



# DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**Genista Nursing Home Pty Ltd T/A Genista Aged Care Facility**  
(AG2017/4886)

## **GENISTA AGED CARE, NSWNMA, ANMF NSW BRANCH AND HSU NEW SOUTH WALES BRANCH ENTERPRISE AGREEMENT 2017**

Aged care industry

COMMISSIONER SAUNDERS

NEWCASTLE, 13 DECEMBER 2017

*Application for approval of the Genista Aged Care, NSWNMA, ANMF NSW Branch and HSU New South Wales Branch Enterprise Agreement 2017.*

[1] An application has been made for approval of an enterprise agreement known as the *Genista Aged Care, NSWNMA, ANMF NSW Branch and HSU New South Wales Branch Enterprise Agreement 2017* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Genista Nursing Home Pty Ltd T/A Genista Aged Care Facility. The Agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings (the Undertakings). A copy of the Undertakings is attached in Annexure A to this decision. I am satisfied that the effect of accepting the Undertakings is not likely to:

- (a) cause financial detriment to any employee covered by the Agreement; or
- (b) result in substantial changes to the Agreement.

[3] The views of each person who the Fair Work Commission knows is a bargaining representative for the Agreement have been sought in relation to the Undertakings.

[4] Pursuant to subsection 190(3) of the Act, I accept the Undertakings.

[5] Subject to the Undertakings, 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.

[6] Pursuant to s.202(4) of the Act, the model flexibility term prescribed by the *Fair Work Regulations 2009* is taken to be a term of the Agreement.

[7] The Australian Nursing and Midwifery Federation, New South Wales and Midwives' Association and the Health Services Union of Australia being bargaining representatives for

the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers the organisations.

**[8]** The Agreement is approved and, in accordance with s.54 of the Act, will operate from 20 December 2017. The nominal expiry date of the Agreement is 30 June 2020.



COMMISSIONER

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<Price code J, AE426513 PR598667>

Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:  
AG2017/4886

Genista Aged Care

Section 185 – Application for approval of a single enterprise agreement

**Undertaking- Section 190**

I, Marna Chami [Director of Nursing for Genista Aged Care give the following undertakings with respect to the **Genista Aged Care, NSWNMA, ANMF NSW Branch and HSU New South Wales Branch Enterprise Agreement 2017**


1. I have the authority given to me by Genista Aged Care to provide this undertaking in relation to the application before the Fair Work Commission.
2. Insert new clause 40.1(c) and (d) with the following:
  - (c) *For Home Care employees who are rostered to work more than four hours on 10 or more weekends during the yearly period in which their annual leave accrues will be considered shift workers for the purposes of the additional week of annual leave.*
  - (d) *Employees who are rostered to work ordinary hours on a weekend in an aged care setting will be considered shift workers for the purposes of the additional week of annual leave.*
3. Replace clause 34(c) with the following:

*Payment for a broken shift will be at ordinary pay with penalty rates and shift allowances in accordance with Clause 38 Shiftwork, with shift allowances being determined by the commencing time of the broken shift (for broken shifts in an aged care setting). Broken shifts taking place in a home care setting will have shift allowances determined by the finishing time of the broken shift.*
4. Replace clause 35 with the following:

*Saturday and Sunday Work*

  - (a) *Where an employee is rostered to work ordinary hours between midnight Friday and midnight Saturday, the employee will be paid a loading of 50% of their ordinary rate of pay for the hours worked during this period.*
  - (b) *Where an employee is rostered to work ordinary hours between midnight Saturday and midnight Sunday, all employees excluding home care employees will be paid a loading of 75% of their ordinary rate of pay for the hours worked during this period.*
  - (c) *Where an employee is required to work ordinary hours on a Sunday in a home care setting, employees will be paid a loading of 100% of their ordinary rates of pay.*

- (d) *Casual employees will be paid in accordance with Clauses 35(a), 35(b) and 35(c). The rates prescribed in Clauses 35(a), 35(b) and 35(c) will be in substitution for and not cumulative upon the casual loading prescribed in Clause 12.5(b).*
  - (e) *These extra rates will be in substitution for and not cumulative upon the shift penalties prescribed at Clause 38 Shiftwork.*
5. Amend clause 37.2(b) to include the words:  
*Subject clause 37.2(d) below*
6. Insert new clause 37.2(d):  
*For a part time employee, all time worked in excess of their guaranteed hours (unless an agreement has been entered into between the part-time employee and their employer) will be overtime and paid at the rates prescribed in clause 37.2(a).*
7. Replace clause 37.3(a) with the following:  
*Time off instead of payment for overtime must be equivalent to the overtime payment that would have been made to the employee and taken within three months of being accrued.*
8. Insert at the end of clause 37.3(b):  
*These provisions will also apply on termination of employment.*
9. Replace clause 47.2 with the following:  
*An employee is entitled to 12 months of unpaid parental leave if:*  
(a) *The leave is associated with:*  
(i) *The birth of a child of the employee or employee's spouse or de-facto partner; or*  
(ii) *The placement of a child with the employee for adoption.*  
(b) *The employee has or will have a responsibility for the care of the child.*
10. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

  
\_\_\_\_\_  
Signature

11.12.2017  
Date

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

## **Genista Aged Care, NSWNMA, ANMF NSW Branch and HSU New South Wales Branch Enterprise Agreement 2017**

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## Part 1: Application and Operation

### 1. Title

This Agreement is the Genista Aged Care, NSWNMA, ANMF NSW Branch and HSU New South Wales Branch Enterprise Agreement 2017.

### 2. Commencement and Expiry

- (a) This Agreement will commence seven days after approval by the Fair Work Commission and will nominally expire on 30 June 2020.
- (b) The employer agrees that discussions regarding bargaining for a new agreement shall commence no later than 3 months prior to the expiry date of this Agreement.
- (c) The employer and employee/s have the right to appoint a representative that may include the Leading Age Services Australia Ltd and the union/s, to represent their interests.

### 3. Definitions and Interpretation

- 3.1 Where a term in this Agreement has a corresponding definition in the Act, the Regulations or the NES, the definition more favourable to the employee will apply. Where this Agreement is silent, the NES definition will apply.

- 3.2 In this agreement, unless the contrary intention appears:

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

**AHPRA** means the Australian Health Practitioner Regulation Authority.

**Aged Care Setting** means the provision of accommodation and care services for aged persons in a hostel, nursing home, aged care independent living units, aged care serviced apartments, garden settlement, retirement village or any other residential accommodation facility including in the home.

**Agreement** means this Enterprise Agreement.

**Base rate of pay** means the rate of pay for a period worked that does not include incentive based payments and bonuses, loadings, monetary allowances, penalty rates or any other similar separately identifiable entitlements.

**Base hourly rate of pay** means the base rate of pay divided by 38.

**Board** means the Nursing and Midwifery Board of Australia and shall also be taken to mean a reference to AHPRA as appropriate/applicable.

**Employee** means an employee of the employer and has the meaning in the Act.

**Employer** means Genista Aged Care and has the meaning in the Act.

**Employee representative** means an employee or other person or union nominated by the employee/s to represent the employee/s in relation to their employment.

**De-facto partner** means a person who, although not legally married to the employee, lives with them in a relationship as a couple on a genuine domestic basis (including same sex relationships).

**FWC** means the Fair Work Commission.

**Home Care Setting** means the provision of personal care, domestic assistance or home maintenance to an aged person or a person with a disability in a private residence.



**Immediate family** means a spouse or former spouse, de facto partner (including same sex relationships), child, parent, grandparent, grandchild or sibling of the employee; or a child, parent, grandparent, grandchild or sibling of a spouse or former spouse or de facto partner, of the employee.

**Qualifying period** means the Minimum Period of Employment as defined at section 383 in the Act.

**NAPSA** means Notional Agreement Preserving a State Award and has the meaning in the Act.

**NES** means National Employment Standards set out under Chapter 2, Part 2-2 of the Act. These are the minimum standards that apply to the employment of employees which cannot be displaced.

**Party or parties** means those covered in accordance with Clause 4 Coverage of this Agreement.

**Pay point "A"** means aged care classifications that were formally covered under the *Aged Care General Services (State) Award* now a Notional Agreement Preserving a State Award (NAPSA).

**Pay point "C"** means aged care classifications that were formally covered under the *Charitable Sector Aged and Disability Care Services (State) Award* now a Notional Agreement Preserving a State Award (NAPSA).

**Regulations** mean the *Fair Work Regulations 2009*.

**Unions** mean the NSW Nurses & Midwives' Association (NSWNMA), Australian Nursing and Midwifery Federation NSW Branch (ANMF NSW Branch) and the Health Services Union, NSW Branch (HSU NSW).

#### **4. Coverage**

4.1 This Agreement shall cover the following:

- (a) Genista Aged Care ("the employer");
- (b) the Health Services Union New South Wales Branch (HSU NSW);
- (c) the New South Wales Nurses & Midwives' Association (NSWNMA);
- (d) the Australian Nursing and Midwifery Federation NSW Branch (ANMF NSW Branch); and

4.2 This Agreement shall apply to all employees of the employer performing work within the classifications contained in this agreement and employed by a residential aged care facility or homecare or community care program run by or from an aged care facility or provider in NSW.

#### **5. Access to the Agreement and the National Employment Standards**

The employer must ensure that copies of this agreement and the NES are available to all employees to whom they apply either on a noticeboard which is conveniently located at or near the workplace or through electronic means.

#### **6. The National Employment Standards and this Agreement**

- (a) The NES and this Agreement contain the minimum conditions of employment for employees covered by this Agreement.
- (b) The NES applies to employees covered by this agreement except where this agreement provides a greater condition or entitlement whereby this agreement will prevail to the extent that it is more favourable than the NES.

#### **7. Agreement Flexibility**

7.1 Notwithstanding any other provision of this Agreement, an employer and an individual employee may agree to vary the application of certain terms of this agreement to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

- (a) arrangements for when work is performed;
- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and
- (e) leave loading.

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.

7.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress.

7.3 The agreement between the employer and the individual employee must:

- (a) be confined to a variation in the application of one or more of the terms listed in Clause 7.1; and
- (b) result in the employee being better off overall than the employee would have been if no individual flexibility agreement had been agreed to.

7.4 The agreement between the employer and the individual employee must also:

- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this agreement that the employer and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
- (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
- (e) state the date the agreement commences to operate.

7.5 The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.

7.6 Except as provided in Clause 7.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.

7.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.

7.8 The agreement may be terminated:

- (a) by the employer or the individual employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
- (b) at any time, by written agreement between the employer and the individual employee.

- 7.9 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this agreement.

## **Part 2: Employment Relationship**

### **8. Consultation Regarding Major Workplace Change**

#### **8.1 Consultation Prior to a Definite Decision Being Made**

- (a) Where an employer is considering making a decision to introduce major change, the employer may choose to discuss with the employees who may be affected and their employee representative/s, which may include the Union/s, prior to making the decision to introduce change.
- (b) It is agreed that employees may be able to offer valuable solutions and/or alternative solutions before major changes are made.
- (c) Where an employer chooses to consult with employees who are likely to be affected by a decision to introduce major change, consultation can be informal and is not required to be in writing.

#### **8.2 Consultation After a Definite Decision has Been Made**

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, which may include the Union/s.
- (b) Significant effects include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this agreement makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.
- (c) Employer to Discuss Change
  - (i) The employer must discuss with the employees affected and their recognised employee representative/s, which may include the Union/s, the introduction of the changes referred to in Clause 8.2 the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representative/s in relation to the changes.
  - (ii) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in Clause 8.2.
  - (iii) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, which may include the Unions, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information, the disclosure of which would be contrary to the employer's interests.

#### **8.3 Consultation about changes to rosters or ordinary hours of work**

- (a) Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.
- (b) The employer must:
  - (i) provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the

employee's regular roster or ordinary hours of work and when that change is proposed to commence);

- (ii) invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
  - (iii) give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.
- (c) The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.
  - (d) These provisions are to be read in conjunction with other agreement provisions concerning the scheduling of work and notice requirements.

## **9. Dispute Resolution Procedure**

9.1 This clause sets out the procedure to settle a dispute relating to any employment matter including:

- (a) a matter arising under the agreement, or
- (b) the NES, or
- (c) whether the employee had reasonable business grounds under subsection 65(5) of the Act (requests for flexible working arrangements) or 76(4) of the Act – (requests for extending unpaid parental leave)

9.2 In the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.

9.3 If a dispute is unable to be resolved at the workplace, and all appropriate steps under Clause 9.2 have been taken, a party to the dispute may refer the dispute to FWC, or other appropriate statutory tribunal.

9.4 Unless otherwise stated in this Agreement, the parties agree that FWC shall have the power to do all such things as are necessary for the just resolution of the dispute including mediation, conciliation and finally arbitration.

9.5 Where the matter in dispute remains unresolved, FWC may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement dispute.

9.6 An employer or employee may appoint another person, organisation or association, which may include the Union/s, to accompany and/or represent them for the purposes of this clause.

9.7 While the dispute resolution procedure is being conducted work must continue in accordance with this Agreement and the Act.

9.8 Subject to work health and safety legislation, an employee must not unreasonably fail to comply, with a direction by the employer to perform work, whether at the same or another workplace that is safe and appropriate for the employee to perform.

## **10. Preventing and Responding to Workplace Bullying**

- (a) The employer and employees are committed to a safe and healthy work environment that is free from harassment, discrimination and/or bullying.
- (b) This means that the employer will take reasonable steps to prevent any unwanted harassment, discrimination or bullying behaviours in the workplace and employees will not engage in bullying, discriminatory or harassing conduct, and will notify the employer of anyone engaging in such conduct.
- (c) Any reports of harassment, discrimination or bullying will be treated seriously and confidentially.

- (d) Reasonable steps will be taken to investigate and resolve any report of harassment, discrimination or bullying behaviours in the workplace. Employees acknowledge their obligation under this clause extends to participating in employer investigations of workplace bullying, harassment and discrimination and maintaining confidentiality of such investigations.
- (e) Employee/s who have been found to have engaged in such conduct face disciplinary action up to and including the termination of their employment.

## **11. Workload Management**

- 11.1 The parties to this Agreement acknowledge that employees and management have a responsibility to maintain a balanced workload and recognise the adverse affects that excessive workloads may have on employee/s and the quality of resident/client care.
- 11.2 To ensure that employee concerns involving excessive workloads are effectively dealt with by Management the following procedures should be applied:
  - (a) Step 1: In the first instance, employee/s should discuss the issue with their immediate supervisor and, where appropriate, explore solutions.
  - (b) Step 2: If a solution cannot be identified and implemented, the matter should be referred to an appropriate senior manager for further discussion.
  - (c) Step 3: If a solution still cannot be identified and implemented, the matter should be referred to the Facility Manager for further discussion.
  - (d) Step 4: The outcome of the discussions at each level and any proposed solutions should be recorded in writing and fed back to the effected employees.
- 11.3 Workload management must be an agenda item at staff meetings on at least a quarterly basis. Items in relation to workloads must be recorded in the minutes of the staff meeting, as well as actions to be taken to resolve the workloads issue/s. Resolution of workload issues should be based on the following criteria including but not limited to:
  - (a) Clinical assessment of residents' needs;
  - (b) The demand of the environment such as facility layout;
  - (c) Statutory obligation, (including, but not limited to, work health and safety legislation);
  - (d) The requirements of nurse regulatory legislation;
  - (e) Reasonable workloads (such as roster arrangements);
  - (f) Accreditation standards; and
  - (g) Budgetary considerations.
- 11.4 If the issue is still unresolved, the employee/s may advance the matter through Clause 9 Dispute Resolution Procedure. Arbitration of workload management issues may only occur by agreement of the employer and the employee representative, which may include the union/s.

## Part 3: Types of Employment and Termination of Employment

### 12. Types of Employment

#### 12.1 Employment Categories

- (a) Employees under this Agreement will be employed in one of the following categories:
  - (i) full-time;
  - (ii) part time; or
  - (iii) casual.
- (b) At the time of engagement an employer will inform each employee whether they are employed on a full-time, part time or casual basis. An employer may direct an employee to carry out such duties that are within the limits of the employee's skill, competence and training, consistent with the respective classification.

#### 12.2 Full-time Employment

A full-time employee is one who is engaged to work 38 hours per week or an average of 38 hours per week pursuant to Clause 26(a) of this Agreement.

#### 12.3 Part time Employment

- (a) A part-time employee is an employee who is engaged to work less than full-time hours of an average of 38 hours per week and has reasonably predictable hours of work.
- (b) Before commencing part-time employment, the employer and employee will agree in writing the guaranteed minimum number of hours to be worked and the rostering arrangements which will apply to those hours.
- (c) A part time employee will be paid a minimum of three hours pay for each engagement except as follows:
  - (i) Part time Home Care classifications will be paid a minimum of two hours pay for each engagement.
  - (ii) All part time employees will be paid a minimum of two hours pay for each engagement on a Public Holiday.
- (d) The terms of the agreement in (b) may be varied by agreement between the employer and employee and recorded in writing.
- (e) Unless otherwise stated, the terms of this Agreement will apply on a pro rata basis to part-time employees on the basis that the ordinary weekly hours for full-time employees are 38.
- (f) A part time employee may be requested to work reasonable additional hours in accordance with Clauses 26 Ordinary Hours of Work, 32 Rosters and 37 Overtime in this Agreement.

#### 12.4 Annual Review of Part time Hours

- (a) At the request of an employee, the hours worked by the employee will be reviewed annually.
- (b) Where the employee is regularly working more than their specified contracted hours then such contracted hours shall be adjusted by the employer, to reflect the hours regularly worked, which may include moving to full-time employment.
- (c) The hours worked in the following circumstances will not be incorporated in the adjustment:
  - (i) if the increase in hours is as a direct result of an employee being absent on leave, such as for example, annual leave, long service leave, maternity leave, workers compensation; and

- (ii) if the increase in hours is due to a temporary increase in hours only due, for example, to the specific needs of a resident or client.
- (d) Any adjusted contracted hours resulting from a review, should, however, be such as to readily reflect roster cycles and shift configurations utilised at the workplace.

#### 12.5 Casual Employment

- (a) A casual employee is an employee engaged as such on an hourly basis.
- (b) A casual employee will be paid an hourly rate equal to 1/38th of the weekly rate appropriate to the employee's classification plus the 25% casual loading.
- (c) Casual employees will be paid the following minimum hours for each engagement:
  - (i) Home care employees 1 hour
  - (ii) All other employees 2 hours
- (d) A casual employee will be paid shift allowances calculated on the ordinary rate of pay excluding the casual loading with the casual loading component then added to the penalty rate of pay.

#### 12.6 Casual Conversion

- (a) A casual employee who has been rostered on a regular and systematic basis over a period of 26 weeks has the right to request conversion to permanent employment:
  - (i) on a full-time basis where the employee has worked 38 hours per week or an average of 38 hours per week (excluding overtime) throughout the period of casual employment; or
  - (ii) on a permanent part time basis where the employee has worked a regular number of hours each week or fortnight (depending upon the roster) throughout the period of casual employment. Such part time engagement would be on the basis of the same number of hours as previously worked, unless other arrangements are agreed between the employer and the employee.
- (b) The employer may consent to or refuse the request, but shall not unreasonably withhold agreement to such a request. Arbitration of an employee's request for conversion may only occur by agreement of the employer and the union/s.
- (c) Casual conversion will not apply where a casual has covered absences of permanent employees who are expected to return to work.

