

[2019] FWCA 5860

The attached document replaces the document previously issued with the above code on 26 August 2019.

The reference to the NES precedence clause at [4] has been amended to clause 5.

Nade Petreska  
Associate to Deputy President Millhouse

Dated 26 August 2019



## DECISION

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

**St Vincent's Private Hospital Limited T/A Mater Hospital Sydney and St Vincent's Private Community Hospital Griffith**  
(AG2019/1460)

### **MATER HOSPITAL NORTH SYDNEY AND ST VINCENT'S PRIVATE COMMUNITY HOSPITAL GRIFFITH NURSES' AND MIDWIVES' ENTERPRISE AGREEMENT 2019**

Health and welfare services

DEPUTY PRESIDENT MILLHOUSE

MELBOURNE, 26 AUGUST 2019

*Application for approval of the Mater Hospital North Sydney and St Vincent's Private Community Hospital Griffith Nurses' and Midwives' Enterprise Agreement 2019.*

[1] An application has been made for approval of an enterprise agreement known as the *Mater Hospital North Sydney and St Vincent's Private Community Hospital Griffith Nurses' and Midwives' Enterprise Agreement 2019* (Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (Act). It has been made by St Vincent's Private Hospital Limited T/A Mater Hospital Sydney and St Vincent's Private Community Hospital Griffith (Employer). The Agreement is a single enterprise agreement.

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

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

[4] I observe that Clause 34.17 of the Agreement, which states that where, because of an illness or risk associated with pregnancy, an employee will be transferred to a position which is "as close as possible in status and salary" as the employee's substantive position, is likely to be inconsistent with the National Employment Standards (NES). However, noting clause 5 of the Agreement, I am satisfied the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[5] The Australian Nursing and Midwifery Federation, being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2), I note that the Agreement covers the organisation.

[6] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 2 September 2019. The nominal expiry date of the Agreement is 31 December 2021.



DEPUTY PRESIDENT

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## Annexure A

### IN THE FAIR WORK COMMISSION

**FWC Matter No:**  
AG2019/1460

**Applicant:**  
St Vincent's Private Hospitals Limited (**SVPHL**)

Section 185 – Application for approval of a single enterprise agreement

### UNDERTAKINGS

I, Tania Dixon, Human Resources Manager, for SVPHL, give the following undertakings in accordance with section 190 of the *Fair Work Act 2009* with respect to the *Mater Hospital North Sydney and St Vincent's Private Community Hospital Griffith Nurses' Enterprise Agreement 2019* (**the Agreement**):

1. In accordance with clause 3, the nominal expiry date for this Agreement is 31 December 2021
2. A new subclause will be included at 11.16A as follows:

*A casual employee who works ordinary hours in accordance with clause 26 of the Agreement, thereby entitling the employee to payment of applicable shift penalties (excluding weekend work), will be entitled to payment of the casual loading in addition to the shift penalties.*

3. Clause 11.16 of the Agreement will be amended - as underlined:

*For weekend work, casual employees will not receive weekend penalty rates or the casual loading, but instead will receive the following loadings:*

(1) Casuals (excluding AINs):

- 58.3% for work between midnight Friday and midnight Saturday;
- 83.3% for work between midnight Saturday and midnight Sunday;

(2) A casual AIN:

- 66% for work between midnight Friday and midnight Saturday;
- 93% for work between midnight Saturday and midnight Sunday;

*in addition to their ordinary rate.*

4. Clause 11.1(a) of the Agreement will be amended - as underlined:

*A part-time employee is one who is permanently appointed by the Employer to work a specified number of hours which are less than those prescribed for a full-time employee, to be worked in accordance with a roster. Before commencing part-time employment, the Employer and Employee will agree in writing on the specified number of hours.*



Tania Dixon  
Human Resources Manager  
22 August 2019

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



**MATER HOSPITAL NORTH SYDNEY AND ST  
VINCENT'S PRIVATE COMMUNITY HOSPITAL  
GRIFFITH  
NURSES' AND MIDWIVES'  
ENTERPRISE AGREEMENT 2019**

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## PART 1 - AGREEMENT

### 1. Name of the Agreement

This Agreement will be known as and referred to as the Mater Hospital North Sydney and St Vincent's Private Community Hospital Griffith Nurses' and Midwives' Enterprise Agreement 2019 ("**the Agreement**").

### 2. Coverage

This Agreement will cover:

- 2.1 St Vincent's Private Hospitals Limited operating as Mater Hospital Sydney (ABN 61 083 645 505) and St Vincent's Private Community Hospital Griffith (ABN 61 083 645 505) collectively referred to as "**the employer**" or "**the hospital**";
- 2.2 the Australian Nursing and Midwifery Federation NSW Branch ("**ANMF NSW Branch**") (ABN 63 398 164 405 located at 50 O'Dea Avenue Waterloo, NSW, 2017; and
- 2.3 nursing employees employed by the employer in classifications listed in Appendix 1.

### 3. Date and Period of Operation

- 3.1 This Agreement shall commence operation from the 7th day after the Agreement is approved by the Fair Work Commission and will remain in place until 31 December 2021 or thereafter in accordance with the Fair Work Act 2009.
- 3.2 Discussions for a new agreement shall commence 6 months before the nominal expiry date of this Agreement.

### 4. Posting of the Agreement

A copy of the Agreement shall be displayed in a conspicuous and convenient place at the workplace, and made available on the hospital Intranet so as to be easily read by all employees.

### 5. Relationship to the NES

Entitlements in accordance with the National Employment Standards ("**NES**") are provided for under the *Fair Work Act 2009*. Where this Agreement also has provisions regarding matters dealt with under the NES and the provisions in the NES set out in the Act are more favourable to an Employee in a particular respect than those provisions, then the NES will prevail in that respect and the provisions dealing with that matter in this Agreement will have no effect in respect of that Employee. The provisions in this Agreement otherwise apply.



## 6. Definitions

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

**"Board"** means the Nursing and Midwifery Board of Australia and shall also be taken to mean a reference to Australian Health Practitioner Regulations Agency as appropriate.

**"Day Worker"** means a worker who works their ordinary hours Monday to Friday inclusive and who commences work on such days at or after 6.00am and before 10.00am otherwise than as part of the shift system.

**"Experience"** in relation to an enrolled nurse, or assistant in nursing/midwifery means experience before and/or after the commencement of the Agreement whether within New South Wales or elsewhere and, in the case of an enrolled nurse or assistant in nursing/midwifery who was formerly a student nurse, includes experience as such student nurse.

For the purpose of determining the year of experience for part time or casual employment, a year of experience shall be 1976 hours of employment, unless otherwise specified in this Agreement.

**"Industry of Nursing"** means the industry of persons engaged and employed in New South Wales in the profession or occupation of nursing including midwifery and employed in or in connection with Private Hospitals and Day Procedure Centres.

**"Hospital"** means a private hospital as defined by the *Private Health Facilities Act 2007 (NSW)*.

**"Ordinary rate"** means the rate of pay payable to the employee for his or her ordinary hours of work, but does not include any loadings, penalties, allowances or overtime unless otherwise stated in this Agreement.

**"Professional Practice Allowance"** An amount set out in Table 2 – Professional Practice Allowance will be paid to eligible nurses and midwives on the satisfactory completion of tertiary post-graduate qualifications, as set out below, where holding a postgraduate qualification (over and above a Bachelor's degree) increases the employee's knowledge and skills of the job.

The eligible nurse or midwife must complete the Professional Practice Allowance application form, and submit it to HR along with evidence that establishes the nurse or midwife has the qualification as set out below. Payment of the Professional Practice Allowance commences on the first full pay period after the application and evidence has been submitted and approved by the Employer. Payment of the Professional Practice Allowance will not be backdated.

These positions and qualifications are listed below:

Assistant Director of Nursing	Bachelor of Health Administration or relevant Masters Degree
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Deputy Director of Nursing	Bachelor of Health Administration or relevant Masters Degree
Director of Nursing	Bachelor of Health Administration or relevant Masters Degree
Clinical Nurse/Midwife Consultant, Grades 1, 2 and 3	Post graduate degree in Nursing or Health that is relevant to the employee's speciality or position
Clinical Nurse/Midwife Specialist, Grade 1 and 2	Post graduate degree in Nursing or Health that is relevant to the employee's speciality or position
Clinical Nurse/Midwife Specialist, Grade 3	Masters in Nursing or Health that is relevant to the employee's speciality or position
Eligible Midwife	Masters in Midwifery
Lactation Consultant/Breast Care Specialist	International Board of Certified Lactation Consultants accreditation
Nurse/Midwife Practitioner	Masters of Midwifery or Masters in Nursing or Health that is relevant to the employee's speciality or position
Nurse/Midwife Educator, Grade 2	Masters in Education, Nursing or Health that is relevant to the employee's speciality or position
Nurse/Midwife Unit Manager, Grades 1 and 2	Masters in Nursing or Health that is relevant to the employee's speciality or position
Nursing/Midwife Unit Manager, Grade 3	Masters in Education, Nursing or Health that is relevant to the employee's speciality or position
Senior Midwife	Masters of Midwifery or Masters in Nursing or Health that is relevant to the employee's speciality or position
Senior Nurse/Midwife Educator	Post graduate degree in Nursing or Health that is relevant to the employee's speciality or position

**"Service"** for the purpose of Clause 7, Recognition of Service and Experience, means service before or after the commencement of this Agreement in New South Wales or elsewhere as a registered nurse, provided that all service recognised prior to the commencement of this Agreement shall continue to be recognised.

