 2010*);
 - (c) have a disability;
 - (d) are 55 or older;
 - (e) are experiencing violence from a member of their family;
 - (f) are providing care or support to a member of their immediate family or their household, who requires care or support because the member is experiencing violence from the member's family.
- (iii) To be eligible to make a request;
 - (a) an Employee other than a casual Employee must have completed at least 12 months of continuous service with the employer;
 - (b) a casual Employee must be a regular casual Employee who has been employed on that basis for a sequence of periods of employment during a period of at least 12 months and who has a reasonable expectation of continuing employment.
- (iv) The request must be in writing giving detail of the change sought and the reasons for it.
- (v) The Employer must respond to the request in writing within 21 days, stating whether they grant or refuse the request and if they refuse the request giving the reasons for the refusal.
- (vi) The Employer may refuse the request only on reasonable business grounds.

41. REPRESENTATIVE RECOGNITION

- (i) The Employer acknowledges that Employees have a right to be a member of the union and the role that union delegates play in the workplace. The Employer will seek to provide union delegates with reasonable time during normal working hours to perform their role as long as it is approved by the Employer, does not detriment them fulfilling their daily duties or impacts operations.
- (ii) A union delegate is able to utilise professional development leave under clause 35 to attend union training or conferences.

APPENDIX 1 – WAGE RATE AND ALLOWANCE SCHEDULE

	FFPPOA 1 July 2021	FFPPOA approval by FWC	FFPPOA 1 st anniversary of approval by FWC	FFPPOA 2 nd anniversary of approval by FWC
Assistant in Nursing				
1st year	25.67	29.60	30.25	30.92
2nd year	26.22	29.70	30.35	31.02
3rd year	27.03	29.80	30.46	31.13
4th year	27.87	29.90	30.56	31.23
Enrolled Nurse with notation				
1st year	31.17	31.89	32.59	33.31
2nd year	31.83	32.56	33.28	34.01
3rd year	32.54	33.29	34.02	34.77
4th year	33.21	33.97	34.72	35.48
Thereafter	33.92	34.70	35.46	36.24
Enrolled Nurse				
1st year	32.98	33.74	34.48	35.24
2nd year	33.73	34.51	35.27	36.04
3rd year	34.45	35.24	36.02	36.81
4th year	35.17	35.98	36.77	37.58
Thereafter	35.91	36.74	37.55	38.37
Registered Nurse/Midwife				
1st year	33.95	34.73	35.49	36.27
2nd year	35.81	36.63	37.44	38.26
3rd year	37.64	38.51	39.36	40.22
4th year	39.67	40.58	41.47	42.39
5th year	41.61	42.57	43.51	44.46
6th year	43.59	44.59	45.57	46.58
7th year	45.83	46.88	47.91	48.97
8th year	48.30	49.41	50.50	51.61
CNS	50.10	51.26	52.38	53.54
Nurse Educator				
1st year	55.59	56.87	58.12	59.40
2nd year and thereafter	57.13	58.45	59.73	61.05
Unit Nurse Manager				
Level 1	61.86	63.29	64.68	66.10
Level 2	62.91	64.35	65.77	67.22

Director of Nursing (however titled)	64.71	66.20	67.66	69.14
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Allowances

	1 FFPPOA 1 July 2021	FFPPOA approval by FWC	FFPPOA 1st anniversary of approval by FWC	FFPPOA 2nd anniversary of approval by FWC
Meal	22.60	23.12	23.63	24.15
In Charge Allowance	27.83	28.47	29.09	29.73
<i>Registered Nurses</i>				
Hosp. Cert/ Post Grad. Cert. (per week)	40.52	41.45	42.36	43.30
Post Grad Dip. or Degree (per week)	61.46	62.87	64.26	65.67
Masters/ PhD (per week)	74.54	76.25	77.93	79.64
<i>Enrolled Nurses</i>				
Cert IV (per week)	30.72	31.43	32.12	32.83
Adv. Dip. (per week)	36.61	37.45	38.28	39.12
<i>Telephone On Call (per day)</i>				
Monday to Friday (5:00pm - 10:00pm)	176.38	180.44	184.41	188.46
Saturday (2:00pm - 10:00pm)	305.08	312.10	318.96	325.98
Sunday (12:00pm - 10:00pm)	367.99	376.45	384.74	393.20
Public Holiday Week Day (5:00pm - 10:00pm)	250.27	256.03	261.66	267.42
Public Holiday Weekend (12:00pm - 10:00pm)	459.99	470.57	480.92	491.50
Public Holiday (Boxing Day, Christmas Day and New Years Day) (8:00am - 10:00pm)	643.49	658.29	672.77	687.57

SCHEDULE 1 – CLASSIFICATIONS

- (i) **‘Assistant in Nursing’** means a person, other than a registered nurse, student nurse, trainee enrolled nurse, or enrolled nurse, who is employed in nursing duties in a day surgery or IVF.
- (ii) **‘Enrolled Nurse with notation’** means a person registered with the Board with the notation “does not hold Board approved qualification in medicines administration”.
- (iii) **‘Enrolled Nurse’** means a person registered with the Board as such.
- (iv) **‘Registered Nurse’** means a person registered by the Board as a Registered Nurse.
- (v) **‘Clinical Nurse Specialist’** means a registered nurse with relevant post-basic qualifications and 12 months’ experience working in the clinical area of his/her 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.