### 13. Disciplinary Matters

- (a) The employer acknowledges the principles of procedural fairness and the right to a support person.
- (b) Where an employee is directed to attend a disciplinary meeting it will, as far as practicable, be scheduled during an employee's rostered shift, or at the beginning or end of that shift.
- (c) Where an employee is requested to attend a meeting that is not at a time when they are rostered to work, they will be entitled to pay at their base rate of pay for the duration of the meeting.
- (d) Where an employee reschedules the meeting to a time outside their usual rostered hours, no payment will be made.

### 14. Suspension

#### 14.1 Suspension with Pay

- (a) The employer may direct an employee to not attend work and not to undertake any of the employee's work duties at any time, provided that the employer provides the employee with payment at the employee's base rate of pay for rostered shifts during the period of suspension.

- (b) The circumstances in which the employer may give the employee such a direction include, but are not limited to, circumstances in which the employer is carrying out an investigation into allegations of misconduct.
- (c) Where an employee has been suspended and the reason for the suspension has not been substantiated by the employer, any shortfall in the employee's earnings for the suspension period shall be made up by the employer equal to the amount the employee would have earned, had they worked the shifts they missed due to being suspended.

#### 14.2 Suspension without Pay

- (a) Where a suspension arises from issues relating to the employee's ability to perform their duties for reasons outlined below, suspension will be without entitlement to payment for wages during that period.
  - (i) The employee not maintaining a satisfactory Police Check or not renewing their Police Check where it is the responsibility of the employee to do so;
  - (ii) The employee not maintaining or renewing a professional registration;
  - (iii) The employee receiving conditions on their scope of practice that prevents them working in the position employed; or
  - (iv) The employee losing their driver's license, where a driver's license is a fundamental requirement of the position.

For the avoidance of doubt, the employer will only consider suspending an employee without pay in instances whereby, due to the actions and/ or omissions of the employee, the employee is not ready, willing and able to be rostered to work, or whereby there is reasonable cause to suggest that the employee is legally unable to work.

- (b) Where an employee has an accrued annual leave or long service leave balance available, they may request to be paid from this accrued leave balance during a period of suspension as provided under 14.2(a).
- (c) Nothing in this clause prevents the employer from exercising their rights under the stand down provisions of the Act.

### 15. Termination of Employment

15.1 Prior to reaching a decision to terminate the employment of an employee, other than a casual, on grounds other than would justify summary dismissal, the employer will:

- (a) inform the employee that the termination of their employment is being considered;
- (b) advise the employee of the reasons why termination of their employment is being considered; and
- (c) provide the employee with an opportunity to respond to the reasons why termination of their employment is being considered.

15.2 Subclause 15.1 does not apply to employees who are terminated during their qualifying period of employment.

15.3 Notice of termination is provided for in the NES.

- (a) Notice of termination is provided for in the NES and applies to all employees other than casual employees.
- (b) Notice of termination by either the employer or employee is



<b>Employees Period of Continuous Service</b>	<b>Notice Requirement</b>
Not more than 1 year	one (1) week
More than 1 year but not more than 3 years	two (2) weeks
More than 3 years but not more than 5 years	three (3) weeks
More than 5 years	four (4) weeks

(c) Where the employee is over 45 years of age and has completed two continuous years of service with the employer the employee is entitled to an additional week's notice.

(d) The notice of termination required to be given by an employee is the same as that required of an employer as set out at Clause 15.3 except that there is no requirement on the employee to give additional notice based on their age.

(e) An employer may summarily dismiss an employee for gross and wilful misconduct. An employee who is summarily dismissed is not entitled to notice, or payment in lieu of notice.

(f) Where the employer terminates the employment of the employee and does not require the serving of the notice period the employer will pay the employee the amount in lieu of working out the notice period.

(g) In respect of any forfeiture by the employee of wages in lieu of providing notice, the employee may at any time authorise the employer, in writing, to deduct from any monies due to the employee on termination an amount not exceeding the amount the employee would have been paid under this Agreement in respect of the period of notice required by this clause less any period of notice actually given by the employee.

(h) Should an employer not receive such an authorisation from the employee, the employer may recover such outstanding amount from the employee in the appropriate statutory tribunal. It is acknowledged that the employee has the same rights to pursue an employer for underpayment in the appropriate jurisdiction.

(i) In respect of this requirement for an employer to provide notice or pay in lieu of notice under this clause, nothing in this clause shall exclude the application of Subdivision C Division 11 of Part 2-2 of the Act.

(j) It is the intention of this clause that the employer and employee provide appropriate notice upon termination.

#### 15.4 Job Search Entitlement

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

## 16. Redundancy

16.1 An employee, other than a casual, is entitled to be paid redundancy pay by the employer if the employee's employment is terminated:

- (a) at the employer's initiative because the employer no longer requires the job done by the employee to be done by anyone, except where this is due to the ordinary and customary turnover of labour; or
- (b) because of the insolvency or bankruptcy of the employer.

## 16.2 Minimum Payments

- (a) Where the employee is under 45 years of age, the employer shall pay the employee

<b>Minimum Years of Service</b>	<b>Retrenchment Pay</b>
Less than 1 year	Nil
1 year and less than 2 years	4 weeks pay
2 years and less than 3 years	7 weeks pay
3 years and less than 4 years	10 weeks pay
4 years and less than 5 years	12 weeks pay
5 years and less than 6 years	14 weeks pay
6 years and over	16 weeks pay.

- (b) Where the employee is 45 years of age or over, the employer shall pay the employee in accordance with the following scale:

<b>Minimum Years of Service</b>	<b>Retrenchment Pay</b>
Less than 1 year	Nil
1 year and less than 2 years	5 weeks pay
2 years and less than 3 years	8.75 weeks pay
3 years and less than 4 years	12.5 weeks pay
4 years and less than 5 years	15 weeks pay
5 years and less than 6 years	17.5 weeks pay
6 years and over	20 weeks pay

- (c) "Week's pay" means the Employee's average actual weekly earnings over the preceding twelve months from the date of termination, and shall include in addition to the ordinary pay any over-agreement payments and the following, if applicable

- (i) shift allowances;
- (ii) weekend penalties;
- (iii) broken shift allowance;
- (iv) sleepover allowance;
- (v) any other entitlements.

## 16.3 Transfer to Lower Paid Duties

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

## 16.4 Employee Leaving During Notice Period

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

## 16.5 Job Search Entitlement

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of ordinary pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for any time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of Clause 15.4.

## Part 4: Minimum Wages and Related Matters

### 17. Classifications

- (a) Nursing classification definitions are set out in Schedule A;
- (b) Aged Care classification definitions are set out in Schedule B;
- (c) Home Care classification definitions are set out in Schedule C;
- (d) Health Professional classification definitions are set out in Schedule D;
- (e) Employers must advise their employees in writing of their classification upon commencement and of any subsequent changes to their classification.

### 18. Minimum weekly wages

- (a) The minimum weekly wages are set out in Table 1 of this Agreement.
- (b) The wages set out in Table 1 will be at least 2% higher than the applicable modern award rate of pay for that classification.
- (c) In addition to subclause (b) the parties agree that the wages for Nursing Classifications set out in Table 1 is inclusive of a 1.92% buyout of one week's annual leave.

### 19. Progression

For progression for all classifications under this agreement, refer to Schedules A to D.

### 20. Recognition of Service and Experience (Nursing Classifications only)

- (a) From the time of commencement of employment an employee has two months in which to provide documentary evidence to the employer detailing any other relevant service or experience not disclosed at the time of commencement. This evidence, in the absence of other documentary evidence, may take the form of a statutory declaration.
- (b) Until such time as the employee furnishes any such documentation outlined in Clause 20(a) the employer shall pay the employee at the level for which proof has been provided.
- (c) If within two months of commencing employment an employee does provide documentary evidence of other previous relevant service or/and experience the employer shall pay the employee at the appropriate rate as from the date of commencement that would have been paid from that date had that documentary evidence been provided.
- (d) If the employee provides documentary evidence of other previous relevant service and/or experience after two months from commencement the employer shall pay the employee at the appropriate rate from the date the documentary evidence is received. This rate will not be back dated to the time of commencement.

- (e) For the purpose of yearly progression based on service and experience an employee must complete 1976 hours, or in the case of a casual or part time employee 1824 hours.

## **21. Regrading (Aged Care Classifications only)**

- (a) Where the nature of the work undertaken by an employee changes, such that the majority of the work regularly performed is work of a type normally associated with a higher classification and has been performed for a period of at least 12 months, the employee may apply to have their position reclassified to the higher classification.
- (b) An application for re-grading by an employee must be made in writing.
- (c) The employer will respond to the request in writing within a reasonable timeframe, and where possible no less than one month after receiving the written request, indicating whether the application is approved or denied.
- (d) Simply performing more work at the same classification or different work at the same classification does not qualify for re-grading.
- (e) Factors with a bearing on the decision may include whether the changes:
  - (i) involve the exercise of skills, responsibility and/or autonomy normally undertaken at a higher classification; and/or
  - (ii) are permanent or temporary.

## **22. Allowances**

- (a) The following allowances do not apply to employees classified at Registered Nurse levels 4 or 5.
- (b) The allowance rates set out in Table 2 will apply from the first full pay period on or after the date specified in Table 2 of the Agreement.

### **22.1 Clothing and Equipment (Excluding Nursing Classifications)**

- (a) Employees required by the employer to wear uniforms will be supplied with an adequate number of uniforms appropriate to the occupation free of cost to employees. Such items are to remain the property of the employer and be laundered and maintained by such employer free of cost to the employee.
- (b) Instead of the provision of such uniforms, the employer may, by agreement with the employee, pay such employee a uniform allowance at the rate set out in item 1 of Table 2. This rate is expressed as per shift or part thereof, or as a weekly rate – an employee is to be paid whichever is the lesser amount.

Where an employee's uniforms are not laundered by or at the expense of the employer, the employee will be paid a laundry allowance at the rate set out in item 2 of Table 2. This allowance is also expressed as a payment per shift of part thereof or as a weekly payment – an employee is to be paid whichever is the lesser amount.

- (c) The uniform allowance, but not the laundry allowance, will be paid during all absences on paid leave, except absences on long service leave and absence on personal/carer's leave beyond 21 days. Where, prior to the taking of leave, an employee was paid a uniform allowance other than at the weekly rate, the rate to be paid during absence on leave will be the average of the allowance paid during the four weeks immediately preceding the taking of leave.
- (d) Where an employer requires an employee to wear rubber gloves, special clothing or where safety equipment is required for the work performed by an employee, the employer must reimburse the employee for the cost of purchasing such special clothing or safety equipment, except where such clothing or equipment is provided by the employer.

### **22.2 Clothing and Equipment (Nursing Classifications only)**

- (a) Employees required by the employer to wear uniforms will be supplied with an adequate number of uniforms, shoes, a cardigan or jacket, socks and stockings appropriate to the occupation free of cost to employees. Such items are to remain the property of the employer and be laundered and maintained by such employer free of cost to the employee.
- (b) Instead of the provision of such uniforms, the employer may, by agreement with the employee, pay such employee a uniform allowance at the rate set out in item 3 – uniforms of Table 2 per week.

Instead of the provision of shoes, cardigan or jacket, stockings and socks, the employer may, by agreement with the employee, pay such employee allowances at the rates set out in item 4 – shoes, item 5 – cardigan/jacket, item 6 - stockings and item 7 - socks of Table 2 per week.

- (c) Where an employee's uniforms are not laundered by or at the expense of the employer, the employee will be paid a weekly laundry allowance at the rate set out in item 8 of Table 2.
- (d) The uniform allowance, but not the laundry allowance, will be paid during all absences on paid leave, except absences on long service leave and absence on personal/carer's leave beyond 21 days.
- (e) Where an employer requires an employee to wear rubber gloves, special clothing or where safety equipment is required for the work performed by an employee, the employer must reimburse the employee for the cost of purchasing such special clothing or safety equipment, except where such clothing or equipment is provided by the employer.

### 22.3 Meal Allowances

- (a) An employee will be supplied with an adequate meal where an employer has adequate cooking and dining facilities or be paid a meal allowance, in addition to any overtime payment at the following rates:

For Nursing Classifications item 9 of Table 2;  
 Aged Care Classifications classified at pay points "A" item 10 of Table 2;  
 Health Professionals classified at pay points "A" item 11 of Table 2;  
 Aged Care Classifications classified at pay points "C" item 12 of Table 2;  
 Health Professionals classified at pay points "C" item 13 of Table 2;  
 Home Care Classifications item 14 of Table 2.

- (i) when required to work after the usual finishing hour of work beyond one hour or, in the case of shiftworkers, when the overtime work on any shift exceeds one hour.
  - (ii) provided that where such overtime work completed by a nursing employee exceeds four hours a further meal allowance at the rate set out in item 15 of Table 2 will be paid.
- (b) Clause 22.3(a) will not apply when an employee could reasonably return home for a meal within the meal break.
- (c) On request the meal allowance will be paid on the same day as overtime is worked.

### 22.4 On Call Allowance (Nursing Classifications only)

- (a) An on call allowance is paid to an employee who is required by the employer to be on call at their private residence, or at any other mutually agreed place. The employee is entitled to receive the following additional amounts for each 24 hour period or part thereof:
  - (i) between rostered shifts or ordinary hours Monday to Friday inclusive the amount set out in item 16 of Table 2.
  - (ii) between rostered shifts or ordinary hours on a Saturday the amount set out in item 17 of Table 2.
  - (iii) between rostered shifts or ordinary hours on a Sunday, public holiday or any day when the employee is not rostered to work the amount set out in item 18 of Table 2.
- (b) For the purpose of this clause the whole of the on call period is calculated according to the day on which the major portion of the on call period falls.

## 22.5 On Call Allowance (Home Care Classifications only)

- (a) An employee required by the employer to be on call (i.e. available for recall to duty) will be paid an allowance as set out in item 19 of Table 2 in respect to any 24 hour period or part thereof during the period from the time of finishing ordinary duty on Monday to the time of finishing ordinary duty on Friday.
- (b) The allowance will be as set out in item 20 of Table 2 in respect of any other 24 hour period or part thereof, or any public holiday or part thereof.

## 22.6 Travelling, Transport and Fares

- (a) An employee required and authorised to use their own motor vehicle in the course of their duties will be paid not less than the allowance set out in item 21 in Table 2.
- (b) When an employee is involved in travelling on duty, if the employer cannot provide the appropriate transport, all reasonably incurred expenses in respect to fares, meals and accommodation will be met by the employer on production of receipted account(s) or other evidence acceptable to the employer.
- (c) An employee who leaves the facility and is recalled to duty will be reimbursed all reasonable fares and expenses actually incurred, including the per kilometre rate in item 21 of Table 2 when the employee uses a vehicle in those circumstances.
- (d) Provided further that the employee will not be entitled to reimbursement for expenses referred to in Clause 22.6(b) which exceed the mode of transport, meals or the standard of accommodation agreed with the employer for these purposes.
- (e) Employees classified as home care workers and who are required to stay away from home overnight will be reimbursed the cost of reasonable accommodation and meals. Reasonable proof of costs so incurred is to be provided to the employer by the employee.

## 22.7 Continuing Education Allowance (Nursing Classifications only)

- (a) A registered nurse or enrolled nurse who holds a continuing education qualification in a clinical field, in addition to the qualification leading to registration or enrolment, shall be paid an allowance subject to the conditions set out in this clause.
- (b) The qualification must be accepted by the employer to be directly relevant to the competency and skills used by the employee in the duties of the position.
- (c) The allowance is not payable to Deputy Directors of Nursing or Directors of Nursing unless it can be demonstrated to the satisfaction of the employer that more than fifty per cent of the employee's time is spent doing clinical work.
- (d) The allowance is not payable to Clinical Nurse Specialists, Clinical Nurse Consultants or Clinical Nurse Educators.
- (e) A registered nurse or enrolled nurse holding more than one relevant qualification is only entitled to the payment of one allowance, being the allowance of the highest monetary value.
- (f) The employee claiming entitlement to a continuing education allowance must provide evidence to the employer that they hold that qualification.
- (g) A registered nurse who holds a relevant postgraduate certificate in a clinical field (not including a hospital certificate) that is accepted by the employer to be directly relevant to the competency and skills used by the registered nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 22 in Table 2.
- (h) A registered nurse who holds a relevant postgraduate diploma or degree in a clinical field (other than a nursing undergraduate degree) that is accepted by the employer to be directly relevant to the competency and skills used by the registered nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 23 of Table 2.

- (i) A registered nurse who holds a relevant master's degree or doctorate in a clinical field that is accepted by the employer to be directly relevant to the competency and skills used by the registered nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 24 of Table 2.
- (j) An enrolled nurse who holds a relevant certificate IV qualification in a clinical field (not including a certificate IV qualification which has the effect of upgrading the qualification leading to enrolment) that is accepted by the employer to be directly relevant to the competency and skills used by the enrolled nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 25 of Table 2.
- (k) The allowances set out in this subclause are not included in the employee's ordinary rate of pay and will not constitute part of the all-purpose rate.
- (l) A registered nurse or enrolled nurse who is employed on a part time or casual basis shall be paid these allowances on a pro rata basis.

#### 22.8 In Charge Allowance (Nursing Classifications only)

- (a) A registered nurse who is designated to be in charge during the day, evening or night of a residential aged care facility shall be paid in addition to their salary, whilst so in charge, the per shift allowance set out in Item 26 (for less than 100 beds) or Item 27 (for 100 or more beds) in Table 2.
- (b) A registered nurse who is designated to be in charge of a shift in a section of a residential aged care facility shall be paid in addition to their salary, the per shift allowance set out in Item 28 in Table 2.
- (c) This subclause shall not apply to registered nurses holding classified positions of a higher grade than a registered nurse.

#### 22.9 Leading Hand Allowance (Aged Care Classifications only)

- (a) A leading hand is an employee who is placed in charge of not less than two other employees of a substantially similar classification, but does not include any employee whose classification denotes supervisory responsibility.
- (b) A leading hand will be paid a weekly allowance of the amount specified by the item number in accordance with the following scale:

<b>Leading hand in charge of:</b>	<b>Weekly allowance</b>
2-5 other employees	Item 29 of Table 2
6-10 other employees	Item 30 of Table 2
11-15 other employees	Item 31 of Table 2
16-19 other employees	Item 32 of Table 2

- (c) This allowance will be part of salary for all purposes of this agreement.
- (d) An employee who works less than 38 hours per week will be entitled to the allowances prescribed by this clause in the same proportion as the average hours worked each week bears to 38 ordinary hours.