To the foregoing shall be added any actual periods on and from January 1971 during which a registered nurse undertook a Diploma, Associate Diploma, Undergraduate or Postgraduate qualification in Nursing that is relevant to the employee's speciality or position and recognised by the Australian Qualification Framework (AQF).

For the purpose of determining the year of service for part time or casual employment a year of service shall be 1976 hours of employment, unless otherwise specified in this Agreement.

**"Shift Worker"** means a worker who is not a day worker as defined.

**"Association"** means the Australian Nursing & Midwifery Federation (ANMF, of which New South Wales is a Branch (ANMF NSW Branch). The Association is the commonly recognised reference in NSW.

**"Immediate family"** of an employee means:

- (i) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee;  
or
- (ii) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.
- (iii) spouse includes a former spouse.
- (iv) de facto partner of an employee:
  - (a) means a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and
  - (b) includes a former de facto partner of the employee.

## **7. Recognition of Service and Experience**

### **7.1 Progression – Registered Nurses**

#### **(i) Registered Nurses: Standard Progression**

For the purposes of standard progression as a Registered Nurse, the following definitions apply:

- a) New Graduate Registered Nurse means a registered nurse who has less than 1976 ordinary hours of service.
- b) Senior Graduate Registered Nurse means a Registered Nurse who has completed a minimum of 1976 hours and twelve (12) months clinical experience as at the New Graduate Nurse level, or has equivalent experience acceptable to the employer.
- c) Registered Nurse Level 3 means a Registered Nurse who is in their third year of service and has completed the equivalent of two (2) years full time clinical experience (i.e. 1976 ordinary hours in each twelve month period).
- d) Registered Nurse Level 4 means a Registered Nurse in their fourth year of service, who meets the requirements of a Registered Nurse Level 3, and has completed 960 hours with a minimum of twelve (12) months clinical experience at the Registered Nurse Level 3.
- e) Registered Nurse Level 5 means a Registered Nurse who is in their fifth year of service, who meets the requirements of a Registered Nurse Level 4 and has completed 960 hours with a minimum of twelve (12) months clinical experience at the Registered Nurse Level 4.
- f) Registered Nurse Level 6 means a Registered Nurse who is in their seventh year of service, who meets the requirements of a Registered Nurses Level 5, and has completed 1920 hours and a minimum of twenty four (24) months clinical experience (i.e. 960 hours in each twelve month period) at the Registered Nurse Level 5.
- g) Registered Nurse Level 7 means a Registered Nurse who has attained Level 7 through the Accelerated Progression program prior to 31 December 2014.

## 7.2 Progression – Enrolled Nurses

- (a) Enrolled Nurse Level 1: Employees will commence as Enrolled Nurses Level 1 and will be required to:
  - complete a minimum of 1976 hrs and twelve (12) months of service in their first year; and
  - not less than 960 hours with a minimum of twelve (12) months in their second year of service.
- (b) Enrolled Nurse Level 2: Employees who have completed the requirements of an Enrolled Nurse Level 1, or has equivalent experience acceptable to the employer, will progress to Enrolled Nurses Level 2 and will be:
  - in their third year of service; and
  - contracted to work not less than 960 hrs for a minimum of twelve (12) months of service; or
  - a Medication Endorsed Nurse in their first year of Service; and
  - contracted to work not less than 1976 ordinary hours for a minimum of twelve (12) months of service.
- (c) Enrolled Nurse Level 3: Employees who has completed the requirements of an Enrolled Nurse Level 2, or have equivalent experience acceptable to the employer, will progress to Enrolled Nurse Level 3 and will be:
  - in their fourth year of service and;
  - contracted to work not less than 1976 ordinary hours for a minimum of twelve (12) months of service; or
  - a Medication Endorsed Nurse in their third year of Service; and
  - contracted to work not less than 1976 ordinary hours for a minimum of twelve (12) months of service.
- (d) Enrolled Nurse Level 4: Employees who have completed the requirements of an Enrolled Nurse Level 3, or have equivalent experience acceptable to the employer, and:
  - is a Medication Endorsed Nurse in their fourth year of Service; and
  - is contracted to work not less than 1976 ordinary hours for a minimum of twelve (12) months of service.
- (e) Enrolled Nurse Level 5: An Enrolled Nurse Level 5 means an Enrolled Nurse who:
  - has completed their Special Grade Certificate; and
  - is contracted to work not less than 960 hours for a minimum of twelve (12) months; and
  - is appointed as an Enrolled Nurse Special Grade.

## 7.3 General

- (a) The employer shall notify each nurse in writing of the requirements of this clause at the time of the nurse's commencement of employment. If the employer does not so notify the nurse then the requirements of this clause shall not commence until the employer does so notify the nurse.

- (b) From the time of commencement of employment the nurse has three (3) months in which to provide documentary evidence to their employer detailing any other 'service' or 'experience', as defined in Clause 6, Definitions, not disclosed at the time of commencement. This evidence, in the absence of other documentary evidence, may take the form of a statutory declaration.
- (c) Until such time as the nurse furnishes any such documentation contemplated in 7.3(ii) above the employer shall pay the nurse at the level for which documentary evidence has been provided.
- (d) If within three (3) months of commencing employment a nurse does provide documentary evidence of other previous service or experience not disclosed at the time of commencement, the employer shall pay the nurse at the appropriate rate as and from the date of commencement that would have been paid from that date had the additional evidence been provided at that time.

If a nurse provides documentary evidence of other previous service or experience not disclosed at the time of commencement after the said three (3) months period, the nurse shall be paid a rate appropriate for the previous service or experience then proved but only from the date of providing that evidence to the employer.

A nurse who is working as a nurse for more than one organisation shall notify each employer under this Agreement within one (1) month of the end of each quarter of their hours of service or experience, as appropriate, worked with those other employers in the last quarter.

- (e) A nurse who is entitled to progress to the next year of service or experience (by reason of hours worked with other employers) as and from a particular date must provide documentary evidence of that entitlement within three (3) months of that entitlement arising. If that proof is so provided the nurse shall be paid at the higher rate as and from the particular date. If the documentary evidence is provided outside that three (3) month period the nurse shall be paid at the higher rate only from the date of proof.

## **PART II – GENERAL TERMS**

### **8. Agreement Flexibility**

8.1 The employer and employees covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:

- (a) the Agreement deals with one or more of the following matters:
  - (i) arrangements for when work is performed in relation to the timing of breaks and time off in lieu of overtime;
  - (ii) the simplification of allowances and the inclusion of allowances in the ordinary rate; and
  - (iii) the inclusion of leave loading in the ordinary rate.
- (b) the arrangement meets the genuine needs of the employer and employee in relation to one or more of the matters mentioned in paragraph (a); and
- (c) the arrangement is genuinely agreed to by the employer and employee.

- 8.2 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;
  - (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 agreement was made.
- 8.3 The employer must ensure that the individual flexibility arrangement:
- (a) is in writing; and
  - (b) includes the name of the employer and employee;
  - (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 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.

The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

- 8.4 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;
  - (b) if the employer and employee agree in writing – at any time;

## **9. Resolution of Disputes**

- 9.1 All parties must use their best endeavours to cooperate in order to avoid any grievances and/or disputes. A dispute may be about any matter.
- 9.2 Where a dispute relating to any employment matter including the National Employment Standards and any matters under this Agreement, arises in the Hospital regardless of whether it relates to an individual nurse or to a group of nurses, the dispute must be discussed in the first instance by the nurse(s) (or the Association or another workplace representative on behalf of the nurse(s) if the nurse(s) so requests) and the immediate supervisor of that nurse(s).
- 9.3 If the dispute is not resolved within a reasonable time it must be referred by the nurse(s)' immediate supervisor to more senior levels of management of the Hospital as appropriate. Discussions at this level must take place and be concluded within 1 week of referral or such extended period as may be agreed.
- 9.4 A party to the dispute may appoint another person, organisation or association, which may be the Association, to accompany or represent them in relation to the dispute.
- 9.5 If a dispute in relation to a matter arising under the agreement or the NES is unable to be resolved at the workplace, and all agreed steps for resolving it have been taken, the dispute may

be referred to the Fair Work Commission (FWC) for resolution by conciliation and, where the matter in dispute remains unresolved, arbitration.

- 9.6 It is a term of this agreement that while the dispute resolution procedure is being conducted work shall continue according to the custom and practice before the dispute arose unless an employee has a reasonable concern about an imminent risk to his or her health or safety
- 9.7 If arbitration is necessary the FWC may exercise the procedural powers in relation to hearings, witnesses, evidence and submissions which are necessary to make the arbitration effective.
- 9.8 The above steps shall take place within seven days (health and safety matters are exempt from this clause).

## **10. Consultation Regarding Change**

10.1 This term applies if the employer:

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

Major Change

10.2 For a major change referred to in paragraph (10.1) (a):

- (a) the employer must notify the relevant employees of the decision to introduce the major change; and
- (b) subclauses (10.3) to (10.9) apply.

10.3 The relevant employees may appoint a representative for the purposes of the procedures in this term.

10.4 If:

- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- (b) the employee or employees advise the employer of the identity of the representative;
- (c) the employer must recognise the representative.

10.5 As soon as practicable after making its decision, the employer must:

- (a) discuss with the relevant employees:
  - (i) the introduction of the change; and
  - (ii) the effect the change is likely to have on the employees; and
  - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
- (b) for the purposes of the discussion-provide, in writing, to the relevant employees:
  - (i) all relevant information about the change including the nature of the change proposed; and
  - (ii) information about the expected effects of the change on the employees; and
  - (iii) any other matters likely to affect the employees.