The Clinical Nurse Specialist is identified as a core person in the specialty area of practice. The focus of the Clinical Nurse Specialist within IVF Australia is to be a clinical resource and leader in the specialty of Assisted Reproductive Technology (ART).

Whilst a Registered Nurse may also perform the same functions, the Clinical Nurse Specialist is identified as performing these duties at an advanced level competently, efficiently and consistently.

A Clinical Nurse Specialist should have been working in the field of ART for a minimum of 2 years and/ or a postgraduate qualification in Reproductive/ Infertility nursing.

The Clinical Nurse Specialist must be able to undertake the following responsibilities:

- (a) Relieves the Unit Nurse Manager when absent;
- (b) Is regarded as the 'expert core' person;
- (c) Is actively involved in the orientation of new staff members to the area;
- (d) Acts as a preceptor for new graduates and new staff members;
- (e) Conducts a minimum of 8 (eight) in-service education sessions to IVFA staff.
- (f) and external stakeholders e.g. maternity units, day stay units etc.
- (g) Accrues at least 10 CPE points per year as part of the Code of Practice.
- (h) Conducts and participates in onsite Nurses meetings.
- (i) Actively participates in the Quality Assurance program.
- (j) Works a minimum of 3 days per week.

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- (k) Assumes responsibility for the ongoing assessment of staff clinical.
 - (l) competencies and the maintenance of appropriate records.
 - (m) Is responsible to the Unit Nurse Manager of each unit.
- (vi) **'Unit Nurse Manager'** means a registered nurse in charge of a ward or unit or group of wards or **units** in a day hospital or a group of nurses involved in IVF and will include:
- (a) "Unit Nurse Manager Level 1" whose responsibilities include:
 - (1) Co-ordination of Patient Services
 - (A) Liaison with all health care disciplines for the provision of services to meet patient needs at one IVF Clinic only that has under one thousand cycles per annum.
 - (B) The orchestration of services to meet patient needs after discharge from the day surgery or completion of out-patient treatments.
 - (C) Monitoring catering and transport services.
 - (2) Unit Management
 - (A) participating in policy development and implementation.
 - (B) Dissemination of information to all personnel.
 - (C) Ensuring environmental work health and safety.
 - (D) Monitoring the use and maintenance of equipment.
 - (E) Monitoring the supply and use of stock and supplies.
 - (F) Managing financial matters and cost control in respect of nursing within that span of control.
 - (G) Monitoring cleaning services.
 - (3) Nursing Staff Management
 - (A) Direction, co-ordination and supervision of nursing activities.

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- (B) Providing leadership and role modelling, in collaboration with others including the Clinical nurse specialists and the Nurse educator, particularly in the areas of action research and quality assurance programs.
 - (C) Staff selection and education.
 - (D) being accountable for the management of human and material resources within a specified span of control, including the development and evaluation of staffing methodologies.
 - (E) Rostering and/or allocation of nursing staff.
 - (F) Development and/or implementation of new nursing practice according to patient need.

(b) "Unit Nurse Manager Level 2" whose responsibilities in relation to patient services, ward or unit management and staff management are in excess of those of a Unit Nurse Manager Level 1.

- (A) Responsibility for more than one clinic and/or a clinic with more than one thousand cycles per annum.

(vii) **'Nurse Educator'** means a registered nurse with a post registration certificate, who has relevant experience or other qualifications, deemed appropriate by the Employer who is appointed to a position of Nurse Educator.

A Nurse Educator will be responsible for the development, implementation and delivery of nursing education programmes within a group of clinics/day surgeries. Nurse education programmes will mean courses conducted such as post registration certificates, continuing nurse education, new graduate orientation, post registration enrolled nurses courses and where applicable general staff development courses.

A person appointed to a position of Nurse Educator who holds relevant tertiary qualification in education or tertiary postgraduate specialist clinical nursing qualifications will commence on the 2nd year rate of the salary scale.

A person appointed as the sole nurse educator for a group of clinics/day surgeries will be paid at the 2nd year rate of the salary scale.