#### 22.10 Sleepovers (Aged Care Classifications only)

- (a) Employees may, in addition to normal rostered shifts, be required to sleepover. A sleepover means sleeping in at night in order to be on call for emergencies.
- (b) The following conditions will apply to each night of sleepover:
  - (i) The span for a sleepover will be not less than eight hours and not more than 10 hours on any one night.

- (ii) Employees will be provided with free board and lodging for each night on which they are required to sleepover.
  - (iii) Employees will be provided with a separate room with a bed and use of staff facilities or client facilities where applicable.
  - (iv) In addition to the provision of free board and lodging for sleepovers, the employee will be entitled to a sleepover allowance of set out in item 33 of Table 2 for each night on which they sleep over.
  - (v) No work other than that of an emergency nature will be required to be performed during any sleepover. For the purposes of this clause an emergency is any unplanned occurrence or event requiring prompt action.
  - (vi) An employee directed to perform work other than that of an emergency nature during any sleepover will be paid the appropriate hourly rate from the start of the sleepover to the end of the non-emergency work, or from the start of the non-emergency work to the end of the sleepover, whichever is the lesser, in addition to the sleepover allowance in Clause 22.10(iv).
- (c) All time worked during any sleepover will count as time worked and be paid for in accordance with the following provisions:
- (i) All time worked by full-time employees during any sleepover will be paid for at overtime rates.
  - (ii) All time worked by permanent part time employees during any sleepover will be paid for at ordinary pay plus applicable shift and weekend penalties; provided that, if the total number of hours worked on that day exceeds the number of hours worked by full-time employees, or 11 hours where there are no such full-time employees, then the excess hours worked on that day will be paid for at overtime rates; and provided further that if the total number of hours worked in the week exceeds 38 hours, or exceeds 76 hours in the fortnight, then the excess hours worked in that week or fortnight will be paid for at overtime rates.
  - (iii) All time worked by casual employees during any sleepover will be paid for at ordinary pay plus applicable shift and weekend penalties; provided that if the total number of hours worked in the week exceeds 38 hours, or exceeds 76 hours in the fortnight, then the excess hours worked in that week or fortnight will be paid for at overtime rates.
  - (iv) And provided further that where the employee does not have eight consecutive hours off duty between ordinary rostered duty on successive days, then the provisions of Clause 22.10(f) will apply.
- (d) A sleepover may be rostered to commence immediately at the conclusion of the employee's shift and continuous with that shift; and/or immediately prior to the employee's shift and continuous with that shift, and not otherwise.
- (e) No employee will be required to sleepover during any part of their rostered days off or ADOs.
- (f) An employee (whether a full-time employee, permanent part time employee or casual employee) who performs so much work during sleepover periods between the termination of their ordinary work on any day or shift and the commencement of their ordinary work on the next day or shift that they have not had at least eight consecutive hours off duty between these times will, subject to this clause, be released after completion of such work until they have had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If, on the instruction of the employer, such an employee resumes or continues to work without having eight consecutive hours off duty, the employee will be paid at double the appropriate rate until they are released from duty for eight consecutive hours and will be entitled to be absent until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (g) Casual employees may only be used for sleepovers when full-time employees or permanent part time employees are not available for that duty. In no case will casual employees be used exclusively, or almost exclusively, for sleepovers.



- (h) Nothing in this clause will preclude the employer from rostering an employee to work shift work instead of undertaking sleepovers.

#### 22.11 Sleepovers (Home Care Classifications only)

- (a) A sleepover means when an employee is required to sleep overnight on the employer's premises.
- (b) The span for a sleepover will be a continuous period of eight hours.
- (c) Employees will be provided with a separate room with a bed, use of staff facilities and free board and lodging for each night when the employee sleeps over.
- (d) The employee will be entitled to a sleepover allowance as set out in item 34 of Table 2 for each night on which they sleep over.
- (e) In the event of the employee on sleepover being required to perform work during the sleepover period, the employee will be paid for the time worked at the prescribed overtime rate with a minimum payment as for one hour worked. Where such work exceeds one hour, payment will be made at the prescribed overtime rate for the duration of the work.
- (f) An employee on sleepover will be provided with, or paid for, at least four hours' work for each instance where the employee is required. Such work will be performed immediately before or immediately after the sleepover period. The payment prescribed by Clause 22.11(d) will be in addition to the minimum payment prescribed by this subclause.

#### 22.12. Service Allowance (applies only to those Aged Care employees formerly covered by *Charitable, Sector Aged and Disability Care Services (State) Award* and Aged Care employees formerly covered by *Aged Care General Services (State) Award*).

- (a) Aged Care employees formerly covered by *Charitable, Sector Aged and Disability Care Services (State) Award*
  - (i) All full-time employees appointed prior to 1 June, 1980, shall after 10 years' continuous service with the same organisation, be paid by the said organisation in addition to the rates prescribed in Clause 18; Minimum Weekly Wages, a service allowance in the following manner:
    - 1. For 20 years of service and over 10%.
- (b) Aged Care employees formerly covered by *Aged Care General Services (State) Award*
  - (i) All employees appointed before 1 October, 1986, shall, after 10 years' continuous service with the same employer, be paid in addition to the rates prescribed in Clause 18; Minimum Weekly Wages, a long service bonus of the amount set out in the following scale:
    - 1. For 20 years of service and over 10%.
- (c) Payments due under this clause will be made on the usual pay day when other payments under this agreement are made.
- (d) Continuous service in the same employer, prior to the commencement of this agreement shall be taken into account when computing service for the purposes of this clause.
- (e) Continuous service shall be deemed not to have been broken by absence from the organisation due to membership of the defence forces of the Commonwealth in time of war or during any period of special leave for members of the Military Reserve Forces.
  - (i) or for Aged Care employees formerly covered by *Aged Care General Services (State) Award* periods of unpaid leave granted to the employee by the employer.

#### 22.13 Nauseous Work Allowance (Aged Care Classifications only)

The allowance set out in item 35 of Table 2 per hour or part thereof will be paid to an employee in any classification if they are engaged in handling linen of a nauseous nature other than linen sealed in airtight containers and/or for work which is of an unusually dirty or offensive nature having regard to the duty normally performed by such employee in such classification. Any employee who is entitled to be paid an allowance will be paid a minimum sum set out in item 36 of Table 2 for work performed in any week.

#### 22.14 First Aid Allowance (Home Care Classifications only)

An employee who holds a current first aid certificate issued by St John Ambulance or Australian Red Cross Society or equivalent qualification, and who is required by their employer to perform first aid duty at their workplace, will be paid an allowance as set out in item 37 of Table 2.

#### 22.15 Telephone Allowance (Home Care Classifications only)

Where the employer requires an employee to install and/or maintain a telephone for the purpose of being on call, the employer will refund the installation costs and the subsequent rental charges on production of receipted accounts.

#### 22.16 Heat Allowance (Home Care Classifications only)

- (a) Where work continues for more than two hours in temperatures exceeding 46 degrees Celsius employees will be entitled to 20 minutes rest after every two hours' work without deduction of pay.
- (b) It will be the responsibility of the employer to ascertain the temperature.
- (c) The following amounts will be paid to employees employed at their current place of work prior to 8 August 1991, in the prescribed circumstances in addition to any other amounts specified elsewhere in this agreement. Where an employee works for more than one hour in the shade in places where the temperature is raised by artificial means and:
  - (i) exceeds 40 degrees Celsius but does not exceed 46 degrees Celsius - the allowances set out at item 38 in Table 2 per hour or part thereof; or
  - (ii) exceeds 46 degrees Celsius - the allowances set out at item 39 in Table 2 per hour or part thereof.

#### 22.17 Board and Lodging (Home Care Classifications only)

- (a) Where the employer provides board and lodging, the rates prescribed in this agreement at Clause 18 – Minimum Weekly Wages for Home Care employees will be reduced by the following amounts per week:
  - (i) employees receiving full adult rate of pay - \$25.70; or
  - (ii) where the employee buys their meals at ruling cafeteria rates, by an additional amount of - \$15.58
- (b) As adjusted by the National Wage Case Decision and the Agreement percentage wage increases of over the term of the Agreement.

#### 22.18 24 Hour Care (Home Care Classifications only)

- (a) A 24 hour care shift requires an employee to be available for duty in a client's home for a 24 hour period. During this period, the employee is required to provide the client with the services specified in the care plan. The employee is required to provide a total of no more than eight hours of care during this period.
- (b) The employee will normally have the opportunity to sleep during a 24 hour care shift and, where appropriate, a bed in a private room will be provided for the employee.
- (c) The employee engaged will be paid eight hours work at 155% of their appropriate rate for each 24 hour period.

#### 22.19 Excursions (Home Care classifications only)

- (a) Where an employee agrees to supervise clients in excursion activities involving overnight stays from home, the following provisions will apply:
- (b) Monday to Friday Excursions
  - (i) Payment at the ordinary rate of pay for time worked between the hours of 8.00 am to 6.00 pm Monday to Friday up to a maximum of 10 hours per day.
  - (ii) The employer and employee may agree to accrual of time instead of overtime payment for all other hours.
  - (iii) Payment of sleepover allowance in accordance with the provision of Clause 22.11 Sleepover (Home Care Classifications).
- (c) Weekend Excursions

Where an employee involved in overnight excursion activities is required to work on a Saturday and/or Sunday, the days worked in the two week cycle, including that weekend, will not exceed 10 days.

#### 22.20 Tool Allowance (Aged Care Classifications)

A tool allowance as set out in item 40 in Table 2 for the supply and maintenance of tools will be paid per week to chefs and cooks who are not provided with all necessary tools by the employer.

#### 22.21 Medication Allowance (Nursing Assistant and Personal Care Workers' classifications only)

Medication Allowance is set out at Item 42 in Table 2 and is paid per hour for the duration of the shift and is payable to an experienced Nursing Assistant or Personal Care Worker who:

- (a) is required by the employer to administer medication; and
- (b) has completed medication training; and
- (c) who is either;
  - (i) a Nursing Assistant thereafter or holder of a Certificate III or Certificate IV, or
  - (ii) a Personal Care Worker Grade 3 (Cert 3) or Aged Care Employee Level 4.

### 23. Payment of Wages

- (a) Wages must be paid fortnightly unless otherwise mutually agreed up to a monthly maximum period.
- (b) Employees will be paid by cash, cheque or electronic funds transfer, as determined by the employer, into the bank or financial institution account nominated by the employee.
- (c) When notice of termination of employment has been given by an employee or an employee's services have been terminated by the employer, payment of all wages and other monies owing to an employee will be made to the employee by close of business on the last day of employment or no later than three (3) business days.
- (d) Notwithstanding the above, an employer will not be held liable for any unforeseen event outside the control of the employer which prevents the employer's ability to meet the requirements of this clause, for example bank error or delay.
- (e) Where a Public Holiday day falls on a pay day the employer will, where practicable, make payment on the day prior to the Public Holiday day and will notify employees of this change.

#### 23.1 Pay Slips

- (a) In accordance with the Act each employee will be provided a payslip each pay day which provides the employees hours worked and accrued entitlements. This will include but is not limited to:
  - (i) the employee's classification and rate of pay;
  - (ii) ordinary and overtime hours worked;
  - (iii) any penalty rates payable;
  - (iv) annual leave;
  - (v) long service leave;
  - (vi) accrued days off;
  - (vii) time off in lieu;
- (b) Employees have the right to request their current leave balances at any time.

#### 23.2 Underpayment of Wages

- (a) Where an employee is underpaid all or part of their pay on any occasion they should raise the error immediately with the employer.
- (b) The employer, upon agreement with the identified error, will rectify the error as soon as practicable.

#### 23.3 Overpayment of Wages

- (a) Where the employee has been overpaid all or part of their pay on any occasion they, or the employer, should raise the error immediately.
- (b) The employee, upon agreement with the identified error will agree to the employer rectifying the error as soon as practicable.
- (c) Any payment arrangements will be agreed to and authorised by the employee in writing.

### 24. Superannuation

#### (a) Superannuation Legislation

Superannuation legislation, including the Superannuation Guarantee (Administration) Act 1992 (Cth), the Superannuation Guarantee Charge Act 1992 (Cth), the Superannuation Industry (Supervision) Act 1993 (Cth) and the Superannuation (Resolution of Complaints) Act 1993 (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the agreement covering the employee applies.

The rights and obligations in these clauses supplement those in superannuation legislation.

#### (b) Employer Contributions

An employer must make such superannuation contributions of 9.5% to a superannuation fund for the benefit of an employee.

#### (c) Casual Employees

An employer must make such superannuation contributions to a superannuation fund for the benefit of a casual employee who has earned in excess of \$450 per month or \$2000 ordinary time earnings during their employment in the course of any one year (1 July to 30 June).

#### (d) Voluntary Employee Contributions

- (i) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in Clause 24(b).
  - (ii) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
  - (iii) The employer must pay the amount authorised under Clauses 24(d)(i) or 24(d)(ii) no later than 28 days after the end of the month in which the deduction authorised under Clauses 24(d)(i) or 24(d)(ii) was made.
- (e) Superannuation Fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in Clause 24(b) to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in Clause 24(b) and pay the amount authorised under Clauses 24(d)(i) or 24(d)(ii) to one of the following superannuation funds:

- (i) Health Employees Superannuation Trust of Australia (HESTA);
- (ii) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund and is a fund that offers a MySuper product or is an exempt public sector scheme.

## **25. Salary Sacrifice to Superannuation Fund**

- (a) Permanent employees may be able to make voluntary pre-tax contributions or payments through a written salary sacrificing agreement between the employer and the employee. The employer will pay the salary sacrificing amount in accordance with the salary sacrificing agreement.
- (b) An employee may apply to have their ordinary time earnings reduced by an amount nominated by them as a salary sacrificing contribution for their benefit.
- (c) 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 sacrificing arrangement was not in place.
- (d) 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 sacrificing arrangements.
- (e) 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 sacrificing contribution arrangement will be terminated or amended to comply with such laws.
- (f) Unless otherwise agreed by the employer, an employee may revoke or vary their salary sacrificing contribution/payment by giving not less than one month's written notice, provided the terms of any other agreement relating to the salary sacrificing benefit are met.

## **Part 5: Hours of Work and Related Matters**

### **26. Ordinary Hours of Work**

- (a) The ordinary hours of work will be 38 hours per week, or an average of 38 hours per week worked over 76 hours per fortnight or 114 hours per 21 days or 152 hours per 4 week period, and will be worked either:
  - (i) in a period of 28 calendar days of not more than 20 work days in roster cycle;

- (ii) in a period of 28 calendar days of not more than 19 work days in a roster cycle, with the twentieth day taken as an accrued paid day off (ADO); or
- (iii) The shift length or ordinary hours of work per day will be a maximum of 10 hours exclusive of meal breaks.

(b) The hours of work on any day or shift will be continuous except for meal breaks.

## **27. Span of Hours (Excluding Home Care Classifications)**

- (a) The ordinary hours of work for a day worker will be between 6.00 am and 6.00 pm Monday to Friday.
- (b) A shiftworker is an employee who is regularly rostered to work their ordinary hours of work outside the ordinary hours of work of a day worker as defined in Clause 27(a).

## **28. Span of Hours (Home Care Classifications Only)**

- (a) Day Workers

The ordinary hours of work for a day worker will be worked between 6.00 am and 8.00 pm Monday to Sunday.

- (b) Shiftworker

A shiftworker is an employee who works the shifts as prescribed at Clause 38.2(a).

- (c) Where an employer wishes to engage an employee in shiftwork, the employer will advise the employee in writing, specifying the period over which the shift is ordinarily worked.

## **29. Rostered Days Off**

Employees, other than a casual employee, will be free from duty for not less than two full days in each week or four full days in each fortnight or eight full days in each 28 day cycle. Where practicable, days off will be consecutive.

## **30. Rest Breaks Between Rostered Work**

An employee will be allowed a rest break of ten hours between the completion of one ordinary work period or shift and the commencement of another ordinary work period or shift, except by agreement where it may be 8 hours.

## **31. Accumulation and Taking of Accrued Days Off (ADOs)**

- (a) This clause will only apply to full-time employees.
- (b) Where an employee is entitled to an ADO in accordance with the arrangement of ordinary hours of work as set in Clause 26(a)(ii), ADOs will be taken within 12 months of the date on which the first full ADO accrued.
- (c) With the consent of the employer, ADOs may be accumulated up to a maximum of five in any one year.
- (d) Where an employee's employment terminates for any reason, accumulated ADOs will be paid to the employee at ordinary rates.
- (e) The employer will schedule the taking of ADOs and display them on the roster. Scheduling decisions will be based on the needs of the workplace and will have regard to employee's preferences.
- (f) Wherever possible ADOs will be consecutive with rostered days off prescribed in Clause 29.
- (g) Once set, ADOs may not be changed, except in accordance with Clause 32 Rosters.
- (h) ADOs will not be rostered on public holidays.

### 31.1 Cashing out of ADOs

- (a) ADOs credited to an employee may be cashed out, subject to the following conditions:
  - (i) each cashing out of a particular amount of ADOs must be by a separate agreement in writing between the employer and the employee; and
  - (ii) the employee must be paid at least the full amount that would have been payable to the employee had the employee had the ADO cashed out on termination.

## 32. Rosters

- (a) 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:
  - (i) at least fourteen days for home care employees; and
  - (ii) fourteen days or no less than seven days for all other employees before the commencement of the roster period.
- (b) Employees will work in accordance with a weekly or fortnightly roster set by the employer.
- (c) In the case of Home Care employees, alternative means of communicating change of rosters such as telephone communication, direct contact, mail, or facsimile will be accepted.
- (d) It is not obligatory for the employer to display any roster of the ordinary hours of work of casual or relieving staff.
- (e) 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.
- (f) 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
  - (i) by mutual agreement, or
  - (ii) 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.

- (g) This clause will not apply where the only change to the roster of a part-time employee is the mutually agreed addition of extra hours to be worked such that the part time employee still has two rostered days off in that week or four rostered days of in that fortnight, as the case may be.

## 33. Client Cancellation (Home Care Classifications)

- (a) Where a client cancels or changes the rostered home care service, an employee will be provided with notice of a change in roster by 5.00 pm the day prior and in such circumstances no payment will be made to the employee. If a full-time or part time employee does not receive such notice, the employee will be entitled to receive payment for their minimum specified hours on that day.
- (b) The employer may direct the employee to make-up time equivalent to the cancelled time, in that or the subsequent fortnightly period. This time may be made up working with other clients or in other areas of the employer's business providing the employee has the skill and competence to perform the work.

## 34. Broken Shifts (Excluding Health Professional Classifications)

- (a) Broken shifts for the purpose of this clause means a shift worked by an employee that includes one or more breaks (other than a meal break):
  - (i) totalling not more than four hours and where the span of hours is not more than 12 hours (when working a broken shift in an Aged Care setting)

- (ii) where the span of hours is not more than 12 hours (when working a broken shift in a Home Care Setting)
- (b) For classifications working in an aged care setting, a broken shift may be worked where there is mutual agreement between the employer and employee to work the broken shift. For nurse employees under this subclause, a broken shift may be worked where there is mutual agreement in writing.
- (c) Payment for a broken shift will be at ordinary pay with penalty rates and shift allowances in accordance with Clause 38 Shiftwork, with shift allowances being determined by the commencing time of the broken shift.
- (d) All work performed beyond the maximum span of 12 hours for a broken shift will be paid at double time.
- (e) An employee must receive a minimum break of 10 hours between broken shifts rostered on successive days.