10.6 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

10.7 The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

10.8 If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph 10.2(a) and subclauses 10.3 and 10.5 are taken not to apply.

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

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

#### **Change to regular roster or ordinary hours of work**

10.10 Consultation regarding changes to regular rosters or ordinary hours of work



For a change referred to in clause 10.1(b):

- (i) the employer must notify the relevant employees of the proposed change; and
  - (ii) subclauses (b) to (e) apply.
- (a) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (b) If:
- (i) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - (ii) the employee or employees advise the employer of the identity of the representative;
- the employer must recognise the representative.
- (c) As soon as practicable after proposing to introduce the change the employer must:
- (iii) discuss with relevant employees the introduction of the change; and
  - (iv) for the purposes of the discussion – provide to the relevant employees:
    - 1) all relevant information about the change including the nature of the change; and
    - 2) information about what the employer reasonably believes will be the effects of the change on the employees; and
    - 3) information about any other matter the employer reasonably believes are likely to affect the employees; and
  - (v) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
  - (vi) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
  - (vii) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

10.11 In this term "**relevant employees**" means the employees who may be affected by a change referred to in subclause (10.1).

## PART III - EMPLOYMENT MATTERS

### 11. Part-Time and Casual Employees

#### A. Part-Time Employees

- 11.1 (a) A part-time employee is one who is permanently appointed by the Employer to work a specified number of hours which are less than those prescribed for a full-time employee, to be worked in accordance with a roster.
- (b) By agreement between the Employer and employee, the specified number of hours may be balanced over a week, a fortnight or four (4) weeks.
- (c) An employee whose hours are averaged over four (4) weeks shall be paid each week or fortnight according to the employee's average weekly or fortnightly hours as is appropriate.
- (d) Provided further that there shall be no interruption to the continuity of employment merely by reason of an employee, whose hours are balanced over a fortnight or over four (4) weeks, not working in any one week in accordance with paragraph (b).
- 11.2 Permanent part time employees shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed by Clause 14, Salaries, of this Agreement and, where applicable, one thirty eighth of the appropriate allowance or allowances prescribed by Clause 15, Special Allowances, of this Agreement, with a minimum payment of four (4) hours for each start, and one thirty eighth of the appropriate allowances prescribed by Clause 18, Uniform and Laundry Allowances of this Agreement, but shall not be entitled to an ADO or part thereof, as prescribed by subclauses 23.3 and 23.5 of Clause 23, Hours of Work and Free Time of Employees.
- 11.3 Four (4) weeks' Annual Leave at the employee's ordinary rate is to be granted per annum. Annual leave shall accrue progressively during a year of service according to the employee's ordinary hours of work and accumulates from year to year. The provisions of subclauses 28.5 to 28.14 of Clause 28, Annual Leave and Public Holidays, and Clause 29, Annual Leave Loading, of this Agreement shall apply to employees engaged under 'A. Part-Time Employees' of this clause. The remaining provisions of Clause 28, Annual Leave and Public Holidays shall not apply.
- 11.4 A public holiday occurring on an ordinary working day shall be allowed to employees without loss of pay; provided that an employee who is required to and does work on a public holiday will be paid for the time actually worked at the rate of time and one half in addition to their weekly ordinary rate for a minimum of four (4) hours work, and any balance of the day or shift not worked will be paid at ordinary rates.
- 11.5 To the leave prescribed by subclause 11.3 of 'A. Part-Time Employees' of this Clause there shall be added one working day for each public holiday or one half working day for each half public holiday which occurs on what would have been an ordinary working day during a period of annual leave.
- 11.6 For the purpose of 'A. Part-Time Employees' of this clause the following are to be public holidays, viz: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Sunday,

Easter Monday, Anzac Day, Queen's Birthday, Local Labour Day, Christmas Day, Boxing Day and any other day duly proclaimed and observed as a public holiday within the area in which the hospital is situated.

- 11.7 In addition to those public holidays prescribed in subclause 11.6 of 'A. Part-Time Employees' of this Clause, there shall be an extra public holiday each year. This additional day's holiday will occur between Christmas Day and New Years' Day on a date nominated by the employer.

The foregoing does not apply in areas where, in each year:

- (a) a day in addition to the eleven (11) named public holidays specified in subclause 11.6 is proclaimed and observed as a public holiday; or
- (b) two (2) half days in addition to the eleven (11) named public holidays specified in subclause 11.6 are proclaimed and observed as half public holidays.

- 11.8 In areas where in each year one half day in addition to the eleven (11) named public holidays specified in subclause 11.6 is proclaimed and observed as a half public holiday, for the purposes of this Agreement the whole day is to be regarded and observed as a public holiday, and no additional public holiday which would otherwise apply as a result of this subclause will be observed.

- 11.9 Employees engaged under 'A. Part-Time Employees' of this clause shall be entitled to all other benefits of this Agreement not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.

- 11.10 Where an employee is regularly working more than their specified contract hours they may request that their contracted hours are reviewed by their Manager. The Manager will formally respond to the request by the employee stating the reasons if the request is not agreed to. The Manager will not unreasonably reject the request. The Manager will also take into account that the hours worked in the following circumstances will not be incorporated to any adjustment made:

- (a) if the increase in hours is as a direct result of an employee being absent on leave for example, annual leave, long service leave, maternity leave, workers compensation; and
- (b) if the increase in hours is due to a temporary increase in hours only due, for example, to the specific needs of the organisation; and
- (c) any adjusted contracted hours resulting from a review by the employer should reflect roster cycles and shift configuration utilised at the Hospital.

## B. Casual Employees

- 11.11 A casual employee is one engaged on an hourly basis otherwise than as a permanent part-time or full-time employee.

- 11.12 A casual employee shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate, prescribed by Clause 14, Salaries, of this Agreement and where applicable one thirty-eighth of the appropriate allowance or allowances prescribed by Clause 15, Special Allowances, of this Agreement plus 25 per cent thereof, with a minimum payment of four (4) hours for each start, and one thirty-eighth of the appropriate allowances prescribed by Clause 18, Uniform and Laundry Allowances, of this Agreement.

- 11.13 With respect to a casual employee the provisions of Clause 24, Banking of Hours; Clause 25, Rosters; Clause 28, Annual Leave and Public Holidays, Clause 16, Fares and Expenses of this Agreement, shall not apply. Further, casual employees shall not be entitled to an ADO or part thereof as prescribed by subclauses 23.3 and 23.5 of Clause 23, Hours of Work and Free Time of Employees.
- 11.14 A casual employee who is required to and does work on a public holiday as defined in subclauses 28.3 and 28.4 of Clause 28, Annual Leave and Public Holidays, shall be paid for the time actually worked at the rate of double time and one-half such payment being in lieu of weekend or shift allowances which would otherwise be payable had the day not been a public holiday; provided that a casual employee shall not be entitled to be paid in addition the loading prescribed in subclause 11.12 in respect of such work.
- 11.15 For the entitlement to payment in respect of long service leave, see the *Long Service Leave Act 1955 (NSW)*.
- 11.16 For weekend work, casual employees will not receive weekend penalty rates or the casual loading, but instead will receive the following loadings:
- 58.3% for work between midnight Friday and midnight Saturday;
  - 83.3% for work between midnight Saturday and midnight Sunday;
- in addition to their ordinary rate.
- 11.17 Where overtime rates are payable, they shall be paid in lieu of the casual allowance.

#### Casual Conversion

- 11.18 The hospital will take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.
- 11.19 A casual employee engaged by the hospital on a regular and systematic basis for a sequence of periods of employment under this Agreement during a calendar period of six (6) months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- 11.20 The hospital shall give the employee notice in writing of the provisions of this subclause within four (4) weeks of the employee having attained such period of six (6) months. However, the employee retains his or her right of election under this subclause if the hospital fails to comply with this notice requirement.
- 11.21 Any casual employee who has a right to elect, upon receiving notice or after the expiry of the time for giving such notice, may give four (4) weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four (4) weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where the hospital refuses an election to convert, the reasons for doing so shall be fully stated and

discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through Clause 9 – Resolution of Disputes of this Agreement.

- 11.22 Any casual employee who does not, within four (4) weeks of receiving written notice from the employer, elect to convert their ongoing contract of employment to full time employment or part time employment will be deemed to have elected against any such conversion.
- 11.23 Once a casual employee has elected to become and been converted to a full time employee or a part time employee, the employee may only revert to casual employment by written agreement with the hospital.
- 11.24 If a casual employee has elected to have his or her contract of employment converted to full time or part time employment, the hospital and employee shall discuss and agree upon:
- (a) whether the employee will convert to full time or part time employment; and
  - (b) if it is agreed that the employee will become a part time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part time employment provisions of this Agreement or pursuant to a part time work agreement.

Provided that an employee who has worked on a full time basis throughout the period of casual employment has the right to elect to convert their contract of employment to full time employment and an employee who has worked on a part time basis during the period of casual employment has the right to elect to convert their contract of employment to part time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the hospital and the employee.

- 11.2 Following an agreement being reached, the employee shall convert to full time or part time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full time or part time employment, it shall be dealt with as far as practicable and with expedition through Clause 9 – Resolution of Disputes of this Agreement.
- 11.3 An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under these subclauses.