Incremental progression for Nurse Educators' will be on completion of 12 months' satisfactory service.

(viii) **'Director of Nursing'** (however titled) includes:

- (a) A registered nurse who is registered by their Employer with the Health Administration Corporation of New South Wales as the person in charge of the day surgery; or

(b) A registered nurse appointed as in charge of IVF Nursing Services.

SCHEDULE 2: 12 HOUR SHIFT ROSTER ARRANGEMENTS

12 Hour Shift Roster

The roster will comply with the provisions of this Agreement.

The Employer will not unreasonably refuse a nurse's request not to be rostered to undertake a 12 hour ordinary shift in accordance with this Agreement.

Roster Guidelines

The 12-hour roster must provide for the following:

No more than two consecutive shifts in a row;
Day shifts will not commence before 0600 hours;
There will be a reasonable distribution of days off between block shifts;
The roster cycle will be planned over a period of two weeks;

Hours of Work

Maintenance of Contracted Hours

All Employees will have their hours of work protected and must be given the opportunity to work their contracted hours.

Shift Times

As per roster.

Minimum Breaks Between Shifts

The minimum rostered break between shifts will be at least 11.5 hours.

Meals and Rest Intervals

All Employees will be given 2 thirty-minute unpaid meals intervals.

Two separate ten-minute intervals (in addition to meal breaks) will be allowed each Employee on duty during each ordinary shift of 12 hours as the case may be. Subject to agreement between the Employer and the Employee, such intervals may alternatively be taken as one twenty-minute interval. Such interval(s) will count as working time.

Payment Of Salaries

Ordinary Hours Full time Employees (12 hours)

Employees will be paid for the hours worked in each fortnight.

Shift Allowances and Payment for Saturday and Sunday Work

Will be consistent with this Agreement.

Shift Penalties

Will be consistent with this Agreement.

Leave Provisions

Annual leave and sick leave will be in accordance with this Agreement.

SCHEDULE 3: IVFA AND DAY HOSPITALS ABNs

IVF Australia Pty Ltd (ABN: 54 098 082 109)

The Trustee for City West Day Surgery Unit Trust (ABN: 89 094 866 717)

Alexandria Specialist Day Hospital Pty Ltd (ABN: 18 963 946 811)

North Shore Specialist Day Hospital Pty Ltd (ABN: 34 127 214 457)

Signed on behalf of IVF Australia Pty Ltd

Name:	Teena Pisarev
Signature:	
Date:	02/05/2022
Explanation of this person's authority to sign the Agreement:	Chief Operating Officer & Managing Director NSW/ACT/SE Asia & Diagnostics Aust.
Address:	L3, 176 Pacific Hwy, Greenwich NSW 2065

Signed on behalf of the Employees covered by the Agreement:

Name:	
Signature:	
Date:	
Explanation of this person's authority to sign the Agreement:	
Address:	

Signed on behalf of the Australian Nursing and Midwifery Federation New South Wales Branch

Name:	
Signature:	
Date:	
Explanation of this person's authority to sign the Agreement:	
Address:	

Brett Holmes

Brett Howard Holmes
Branch Secretary
Australian Nursing and Midwifery Federation
New South Wales Branch
50 O'Dea Ave
WATERLOO NSW 2017

Margaret Potts

WITNESS
Margaret Mary Potts
50 O'Dea Ave, Waterloo

O'Bray Smith

O'Bray Smith
President
Australian Nursing and Midwifery Federation
New South Wales Branch
50 O'Dea Ave
WATERLOO NSW 2017

Margaret Potts

WITNESS
Margaret Mary Potts
50 O'Dea Ave, Waterloo

Authority to sign Agreement on behalf of employees is in accordance with Rule 40 of the Rules of the Australian Nursing and Midwifery Federation and as bargaining representative in accordance with the Fair Work Act 2009.

IN THE FAIR WORK COMMISSION

FWC Matter No.: AG2022/1387

Applicant: IVF Australia Pty Ltd

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Teena Pisarev, Managing Director for IVF Australia Pty Ltd, City West Specialist Day Hospital (The Trustee for City West Day Surgery Unit), Alexandria Specialist Day Hospital Pty Ltd and North Shore Specialist Day Hospital Pty Ltd ("the Employer") give the following undertakings with respect to the IVF Australia Pty Ltd Nursing Enterprise Agreement 2021 ("the Agreement"):

1. I have the authority given to me by the Employer to provide this undertaking in relation to the application before the Fair Work Commission.
2. Notwithstanding anything clause 31(ii)(b) of the Agreement, where an employee does not give the appropriate notice of termination, the maximum notice that may be deducted will be 1 weeks providing the employees is 18 years and over.
3. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

23 May 2022

Date