### **35. Saturday and Sunday Work**

- (a) Where an employee is rostered to work ordinary hours between midnight Friday and midnight Saturday, the employee will be paid a loading of 50% of their ordinary rate of pay for the hours worked during this period.
- (b) Where an employee is rostered to work ordinary hours between midnight Saturday and midnight Sunday, all employees excluding home care employees will be paid a loading of 75% of their ordinary rate of pay for the hours worked during this period.
- (c) Casual employees will be paid in accordance with Clauses 35(a) and 35(b). The rates prescribed in Clauses 35(a) and 35(b) will be in substitution for and not cumulative upon the casual loading prescribed in Clause 12.5(b).
- (d) These extra rates will be in substitution for and not cumulative upon the shift penalties prescribed at Clause 38 Shiftwork.

### **36. Breaks**

#### **36.1 Meal Breaks**

- (a) An employee who works in excess of five hours will be entitled to an unpaid meal break of not less than 30 minutes and not more than 60 minutes.
- (b) Where an employee is required to remain available for duty during a meal break, the employee will be paid an 'on call during meal break allowance' as provided for in Item 41 in Table 2, provided such that only one allowance shall be payable in any period of 24 hours. If an employee is recalled to work during the meal break, then overtime will be paid for all time worked during such meal break.
- (c) Where a home care employee is required by the employer to have a meal with a client or clients as part of the normal work routine or client program, they will be paid for the duration of the meal period at the ordinary rate of pay and Clause 36.1(a) does not apply.

#### **36.2 Tea Breaks**

- (a) Every employee will be entitled to a paid 10 minute tea break in each four hours worked at a time to be agreed between the employee and employer.
- (b) Subject to agreement between the employer and employee, such breaks may alternatively be taken as one 20 minute tea break.
- (c) Tea breaks will count as time worked.



## **37. Overtime**

### **37.1 Overtime Penalty Rates**

- (a) Hours worked in excess of the ordinary hours on any day or shift prescribed in Clause 26 Ordinary Hours of Work, are to be paid as follows:
  - (i) Monday to Saturday (inclusive) - time and a half for the first two hours and double time thereafter;
  - (ii) Sunday - double time;
  - (iii) Public holidays - double time and a half.
- (b) Overtime penalties as prescribed in Clause 37.1(a) do not apply to Registered Nurse levels 4 and 5.
- (c) Overtime rates under this clause will be in substitution for and not cumulative upon the shift premiums prescribed in Clause 35 Saturday and Sunday Work and Clause 38 Shiftwork.

### **37.2 Part time and Casual Employees**

- (a) All time worked by part time employees or casual employees in excess of 38 hours per week or 76 hours per fortnight, depending on the pay period, will be paid for at the rate of time and a half for the first two hours and double time thereafter, except that on Sundays such overtime will be paid for at the rate of double time and on public holidays at the rate of double time and a half.
- (b) All time worked by part time or casual employees which exceeds 10 hours per day or shift, will be paid at the rate of time and a half for the first two hours and double time thereafter, except on Sundays when overtime will be paid for at the rate of double time, and on public holidays at the rate of double time and a half.
- (c) Payment of overtime to casual employees shall be on the employee's base hourly rate and is in lieu of the casual loading.

### **37.3 Time Off Instead of Payment for Overtime**

By mutual agreement, an employee may be compensated by way of time off instead of payment of overtime (time for time) on the following basis:

- (a) Time off instead of payment for overtime must be taken at ordinary rates within three months of it being accrued.
- (b) Where it is not possible for an employee to take the time off, instead of payment for overtime, within the three month period, it is to be paid out at the appropriate overtime rate based on the rates of pay applying at the time payment is made.
- (c) An employee cannot be compelled to take time off instead of overtime.

### **37.4 Rest Period After Overtime**

- (a) 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.
- (b) 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 a absence.
- (c) 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.

### 37.5 Rest Break during Overtime

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

### 37.6 Recall to Work when On Call

An employee, who is required to be on call and who is recalled to work, will be paid for a minimum of four hours work at the appropriate overtime rate.

### 37.7 Recall to Work when not On Call

- (a) An employee who is not required to be on call and who is recalled to work after leaving the employer's premises will be paid for a minimum of four hours work at the appropriate overtime rate.
- (b) The time spent travelling to and from the place of duty will be deemed to be time worked. Except that, where an employee is recalled within three hours of their rostered commencement time, and the employee remains at work, only the time spent in travelling to work will be included with the actual time worked for the purposes of the overtime payment.
- (c) An employee who is recalled to work will not be obliged to work for four hours if the work for which the employee was recalled is completed within a shorter period.

### 37.8 Recall to Work Overtime (Home Care Classifications only)

An employee recalled to work overtime after leaving the employer's or client's premises will be paid for a minimum of two hours' work at the appropriate rate for each time so recalled. If the work required is completed in less than two hours the employee will be released from duty.

## 38. Shiftwork

### 38.1 Shift Penalties (Excluding Home Care Classifications)

- (a) Employees working afternoon or night shift shall be paid the following percentages in addition to their ordinary rate, for such shift. Provided that employees who work less than 38 hours per week will only be entitled to the additional rates where their shifts commence prior to 6.00am or finish subsequent to 6.00pm.
  - (i) 10% for afternoon shift commencing after 10:00 a.m. and before 1:00 p.m.
  - (ii) 12.5% for afternoon shift commencing at or after 1:00 p.m. and before 4:00 p.m.
  - (iii) 15% for night shift commencing at or after 4:00 p.m. and before 4:00 a.m.
  - (iv) 10% for night shift commencing at or after 4:00 a.m. and before 6:00 a.m.
- (b) The shift penalties prescribed in this clause will not apply to shiftwork performed by an employee on Saturday, Sunday or public holiday where the extra payment prescribed by Clause 35 Saturday and Sunday Work and Clause 42 Public Holidays applies.
- (c) The provisions of this clause will not apply to Registered Nurse levels 4 and 5.

### 38.2 Shiftwork (Home Care Classifications only)

- (a) Definitions:
  - (i) **Afternoon shift** means any shift which finishes after 8.00 pm and at or before 12 midnight Monday to Friday.
  - (ii) **Night shift** means any shift which finishes after 12 midnight or commences before 6.00 am Monday to Friday.

- (iii) A **public holiday shift** means any time worked between midnight on the night prior to the public holiday and midnight of the public holiday.
- (b) Following the shift work definitions at Clause 38.2(a) above, the following shift allowances and penalty rates apply to home care classifications
  - (i) An employee who works an afternoon shift will be paid a loading of 12.5% of their ordinary rate of pay for the whole of such shift.
  - (ii) An employee who works a night shift will be paid a loading of 15% of their ordinary rate of pay for the whole of such shift.
  - (iii) An employee who works a public holiday shift will be paid a loading of 150% of their ordinary rate of pay for that part of such shift which is on the public holiday.
- (c) Shifts are to be worked in one continuous block of hours that may include meal breaks and sleepover.

### 38.3 Shiftwork (Health Professionals only)

Where the ordinary hours of work of an employee finish between 6.00pm and 8.00am or commence between 6.00pm and 6.00am, the employee will be paid an additional loading of 15% of their ordinary rate of pay.

## 39. Higher Duties

- (a) An employee engaged in any duties carrying a higher wage rate than the classification in which they are ordinarily employed in any one day or shift will be paid at the higher wage rate for:
  - (i) the time so worked for two hours or less; or
  - (ii) full day or shift where the time so worked exceeds two hours.
- (b) Higher duties allowance does not apply to Registered Nurse levels 4 and 5.

## Part 6: Leave and Public Holidays

### 40. Annual Leave

Annual leave is provided for in the NES.

#### 40.1 Quantum of Annual Leave

- (a) Annual leave on full pay is to be granted in accordance with the NES as follows:
  - (i) Full-time employees four weeks (152 hours) annual leave
  - (ii) Full-time shiftworkers five weeks (190 hours) annual leave
  - (iii) Part time employees four weeks annual leave on a pro rata basis
  - (iv) Part time shiftworkers five weeks annual leave on a pro rata basis
- (b) For the purposes of this clause, a shiftworker is an employee who is not a day worker as defined in Clause 27(a) Span of Hours and Clause 28(a) Span of Hours for Home Care Classifications.

#### 40.2 Taking of Leave

- (a) Annual leave shall be given and shall be taken within a period of six months after the date when the right to annual leave accrued; provided that the giving and taking of such leave may be postponed by mutual agreement between the parties for a further period not exceeding six months.

- (b) Where an employee requests, annual leave can be taken in single days.
- (c) The employer shall provide a response within a reasonable timeframe giving consideration to the urgency of the application to an employee' application for annual leave.

#### 40.3 Direction by Employer for Excessive Leave to be taken

- (a) The employer may, by giving an employee at least four (4) weeks' notice in writing direct an employee to take one or more periods of paid annual leave where the employee has an outstanding annual leave balance greater than eight (8) weeks (or 10 weeks for a shift worker).
- (b) Prior to notifying an employee of a direction to take annual leave the employer will attempt to meet with the employee to arrange a plan for the employee to take annual leave. Where the employee does not confer with the employer, or the employer and employee do not come to agreement when leave will be taken, the employer can direct the employee to take leave as per 40.3(a).

#### 40.4 Payment for Annual Leave

- (a) Before going on annual leave, an employee will be paid the amount of wages they would have received for ordinary time worked had they not been on leave during that period.
- (b) At the election of the employee such payments may be paid in accordance with the usual pay day relevant to the period of leave being taken.

#### 40.5 Cashing out of Annual Leave

- (a) Annual leave credited to an employee may be cashed out, subject to the following conditions:
  - (i) paid annual leave must not be cashed out if the cashing out would result in the employee's remaining accrued entitlement to paid annual leave being less than four weeks; and
  - (ii) each cashing out of a particular amount of paid annual leave must be by a separate agreement in writing between the employer and the employee; and
  - (iii) 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.

#### 40.6 Annual Leave Loading

- (a) In addition to their ordinary pay, an employee, other than a shiftworker, will be paid an annual leave loading of 17.5% of their ordinary pay on a maximum of 152 hours/four weeks annual leave per annum.
- (b) Shiftworkers, in addition to their ordinary pay, will be paid the higher of:
  - (i) an annual leave loading of 17.5% of ordinary pay; or
  - (ii) the weekend and shift penalties the employee would have received had they not been on leave during the relevant period.
- (c) When the employment of an employee is terminated, and at the time of the termination the employee has not been given and not taken the whole of an annual leave period to which the employee became entitled, the employee will be paid their leave loading entitlement for the period not taken.
- (d) Annual leave loading is not payable for days that have been added in accordance with the election provisions of Clause 42.2(a).

#### 40.7 Payment of Annual Leave on Termination

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

#### **41. Leave Without Pay**

- (a) An employee, other than a casual, may request leave without pay in exceptional circumstances when all accrued leave has been exhausted.
- (b) The employee must make such application
  - (i) in writing,
  - (ii) including reason/s for leave,
  - (iii) at least 14 days prior to the taking of leave without pay,
  - (iv) or as otherwise agreed between the employee and employer.
- (c) The employer has the right to refuse a request for leave without pay at their discretion.
- (d) Leave without pay is to be taken in week blocks or as otherwise agreed.
- (e) A period of leave without pay does not break an employee's continuity of service, but does not count as service.

#### **42. Public Holidays**

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

##### **42.2 Payment for Work Done on Public Holidays**

- (a) All work done by an employee during their ordinary shifts on a public holiday, including a substituted day, will be paid at 250% of their ordinary rate of pay. Alternatively, if the employee elects, the employee will be paid half-time extra (50%) for all time worked in addition to the weekly rate and have one ordinary working day added to the period of annual leave. This additional annual leave shall not attract the annual leave loading prescribed at Clause 40.6.
- (b) The election in Clause 42.2(a) will be made on the commencement of employment and then on the anniversary date each year. The employee may not alter such election during the year except with the agreement of the employer.
- (c) Payments and entitlement under this clause are instead of any additional rate for shift or weekend work which would otherwise be payable had the shift not been a public holiday.
- (d) For the purposes of this Agreement, the following shall be deemed to be public holidays:  
  
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.

##### **42.3 Public Holiday Substitution – State Law**

- (a) If, under (or in accordance with a procedure under) a law of a State or Territory, a day or part-day is substituted for a day or part-day that would otherwise be a public holiday because of subclause 42.2(d), then the substituted day or part-day is the public holiday.
- (b) Subject to subclause 42.3(a), any other day duly proclaimed and observed as a public holiday within the area in which the facility is situated.

42.4 In addition to those eleven named public holidays specified in subclause 42.2(d), employees shall be entitled to an extra public holiday each year. Such public holiday shall occur on one of the following days as determined by the employer:

- (a) On the day on which the August Bank Holiday is observed; or
- (b) On a day between Christmas and New Year within the days Monday to Friday inclusive and not coinciding with a date that is already a declared public holiday for that calendar year; or

- (c) On a day, nominated by the employer before 1 July of each calendar year, on which this extra public holiday will be observed. At least two months' notice of the nominated date will be provided to employees.

42.5 It is the intention of this agreement that an employee will ordinarily receive 12 public holidays per annum, that being the eleven named public holidays under Clause 42.2 and the additional public holiday at Clause 42.4.

#### 42.6 Public Holiday Substitution

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

#### 42.7 Public Holidays Occurring on Rostered Days Off

All full-time employees will receive a day's ordinary pay for public holidays that occur on their rostered day off except where the public holidays fall on Saturday or Sunday with respect to Monday to Friday employees.

#### 42.8 Part-time Employees

- (a) A part-time employee will only be entitled to payment for those public holidays that fall on days they are normally rostered to work.
- (b) A part-time employee who is rostered off on a public holiday they would ordinarily work will be paid their ordinary pay for that day.

#### 42.9 Casual Employees

- (a) A casual employee will be paid only for those public holidays they work at the total rate of 250% for hours worked.
- (b) Payments under Clause 42.9(a) are instead of any casual loading otherwise payable under this Agreement.

### 43. Ceremonial Leave

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

### 44. Personal/Carer's Leave and Compassionate Leave

- (a) Employees are entitled to personal/carer's leave and compassionate leave in accordance with the provisions of the NES (refer to Chapter 2, Part 2-2, Division 7 of the Act).
- (b) Personal/carer's and compassionate leave entitlements for casual employees are as set out in the NES.

#### 44.1 Entitlement to Paid Personal/Carer's Leave

- (a) For each year of service with the employer, an employee is entitled to 10 days of paid personal/carer's leave.
- (b) An employee's entitlement to paid personal/carer's leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.

#### 44.2 Taking of Personal/Carer's Leave

An employee may take paid personal/carer's leave:

- (a) where the employee is not fit for work because of a personal illness, or personal injury, affecting the employee; or
- (b) to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:

- (i) a personal illness, or personal injury, affecting the member; or
- (ii) an unexpected emergency affecting the member.

#### 44.3 Notice and Evidence Requirements

- (a) To be entitled to leave under Clause 44 an employee must give the employer notice of the period, or expected period of the leave:
  - (i) as soon as reasonably practicable (which may be at a time before or after the leave has started) that the employee is (or will be) absent from their employment.
- (b) To be entitled to personal leave during the period, the employee may be required to give the employer as soon as reasonably practicable (which may be at a time before or after the personal leave has started) either:
  - (i) a medical certificate from a medical practitioner stating that in their opinion, the employee was, is, or will be unfit for work during the period because of a personal illness or injury; or
  - (ii) a statutory declaration made by the employee stating that the employee was, is, or will be unfit for work during the period because of a personal illness or injury; or
  - (iii) evidence that would satisfy a reasonable person that the leave was taken for a permissible reason or occasion.
- (c) To be entitled to carer's leave during the period the employee may be required to give the employer as soon as reasonably practicable (which may be at a time before or after the carer's leave has started) either:
  - (i) a medical certificate from a medical practitioner stating that in their opinion the member requires or required care and support during the period due to personal illness or injury; or
  - (ii) a statutory declaration made by the employee stating that the employee requires or required leave during the period to provide care or support to a member of the employee's immediate family or household because of personal illness, or injury, or an unexpected emergency; or
  - (iii) evidence that would satisfy a reasonable person that the leave was taken for a permissible reason or occasion
- (d) To be entitled to compassionate leave during the period, the employee may be required to give the employer as soon as reasonably practicable (which may be at a time before or after the compassionate leave has started):
  - (i) a medical certificate from a medical practitioner stating that in their opinion the member is suffering from an illness or injury that poses a serious threat to the member's life; or
  - (ii) a statutory declaration made by the employee stating that the employee requires or required leave during the period due to the death of the member.
  - (iii) evidence that would satisfy a reasonable person that the leave was taken for a permissible reason or occasion

#### 44.4 Payment of Paid Personal/Carer's Leave

- (a) If an employee takes a period of paid personal/carers leave and meets the notice requirements set out at Clause 44.3 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.
- (b) In addition, an employee may use accumulated personal/carers leave when on workers compensation only where their workers compensation payments are less than their normal full pay. In this case a personal/carers leave entitlement may be used to make up the difference between the full normal pay and the workers compensation payment.

#### 44.5 Service

- (a) A period of paid personal/carer's leave or compassionate leave does not break an employee's continuity of service and counts as service for all purposes.
- (b) A period of unpaid personal/carer's leave does not break an employee's continuity of service, but does not count as service.

### 45. Long Service Leave

#### 45.1 Relationship to the *Long Service Leave Act 1955 (NSW)*

- (a) An employee's entitlement to long service leave shall be in accordance with the provisions of this Agreement and the *Long Service Leave Act 1955 (NSW)*.
- (b) Where this clause provides entitlements that are more beneficial than the *Long Service Leave Act 1955 (NSW)* this clause shall apply.
- (c) Where this clause is silent the provisions of the *Long Service Leave Act 1955 (NSW)* shall apply.

#### 45.2 Quantum of Long Service Leave (Nursing Classifications)

- (a) Every employee after ten years' continuous service with the same employer shall be entitled to two months' long service leave on full pay; after 15 years' continuous service to an additional one month's long service leave on full pay; and for each five years' continuous service thereafter to an additional one and one-half months' long service leave on full pay.
- (b) Where the service of an employee with at least five years' service is terminated, for reasons other than serious misconduct, the employee shall be entitled to long service leave as follows:
  - (i) For the first five years' service – one month.
  - (ii) For the next ten years' service – a proportionate amount calculated on the basis of one month for each additional five years. For the purpose of calculation, each completed whole month of continuous service gives an entitlement equal to 0.0722 weeks' pay.
  - (iii) For all subsequent service - a proportionate amount calculated on the basis of 1.5 months for each additional five years. For the purpose of calculation, each completed whole year of continuous service gives an entitlement equal to 1.2996 weeks' pay.