## 12 Termination of Employment

### Notice of Termination by the Employer

- 12.1 In order to terminate the employment of the Employee, where employed on a full-time or part-time basis, the Employer shall give to the Employee the period of notice specified in the table below:

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

- 12.2 In addition to this notice, where the Employee is over 45 years of age at the time of the giving of the notice with not less than two years continuous service, they will be entitled to an additional week's notice.
- 12.3 The employer may elect to pay the employee payment in lieu of notice of at least the amount the employer would have been liable to pay the employee at the ordinary rate for the hours the employee would have worked had the employment continued until the end of the minimum period of notice.
- 12.4 In calculating any payment in lieu of notice, the wages the Employee would have received in respect of the ordinary time they would have worked during the period of notice had their employment not been terminated will be used.
- 12.5 The period of notice in this clause shall not apply in the case of dismissal for serious misconduct, or in the case of casual employees or employees engaged for a specific period of time or for a specific task or tasks.
- 12.6 Notice of Termination by the Employee:
- (a) The notice of termination required to be given by the employee is the same as that required of the employer except that there is no requirement on the employee to give additional notice based on the age of the employee concerned.
  - (b) If an employee does not give the period of notice required under subclause (a), then the Employer may deduct from wages due to the employee under this Agreement an amount that is no more than one week's wages for the employee. If the Employer has agreed to a shorter period of notice than that required under subclause (a), then no deduction will be made under subclause (b).
  - (c) If the Employer has agreed to a shorter period of notice than that required under subclause (a), then no deduction can be made under subclause (b).
  - (d) Any deduction made under paragraph (b) must not be unreasonable in the circumstances.

### **13 Redundancy**

- 13.1 Where the Employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and the change is likely to have a significant effect on employees of the Employer, the Employer shall consult with affected employees and/or the Association in accordance with the consultation regarding change provision of this Agreement.
- 13.2 Transfer to lower paid duties:  
Where an employee is transferred to lower paid duties for reasons set out in paragraph 13.1 the employee shall be entitled to the same period of notice of transfer as she/he would be entitled to if her/his employment had been terminated, and the Employer may at the Employer's option, make payment in lieu thereof of an amount equal to the difference between

the former ordinary rate and the new lower ordinary rate for the number of weeks' notice still owing.

### 13.3 Severance pay:

Where the Employer has made a definite decision in accordance with clause (i) to terminate the employee's employment because the Employer no longer requires the job done by the employee to be done by anyone, the employee will be paid, in addition to the period of notice prescribed for termination, the following amount of severance pay in respect of a period of continuous service.

- (a) If an employee is under 45 years of age, the employer shall pay in accordance with the following scale:

<b>Years of Service</b>	<b>Entitlement - Under 45 years of age</b>
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

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

<b>Years of Service</b>	<b>Entitlement —45 years of age and over</b>
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

### 13.4 Definitions:

**"Week's Pay"** means the all-purpose rate of pay for the employee concerned at the date of termination, and shall include, in addition to the ordinary rate, over-Agreement payments, shift / weekend penalties and allowances provided for in accordance with this Agreement.

### 13.5 Notice for Technological change:

This subclause sets out the notice provisions to be applied to terminations by the hospital for reasons arising from "technology" in accordance with subclause 13.3 of this clause.

- (a) In order to terminate the employment of an employee the hospital shall give to the employee three (3) months notice of termination.
- (b) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

- (c) The period of notice required by this subclause to be given shall be deemed to be service with the hospital for the purposes of the *Long Service Leave Act 1955 (NSW)*, the *Annual Holidays Act 1944 (NSW)*, or any Act amending or replacing either of these Acts.

**13.6 Employee Leaving During Notice Period**

An employee whose employment is terminated for reasons set out in paragraph 13.1 may terminate her/his employment during the period of notice and, if so, shall be entitled to the same benefits and payments under this clause had she/he remained with the employer until the expiry of such notice. Provided in such circumstances the employee shall not be entitled to payment in lieu of notice.

**13.7 Alternative Employment**

Subject to an application by the Employer and further order of the Fair Work Commission, the Employer may pay a lesser amount (or no amount) of severance pay than that contained in paragraph 13.3 of this subclause if the employer obtains acceptable alternative employment for an employee.

**13.8 Time off Period of Notice**

During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

- 13.9 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 shall, at the request of the employer, produce proof of attendance at an interview or she/he shall not receive payment for the time absent.

- 13.10 For this purpose a statutory declaration will be sufficient.

**13.11 Statement of Employment**

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide the employee with a written statement specifying the period of the employee's employment and the classification of, or the type of work performed by, the employee.

**13.12 Notice to Centrelink**

Where a decision has been made to terminate the employment of employees, the employer shall notify Centrelink thereof as soon as possible, giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

**13.13 Centrelink Separation Certificate**

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form required by Centrelink.

**13.14 Employees with Less than One Year's Continuous Service**

Clause 13.3 does not apply to employees with less than one year's continuous service.



### 13.15 Employees Exempted

This clause 13 shall not apply where employment has been terminated because the conduct of an employee justifies instant dismissal or in the case of casual employees, or employees engaged for a specific period of time or for a specified task or tasks.

## **PART IV - PAYMENT**

### **14 Salaries**

14.1 The minimum salaries per week shall be as set out in Schedule 1 – Wages and Allowances. The current minimum salaries are set out in Table 1 – Salaries, of Schedule 1: Wages and Allowances reflect the following increases:

- (a) 2.5% from the first full pay period commencing on or after 1 January 2019;
- (b) 2.5% from the first full pay period commencing on or after 1 January 2020; and
- (c) 2.5% from the first full pay period commencing on or after 1 January 2021.

14.2 The allowances as set out in Schedule 1 – Wages and Allowances shall be paid. The current allowances are set out in Table 2 and Table 3.

14.3 In relation to the salaries of Deputy Director of Nursing and Director of Nursing, "beds" means adjusted daily average of occupied beds; in relation to the salary of Subsidiary Hospital Director of Nursing, "beds" means the adjusted daily average of occupied beds in the subsidiary hospital.

### 14.4 Registration and Enrolment Pending

- (a) A student nurse who has completed the course of training prescribed by the Board and applied for registration or enrolment shall, upon registration or enrolment, be paid as from the date of application for registration or enrolment the salary to which they would have been entitled if registered or enrolled.
- (b) A nurse or enrolled nurse who has trained outside New South Wales shall be paid as a registered nurse or enrolled nurse as and from the date they are notified that they are eligible for registration or enrolment as a registered nurse or enrolled nurse provided that they make application for registration within seven days after being so notified.
- (c) They shall notify the employer as soon as possible after they have so applied.

### **15 Special Allowances**

15.1 (a) A registered nurse in charge of a shift in a ward or unit during the day, evening or night in the absence of the Nursing Unit Manager shall be paid, in addition to her or his salary, the amount set out in Table 3 - Other Allowances and Rates of Schedule 1.

- (b) This subclause shall only apply where the registered nurse is in charge of one or more other nurses in the ward or unit in question.

This subclause shall not apply to registered nurses holding classified positions of a higher grade than that of a Clinical Nurse Specialist Grade 3.

## 15.2 On Call

- (a) An employee required by his or her employer to be on call otherwise than as provided in paragraph (b) shall be paid the amount set out in Table 3 – Other Allowances and Rates of Schedule 1 for each designated on-call period or part thereof. A designated on-call period may be for a period of twenty-four (24) hours or twelve (12) hours.
- (b) An employee required to be on call on rostered days off in accordance with subclause 23.15, Hours of Work and Free Time of Employees Other Than Directors of Nursing of the Agreement shall be paid the amount set out in Table 3 - Other Allowances and Rates of Schedule 1 – Wages and Allowances for each designated on call period or part thereof provided that only one allowance shall be payable in any designated on call period.
- (c) Where an employee on call leaves the hospital and is recalled to duty, they shall be reimbursed all reasonable fares and expenses actually incurred provided that where an employee uses a motor car in these circumstances the allowance payable shall be the transport rate prescribed from time to time by the Australian Tax Office. The provisions of this paragraph shall apply to all employees.

The provisions dealing with recall arrangements and payments are set out at the Overtime clause of this Agreement.

This subclause shall apply to all classifications covered by this Agreement.

- 15.3 An employee who is directed to remain on call during a meal break shall be paid an allowance of the sum set out in Table 3 – Other Allowances and Rates of Schedule 1 provided that no allowance shall be paid if, during a period of twenty four (24) hours including such period of on call, the employee is entitled to receive the allowance prescribed in (a) above. If an employee is recalled to duty during such meal break, they shall be paid at overtime rates for the total period of the meal break.
- 15.4 An employee required to wear a lead apron shall be paid an allowance of the sum set out in Table 3 – Other Allowances and Rates of Schedule 1 for each hour or part thereof that they are required to wear the said apron.
- 15.5 In the event that the hospital's daily average of occupied beds is reduced to less than 100, the following additional allowances shall be paid:
  - (a) A registered nurse in charge during the day, evening or night of the hospital, shall be paid, in addition to her or his appropriate salary, whilst so in charge, the sum set out in Table 3 - Other Allowances and Rates of Schedule 1, per shift.
  - (b) A registered nurse who is designated to be in-charge of a ward or unit when the Nursing Unit Manager is not rostered for duty and who is also designated to be in-charge of the

- hospital during the day, evening or night on the same shift shall be paid an allowance per shift of the sum set out in Table 3 – Other Allowances and Rates of Schedule 1.
- (c) This subclause shall not apply to registered nurses holding classified positions of a higher grade than of a registered nurse.

15.6 The allowances prescribed by this Clause 15 will be adjusted in line with all future increases in the Rates of Pay prescribed by this Agreement.

## **16 Fares and Expenses**

- 16.1 An employee required to travel in the performance of duty shall be paid all reasonable out of pocket expenses (including fares).
- 16.2 An employee who claims reimbursement of fares, pursuant to this clause, shall furnish to the employer, if so required, satisfactory proof that they have not received from another employer reimbursement in respect of those fares.