#### 45.3 Quantum of Long Service Leave (Aged Care Classifications classified at pay points "A" only & Health Professional Classifications classified at pay points "A" only)

- (a) Every employee after ten years' continuous service with the same employer shall be entitled to two months' long service leave on full pay; after fifteen years' continuous service to an additional one month's long service leave on full pay; and for each five years' continuous service thereafter to an additional one and one-half months' long service leave on full pay.
- (b) Where the services of an employee with at least five years' service are terminated, for reasons other than serious misconduct, the employee shall be entitled for five years service to one month's long service leave on full pay and for service after five years to a proportionate amount of such leave on full pay calculated on the basis of three months long service leave for 15 years' service.

#### 45.4 Quantum of Long Service Leave (Aged Care Classifications classified at pay points "C" only, & Health Professionals classified at Pay points "C" only and Home Care Classifications)

- (a) Each employee shall be entitled to two months long service leave on ordinary pay after ten years' service; thereafter additional long service leave shall accrue on the basis of five months long service leave for each ten years' service. This additional leave may be taken on a pro-rata basis each five years after completing the initial 10 year period of service.
- (b) Where the services of an employee with at least five years' service are terminated by the employer for any reason other than the employee's serious and wilful misconduct, or by the employee on account of illness, incapacity or domestic or other pressing necessity, or by reason of the death of



the employee, he/she shall be entitled to be paid a proportionate amount on the basis of two months for ten years service

#### 45.5 Taking of Long Service Leave

- (a) The employer shall give to each employee at least one month's notice of the date from which it is proposed that the employee's long service leave shall be given and taken. Such leave shall be taken as soon as practicable having regard to the needs of the facility, or, where the employer and the employee agree, such leave may be postponed to an agreed date.
- (b) In such a case, where the employer and employee agree to postpone the taking of leave, the employee shall be paid for that leave at the rate of pay applicable at the time of the agreement and not at the rate of pay applicable at the time that the leave is taken. For any such agreement to be valid, it must be in writing and be signed by both the employer and the employee.
- (c) For the purposes of this clause:
  - (i) Continuous service in the same facility prior to the coming into force of this agreement shall be taken into account, and:
  - (ii) Continuous service shall be deemed not to have been broken by:
    - 1. Absence of an employee from the facility while a member of the Defence Forces of the Commonwealth in time of war; or
    - 2. Any period of absence on leave without pay not exceeding six month.
  - (iii) One month equals four and one-third weeks.

#### 45.6 Subject to subclause 45.2, 45.3 and 45.4, where an employee has acquired a right to long service leave, then:

- (a) If before such leave has been entered upon, the employment of such employee is terminated, the employee shall be entitled to receive the monetary value of the leave to which such employee has been entitled computed at the rate of salary which such employee was receiving immediately prior to the termination of employment.
- (b) Where an employee dies and any long service leave:
  - (i) to which the employee was entitled has not been taken, or
  - (ii) accrued upon termination of the services of the employee by reason of the employee's death and has not been taken,

The employer shall pay to the employee's estate in full the ordinary pay that would have been payable to the employee in respect of long service leave less any amount already paid to the employee in respect of that leave.

### 46. Community Service Leave

Community service leave is provided for in the NES.

### 47. Parental Leave

47.1 Parental leave is provided for in the NES (refer to Chapter 2, Part 2-2, Division 5 of the Act) with this clause identifying some of those provisions.

47.2 An employee, other than a casual, is entitled to 12 months of unpaid parental leave if:

- (a) The leave is associated with:
  - (i) The birth of a child of the employee or employee's spouse or de-facto partner; or
  - (ii) The placement of a child with the employee for adoption.

- (b) The employee has or will have a responsibility for the care of the child.

47.3 To be entitled to parental leave the employee must have completed at least 12 months continuous service with the employer prior to:

- (a) the date of birth or expected date of birth; or
- (b) day of placement or expected day of placement of the child.

#### 47.4 Paid Parental Leave

- (a) In addition to unpaid parental leave available to eligible employees under the Act, full-time and part time employees may claim paid parental leave at their base rate of pay as provided for at 47.4(d), from the date the parental leave commences in the following circumstances:
  - (i) where there is compliance with the documentation requirements to the extent to which they apply; and
  - (ii) immediately before the expected date of birth of the child, the employee has, or will have, completed at least 24 months of continuous service with the employer, and
  - (iii) where the employee will be the primary care giver for the child.
- (b) With regards to the first and subsequent claims for employer paid parental leave the following conditions apply:
  - (i) first claim: where eligible for unpaid parental leave; and
  - (ii) second and subsequent claims: where an employee having returned to work from a period of parental leave has completed a further six (6) months' of continuous service prior to each claim.
- (c) Payment of employer paid parental leave is calculated on the employee's weekly base rate of pay based on the average ordinary hours worked by the employee in the twelve (12) month period immediately preceding the commencement of parental leave.
- (d) Eligible full-time and part time employees are entitled to apply for paid parental leave as provided below:
  - (i) Primary Care Giver Leave - four (4) weeks employer top up pay for the Primary Care Giver. Primary Care Giver Leave can also be accessed for adoption, and will commence from the date of taking custody of the child; or
  - (ii) Partner Leave - two (2) weeks employer top up pay in any one year which must commence within four weeks of the birth or placement date of the child.
- (e) With regards to employer paid parental leave the following applies:
  - (i) The employer will pay "top up pay" at the employees' weekly base rate of pay. "Top up pay" is the difference between the employee's base rate of pay and the amount provided by a Government Paid Parental Leave Scheme.
  - (ii) The employee is required to notify the employer that they have applied for the Government Paid Parental Leave Scheme.
  - (iii) Where an employee meets the requirements of Clause 47.4(a) but is not eligible for Government Paid Parental Leave, the employer will provide an amount to the employee, limited to what the employee would have received from the employer should have they been eligible to Government Paid Parental Leave.
- (f) It is agreed between the parties that it is the intention of this clause to only provide a paid parental leave entitlement based on topping up a government paid parental leave scheme up to a maximum of the employee's average base weekly wage.

- (g) For employee couples of the employer, it is agreed that the intention of this clause is that the benefit will apply to only one person during each eligible period of paid parental leave.

#### 47.5 Intention and Operation of the Subclause

- (a) The parties to this agreement agree:
  - (i) Subclause 47.4 was developed and agreed by the parties based on the provisions detailed in the *Paid Parental Leave Act 2010* as at the date the Agreement was made.
  - (ii) Subclause 47.4 has been drafted with the intention to provide an employee with a paid parental leave entitlement equal to their average weekly rate of pay for the period detailed in subclause 47.4, with the employer limited to pay the difference between the National Minimum Wage and the employee's average weekly wage.
  - (iii) If throughout the term of this Agreement changes to the *Paid Parental Leave Act 2010* impact the intention and operation of this subclause the parties to this Agreement agree to meet and discuss the impact of changes to the application of subclause 47.4.

### 48. Family and Domestic Violence Leave

#### (a) Clause Objective

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.

#### (b) Definition of Family Violence

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

#### (c) General Measures

Employees experiencing family violence have a right to request flexible working arrangements including changes to working times. Such requests will not be unreasonably refused.

#### (d) Special Leave

An employee (other than a casual) directly experiencing family violence will have access to three (3) days paid leave per year, non cumulative, for medical appointments, legal proceedings and other activities related to family violence. These three (3) days are in addition to other paid leave entitlements detailed in this Agreement and are paid at the employee's base rate of pay for the hours they would have worked on that day.

#### (e) Evidence

An Employee may be required to produce suitable evidence such as documents issued by the police, a court, a medical practitioner, a domestic violence support service, a lawyer or counselling professional or by statutory declaration.

#### (f) Personal information

All personal information concerning family violence will be kept confidential in line with the Employer's Privacy Policy and relevant legislation.

## Part 7: Other Conditions

### 49. Training and Education

- (a) An employer may make in-service training available to all employees to assist those employees to maintain professional registration or endorsement and skill development.

- (b) Each employer shall provide a minimum of 12 hours of in-service training per annum to Nursing Assistants.
- (c) Each employee shall provide to their employer details of their attendance at in-service training and the employer shall keep a record of this attendance.
- (d) An employer will provide to an employee, who is employed in a nurse classification, on the termination of their employment, a written statement of the hours of in-service training attended by the employee.
- (e) Where practicable, such training shall be provided to employees during the normal rostered hours of work. Where it is not practicable to provide such training during the normal rostered hours of work then:
  - (i) Employees shall attend in-service training outside their normal rostered working hours when required to do so by the employer.
  - (ii) An employer shall provide employees with two weeks' notice of the requirement to attend training outside of their normal rostered working hours.
  - (iii) Notwithstanding Clause 37 Overtime, attendance at such training shall be paid at ordinary rates.
  - (iv) Attendance at such in-service training outside the normal rostered working time of an employee shall not affect the ordinary rate paid to the employee during normal rostered working time.
- (f) The employer will review all requests for external training on a case by case basis having regard to the operational needs of the business.

## **50. Attendance at Meetings, Fire Drills and First Aid Training**

### **50.1 Fire Drills**

Any employee required to work outside the ordinary hours of work in satisfaction of the requirements for compulsory fire safety practices (e.g. fire drill and evacuation procedures) will be entitled to receive payment at the ordinary rate for the actual time spent in attendance at such meetings. Such time spent in attendance shall not be viewed as overtime for the purposes of this Agreement.

### **50.2 Work Health and Safety Committee and/or Board of Management Meetings**

Any employee required to attend Work Health and Safety Committee and/or Board of Management meetings in the capacity of employee representative shall, if such meetings are held outside the ordinary hours of work, be entitled to receive payment at the ordinary rate for the actual time spent in attendance at such meetings. Such time spent in attendance shall not be viewed as overtime for the purposes of this Agreement.

### **50.3 First Aid Training**

Where an employer directs an employee to attend First Aid training the employer will bear the cost of the training. If such training is held outside the ordinary hours of work, the employee will be entitled to receive payment at the ordinary rate for the actual time spent in attendance at such meetings. Such time spent in attendance shall not be viewed as overtime for the purposes of this Agreement.

## **51. Union Representative Leave**

- (a) The employer recognises the right of all employees to join a union, to access union representation and to participate collectively in workplace issues.
- (b) The employer will recognise union representative(s) upon written notification from each of the union/s.
- (c) Union representative(s) will be released from work to attend union business in accordance with the following:
 

up to a maximum of three (3) days per calendar year (1 January to 31 December) per facility for the totality of all applications of trade union, union representative training leave, attendance at union conferences, meetings and courses provided that:

- (i) the courses are directed to the enhancement of a more productive, aware and harmonious workplace environment;
  - (ii) at least four (4) weeks' notice is provided to the employer;
  - (iii) the approval of leave must have regard to the operational requirements of the employer;
  - (iv) the union representative provides evidence of attendance to the employer when requested; and
  - (v) subject to operational requirements an employer shall not unreasonably refuse such a request.
- (d) A union representative may access accrued paid leave or unpaid leave for the purpose of attending union training, meetings, conference and courses as detailed in this clause.

## **52. Amenities**

- (a) The minimum standards as set out in all relevant legislation shall be met in the provision of amenities to employees.
- (b) Such amenities may include:
  - (i) employee designated toilets and access to showers;
  - (ii) lockers;
  - (iii) facilities for boiling water, warming and refrigerating food and for washing and storing dining;
  - (iv) utensils; and
  - (v) sanitary conveniences.
- (c) This clause does not create legal rights or obligations in addition to those imposed on the parties by the relevant legislation.

## **53. Work Health and Safety**

- (a) The employer and employee acknowledge their responsibilities under the *Work Health and Safety Act 2011* and *Work Health and Safety Regulations 2012*.
- (b) Where there is a Work Health and Safety Representative they must be elected and will carry out the tasks associated with the role of Work Health and Safety Representative set out within the *Work Health and Safety Act 2011*.

## **54. National Criminal History Check**

It is a requirement of employment that employees covered by this Agreement obtain and retain a current National Criminal History Check, known as a Police Check.

### **54.1 Police Check**

- (a) All new or prospective employees are required to provide a current and satisfactory Police Check at their own expense.
- (b) All employees, except as provided at 54.1(c) are required to renew their Police Check at their own expense.
- (c) With regards to a full-time employee with over 2.5 year's service with the employer:
  - (i) the employer agrees to pay the cost of the renewal of an employee's Police Check who is required to renew a Police Check due to the upcoming expiry of a current check, or

- (ii) if agreed with the employer prior to obtaining the renewed Police Check, reimburse an employee the cost of a Police Check renewal. Reimbursement is condition upon submitting a receipt or evidence satisfactory to the employer of the payment.
- (d) In accordance with obligations contained in the *Aged Care Act 1997*, and as set out under Clause 14 Suspension, where an employee does not maintain a current and satisfactory Police Check, they will be stood down without pay until such time as the Police Check is provided to the Employer.
- (e) Where an employee has an accrued annual leave entitlement they may request to take annual leave during the period of the period they are unable to be rostered subject to the approval of the employer.
- (e) Failure to provide and maintain a current Police Check may result in disciplinary action, up to and including dismissal.

#### 54.2 Police Check Status Change

- (a) If an employee's Police Check status changes, or may change (subject to the completion of legal proceedings) prior to the expiry of the existing Police Check, the employee is required to advise the employer of the circumstances and potential status change.
- (b) Where a Police Check is requested by the employer, or submitted by an employee, between Police Checks as a result of a status check change, or potential status check change, the employee is liable for the cost of that Police Check.
- (c) Upon notification of a Police Check status change the employer will decide whether the change, or potential change, impacts the employee's capability and right to work and discuss the impact of that status change with the employee.
- (d) The employer is under no obligation to provide alternative employment to an employee who can no longer perform their duties because they do not have a satisfactory Police Check.

### 55. Influenza Vaccination

- (a) Where an employer provides employees with access to influenza vaccinations on an annual basis at the workplace, or an alternative site nominated by the employer, the employer will pay for the cost associated with the influenza vaccine.
- (b) An employer may agree for an employee to make private arrangements to get the influenza vaccination. Where the employer agrees to private arrangements, they will reimburse the employee, limited to the cost of the influenza vaccine and only upon receipt of evidence of purchase of the vaccine, once in a twelve month period. Where there is no agreement for private arrangement reimbursement, the employer is not obligated to reimburse the employee.
- (c) The inclusion of this clause does not create a new obligation for the employer to offer an influenza vaccine, nor does it create an obligation on an employee to receive or get the influenza vaccine. This clause also does not require an employer to maintain offering the influenza vaccine, or reimbursement of the vaccination cost, should they elect at anytime throughout the operation of this agreement to discontinue offering the influenza vaccination.

### 56. No Further Claims

- (a) The parties bound by this agreement acknowledge that this Agreement settles all claims in relation to the terms and conditions of employment of the employees to whom it applies and agree that they will not pursue any extra claims during the term of this Agreement.
- (b) Subject to an employer meeting its obligations to consult arising under this Agreement or a contract of employment, it is not the intent of this provision to inhibit, limit or restrict an employer's right or ability to introduce change at the workplace.

## **57. Savings Clause**

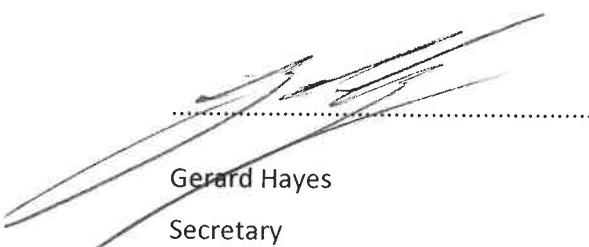
- (a) No employee shall suffer a reduction to total accrued annual leave (including counter leave and/or additional annual leave in lieu of payment for public holidays worked), as at the date that this Agreement commences being reduced.
- (b) For the purposes of this clause, total entitlement at 30 June 2017 shall include counter leave and leave in lieu of payment for public holidays worked.

Signed for and on behalf of Genista Aged Care by its duly authorised officer:

Signature M. Ch  
Print Name Marna Cham  
Title Director of Nursing  
Address 185 Old Prospect Rd  
Greystanes.  
Date 13.10.17



Signed for and on behalf of the HSU, New South Wales Branch, as a bargaining representative, by its duly authorised officer:




Gerard Hayes

Secretary

HSU New South Wales Branch

Level 2, 109 Pitt Street

SYDNEY NSW 2000



WITNESS

Toby Warnes

Solicitor

Level 2, 109 Pitt Street

SYDNEY NSW 2000

*Authority to sign Agreement on behalf of employees is in accordance with Rule 40 of the Rules of the Health Services Union.*



Brett Howard Holmes  
General Secretary  
New South Wales Nurses and  
Midwives' Association; and

Branch Secretary  
Australian Nursing & Midwifery Federation  
New South Wales Branch  
50 O'Dea Ave  
WATERLOO NSW 2017



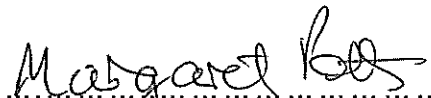
WITNESS

Margaret Mary Potts  
50 O'Dea Ave, Waterloo



Coral Vicky Levett  
President  
New South Wales Nurses and  
Midwives' Association, and;

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



WITNESS

Margaret Mary Potts  
50 O'Dea Ave, Waterloo

*Authority to sign Agreement on behalf of employees is in accordance with Rule 34 of the Rules of the New South Wales Nurses and Midwives' Association and Rule 40 of the Rules of the Australian Nursing & Midwifery Federation and as bargaining representative in accordance with the Fair Work Act 2009.*

**Table 1 – Minimum Wages**

First full pay period on or after:

<b>Nursing Classifications</b>	<b>1 Jul 17</b>	<b>1 Jul 18</b>	<b>1 Jul 19</b>
<b>Nursing Assistant</b>			
First year	20.75	21.17	21.59
Second year	21.09	21.51	21.94
Third year	21.45	21.88	22.32
Thereafter / Cert III / Cert IV	22.13	22.57	23.02
Team Leader (appointed)	22.72	23.17	23.63
<b>Enrolled Nurse (With Notation)</b>			
Pay Point 1	23.96	24.44	24.93
Pay Point 2	24.43	24.92	25.42
Pay Point 3	24.73	25.22	25.72
Pay Point 4	25.25	25.76	26.28
Pay Point 5	25.74	26.25	26.78
Undergoing pre registration training	23.62	24.09	24.57
<b>Enrolled Nurse</b>			
Pay Point 1	26.75	27.29	27.84
Pay point 2	27.14	27.68	28.23
Pay Point 3 and Thereafter	27.59	28.14	28.70
Enrolled Nurse Specialist (Appointed)	27.59	28.14	28.70
<b>Registered Nurse - level 1</b>			
Pay point 1	30.95	31.57	32.20
Pay point 2	32.40	33.05	33.71
Pay point 3	33.87	34.55	35.24
Pay point 4	35.52	36.23	36.95
Pay point 5 and thereafter	37.64	38.39	39.16
Four year degree	30.95	31.57	32.20
Masters degree	32.40	33.05	33.71
<b>Registered Nurse - level 2</b>			
Covers CNS and CNE	38.37	39.14	39.92
<b>Registered Nurse - level 3</b>			
Pay point 1 (NUM and NE)	40.77	41.59	42.42
Pay point 2 (NUM and NE)	41.88	42.72	43.57
Pay point 3 (NUM and NE)	42.87	43.73	44.60
Pay point 4 (NUM)	43.96	44.84	45.74
Pay point 5 (CNC & NE)	45.02	45.92	46.84
Pay point 6 (Senior NE)	46.07	46.99	47.93

Pay point 7 (Senior NE)	46.99	47.93	48.89
Pay point 8 (Senior NE)	48.50	49.47	50.46
<b>Registered Nurse – level 4</b>			
Covers Deputy DON and Assistant DON			
ADON less 150 beds	41.88	42.72	43.57
DDON less 20 beds	42.69	43.54	44.41
DDON 20 - less than 75 beds	43.75	44.63	45.52
DDON 75 - less than 100 beds	44.72	45.61	46.52
ADON 150 -250 beds	45.02	45.92	46.84
DDON 100 - less than 150	45.65	46.56	47.49
ADON 250 beds and over	46.07	46.99	47.93
DDON 150 - less than 200 beds	46.99	47.93	48.89
DDON 200 beds, less than 250 beds	48.50	49.47	50.46
DDON 250 beds, less than 350 beds	50.25	51.26	52.29
DDON 350 beds, less than 450 beds	51.99	53.03	54.09
DDON 450 beds, less than 750 beds	53.87	54.95	56.05
DDON 750 beds & over	55.89	57.01	58.15
<b>Registered Nurse – level 5</b>			
Less than 25 beds	47.56	48.51	49.48
25 beds, less than 50 beds	50.25	51.26	52.29
50 beds, less than 75 beds	51.30	52.33	53.38
75 beds, less than 100 beds	52.33	53.38	54.45
100 beds, less than 150 beds	53.81	54.89	55.99
150 beds, less than 200 beds	55.54	56.65	57.78
200 beds, less than 250 beds	57.28	58.43	59.60
250 beds, less than 350 beds	59.38	60.57	61.78
350 beds, less than 450 beds	62.87	64.13	65.41
450 beds, less than 750 beds	66.42	67.75	69.11
750 beds & over	70.49	71.90	73.34
<b>Nurse Practitioner</b>			
First year	45.72	46.63	47.56
Second year	46.75	47.69	48.64

<b>Aged Care Classifications Table 1A</b>	<b>1 Jul 17</b>	<b>1 Jul 18</b>	<b>1 Jul 19</b>
<b>Aged Care Employee Level 1</b>			
Entry Level	19.83	20.23	20.63
<b>Aged Care Employee Level 2</b>			
<b>Clerk</b>			
A - (Clerk Grade 2 – 1st yr)	21.07	21.49	21.92
C - (Clerk Grade 1)	21.31	21.74	22.17
<b>Aged Care Employee Level 3</b>			
<b>C - Recreational/Lifestyle activities officer</b> (CSE Grade 3)	21.81	22.25	22.70
<b>General Clerk/Typist/Receptionist</b>			
A (Clerk Grade 2 -2nd yr)	21.57	22.00	22.44
C (Clerk Grade 2)	22.50	22.95	23.41
<b>A - Wardsperson (2nd year)</b>	22.45	22.90	23.36
<b>Maintenance Supervisor (non-trade) Otherwise</b>			
A (Otherwise)	22.32	22.77	23.23
C (Supervisor otherwise)	23.11	23.57	24.04
<b>Aged Care Employee Level 4</b>			
<b>C - Gardener – Trade</b> (CSE Grade 3)	21.81	22.25	22.70
<b>C - Driver 3 ton / over</b> (CSE Grade 3)	21.81	22.25	22.70
<b>Personal Care Worker grade 3 (cert 3)</b>			
C (CSE Grade 3)	21.81	22.25	22.70
<b>C - Senior Cook – trade</b> (CSE Grade 3)	21.81	22.25	22.70
<b>Senior/Clerk/Receptionist</b>			
A (Clerk Grade 3 -1st yr)	22.06	22.50	22.95
A (Clerk Grade 3 – 2nd yr)	22.50	22.95	23.41
C (Clerk Grade 3)	23.74	24.21	24.69
<b>Maintenance Handyperson - qualified</b>			
C (CSE Grade 3)	21.81	22.25	22.70
<b>A - Maintenance 'Tradesperson' Advanced</b> (Supervisor Tradesman)	23.67	24.14	24.62
<b>Aged Care Employee Level 5</b>			
<b>C - Chef Trade</b> (CSE Grade 4 – Level 1)	22.85	23.31	23.78
<b>Secretary/PA</b>			
A (Clerk Grade 4 - 1st yr)	22.91	23.37	23.84

A (Clerk Grade 4 – 2nd yr)	23.30	23.77	24.25
C (CSE Grade 4 – Level 1)	24.40	24.89	25.39
<b>Maintenance Supervisor (non-trade) In-charge</b>			
A (In Charge of Staff)	22.71	23.16	23.62
C (Supervisor in Charge of Staff)	23.58	24.05	24.53
<b>C - Gardener Advanced</b> (CSE Grade 4)	22.85	23.31	23.78
<b>C - Personal care worker grade 4 (cert 3)</b> (CSE Grade 4, Level 1)	22.85	23.31	23.78
<b>Aged Care Employee Level 6</b>			
<b>Maintenance 'Tradesperson' Advanced</b>			
A (Supervisor Tradesperson)	23.67	24.14	24.62
C (Supervisor Tradesperson)	24.62	25.11	25.61
A (Supervisor Tradesperson in charge of staff)	24.86	25.36	25.87
<b>C - Personal Care Worker Grade 4 (cert 3)</b> (CSE Grade 4, Level 2 medication)	24.37	24.86	25.36
<b>C - Chef/Food Services Supervisor - trade/Diploma</b>			
Assist/ Catering Officer 300-500 beds	24.27	24.76	25.26
Assist/ Catering Officer 500-1000 beds	24.71	25.20	25.70
<b>Aged Care Employee Level 7</b>			
<b>General Services Supervisor</b>			
C (CSE Grade 5- min rate)	25.94	26.46	26.99
C (CSE Grade 5 – max rate)	37.84	38.60	39.37
<b>Chef/Food Services Supervisor - trade/Diploma</b>			
C (Catering Officer 120-300 beds)	24.27	24.76	25.26
C (Catering Officer 300-500 beds)	25.16	25.66	26.17
C (CSE Grade 5 min rate)	25.94	26.46	26.99
C (Catering officer 500-1000 beds)	27.88	28.44	29.01
C (CSE Grade 5 max rate)	37.84	38.60	39.37
<b>Personal Care Worker Grade 5 – Diploma</b>			
C (CSE Grade 5 min rate)	25.94	26.46	26.99
C (CSE Grade 5 max rate)	37.84	38.60	39.37
<b>Gardener Superintendent</b>			
C (CSE Grade 5 min rate)	25.94	26.46	26.99
C (CSE Grade 5 max rate)	37.84	38.60	39.37
<b>Clerical Supervisor</b>			
C (Clerk Grade 5)	25.56	26.07	26.59
<b>Aged Care Classifications Table 1B</b>	<b>1 Jul 17</b>	<b>1 Jul 18</b>	<b>1 Jul 19</b>
<b>Aged Care Employee Level*</b>			
Aged care employee—level 1	19.83	20.23	20.63

Aged care employee—level 2	20.66	21.07	21.49
Aged care employee—level 3	21.46	21.89	22.33
Aged care employee—level 4	21.72	22.15	22.59
Aged care employee—level 5	22.45	22.90	23.36
Aged care employee—level 6	23.66	24.13	24.61
Aged care employee—level 7	24.09	24.57	25.06

\* Where a classification is not separately identified by title within the Aged Care Classification Table 1A, the Aged Care Classifications Table 1B should be used to appropriately classify an employee covered by the Agreement.

<b>Health Professionals Classifications</b>	<b>1 Jul 17</b>	<b>1 Jul 18</b>	<b>1 Jul 19</b>
<b>Health Professional Employee – Level 1</b>			
<b>Diversional Therapists</b>			
Pay point 1 (First year of experience - UG qualification)	22.78	23.24	23.70
Pay point 2 (Second year of experience)	23.66	24.13	24.61
Pay point 3 (Third year of experience)	24.70	25.19	25.69
Pay point 4 (Fourth year of experience)	25.56	26.07	26.59
Pay point 5 (Fifth year of experience)	27.85	28.41	28.98
Pay Point 6 (Thereafter)	28.84	29.42	30.01
<b>Health Professional Employee – Level 2</b>			
Pay point 1	28.99	29.57	30.16
Pay point 2	30.04	30.64	31.25
Pay point 3	31.19	31.81	32.45
Pay point 4	32.43	33.08	33.74
<b>Health Professional Employee – Level 3</b>			
Pay point 1	33.84	34.52	35.21
Pay point 2	34.78	35.48	36.19
Pay point 3	35.54	36.25	36.98
Pay point 4	37.11	37.85	38.61
Pay point 5	38.48	39.25	40.04
<b>Health Professional Employee – Level 4</b>			
Pay point 1	40.97	41.79	42.63
Pay point 2	43.73	44.60	45.49
Pay point 3	47.55	48.50	49.47
Pay point 4	52.49	53.54	54.61

<b>Home Care Classifications</b>	<b>1 Jul 17</b>	<b>1 Jul 18</b>	<b>1 Jul 19</b>
<b>Home Care employee - level 1</b>	20.07	20.47	20.88
<b>Home Care employee - level 2</b>	21.28	21.71	22.14
<b>Home Care employee - level 3</b>	22.25	22.70	\$3.15
<b>Home Care employee - level 4</b>			
Pay point 1	23.69	24.16	24.64
Pay point 2	24.16	24.64	25.13
<b>Home Care employee - Level 5</b>			
Pay point 1	25.40	25.91	26.43
Pay point 2 – degree or diploma	26.41	26.94	27.48



**Table 2 – Allowances**

		Clause	1 Jul 17	1Jul 18	1 Jul 19
1	<b>Uniform Allowance when uniform is not supplied (excluding nursing classifications)</b>				
	Per shift	22.1(b)	1.43	1.46	1.49
	Per week	22.1(b)	7.26	7.41	7.56
2	<b>Laundry Allowance (excluding nursing classifications)</b>				
	Per shift or part thereof	22.1(b)	0.37	0.38	0.39
	Per week	22.1(b)	1.74	1.77	1.81
	<b>Uniform Allowance when uniform is not supplied (Nursing Classifications Only)</b>				
3	Uniforms	22.2(b)	6.28	6.41	6.54
4	Shoes	22.2(b)	1.95	1.99	2.03
5	Cardigan	22.2(b)	1.88	1.92	1.96
6	Stockings	22.2(b)	3.25	3.32	3.39
7	Socks	22.2(b)	0.64	0.65	0.66
8	<b>Laundry Allowance (Nursing Classifications Only)</b>				
	Per week	22.2(c)	5.24	5.34	5.45
9	<b>Meal Allowance when no meal is provided (Nursing Classifications Only)</b>				
	When required to work more than one hour beyond usual finishing time	22.3(a)	12.74	12.99	13.25
10	<b>Aged Care Classifications at Pay Point “A”</b>				
	Breakfast	22.3(a)	10.42	10.63	10.84
	Lunch	22.3(a)	13.51	13.78	14.06
	Evening	22.3(a)	19.79	20.19	20.59
11	<b>Health Professionals at Pay points “A”</b>				
	Breakfast	22.3(a)	10.42	10.63	10.84
	Lunch	22.3(a)	13.51	13.78	14.06
	Evening	22.3(a)	19.79	20.19	20.59
12	<b>Aged Care Classifications at Pay Point “C”</b>				
	Breakfast	22.3(a)	13.04	13.30	13.57
	Lunch	22.3(a)	16.88	17.22	17.56
	Evening	22.3(a)	24.65	25.14	25.64
13	<b>Health Professionals at Pay points “C”</b>				
	Breakfast	22.3(a)	13.04	13.30	13.57
	Lunch	22.3(a)	16.88	17.22	17.56
	Evening	22.3(a)	24.65	25.14	25.64
14	<b>Home Care Classifications</b>				
	Breakfast	22.3(a)	13.04	13.30	13.57
	Lunch	22.3(a)	16.88	17.22	17.56
	Evening	22.3(a)	24.65	25.14	25.64
15	Further payment when overtime exceeds 4 hours	22.3(a)(ii)	11.46	11.69	11.92
	<b>On Call Allowance (Nursing classifications only)</b>				
16	Between rostered shifts Monday to Friday	22.4(a)(i)	20.82	21.24	21.66
17	Between rostered shifts or on a Saturday	22.4(a)(ii)	30.43	31.04	31.66
18	Between rostered shifts or ordinary hours on a Sunday, public holiday or a day when not rostered to work	22.4(a)(iii)	41.66	42.49	43.34
	<b>On call allowance (Home care classifications only)</b>				
19	Finishing duty on Monday to finishing	22.5(a)	18.13	18.49	18.86

	duty on Friday				
20	Any other period or public holiday.	22.5(b)	35.89	36.61	37.34
21	<b>Mileage Allowance</b>	22.6(a)&(c)	0.88	0.90	0.92
	<b>Continuing Education Allowance (Nursing Classifications Only)</b>				
22	RN - post grad certificate in clinical field	22.7(g)	19.60	19.99	20.39
23	RN - post grad diploma or degree in clinical field	22.7(h)	32.69	33.34	34.01
24	RN - relevant master's degree or doctorate in clinical field	22.7(i)	39.20	39.98	40.78
25	EN - certificate IV qualification in a clinical field	22.7(j)	13.05	13.31	13.58
	<b>In-Charge Allowance (Nursing Classifications only)</b>				
26	RN – in charge of facility of less than 100 beds on day, evening or night	22.8(a)	23.35	23.82	24.30
27	RN – in charge of facility of more than 100 beds on day, evening or night	22.8(a)	37.64	38.39	39.16
28	RN in charge of a shift in a section of a facility	22.8(b)	23.34	23.81	24.29
	<b>Leading Hand Allowance (Aged Care Classifications only)</b>				
29	- in charge of 2 - 5 employees	22.9	22.94	23.40	23.87
30	- in charge of 6 - 10 employees	22.9	32.74	33.39	34.06
31	- in charge of 11 - 15 employees	22.9	41.35	42.18	43.02
32	- in charge of 16-19 employees	22.9	50.54	51.55	52.58
33	Sleepover per night (Aged Care Classifications only)	22.10(b)(iv)	44.69	45.58	46.49
34	Sleepover per night (Home Care Classifications only)	22.11(d)	44.38	45.27	46.18
	<b>Nauseous work allowance</b>				
35	- per hour or part thereof	22.13	0.44	0.45	0.46
36	- minimum per week	22.13	2.35	2.40	2.45
37	First Aid Allowance (Home care classifications only)	22.14	15.13	15.43	15.74
	<b>Heat Allowance (Home Care classifications only)</b>				
38	exceeds 40 degrees	22.16(c)(i)	0.44	0.45	0.46
39	exceeds 46 degrees	22.16(c)(ii)	0.53	0.54	0.55
40	Tool Allowance (Aged Care Classifications only)	22.20	12.66	12.91	13.17
41	On call during meal break	36.1(b)	11.27	11.50	11.73
42	Medication Allowance	22.21	0.82	0.84	0.86

## Schedule A – Nursing Classification Definitions

### Progression through pay points

Progression for all classifications for which there is more than one pay point will be by annual movement to the next pay point. For the purpose of yearly progression based on service and experience a full-time employee must complete 1976 hours, or in the case of a part-time or casual employee 1824 hours, of experience, having regard to the acquisition and use of skill described in the definitions contained in Schedule A - Classification Definitions and knowledge gained through experience in the practice settings over such a period.

### Nursing Care

Nursing care means: Nursing care carried out by Nursing Assistants in aged care, home care and community care contexts is essentially a team effort where the goals of care are determined by the supervising nurse via the care plan for each individual and the policies and protocols of the employing organisation. Care includes attending to the bio-psycho-social needs of residents as well as ensuring that the environment of care and lifestyle activities is safe and conducive to the wellbeing of residents, visitors and other staff.

#### A.1 Nursing Assistant Year 1, Year 2, Year 3 and Experienced (Thereafter)

Nursing Assistants also otherwise known as Assistants in Nursing, provide nursing, care and other duties under the direction of a Registered Nurse or Enrolled Nurse. Experienced Nursing Assistants are those classified at thereafter level.

The primary role of Nursing Assistants in nursing and care contexts is to observe and report to their supervising nurse about the processes involved in delivering services and the outcomes of that intervention or service.

Where specific nursing tasks or responsibilities have been appropriately delegated to the Nursing Assistant, the Nursing Assistant should make their supervising nurse aware of any impediment to carrying out the delegation.

Such employee does not hold a Certificate III and/or Certificate IV qualification.

*Indicative tasks/skills include but are not limited to the following:*

- Report promptly any observed changes or concerns in resident's health status;
- Assist in the provision of quality nursing and personal care under supervision and direction as outlined in the care plan and other relevant documentation;
- Complete documentation as required;
- Exercise discretion and judgement within their level of skill and training;
- Attend training as directed; work in collaboration with the care team;
- Be actively involved in continuous improvement.

Experienced Nursing Assistants who have completed medication training may administer medication to residents. They may also be required to assist residents with medications within a delegated or assigned range of duties, subject to legislative requirements.

#### A.1.1 Nursing Assistant – Certificate III / Certificate IV

An employee at this level is a holder of a Certificate III or Certificate IV relevant to the position. An employee at this level is expected to perform all the tasks of a Nursing Assistant.

Nursing Assistants who hold a Certificate III/ Certificate IV and who have completed the relevant medication qualification to administer medication may be also required to assist residents with medications within a delegated or assigned range of duties, subject to legislative requirements

### **A.1.2 Team Leader (Certificate IV or Experienced) (Employer Appointed Position)**

A Team Leader is an employer appointed position. An employee at this level shall perform the work of a Nursing Assistant and will hold a relevant Certificate IV or other appropriate qualifications/experience acceptable to the employer.

In addition to the skills of a Nursing Assistant an employee at this level is required to: mentor, lead and supervise the work of other staff; demonstrate an understanding of required standards and actively participate in the implementation of those standards.

*Indicative tasks/skills include but are not limited to the following:*

- Provide information relevant to the development of care plans;
- Respond and act promptly to any observed changes or concerns in resident's health status;
- Regularly report to and consult with a Registered Nurse or Enrolled Nurse about relevant resident care issues;
- Complete documentation as required in fulfilling this role;
- Designated by the employer as having the responsibility for leading and/or supervising the work of others; Participate in work health and safety, infection control and training as required.

### **A.2 Enrolled Nurses (with Notation)**

Enrolled Nurse (with Notation) means an Enrolled Nurse registered by the Board as an Enrolled Nurse with the notation "*does not hold a Board Approved qualification in medicines administration*".

An Enrolled Nurse with notation performs the duties and has the skills of an Enrolled Nurse however is not authorised to administer medication.