## **17. Telephone Allowance**

- 17.1 If an employee is required, for the purposes of their employment, to be on call, the hospital will reimburse the employee the cost of calls upon receipt of an itemised account from the employee.

## **18. Uniform and Laundry Allowances**

- 18.1 Subject to subclause 18.3 of this clause, sufficient, suitable and serviceable uniforms, including one pair of shoes per annum which shall be of a recognised acceptable standard for the performance of nursing duties, and one cardigan or jacket shall be supplied free of cost to each employee required to wear a uniform. An employee to whom a new uniform or part of a uniform has been issued who, without good reason, fails to return the corresponding article last supplied shall not be entitled to have such article replaced without payment therefore at a reasonable price.
- 18.2 An employee, on leaving the service of an employer, shall return any uniform or part thereof supplied by that employer which is still in use immediately prior to leaving.
- 18.3
- (a) In lieu of supplying uniforms and shoes to an employee, an employer shall pay the said employee the sum set out in Table 3 - Other Allowances and Rates of Schedule 1, for uniforms and for shoes per week.
- (b) Where an employee wears stockings as part of their uniform, in lieu of supplying stockings to such employee, an employer shall pay the said employee the sum set out in Table 3- Other Rates and Allowances per week.
- (c) In lieu of supplying a cardigan or jacket to an employee an employer shall pay the said employee the sum set out in Table 3 - Other Allowances and Rates of Schedule 1 per week.

- (d) If, in any hospital, the uniforms of an employee are not laundered at the expense of the hospital an allowance of the sum set out in Table 3 - Other Allowances and Rates of Schedule 1 shall be paid to the said employee; provided that the payment of such laundry allowance shall not be made to any employee on absences exceeding one week.
- (e) Where the employer requires any employee to wear headwear, the hospital shall provide headwear free of charge to the employee.
- (f) In lieu of supplying socks to an employee the employer shall pay the said employee the sum set out in Table 3 - Other Allowances and Rates of Schedule 1 per week.
- (g) The allowances referred to subclause 18.3 are also payable during any period of paid leave, with the exception of laundry allowance which is not payable on absences exceeding one week.

## **19. Higher Grade Duty**

- 19.1 An employee who is called upon to relieve an employee in a higher classification or is called upon to act in a vacant position of a higher classification shall be entitled to receive for the period of relief or the period during which they act the minimum payment for such higher classification.
- 19.2 The provisions of subclause 19.1 shall not apply where the employee being relieved is absent from duty for a period of three (3) consecutive working days or less which have been rostered in advance, except where the duties of the higher position involve being in charge of the facility during the period in question.

## **20. Payment and Particulars of Salaries**

- 20.1 Wages must be paid weekly or fortnightly unless otherwise mutually agreed between the employer and the employee.
- 20.2 Employees will be paid by electronic funds transfer into the bank or financial institution account nominated by the employee.
- 20.3 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 in the next pay cycle.
- 20.4 On each payday an employee, in respect of the payment then due, shall be furnished with a written statement containing the following particulars, name, the amount of ordinary salary, the total number of hours or overtime worked, if any, the amount of any overtime payment, the amount of any other moneys paid and the purpose for which they are paid, and the amount of the deductions made from the total earnings and the nature thereof.
- 20.5 Payment for any overtime worked, and penalties due for weekend and shift work may be deferred to the next pay day following the completion of the relevant work cycle.

- 20.6 If a public holiday falls on a normal payroll processing day, the employer shall make payment on the working day proceeding the public holiday.

## **21. Salary Packaging**

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

## **22. Superannuation**

- 22.1 The subject of superannuation is dealt with extensively by legislation including the Superannuation Guarantee (Administration) Act 1992, the Superannuation Guarantee Charge Act 1992, the Superannuation Industry (Supervision) Act 1993 and the Superannuation (Resolution of Complaints) Act 1993. This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.
- 22.2 **"The Fund"** for the purpose of this Agreement shall mean the Health Employees' Superannuation Trust Australia (**"HESTA"**).
- 22.3 In addition to the employer's statutory contributions to the Fund an employee may make additional contribution from their salary, and on receiving written authorisation from the employee the employer must commence making contributions to the Fund in accordance with the Superannuation Guarantee Charge Act 1992.

- 22.4 Upon commencement of employment, the organisation shall provide each employee with a membership form for their preferred fund and shall forward the completed membership forms for the employee's choice of fund within twenty eight (28) days. In the event that the employee had not completed an application form within twenty eight (28) days, the employer shall forward contributions and employee details to the default fund, HESTA. The default fund offers a MySuper Product.
- 22.5 Superannuation fund payments will be made in accordance with trust fund deeds.
- 22.6 Where an Employee salary packages their wages in accordance with this Agreement, superannuation shall be paid on the pre-packaged wages.

## **PART V - HOURS OF WORK**

### **23. Hours of Work and Free Time of Employees**

- 23.1 The ordinary hours of work for day workers, exclusive of meal times, shall be 152 hours per twenty eight (28) calendar days to be worked Monday to Friday inclusive and to commence on such days at or after 6.00 am and before 10.00 am.
- 23.2 The ordinary hours of work for shift workers, exclusive of meal times, shall not exceed an average of thirty eight (38) hours per week in each roster cycle.
- 23.3
- (a) The hours of work prescribed in subclauses 23.1 and 23.2 of this clause shall, where possible, be arranged to provide for an accrued day off (**ADO**) system of work so that in each roster cycle of twenty eight (28) calendar days each employee shall not work their ordinary hours or work on more than nineteen (19) days in the cycle. The ADO system of work will not apply to students in block.
- (b) Notwithstanding the provision of paragraph 22.3(a), employees may, with the agreement of the employer work shifts of less than eight (8) hours each over twenty (20) days in each cycle of twenty eight (28) days.

Provided that on the occasion of an employee's written request, and with the consent of the employer, an ADO system of work may be implemented to provide for a nine and a half (9.5) day fortnight to be worked instead of the nineteen (19) day month.

- 23.4 Except where authorised by subclause 23.19 of this clause, each shift shall consist of no more than ten (10) hours on a day shift with not less than nine (9) hours break between each shift; provided that an employee shall not work more than seven (7) consecutive shifts unless the employee so requests and the Director of Nursing agrees. An employee shall not work more than two (2) quick shifts in any period of seven (7) days.

A quick shift is an afternoon shift which is followed by a morning shift.

- 23.5 The employer is to decide when employees take their ADO's prescribed by subclause 23.3 of this clause. Where necessary the employer must consult with the affected employees to

ascertain the employees' preferences and must take any such preferences into account when arriving at a decision. Where practicable, ADO's shall be consecutive with the rostered days off duty prescribed in subclause 23.13 of this clause.

23.6 Once set, the ADOs may not be changed except in accordance with the provisions of Clause 25, Rosters.

23.7 Where the employer's decision (in accordance with subclause 23.5 of this clause) is that an employee's ADOs be accumulated, no more than six (6) ADOs may be accumulated in any one year of employment. If an employee accumulates more than six (6) ADOs, any additional ADOs accumulated will be paid to the employee at the ordinary rate. By mutual agreement this may be extended to no more than twelve (12) days at any one time. An employee may elect to have their accumulated ADOs paid to the employee at ordinary rates at any time with the approval of the Employer.

23.8 Except for breaks for meals the hours of duty each day shall be continuous.

23.9

(a) Each employee shall be allowed a break of not less than thirty (30) minutes and not more than sixty (60) minutes for each meal occurring on duty.

(b) Where practicable, employees shall not be required to work more than five (5) hours without a meal break. Provided that where practicable an employee engaged to work for five (5) hours or less in any one shift may elect not to take a meal break as otherwise provided for by this subclause without penalty to the employer. The term 'where practicable' encompasses regard being paid to the service requirements of the employer.

23.10 Two separate ten (10) minute intervals (in addition to meal breaks) shall be allowed for each employee on duty during each ordinary shift of eight (8) or ten (10) hours as the case may be. Subject to agreement between the employer and the employee, such intervals may alternatively be taken as one twenty (20) minute interval, or by one ten (10) minute interval with the employee allowed to proceed off duty ten (10) minutes before the completion of the normal shift finishing time. Such interval(s) shall count as working time. In all other instances breaks are to be taken during a shift at a time agreed between the employer and employee.

23.11

(a) Subclauses 23.9 and 23.10 of this clause shall not apply to an employee who, before going on night duty, is provided with a meal between 9.00 pm and 11.00 pm and who is allowed two (2) intervals of twenty (20) minutes each during the period of night duty but such intervals shall count as working time and shall be paid for as such.

(b) Where an employee is required to change into a uniform or a specified type of garment at the employer's premises they shall be allowed ten (10) minutes for such a purpose and such time shall be counted as working time and paid for as such.

23.12 An employee changing from night duty to day duty or from day duty to night duty shall be free from duty during the twenty (20) hours immediately preceding the commencement of the changed day.

23.13

- (a) Each employee shall be free from duty for not less than two (2) full days in each week or four (4) full days in each fortnight or eight (8) full days in each twenty-eight (28) day cycle and no duties shall be performed by the employee on any of such free days except for overtime. Where practicable, days off shall be consecutive and shall not be preceded by an evening shift or a night shift unless an additional eight (8) hours are granted as sleeping time. An afternoon shift shall be one which commences at or after 1.00 pm and before 4.00 pm.
- (b) An employee, at her or his request, may be given free from duty time in one or more periods but no period shall be less than one full day.
- (c) For the purpose of this subclause "full day" means from midnight to midnight or midday to midday.

23.14

- (a) Employees may be required to remain on call. Any such time on call shall not be counted as time worked (except insofar as an employee may take up actual duty in response to a call), but shall be paid for in accordance with Clause 15, Special Allowances, of this Agreement. However, no employee shall be required to remain on call whilst on leave or on the day before entering upon leave.
- (b) No employee shall be required to remain on call whilst on a rostered day off nor on completion of the shift on the day preceding a rostered day off. This provision shall not apply where in special circumstances it is necessary for an employer to place staff on call on rostered days off or on completion of the shift on the day preceding a rostered day off in order to ensure the provision of services.

23.15 All rostered time off duty occupied by a trainee enrolled nurse in attendance at lectures and demonstrations given in the course of instruction in the theory and practice of nursing or during the time necessarily occupied in attending at and sitting for prescribed examinations shall be deemed to be time worked.

23.16 An employer shall not alter the period over which the ordinary hours of work of employees are balanced except upon giving one month's notice of their intention to do so to affected employees and if requested by the employee to the Association.

23.17 The provisions of subclause 23.12 and of paragraph (a) of subclause 23.13, shall not apply if the employee is required to perform duty to enable the nursing service of the employer to be carried on or where another employee is absent from duty on account of illness or in an emergency.

23.18 The following criteria shall apply to the introduction of twelve (12) hour shifts:



- (a) Twelve (12) hour shifts will only be introduced in units where there has been full consultation with the staff affected and a majority of the staff affected agree to the introduction of the proposed twelve (12) hour shift system;
- (b) any employee who does not wish to work under the twelve (12) hour shift system may work a mutually agreed alternative shift system in the unit affected or may transfer to another mutually agreed position within the facility with no loss of classification and contracted hours;
- (c) the span of hours must not exceed twelve and a half (12.5) hours;
- (d) there must be a maximum of three (3) consecutive night shifts which include one or more twelve (12) hour shifts;
- (e) there must be a minimum break of eleven and a half (11.5) hours rostered between each twelve (12) hour shift;
- (f) employees must be allowed either two thirty (30) minutes or one sixty (60) minutes meal break. In addition to the meal breaks employees must be allowed either two ten (10) minute or one twenty (20) minute paid tea break. Breaks are to be taken during a shift at a time agreed between the employer and employee;
- (g) the employer must notify the employees and if requested by the employee any nominated branch representatives of the Association of the implementation of the twelve (12) hour shifts at least one month prior to commencing the new arrangements. The details of that notification must indicate the number of staff involved, the section of the hospital involved and the Agreement provisions which need to be overridden;
- (h) the employees and if requested by the employee any nominated branch representative of the Association are to be notified of the outcome of the evaluation process;
- (i) nothing contained in this subclause shall prevent an individual employee and their employer reaching mutual agreement to that individual working (twelve) 12 hour shifts;
- (k) employees ordinary hours will be managed over six (6) week duty cycles of 228 ordinary hours;
- (l) the hours shall be worked as 19 x 12 hours shifts;
- (m) hours worked in excess of the six (6) week duty cycle (228 ordinary hours) shall be paid at the relevant overtime rates and employees will not be entitled to ADOs.

## **24. Banking of Hours**

24.1 A full time or part time employee may, by agreement made daily, weekly or fortnightly with their Nurse Unit Manager or Director of Nursing:

- (a) work less than their daily, weekly or fortnightly rostered or contracted hours and work those hours at a later date; or

- (b) work more than their daily, weekly or fortnightly rostered or contracted hours and take time off in lieu of payment, or may set off the additional hours worked against any owing under (a) above.

- 24.2 An employee who works less than their rostered or contracted hours shall be paid as if those hours had been worked during the relevant period, including payment for any weekend or shift penalties that would otherwise have been due for the time not worked.
- 24.3 An employee who works more than their rostered or contracted hours shall not receive payment for any weekend or shift penalties that would otherwise have been due for that extra time worked.
- 24.4 Time debited or credited under these arrangements shall all be at ordinary time, i.e. an hour for an hour.
- 24.5 An employee may not have more than seventy six (76) hours in debit or credit at any point in time.
- 24.6 Employees who have hours in debit must be given first option to work additional hours prior to the use of casual employees.
- 24.7 The hospital must keep detailed records of all hours credited and debited to employees under these arrangements. Employees must have full access to these records.
- 24.8 On termination of employment the employer must pay the employee for all hours in credit
- 24.9 Either party shall have the right to terminate an agreement under this clause with two (2) weeks notice.

## **25. Rosters**

- 25.1 The ordinary hours of work for each employee, other than the Director of Nursing and casual employees, shall be displayed on a roster in a place conveniently accessible to employees.
- 25.2 Rosters are developed based on the operational demands of the facility and employees may be required to work various and rotating shifts from one working period to another. Notwithstanding this, consultation, in accordance with the Consultation Regarding Change Clause (specifically provision 10.10) applies for any change to a regular roster or ordinary hours of work.
- 25.3 The roster shall be displayed where practicable at least two (2) weeks prior, but in any event not less than one week prior, to the commencing date of the first working period in the roster. Provided that in the case of a permanent part-time employee whose hours are balanced over four (4) weeks, the roster shall be displayed where practicable, at least four (4) weeks prior to the commencing date of the first working period in the roster but in any event not less than one week prior, to the commencing date of the first working period in the roster.

- 25.4 Notwithstanding the foregoing provisions of this clause, a roster may be altered at any time to enable the nursing service of the hospital to be carried on where another employee is absent from duty on account of illness or in an emergency, provided that where any such alteration involves an employee working on a day which would otherwise have been such employee's day off, the day off in lieu thereof shall be as mutually arranged.
- 25.5 Prior to the date of the changed shift, such change of roster shall be notified verbally or in writing to the employee concerned.
- 25.6 An employee may change their roster at short notice, with the agreement of their unit manager or Director of Nursing for any reasonable ground.
- 25.7 An employer may change an employee's roster at short notice, with the agreement of the employee, for any reasonable ground including unexpected situations and unforeseen fluctuations in patient dependency.
- 25.8 Where an employee is entitled to an ADO in accordance with Clause 23 of this Agreement, such day is to be shown on the roster of hours for that employee.
- 25.9 All rosters shall be retained for at least six (6) years.

## **26. Penalty Rates for Shift Work and Weekend Work**

- 26.1 Employees working afternoon or night shift shall be paid the following percentages in addition to the ordinary rate for such shift: Provided that employees who work less than 38 hours per week shall only be entitled to the additional rates where their shifts commence prior to 6.00 am or finish subsequent to 6.00 pm.
- Afternoon shift commencing at 10.00 am and before 1.00 pm - 10%
  - Afternoon shift commencing at 1.00 pm and before 4.00 pm - 12.5%
  - Night shift commencing at 4.00 pm and before 4.00 am - 15%
  - Night shift commencing at 4.00 am and before 6.00 am - 10%
- 26.2 For the purposes of this clause day, afternoon and night shifts shall be defined as follows:
- "Day Shift"** means a shift which commences at or after 6.00 am and before 10.00 am.
- "Afternoon shift"** means a shift which commences at or after 10.00 am and before 4.00 pm.
- "Night Shift"** means a shift which commences at or after 4.00 pm and before 6.00 am on the day following.
- 26.3 Employees whose ordinary working hours include work on a Saturday and/or Sunday shall be paid for ordinary hours worked between midnight on Friday and midnight on Saturday at the rate of time and one half and for ordinary hours worked between midnight on Saturday and midnight on Sunday at the rate of time and three quarters. These extra rates shall be in substitution for and not cumulative upon the shift premiums prescribed in the subclause 26.1 of this Clause.

Clause 26.3 will apply to part-time employees who work less than 38 hours per week.

Clause 26.3 will not apply to casual employees. Casual employees will be paid in accordance with clause 11.16, Part-Time and Casual Employees.

- 26.4 The additional payments prescribed by this clause shall not form part of the employee's ordinary rate for the purposes of this Agreement, except as provided in Clause 28, Annual Leave and Public Holidays, of this Agreement.
- 26.5 (a) This subclause shall only apply to nurses who work an entire ordinary time shift in a discrete designated day procedure ward or unit which routinely functions between the hours of 7.00 am and 6.00 pm.
- (b) This subclause shall not apply to any nurse whose employment commenced prior to 15 December 1994 and who has been employed on a continuous basis since that date.
- (c) A nurse to whom this subclause applies shall not be entitled to an additional penalty rate payment for ordinary time worked prior to 6.00 pm on any week day.
- (d) A nurse to whom this subclause applies shall be paid, in addition to their ordinary rate, a penalty payment at the rate of 15% for all ordinary time worked after 6.00 pm on any week day.

## **27. Overtime**

- 27.1 Subject to subclause 27.2 an employer may require an employee to work reasonable overtime.
- 27.2 An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
- 27.3 For the purposes of subclause 27.2 what is unreasonable or otherwise will be determined having regard to:
- (a) the risk to the employee's health and safety;
  - (b) the employee's personal circumstances including any family and carer responsibilities;
  - (c) the needs of the facility;
  - (d) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
  - (e) any other relevant matter.

### **27.4**

- (a) Subject to paragraph (b) hereof all time worked by employees other than Directors of Nursing in excess of the rostered daily ordinary hours of work shall be overtime and shall be paid for at the rate of time and one half for the first two (2) hours and double time thereafter in respect of each overtime shift worked or in respect of overtime worked prior to or at the conclusion of a normal shift. Provided that overtime worked on Sundays shall

be paid for at the rate of double time and on public holidays at the rate of double time and one half.