#### **A.2.1 Enrolled Nurse (with Notation) Pay point 1**

(a) Pay point 1 refers to the pay point to which an enrolled nurse (EN) has been appointed.

(b) An employee will be appointed based on training and experience including: having satisfactorily completed a hospital based course of training in nursing of not more than 12 months duration leading to enrolment as an EN; or having satisfactorily completed a course of training of 12 months duration in a specified branch of nursing leading to enrolment on a register or roll maintained by a state/territory nurses registration board; and having practical experience of up to but not more than 12 months in the provision of nursing care and/or services, and, the undertaking of in-service training, subject to its provision by the employing agency, from time to time.

*Skill Indicators*

- The employee has limited or no practical experience of current situations; and
- The employee exercises limited discretionary judgment, not yet developed by practical experience.

#### **A.2.2 Enrolled Nurse (With Notation) Pay point 2**

(a) Pay point 2 refers to the pay point to which an EN has been appointed.

(b) An employee will be appointed to this pay point based on training and experience including: having satisfactorily completed a hospital based course of general training in nursing of more than 12 months duration and/or 500 or more hours theory content or a course accredited at advanced certificate level leading to enrolment as an EN; or not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for pay point 1; and the undertaking of in-service training, subject to its provision by the employing agency, from

time to time.

#### *Skill Indicators*

The employee is required to demonstrate some of the following in the performance of their work:

- A developing ability to recognise changes required in nursing activity and in consultation with the RN, implements and record such changes, as necessary;
- An ability to relate theoretical concepts to practice; and/or
- Requiring assistance in complex situations and in determining priorities.

### **A.2.3 Enrolled Nurse (With Notation) Pay point 3**

(a) Pay point 3 refers to the pay point to which an EN has been appointed.

(b) An employee will be appointed to this pay point based on training and experience including: Not more than one further year of practical experience in the provision of nursing care and/or services, in addition to the experience, skill and knowledge requirements specified for pay point 2; and the undertaking of in-service training, subject to its provision by the employing agency, from time to time.

#### *Skill Indicators*

The employee is required to demonstrate some of the following in the performance of their work:

- An ability to organise, practise and complete nursing functions in stable situations with limited direct supervision;
- Observation and assessment skills to recognise and report deviations from stable conditions; Flexibility in the capacity to undertake work across the broad range of nursing activity and/or competency in a specialised area of practice; and/or
- Communication and interpersonal skills to assist in meeting psycho-social needs of individuals/groups.

### **A.2.4 Enrolled Nurse (With Notation) Pay point 4**

(a) Pay point 4 refers to the pay point to which an EN has been appointed.

(b) An employee will be appointed to this pay point based on training and experience including: Not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for pay point 3; and the undertaking of in-service training, subject to its provision by the employing agency, from time to time.

#### *Skill Indicators*

The employee is required to demonstrate some of the following in the performance of their work:

- Speed and flexibility in accurate decision making;
- Organisation of own workload and ability to set own priorities with minimal direct supervision;
- Observation and assessment skills to recognise and report deviations from stable conditions across a broad range of patient and/or service needs; and/or
- Communication and interpersonal skills to meet psychosocial needs of individual/groups.

### **A.2.5 Enrolled Nurse (With Notation) Pay Point 5**

(a) Pay point 5 refers to the pay point to which an EN has been appointed.

(b) An employee will be appointed to this pay point based on training and experience including: Not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for pay point 4; and the undertaking of relevant

in-service training, subject to its provision by the employing agency, from time to time.

#### *Skill Indicators*

The employee is required to demonstrate some of the following in the performance of their work:

- Contributes information in assisting the RN with development of nursing strategies/improvements within the employee's own practice setting and/or nursing team, as necessary;
- Responds to situations in less stable and/or changed circumstances resulting in positive outcomes, with minimal direct supervision; and
- Efficiency and sound judgment in identifying situations requiring assistance from an RN.

### **A.3 Enrolled Nurse**

An Enrolled Nurse is a nurse who holds current registration as an Enrolled Nurse with the Board and is authorised to administer medication.

#### **A.3.1 Enrolled Nurse Specialist (Employer Appointed Position)**

Enrolled Nurse Specialist is an employer appointed position. Enrolled Nurse Specialist means an Enrolled Nurse with an Advanced Certificate qualification and a minimum three years full-time equivalent experience in the relevant clinical area.

### **A.4 Registered Nurse**

A Registered Nurse is a nurse who holds current registration as a registered nurse with the Board.

#### **A.4.1 Registered Nurse Level 1 (RN1)**

An employee appointed at this level performs their duties: According to their level of competence; and under the general guidance of, or with general access to a more competent Registered Nurse (RN) who provides work related support and direction.

*An employee at this level is required to perform general nursing duties which include substantially, but are not confined to:*

- Delivering direct and comprehensive nursing care and individual case management to patients or clients within the practice setting;
- Coordinating services, including those of other disciplines or agencies, to individual patients or clients within the practice setting;
- Providing education, counselling and group work services orientated towards the promotion of health status improvement of patients and clients within the practice setting;
- Providing support, direction and education to newer or less experienced staff, including EN's, and student nurses;
- Accepting accountability for the employee's own standards of nursing care and service delivery; and
- Participating in action research and policy development within the practice setting.

#### **A.4.2 Registered nurse Level 2 (RN2)**

An employee appointed at this level may be an RN, CNS or CNE:

Holds any other qualification required for working in the employee's particular practice setting; and is appointed as such by a selection process or by reclassification from a lower level when the employee is required to perform the duties detailed in this subclause on a continuing basis.

In addition to the duties of an RN1, an employee at this level is required, to perform duties delegated by a nurse in a higher classification.

*Duties of a Level 2 nurse will substantially include, but are not confined to:*

- Delivering direct and comprehensive nursing care and individual case management to a specific group of patients or clients in a particular area of nursing practice within the practice setting;
- Providing support, direction, orientation and education to RN1's, EN's and student nurses;
- Being responsible for planning and coordinating services relating to a particular group of clients or patients in the practice setting, as delegated by a nurse in a higher classification;
- Acting as a role model in the provision of holistic care to patients or clients in the practice setting; and
- Assisting in the management of action research projects, and participating in quality assurance programs and policy development within the practice setting.

#### **Clinical Nurse Specialist (Employer Appointed Position)**

*In residential aged care facilities where there are 250 or more beds:*

A Registered Nurse with specific post registration qualifications and twelve months experience working in the clinical area of the employee's specified post registration qualification; or a Registered Nurse with four years' post registration experience in a specific clinical area and working in the clinical area of their specified post registration experience.

*In residential aged care facilities where there are less than 250 beds:*

A Registered Nurse with specific post registration qualifications and twelve months experience working in the clinical areas of their post registration qualification.

#### **Clinical Nurse Educator (Employer Appointed Position)**

Means a registered nurse with relevant post registration certificate qualifications or experience deemed appropriate by the Employer, who is required to implement and evaluate educational programmes for the Employer.

The Clinical Nurse Educator shall cater for the delivery of clinical nurse education and may also be responsible for the orientation of new employees.

Nothing in this classification definition shall affect the role carried out by the Clinical Nurse Specialist as a specialist resource and the Clinical Nurse Consultant in the primary role of clinical consulting, researching, etc.

#### **A.4.3 Registered Nurse Level 3 (RN3)**

An employee at this level may also be known as a Clinical Nurse Consultant, Nurse Manager or Nurse Educator.

An employee appointed at this level:

Holds any other qualification required for working in the employee's particular practice setting; and is appointed as such by a selection process or by reclassification from a lower level when that the employee is required to perform the duties detailed in this subclause on a continuing basis.

In addition to the duties of an RN2, an employee at this level will perform the following duties in accordance with practice settings and patient or client groups:

*Duties of a Clinical Nurse Consultant will substantially include, but are not confined to:*

- Providing leadership and role modelling, in collaboration with others including the Nurse Manager and the Nurse Educator, particularly in the areas of action research and quality assurance programs;
- Staff and patient/client education; staff selection, management, development and appraisal; Participating in policy development and implementation;
- Acting as a consultant on request in the employee's own area of proficiency for the purpose of facilitating the provision of quality nursing care;
- Delivering direct and comprehensive nursing care to a specific group of patients or clients with complex nursing care needs, in a particular area of nursing practice within a practice setting;
- Coordinating, and ensuring the maintenance of standards of the nursing care of a specific group or population of patients or clients within a practice setting; and
- Coordinating or managing nursing or multidisciplinary service teams providing acute nursing and community services.

*Duties of a Nurse Manager will substantially include, but are not confined to:*

- Providing leadership and role modelling, in collaboration with others Including the Clinical Nurse Consultant and the Nurse Educator, particularly in the areas of action research and quality assurance programs;
- Staff selection and education; allocation and rostering of staff;
- Occupational health;
- Initiation and evaluation of research related to staff and resource management;
- Participating in policy development and implementation;
- Acting as a consultant on request in the employee's own area of proficiency (for the purpose of facilitating the provision of quality nursing care);
- Being accountable for the management of human and material resources within a specified span of control, including the development and evaluation of staffing methodologies; and
- Managing financial matters, budget preparation and cost control in respect of nursing within that span of control.

*Duties of a Nurse Educator will substantially include, but are not confined to:*

- Providing leadership and role modelling, in collaboration with others including the Clinical Nurse Consultant and the Nurse Manager, particularly in the areas of action research;
- Implementation and evaluation of staff education and development programs;
- Staff selection;
- Implementation and evaluation of patient or client education programs;



- Participating in policy development and implementation;
- Acting as a consultant on request in the employee's own area of proficiency (for the purpose of facilitating the provision of quality nursing care); and
- Being accountable for the assessment, planning, implementation and evaluation of nursing education and staff development programs for a specified population.

#### **A.4.4 Registered Nurse Level 4 (RN4)**

An employee at this level may also be known as an Assistant Director of Nursing (clinical), Assistant Director of Nursing (management), or Assistant Director of Nursing (education).

An employee appointed at this level:

Holds any other qualification required for working in the employee's particular practice setting; and is appointed as such by a selection process or by reclassification from a lower level when the employee is required to perform the duties detailed in this subclause on a continuing basis.

Appointment at a particular grade at this level will depend upon the level of complexity associated with the duties described in this clause. The number of beds in a facility will be a relevant consideration.

In addition to the duties of an RN3, an employee at this level will perform the following duties:

*Duties of an Assistant Director of Nursing (clinical) will substantially include, but are not confined to:*

- Providing leadership and role modelling, in collaboration with others including the Assistant Director of Nursing (management) and Assistant Director of Nursing (education), particularly in the areas of selection of staff within the employee's area of responsibility;
- Provision of appropriate education programs, coordination and promotion of clinical research projects;
- Participating as a member of the nursing executive team;
- Contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
- Managing the activities of, and providing leadership, coordination and support to, a specified group of Clinical Nurse Consultants;
- Being accountable for the establishment, implementation and evaluation of systems to ensure the standard of nursing care for a specified span of control;
- Being accountable for the development, implementation and evaluation of patterns of patient care for a specified span of control;
- Being accountable for clinical operational planning and decision making for a specified span of control; and
- Being accountable for appropriate clinical standards, through quality assurance programs, for a specified span of control.

*Duties of an Assistant Director of Nursing (management) will substantially include, but are not confined to:*

- Providing leadership and role modelling, in collaboration with others including the Assistant Director of Nursing (clinical) and Assistant Director of Nursing (education), particularly in the areas of selection of staff within the employee's area of responsibility;
- Coordination and promotion of nursing management research projects;

- Participating as a member of the nursing executive team;
- Contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
- Managing the activities of, and providing leadership, coordination and support to, a specified group of Nurse Managers;
- Being accountable for the effective and efficient management of human and material resources within a specified span of control;
- Being accountable for the development and coordination of nursing management systems within a specified span of control; and
- Being accountable for the structural elements of quality assurance for a specified span of control.

*Duties of an Assistant Director of Nursing (education) will substantially include, but are not confined to:*

- Providing leadership and role modelling, in conjunction with others including the Assistant Director of Nursing (clinical) and the Assistant Director of Nursing (management), particularly in the areas of selection of staff within the employee's area of responsibility;
- Coordination and promotion of nurse education research projects;
- Participating as a member of the nursing executive team, and contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
- Managing the activities of, and providing leadership, coordination and support to a specific group of Nurse Educators;
- Being accountable for the standards and effective coordination of education programs for a specified population;
- Being accountable for the development, implementation and evaluation of education and staff development programs for a specified population;
- Being accountable for the management of educational resources including their financial management and budgeting control; and
- Undertaking career counselling for nursing staff.

#### **A.4.5 Registered Nurse Level 5 (RN5)**

An employee at this level may also be known as a Director of Nursing.

An employee appointed at this level:

Holds any other qualification required for working in the employee's particular practice setting; and is appointed as such by a selection process or by reclassification from a lower level when the employee is required to perform the duties detailed in this subclause on a continuing basis.

Appointment at a particular grade at this level will depend upon the level of complexity associated with the duties described in this clause. The number of beds in a facility will be a relevant consideration.

*In addition to the duties of an RN4, an employee at this level will perform the following duties:*

- Being accountable for the standards of nursing care for the health unit and for coordination of the nursing service of the health unit;
- Participating as a member of the executive of the health unit, being accountable to the executive for the development and evaluation of nursing policy, and generally contributing to the development of

health unit policy;

- Providing leadership, direction and management of the nursing division of the health unit in accordance with policies, philosophies, objectives and goals established through consultation with staff and in accordance with the directions of the Board of Directors of the health unit;
- Providing leadership and role modelling, in collaboration with others, particularly in the areas of staff selection, promotion of participative decision making and decentralisation of nursing management and generally advocating for the interests of nursing to the executive team of the health unit;
- Managing the budget of the nursing division of the health unit;
- Ensuring that nursing services meeting changing needs of clients or patients through proper strategic planning; and
- Complying, and ensuring the compliance of others, with the code of ethics and legal requirements of the nursing profession.

#### **A.5 Nurse Practitioner (Employer Appointed Position)**

“Nurse Practitioner” means a Registered Nurse appointed as such to a position approved by the employer and who is authorised by the Board under Section 95 of *Health Practitioner Regulation National Law (NSW)* No 86A.

A Nurse Practitioner will have at least three years full-time equivalent experience in an advanced practice role and meets the national competency standards for Nurse Practitioners. A Nurse Practitioner functions autonomously and operates at a level of nursing that uses extended and expanded skills, experience and knowledge assessment, planning, implementation, diagnosis and evaluation of nursing care.

##### **A.5.1 Role of a Nurse Practitioner**

The Nurse Practitioner is able to assess and manage the care of clients /residents using nursing knowledge and skills. It is dynamic practice that incorporates application of high level knowledge and skills, beyond that required of a registered nurse in extended practice across stable, unpredictable and complex situations.

The Nurse Practitioner role is grounded in the nursing profession's values, knowledge, theories and practice and provides innovative and flexible health care delivery that complements other health care providers.

##### **A.5.2 Scope of Practice**

The scope of practice of the Nurse Practitioner is determined by the context in which: The Nurse Practitioner is authorised to practice. The Nurse Practitioner therefore remains accountable for the practice for which they directed; and the professional efficacy whereby practice is structured in a nursing model and enhanced by autonomy and accountability.

The Nurse Practitioner is authorised to directly refer clients/residents to other health professionals, prescribe medications and order diagnostic investigations including pathology and plain screen x-rays. Nurse Practitioners exhibit clinical leadership that influences and progresses clinical care, policy and collaboration through all levels of health service.

## Schedule B – Aged Care Classifications

### Progression from Aged Care Level One

Employees who are new to the industry and/or have less than three months work experience in the industry may be classified at this level. This level is designed solely as an entry level.

An employee at Aged Care Level One will only be eligible for progression to Aged Care Level Two if, the employee:

- (a) has completed three months continuous employment; and
- (b) has performed basic duties.

### Classifying Existing Employees

#### Information regarding the Aged Care Classification pay point system under Clause 18 – Minimum Weekly Wages:

The pay points under each classification at Clause 18 – Minimum Weekly Wages have been established to assist employers to understand how existing employees will be paid under this agreement.

Each pay point has the letter “A” or “C” adjacent to it, for the following reasons:

For those pay points with the letter A, the equivalent classification for that pay point was under the *Aged Care General Services (State) NAPSA*.

For those pay points with the letter C, the equivalent classification for that pay point was under the *Charitable Sector Aged and Disability Care Services (State) NAPSA*.

The equivalent classifications under those NAPSA’s have been inserted in brackets next to the relevant pay points. The purpose of inserting the equivalent classifications under the NAPSA’s is to provide logical examples of how employees classified under the Aged Care NAPSA’s are likely to be classified under this agreement.

To ensure employees are consistently being progressed in the same pay point system, employers should not progress employees from pay points “A” to “C”, ie, from one NAPSA to the other. If progression is appropriate, employees should only progress from pay points “A” to “A” or pay points “C” to “C”.

For example, if an employee was appointed as a Aged Care Level One, Laundry Hand, pay point 1A, if this employee was to progress to Aged Care Level two, the employee would be classified as Aged Care Level Two, Laundry Hand, pay point 1A.

Where there is no equivalent classification under the NAPSA’s, the modern award classification will apply.

Notwithstanding anything contained in this Schedule, reference should also, always be given to the historical definitions, position descriptors and tasks set out in either of the following industry NAPSAs, which applied to the employer prior to 1 January 2010, when classifying employees.

### Classifying New Employees

When classifying new employees, employers should give consideration to the relevant NAPSA that would have applied to their organisation, ie: If an organisation is for profit, the most likely NAPSA that would apply is the *Aged Care General Services (State) Award* (now a NAPSA); alternatively if an organistaion is not for profit or charitable, the most likely NAPSA that would apply is the *Charitable Sector Aged and Disability Services Sector (State) Award* (now a NAPSA).

Once this has been established, employers should appoint new employees according to basic duties and indicative tasks under the Aged Care Level 1 to 7, together with the employee’s skill, knowledge, experience and competence.

When classifying new employees, an employer may request the employee to provide satisfactory documentary evidence detailing any other ‘service’ or ‘experience’ within the industry for the purpose of assisting the employer to appoint the employee in the most appropriate classification. In the absence, of such satisfactory evidence, the employer shall classify the employee at the level for which proof has been provided. For those employees who are new to the industry and/or who have less than three months work experience, employers should classify these employees at the entry level of Aged Care Level one.

## The following are the Aged Care Classifications

### B.1 Aged Care Employee Level 1

Entry level:

An employee who has less than three months work experience in the industry and performs basic duties:

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

Indicative tasks performed at this level are:

#### General and Administrative Services

General Clerk  
Laundry hand  
Cleaner  
Assistant Gardener

#### Food Services

Food Services Assistant

### B.2 Aged Care Employee Level 2

An employee at this level:

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

Indicative tasks performed at this level are:

#### General and Administrative Services

General Clerk/Typist (between 3 months and less than 1 years service)  
Laundry hand  
Cleaner  
Gardener (non trade)  
Maintenance/Handyperson (unqualified)  
Driver (less than 3 ton)

#### Food Services

Food Services Assistant

#### Personal Care

Personal Care Worker Grade 1

### B.3 Aged Care Employee Level 3

An employee at this level:

- Is capable of prioritising work within established routines, methods and procedures (non admin/clerical);
- Is responsible for work performed with a medium level of accountability or discretion (non admin/clerical);
- Works under limited supervision, either individually or in a team (non admin/clerical);
- Possesses sound communication and/or arithmetic skills (non admin/clerical);
- Requires specific on-the-job training and/or relevant skills training or experience (non admin/clerical); and
- In the case of an admin/clerical employee, undertakes a range of basic clerical functions within established routines, methods and procedures.

Indicative tasks performed at this level are:

<b>General and Administrative Services</b> General Clerk/Typist (second and subsequent year of service) Receptionist / Pay Clerk Driver (less than 3 ton) which is required to hold a St John Ambulance first aid certificate	<b>Food Services</b> Cook	<b>Personal Care</b> Personal Care Worker Grade 2 Recreational/Lifestyle Activities Officer (Unqualified)
<b>B.4 Aged Care Employee Level 4</b>		
<p>An employee at this level:</p> <ul style="list-style-type: none"> <li>Is capable of prioritising work within established policies, guidelines and procedures;</li> <li>Is responsible for work performed with a medium level of accountability or discretion;</li> <li>Works under limited supervision, either individually or in a team;</li> <li>Possesses good communication, interpersonal and/or arithmetic skills; and</li> <li>Requires specific on-the-job training, may require formal qualifications and/or relevant skills training or experience.</li> <li>In the case of a Personal care worker, is required to hold a relevant Certificate III qualification.</li> </ul> <p>Indicative tasks performed at this level are:</p>		
<b>General and Administrative Services</b> Senior Clerk / Senior Receptionist, Maintenance/Handyperson (qualified) Driver (3 ton or over) Gardener (trade or TAFE Certificate III or above)	<b>Food Services</b> Senior Cook (trade)	<b>Personal Care</b> Personal Care Worker Grade 3
<b>B.5 Aged Care Employee Level 5</b>		
<p>An employee at this level:</p> <ul style="list-style-type: none"> <li>Is capable of functioning semi-autonomously, and prioritising their own work within established policies, guidelines and procedures;</li> <li>Is responsible for work performed with a substantial level of accountability;</li> <li>Works either individually or in a team; may assist with supervision of others;</li> <li>Requires a comprehensive knowledge of medical terminology and/or a working knowledge of health insurance schemes (admin/clerical);</li> <li>May require basic computer knowledge or be required to use a computer on a regular basis;</li> <li>Possesses administrative skills and problem solving abilities;</li> <li>Possesses well developed communication, interpersonal and/or arithmetic skills; and</li> <li>Requires substantial on-the-job training, may require formal qualifications at trade or certificate level and/or relevant skills training or experience.</li> </ul> <p>Indicative tasks performed at this level are:</p>		
<b>General and Administrative Services</b> Secretary (interpreter)	<b>Food Services</b> Chef	<b>Personal Care</b> Personal Care Worker Grade 4
<b>B.6 Aged Care Employee Level 6</b>		
<p>An employee at this level:</p> <ul style="list-style-type: none"> <li>Is capable of functioning with a high level of autonomy, and prioritising their work within established policies, guidelines and procedures;</li> <li>Is responsible for work performed with a substantial level of accountability and responsibility;</li> </ul>		

- Works either individually or in a team;
- May require comprehensive computer knowledge or be required to use a computer on a regular basis;
- Possesses administrative skills and problem solving abilities; possesses well developed communication, interpersonal and/or arithmetic skills; and
- May require formal qualifications at post-trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Indicative tasks performed at this level are:

**General and Administrative Services**

Maintenance tradesperson (advanced)  
Gardener (advanced)

**Food Services**

Senior Chef

## B.7 Aged Care Employee Level 7

An employee at this level:

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

Indicative tasks performed at this level are:

**General and Administrative Services**

Clerical Supervisor,  
Interpreter (qualified)  
Gardener superintendent,  
General Services Supervisor

**Food Services**

Chef/Food  
Services  
Supervisor

**Personal Care Worker**

Personal Care Worker Grade 5

## Schedule C – Home Care Classifications

### Progression

At the end of each 12 months' continuous employment, an employee will be eligible for progression from one pay point to the next within a level if the employee has demonstrated competency and satisfactory performance over a minimum period of 12 months at each level within the level and:

- (a) the employee has acquired and satisfactorily used new or enhanced skills within the ambit of the classification, if required by the employer; or
- (b) where an employer has adopted a staff development and performance appraisal scheme and has determined that the employee has demonstrated satisfactory performance for the prior 12 months' employment.

Movement to a higher classification will only occur by way of promotion or re-classification.

#### C.1 Home Care Employee Level 1

A position in this level has the following characteristics:

A person appointed to this position will have less than 12 months' experience in the industry.

- An employee in this level performs broad tasks involving the utilisation of a range of basic skills in the provision of domestic assistance and support and is responsible for the quality of their work.
- Work activities are routine and clearly defined. The tasks to be performed may involve the use of a limited range of techniques and methods within a specified range of work. An employee may resolve minor problems that relate to immediate work tasks.
- Indicative but not exclusive tasks include: the undertaking of semi-skilled work, including cleaning, vacuuming, dusting, washing and ironing, shopping, sweeping paths, minor maintenance jobs, preparation and cooking of meals, defrosting refrigerators, emptying and cleaning of commodes, banking and account payment, organising appointments, assistance with care of pets, and care of indoor and outdoor pot plants.
- Positions in this level may require basic oral communication skills and where appropriate written skills, with clients, members of the public and other employees.
- An employee in this level will have commenced on-the-job training which may include an induction course.

#### C.2 Home Care Employee Level 2

A position in this level has the following characteristics:

- An employee in this level performs broad tasks involving the utilisation of a range of developed skills in the provision of domestic assistance and support. Work performed falls within general guidelines but with scope to exercise discretion in the application of established practices and procedures. May assist others in the supervision of work of the same or lower level and is responsible for assuring the quality of work performed.
- In these positions, the nature of the work is clearly defined with established procedures well understood or clearly documented. Employees in this level are called upon to use some originality in approach with solutions usually attributable to application of previously encountered procedures and practices.
- Indicative but not exclusive tasks include: the provision of personal care, supervising daily hygiene, laying out clothes and assisting in dressing, make beds, tidy rooms, preparation and cooking of meals and assistance with meals, dry cleaning, perform gardening duties, undertake basic repairs, clean, fitting and removal of aids and appliances, monitoring medications, fitting and changing of catheters, assistance with communication, accompanying clients on outings, domestics assistance and organising appointments.



- Positions in this level require oral communication skills and where appropriate written skills, with clients, members of the public and other employees.
- As a minimum an employee in this level will have satisfactorily completed the requirements of level 1 or equivalent. Indicative but not exclusive of the qualifications required in this level include Home Care Certificate or equivalent; or relevant experience/on-the-job training commensurate with the requirements of work in this level.

### **C.3 Home Care Employee Level 3**

A position in this level has the following characteristics:

- Employees perform work under general supervision. Employees in this level have contact with the public or other employees which involves explanations of specific procedures and practices. Employees in this level are accountable for the quality, quantity and timeliness of their own work in so far as available resources permit, and for the care of assets entrusted to them.
- These positions require personal judgment. The nature of work is usually specialized with procedures well understood and clearly documented. The particular tasks to be performed will involve selection from a range of techniques, systems, equipment, methods or processes.
- Indicative but not exclusive tasks include: computer and other office skills; maintain mail register and records; sort, process and record invoices and correspondence; prepare meals and special functions; provide input into meal planning; order foodstuffs and commodities; liaise with dieticians on special needs; schedule work programs on a routine and regular basis; co-ordinate and direct the work of support staff including maintenance (no more than four); oversee the provision of domestic services; provide personal care to clients with particular emphasis on those requiring extra help due to specific physical problems or frailty; schedule maintenance work programs on a routine and regular basis; plan, develop, and co-ordinate diversional therapy programs and carry out general maintenance falling within the scope of trades skills.
- Positions in this level require skills in oral and written communication with clients, other employees and members of the public.
- Indicative but not exclusive of the qualifications required in this level is an accredited qualification to the position at the level of Certificate 3 and/or knowledge and skills gained through on-the-job training commensurate with the requirements of the work in this level.

### **C.4 Home Care Employee Level 4**

A position in this level has the following characteristics:

- Employees are expected to exercise discretion within standard practices and processes, undertaking and implementing quality control measures. Positions in this level may provide direction, leadership, administration and rostering of direct care employees.
- The objectives of the work are well defined but the particular method, process or equipment to be used must be selected from a range of available alternatives. For employees undertaking rostering duties, the process often requires the quantification of the amount of resources needed to meet those objectives.
- Employees will be required to plan, direct and train subordinate staff. Employees are also required to have a thorough understanding of the relevant technology, procedures and processes used within their operating unit.
- Indicative but not exclusive of the skills required include: the manipulation of data e.g. modify fields of information and create spreadsheets; create new forms or records using a computer based records system; access and extract information from external sources e.g. local authorities; roster staff and direct work programs; oversee the work and training of lower level employees; provide guidance and counselling; assist in the development of budgets; order consumables and routine stock items used in domestic support areas; develop client care plans and oversee the provision of domestic services.
- Positions in this level require the ability to gain co-operation and assistance from members of the public and

other employees in the performance of well defined activities. Employees in this level may also be expected to write reports in their field of expertise.

- An employee in this level will have satisfactorily completed the requirements of level 3 or equivalent as well as have relevant experience.

### **C.5 Home Care Employee Level 5**

A position in this level includes care coordinator, foreperson and maintenance supervisor. A position in this level has the following characteristics:

- (a) Positions in this level may co-ordinate resources and/or give support to more senior employees or be engaged in duties of a specialist nature.
- (b) In positions where the prime responsibility is for resource co-ordination, the freedom to act is governed by clear objectives and/or budgets with frequent prior consultation with more senior employees and a regular reporting mechanism to ensure adherence to plans.
- (c) Whatever the nature of the position, employees in this level are accountable for the quality, effectiveness, cost and timeliness of the programs, projects or work plans under their control and for the safety and security of the assets being managed.
- (d) Employees with co-ordination responsibilities are also required to ensure that all employees under their direction are trained in safe working practices and in the safe operation of equipment and are made aware of all occupational health and safety policies and procedures.

In these positions, the objectives of the work are usually well defined but the particular method, technology, process or equipment to be used must be selected from a range of available alternatives. However, problems in this level are often of a complex or technical nature with solutions not related to previously encountered situations and some creativity and originality is required. Guidance and counsel may be available within the time available to make a choice.

- Coordinators in this level require a thorough understanding of the relevant technology, procedures and processes used within their operating unit. Coordinators are required to have an understanding of the function of the position within its organisational context, including relevant policies, regulations and precedents. Positions in this level may provide direction, leadership and structured training or on-the-job training to supervised employees or groups of employees.
- These positions require skills in managing time, setting priorities and planning and organising one's own work and that of supervised employees so as to achieve specific and set objectives in the most efficient way possible within the resources available and within a set timetable.
- The position requires an understanding of and ability to implement basic personnel policies and practices including those related to equal employment opportunity, occupational health and safety and employees' training and development.
- Positions in this level require the ability to gain co-operation and assistance from clients, members of the public and other employees in the administration of defined activities and in the supervision of other employees or groups of employees. Employees in this level are expected to write reports in their field of expertise and to prepare external correspondence of a routine nature.
- The skills and knowledge needed for entry to this level are beyond those normally acquired through completion of a TAFE certificate or associate diploma alone. They might be acquired through completion of a degree or diploma course with little or no relevant work experience, or through lesser formal qualifications with relevant work skills, or through relevant experience and work skills commensurate with the requirements of work in this level.

## Schedule D – Health Professionals

### Coverage

This agreement aims to cover Health Professionals who are engaged in the aged care industry, such as: Diversional Therapists.

#### Progression through level 1

Employees will enter at the relevant pay point and then progress annually or, in the case of a part-time or casual employee, 1824 hours until they reach pay point 6.

#### Progression through levels 2 - 4

Progression for all classifications for which there is more than one pay point will be by annual movement to the next pay point having regard to the acquisition and use of skills, or in the case of a part-time or casual employee, 1824 hours of similar experience.

#### D.1 Health Professional Level 1

Positions at level 1 are regarded as entry level health professionals and for initial years of experience.

This level is the entry level for new graduates who meet the requirement to practise as a health professional (where appropriate in accordance with their professional association's rules and be eligible for membership of their professional association) or such qualification as deemed acceptable by the employer. It is also the level for the early stages of the career of a health professional.

#### D.2 Health Professional Level 2

A health professional at this level works independently and is required to exercise independent judgment on routine matters. They may require professional supervision from more senior members of the profession or health team when performing novel, complex, or critical tasks. They have demonstrated a commitment to continuing professional development and may have contributed to workplace education through provision of seminars, lectures or in-services. At this level the health professional may be actively involved in quality improvement activities or research.

At this level the health professional contributes to the evaluation and analysis of guidelines, policies and procedures applicable to their clinical/professional work and may be required to contribute to the supervision of discipline specific students.

#### D.3 Health Professional Level 3

A health professional at this level would be experienced and be able to independently apply professional knowledge and judgment when performing novel, complex, or critical tasks specific to their discipline. At this level health professionals will have additional responsibilities.

*An employee at this level:*

- Works in an area that requires high levels of specialist knowledge and skill as recognised by the employer;
- Is actively contributing to the development of professional knowledge and skills in their field of work as demonstrated by positive impacts on service delivery, positive referral patterns to area of expertise and quantifiable/measurable improvements in health outcomes;
- May be a sole discipline specific health professional in a metropolitan, regional or rural setting who practices in professional isolation from health professionals from the same discipline;
- Is performing across a number of recognised specialties within a discipline;
- May be accountable for allocation and/or expenditure of resources and ensuring targets are met and is

- responsible for ensuring optimal budget outcomes for their customers and communities;
- May be responsible for providing regular feedback and appraisals for senior staff to improve health outcomes for customers and for maintaining a performance management system; and
- Is responsible for providing support for the efficient, cost effective and timely delivery of services.

#### **D.4 Health Professional Level 4**

A health professional at this level applies a high level of professional judgment and knowledge when performing a wide range of novel, complex, and critical tasks, specific to their discipline.

*An employee at this level:*

- Has a proven record of achievement at a senior level;
- Has the capacity to allocate resources, set priorities and ensure budgets are met within a large and complex organisation;
- May be responsible to the executive for providing effective services and ensuring budget/strategic targets are met;
- Supervises staff where required; and
- Is expected to develop/implement and deliver strategic business plans which increase the level of care to customers within a budget framework.

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## Schedule 2.2—Model flexibility term

(regulation 2.08)

### Model flexibility term

- (1) An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
  - (a) the agreement deals with 1 or more of the following matters:
    - (i) arrangements about when work is performed;
    - (ii) overtime rates;
    - (iii) penalty rates;
    - (iv) allowances;
    - (v) leave loading; and
  - (b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
  - (c) the arrangement is genuinely agreed to by the employer and employee.
- (2) The employer must ensure that the terms of the individual flexibility arrangement:
  - (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
  - (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
  - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- (3) The employer must ensure that the individual flexibility arrangement:
  - (a) is in writing; and
  - (b) includes the name of the employer and employee; and
  - (c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
  - (d) includes details of:

- (i) the terms of the enterprise agreement that will be varied by the arrangement; and
  - (ii) how the arrangement will vary the effect of the terms; and
  - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
- (e) states the day on which the arrangement commences.
- (4) The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (5) The employer or employee may terminate the individual flexibility arrangement:
  - (a) by giving no more than 28 days written notice to the other party to the arrangement; or
  - (b) if the employer and employee agree in writing—at any time.

## IN THE FAIR WORK COMMISSION

FWC Matter No.:  
AG2017/4886

Genista Aged Care

Section 185 – Application for approval of a single enterprise agreement

### **Undertaking- Section 190**

I, Marna Chami [Director of Nursing for Genista Aged Care give the following undertakings with respect to the **Genista Aged Care, NSWNMA, ANMF NSW Branch and HSU New South Wales Branch Enterprise Agreement 2017**


1. I have the authority given to me by Genista Aged Care to provide this undertaking in relation to the application before the Fair Work Commission.
2. Insert new clause 40.1(c) and (d) with the following:
  - (c) *For Home Care employees who are rostered to work more than four hours on 10 or more weekends during the yearly period in which their annual leave accrues will be considered shift workers for the purposes of the additional week of annual leave.*
  - (d) *Employees who are rostered to work ordinary hours on a weekend in an aged care setting will be considered shift workers for the purposes of the additional week of annual leave.*
3. Replace clause 34(c) with the following:

*Payment for a broken shift will be at ordinary pay with penalty rates and shift allowances in accordance with Clause 38 Shiftwork, with shift allowances being determined by the commencing time of the broken shift (for broken shifts in an aged care setting). Broken shifts taking place in a home care setting will have shift allowances determined by the finishing time of the broken shift.*
4. Replace clause 35 with the following:

*Saturday and Sunday Work*

  - (a) *Where an employee is rostered to work ordinary hours between midnight Friday and midnight Saturday, the employee will be paid a loading of 50% of their ordinary rate of pay for the hours worked during this period.*
  - (b) *Where an employee is rostered to work ordinary hours between midnight Saturday and midnight Sunday, all employees excluding home care employees will be paid a loading of 75% of their ordinary rate of pay for the hours worked during this period.*
  - (c) *Where an employee is required to work ordinary hours on a Sunday in a home care setting, employees will be paid a loading of 100% of their ordinary rates of pay.*

- (d) *Casual employees will be paid in accordance with Clauses 35(a), 35(b) and 35(c). The rates prescribed in Clauses 35(a), 35(b) and 35(c) will be in substitution for and not cumulative upon the casual loading prescribed in Clause 12.5(b).*
  - (e) *These extra rates will be in substitution for and not cumulative upon the shift penalties prescribed at Clause 38 Shiftwork.*
5. Amend clause 37.2(b) to include the words:
- Subject clause 37.2(d) below*
6. Insert new clause 37.2(d):
- For a part time employee, all time worked in excess of their guaranteed hours (unless an agreement has been entered into between the part-time employee and their employer) will be overtime and paid at the rates prescribed in clause 37.2(a).*
7. Replace clause 37.3(a) with the following:
- Time off instead of payment for overtime must be equivalent to the overtime payment that would have been made to the employee and taken within three months of being accrued.*
8. Insert at the end of clause 37.3(b):
- These provisions will also apply on termination of employment.*
9. Replace clause 47.2 with the following:
- An employee is entitled to 12 months of unpaid parental leave if:*
- (a) *The leave is associated with:*
    - (i) *The birth of a child of the employee or employee's spouse or de-facto partner; or*
    - (ii) *The placement of a child with the employee for adoption.*
  - (b) *The employee has or will have a responsibility for the care of the child.*
10. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

  
\_\_\_\_\_  
Signature

*11.12.2017*  
\_\_\_\_\_  
Date