- (b) All time worked by part time employees, in excess of the rostered daily ordinary hours of work prescribed for the majority of full-time employees employed on that shift in the ward or section concerned shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time and on public holidays at the rate of double time and one half.

Time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the ward or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate.

- (c) All time worked by casual employees, in excess of 10 hours on any day or 38 hours in any week, shall be paid for at the rate of time and one half for the first two (2) hours and double time thereafter provided that overtime worked on Sundays shall be paid for at the rate of double time and on public holidays at the rate of double time and one half.

27.5 An employee recalled to work overtime after leaving the employer's premises shall be paid for a minimum of four (4) hours work at the appropriate rate for each time so recalled. If the work required is completed in less than four (4) hours, the employee shall be released from duty provided that this subclause does not apply to a Director of Nursing.

27.6 An employee required to work overtime following on the completion of their normal shift for more than two (2) hours shall be allowed twenty (20) minutes for the partaking of a meal and a further twenty (20) minutes after each subsequent four (4) hours overtime. All such time shall be counted as time worked; provided that benefits of this subclause shall not apply to permanent part time employees, until the expiration of the normal shift for a majority of the full-time employees employed on that shift in the ward or section concerned.

27.7 An employee recalled to work overtime after leaving the employer's premises and who is required to work for more than four (4) hours shall be allowed twenty (20) minutes for the partaking of a meal and a further twenty (20) minutes after each subsequent four (4) hour's overtime; all such time shall be counted as time worked.

27.8 The meals referred to in subclauses 27.6 and 27.7 of this clause shall be allowed to the employee free of charge. Where the hospital is unable to provide such meals, an allowance per meal of the sum set out in Table 3 - Other Allowances and Rates, of Schedule 1 shall be paid to the employee concerned.

27.9 Where an employee is required to work an overtime shift on his or her rostered day off, the appropriate meal breaks for that shift, as prescribed by Clause 23, Hours of Work and Free Time of Employees shall apply.

27.10 If an employee is recalled to duty during a meal break, they shall be paid at overtime rates for the total period of the meal break.

27.11 An employee who works so much overtime:

- (a) 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 nine consecutive hours off duty between these times; or
- (b) on a Saturday, a Sunday and a holiday, not being ordinary working days, or on a rostered day off without having had nine consecutive hours off duty in the twenty four hours (24) preceding their next day or shift; shall subject to this subclause, be released after completion of such overtime until they have had nine 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 such nine consecutive hours off duty they shall be paid at double time of the appropriate rate applicable on such day until they are released from duty for such period and they then shall be entitled to be absent until they have had nine consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

27.12 In lieu of receiving payment for overtime in accordance with this clause, employees may be compensated by way of time off in lieu of overtime on the following basis:

- (a) Time off in lieu of overtime must be taken within nominated accrual periods and accrues at overtime rates.
- (b) The maximum accrual is seventy six (76) hours in any nominated four (4) month period.
- (c) Where it is not possible for an employee to take the time off in lieu of overtime within the nominated accrual period, it is to be paid out at the appropriate overtime rate based on the rates of pay applying at the time the payment is made.
- (d) A nurse with an annual leave balance of more than eight (8) weeks, pro-rata for part-time employees, will be paid for their overtime and time in lieu will not be available to them.
- (e) Records of all time off in lieu of overtime owing to nurses and taken by nurses must be maintained by the employer.
- (f) If, on the termination of the employee's employment, time off in lieu of payment for overtime has not been taken, the Employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.
- (g) The accrual periods, mentioned above, will be:
  - 1 February - 31 May;
  - 1 June - 30 September;
  - 1 October - 31 January.

## PART VI – LEAVE AND PUBLIC HOLIDAYS

### 28. Annual Leave and Public Holidays

28.1 Annual leave will accrue progressively during a year of service according to the employee's ordinary hours of work and accumulates from year to year:

- (a) Shiftworkers shall accrue six (6) weeks annual leave per annum. This entitlement includes the additional week of annual leave provided by the NES.
  - (i) For the purposes of the NES, a shiftworker is defined as an employee who is regularly rostered to work over seven days of the week and regularly works on weekends
- (b) All other employees shall accrue four (4) weeks annual leave.

### 28.2

- (a) An employee to whom paragraph (a) of subclause 28.1 applies and who does work on a public holiday shall be paid, in addition to the appropriate weekly ordinary rate, at the rate of one half time extra for the time actually worked on such holiday. Such payment shall be in lieu of any additional rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday.
- (b) To leave prescribed by paragraph (a) of subclause 28.1 there shall be added one working day or one half working day for each special public holiday or half public holiday (not being one of the eleven specifically named public holidays prescribed by subclause 28.3 of this clause, or a special day proclaimed in lieu of any of them) which may occur during the qualifying period for annual leave or during the period of annual leave.
- (c) Employees covered by paragraph (b) of subclause 28.1, will be paid the following for a public holiday occurring on an ordinary working day:
  - (i) Where an employee does not work on the public holiday, they will be paid their ordinary rate for their ordinary hours of work on that day.
  - (ii) Where an employee does work on the public holiday, the employee will be paid for the time actually worked at the rate of time and one half in addition to their weekly ordinary rate. Where payment is made in accordance with this subclause (ii), payment shall be made for a minimum of four (4) hours work, and any balance of the day or shift not worked shall be paid at ordinary rates.
  - (iii) Where the employee elects, and the Employer agrees, instead of the payment set out in subclause (ii), the employee will have one day or one half day, as appropriate, added to their period of annual leave and be paid at the rate of one half time extra for the time actually worked.
  - (iv) The payment set out in (ii) and (iii) is in lieu of any additional rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday.

- (d) Where a public holiday falls on a rostered day off of a shift worker as defined in Clause 6, Definitions, of this Agreement, and who receives four (4) weeks annual leave in accordance with paragraph (b) of subclause 28.1 of this clause, such shift worker shall be paid one day's pay in addition to the weekly rate or if the employee so elects shall have one day added to the period of annual leave.
- (e) To the leave prescribed by paragraph (b) of subclause 28.1 there shall be added one working day for each public holiday or one half working day for each half public holiday which occurs on what would have been an ordinary working day during a period of annual leave; provided that in the case of a shift worker referred to in paragraph (d) of this subclause the provision of this paragraph shall apply to any public holidays falling during the period of annual leave.

28.3 For the purpose of this subclause the following are to be public holidays, viz: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Anzac Day, Queen's Birthday, Local Labour Day, Christmas Day, Boxing Day and any other day duly proclaimed and observed as a public holiday within the area in which the hospital is situated.

28.4

- (a) In addition to those public holidays prescribed in subclause 28.3 of this clause, employees are entitled to an extra public holiday each year. Such public holiday will occur:
  - (i) on the August Bank Holiday;
  - (ii) on a date which is agreed upon by the respective employees and if nominated by the employee, the Association's representative; or
  - (iii) as an additional public holiday between Christmas and New Year; provided that such day is placed between Monday to Friday (inclusive) which is not gazetted as a public holiday.

Subclause (a) does not apply in areas where in each year:

- (i) a day in addition to the eleven (11) named public holidays specified in subclause 28.3 is proclaimed and observed as a public holiday; or
  - (ii) two (2) half days in addition to the eleven (11) named public holidays specified in subclause 28.3 are proclaimed and observed as half public holidays.
- (b) In areas where in each year only one half day in addition to the eleven (11) named public holidays specified in subclause 28.3 is proclaimed and observed as a half public holiday for the purposes of this Agreement the whole day is to be regarded and observed as a public holiday and no additional public holiday which would otherwise apply as a result of this subclause will be observed.

28.5 Credit of time towards an ADO shall not accrue when an employee is absent in accordance with subclause 28.1 of this clause. Employees entitled to ADOs in accordance with Clause 23, Hours of Work and Free Time of Employees of this Agreement shall accrue credit towards an ADO in



respect of each day those employees are absent on additional annual leave in accordance with subclauses 28.2(b) and subclause 28.2(c) of the Agreement.

- 28.6 Annual leave shall be taken in an amount and at a time which is approved by the employer subject to the operational requirements of the workplace. The employer shall not unreasonably withhold or revoke such approval. Notwithstanding the provisions of this clause, the employer may direct an employee to take a period of annual leave in accordance with clauses 28.13 and 28.14.
- 28.7 Each employee shall be paid in accordance with the regular pay cycle for the period of the leave at the ordinary rate to which she or he is entitled under this Agreement. Where an employee has any period of permanent part-time employment during any twelve (12) month qualifying period for annual leave, payment for such annual leave shall be calculated on the basis of the proportion that the average number of hours worked each week bears to thirty eight (38) hours.
- 28.8 On termination of their employment, an employee will be paid their untaken annual leave, together with payment for any days added to annual leave in accordance with clause 28.2, and pro rata leave.
- 28.9 Additional Annual Leave – Work on Sundays and Public Holidays
- (a) In addition to any other leave prescribed by subclause 28.1 and 11.3, employees who work their ordinary hours on Sundays and/or public holidays are entitled to receive additional annual leave as follows:

<b>Number of ordinary shifts Worked on Sundays and/or Public Holidays during a qualifying period of employment for annual leave purposes</b>	<b>Additional Annual Leave</b>
4 – 10	1 Day
11 – 17	2 Days
18 – 24	3 Days
25 – 31	4 Days
32 or more	5 Days

- (b) Provided that, in the case of a part-time employee, such employee shall be entitled to additional annual leave in accordance with:
- (i) subclause (a) above; or
  - (ii) the definition of a shiftworker (for the purposes of the additional one week of annual leave provided by the NES), as set out at subclause 27.1(a)(i);
- whichever gives rise to the greater entitlement for the part-time employee.
- (c) On termination of employment employees are to be paid for any untaken annual leave due under this subclause together with payment for any leave in respect of an

uncompleted year of employment calculated in accordance with this subclause together with payment for any untaken annual leave due in accordance with subclause 28.7.

#### 28.10 Additional Annual Leave – Work on Night Shifts

- (a) In addition to any other leave prescribed by this clause, employees who work their ordinary hours on Night Shift are entitled to receive additional annual leave as follows:

<b>Number of Hours Worked on Night Shifts during a qualifying period of employment for annual leave purposes</b>	<b>Additional Annual Leave</b>
60-169	1 day
170-319	2 days
320-449	3 days
450-599	4 days
600 or more	5 days

- (b) Accrual of additional leave under this subclause will be credited to the employee on the first full pay period on or after 1 July each year.
- (c) Staff employed after the date of effect of this Agreement will accrue additional leave from the commencement of their employment, and will have the additional leave accrued credited to them on the first full pay period on or after 1 July each year.
- (d) Employees will be entitled to take the additional leave accrued under this subclause on the first full pay period on or after 1 July each year, or upon accrual of the maximum of five (5) days additional leave, provided that the maximum number of days an employee may accrue under this subclause is five (5) days.
- (e) On termination of employment employees are to be paid for any untaken annual leave due under this subclause together with payment for any leave in respect of an uncompleted year of employment calculated in accordance with this subclause.

#### 28.11 Annual Leave and Service

A period of paid annual leave does not break an employee's continuity of service and annual leave counts as service for all purposes.

#### 28.12 Cashing Out of Annual Leave

Annual leave credited to an employee, including Additional Annual Leave in accordance with clauses 28.9 and 28.10, may be cashed out by agreement, subject to the following conditions:

- (a) when an employee wishes to cash out paid annual leave, the request to cash out must not reduce an employee's annual leave balance (inclusive of additional leave) to less than four (4) weeks at the time of cashing out;

- (b) 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;
- (c) 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 (i.e. where the leave cashed out would have attracted annual leave loading or shift penalties, such loading or penalties shall be paid on the leave cashed out); and
- (e) the cashing out of annual leave may occur at any time, providing the request complies with this clause and the employee and employer agree.

#### 28.13 Excessive accumulated annual leave

- (a) If an employee has accrued more than two years' annual leave entitlement, the Employer may direct the employee to take annual leave after not less than eight (8) weeks' and not more than twelve (12) months' notice to the employee, provided:
  - (1) the employee will first be given a reasonable opportunity to submit a plan to reduce their total annual leave accrued balance to not more than six (6) weeks within a period of six (6) months (**leave reduction plan**);
  - (2) the employer will not unreasonably refuse to agree to an employee's annual leave reduction plan which includes saving leave for an extended vacation within twelve (12) months of the date of agreement to the leave reduction plan. The agreement is to be in writing and signed by both the Employer and Employee.
  - (3) the employee cannot be directed to take annual leave where such direction would result in the employee being directed to reduce the accrued leave to less than four (4) weeks.

#### 28.14 Shutdown during periods of low occupancy

- (a) The employer may temporarily close a part or the whole of the hospital not more than once every twelve (12) months in the event of low occupancy and/or downturn (e.g. Christmas).
- (b) The employer will normally give two months' written notice, the dates of the closedown.
- (c) An employee with an entitlement to annual leave and / or ADOs sufficient to cover the closedown period will be required to access their accumulated annual leave and / or ADOs for the period of the closedown. The employee may choose the combination of annual leave, accrued ADOs that she or he will use to cover the closedown period.
- (d) Where an employee has an entitlement to annual leave which is less than the period of the closedown, she or he will have to choose one of the following

options to cover the difference between their current annual leave entitlement and the length of the closedown:

- (1) temporary reassignment to another part of the hospital;
- (2) access any accrued ADOs;
- (3) take annual leave in advance;
- (4) take leave without pay; or
- (5) take Special Leave

By mutual agreement between the employer and employee, more than one of the options available under this sub-clause (d) may be used to cover the difference between an employee's current annual leave entitlement and the length of the shutdown.

## **29. Annual Leave Loading**

- 29.1 In addition to their ordinary rate, an employee, other than a shiftworker, will be paid an annual leave loading of 17.5% of their ordinary rate on annual leave taken by the employee.
- 29.2 Shiftworkers, in addition to their ordinary rate, will be paid the higher of:
- (a) an annual leave loading of 17.5% of their ordinary rate; or
  - (b) the weekend and shift penalties the employee would have received had they not been on leave during the relevant period.
- 29.3 For the purposes of this clause, the ordinary rate includes the allowance prescribed by subclause 15.3 of Clause 15, Special Allowances, of this Agreement.
- 29.4 No loading is payable to an employee who takes an annual holiday wholly or partly in advance; provided that, if the employment of such an employee continues until the day when the employee would have become entitled under the said Clause 28, Annual Leave and Public Holidays to an annual holiday, the loading then becomes payable in respect of the period of such holiday and is to be calculated in accordance with subclause 29.4 of this clause applying the Agreement rates and wages payable on that day.
- 29.5 When the employment of an employee is terminated and at the time of termination the employee has not been given and has not taken the whole of an annual holiday to which the employee became entitled, the employee shall be paid a loading calculated in accordance with subclause 29.4 of the period not taken.

## **30. Ceremonial Leave**

An employee who is legitimately required by Aboriginal or Torres Strait Islander tradition to be absent from work for ceremonial purposes will be entitled up to ten (10) working days unpaid leave in any one year, with the approval of the hospital.

## **31. Personal/Carer's Leave**

31.1 Subject to the following limitations and conditions, a full time employee is entitled to twelve (12) days of personal/carer's leave for each completed year of service.

31.2 Accrual of Paid Personal/Carer's Leave

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

**Personal Leave**

31.3 An employee shall not be entitled to personal leave on full pay for any period in respect of which such employee is entitled to workers' compensation provided, however, that an employer shall pay to an employee, with the employee's agreement, who has a personal leave entitlement under this clause the difference between the amount received as workers' compensation and their ordinary rate. The employee's personal leave entitlement under this clause shall, for each week during which such difference is paid, be reduced by that proportion of thirty eight (38) hours which the difference paid bears to full pay.

31.4 All periods of sickness shall be certified by a registered health practitioner, or where this is not reasonably practicable, by a statutory declaration. The employer may dispense with the requirements of a certificate from a registered health practitioner or statutory declaration when the absence does not exceed two consecutive days or where, in the employer's opinion, the circumstances are such as not to warrant such requirement.

31.5 Each employee shall notify her/his employer of an absence from work due to illness or injury two (2) hours prior to the commencement of her/his rostered shift or as soon as reasonably practicable thereafter and shall, as far as reasonably practicable, inform the employer of the estimated duration of the absence.

31.6 Part-time Employees - A part-time employee shall accrue personal leave progressively during a year of service according to the employee's ordinary hours of work and such leave accumulates from year to year. Such entitlements shall be subject to all the above conditions applying to full-time employees.

31.7 With respect to an employee who is eligible for personal leave and who produces a satisfactory certificate from a registered health practitioner or where this is not reasonably practicable, by a statutory declaration to the effect that he/she has been incapacitated for a period while on annual leave, the employer may re-credit such employee with an equivalent period of annual leave.

31.8 Subject to the provision of a satisfactory certificate from a registered health practitioner or where this is not reasonably practicable, by a statutory declaration and personal leave being due, long service leave shall be re-credited where an illness of at least one week's duration occurs during the period of long service leave.

**Carer's Leave**

- 31.9 An employee, other than a casual employee, with responsibilities in relation to a member of their immediate family or household as defined, who requires the employee's care or support because of a personal illness or injury affecting the member or there is an unexpected emergency affecting the member, shall be entitled to use, in accordance with this subclause, any current or accrued personal/carer's leave entitlement, provided for under this Clause, for such absences. Such leave may be taken for part of a single day.
- 31.10 The employee shall, if required, establish, either by production of a certificate from a registered health practitioner or statutory declaration, the illness/ injury of the person concerned (may be termed a "medical condition") and that the illness/ injury is such as to require care by another person.
- 31.11 Prior to the absence, an employee shall, wherever practicable, give the employer notice of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

#### **Unpaid Leave for Family Purpose**

- 31.12 Where an employee has exhausted all paid personal/carer's leave entitlements, an employee, including a casual employee, is entitled to unpaid carer's leave for each permissible occasion when a member of the employee's immediate family, or a member of the employee's household, requires care or support because of a personal illness or injury affecting the member or an unexpected emergency affecting the member. The employer and the employee shall agree on the period. In the absence of agreement, the employee is entitled to take up to two days of unpaid leave per occasion, provided the requirements of 31.11 and 31.12 are met.
- 31.13 The employer shall not change the rostered hours of an employee fixed by the roster or rosters applicable to the fourteen (14) days immediately following the commencement of personal/carer's leave merely by reason of the fact that they are on personal/carer's leave.

#### **Make-up Time**

- 31.14 An employee may elect, with the consent of their employer, to work "make-up time", under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the Agreement at the ordinary rate of pay.
- 31.15 An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

### **32. Long Service Leave**

- 32.1 Where this clause is silent, the provisions of the *Long Service Leave Act 1955* (NSW) apply.

- 32.2 Every employee after five (5) years' continuous service with the employer shall be entitled to one month's long service leave on full pay; after ten (10) years' continuous service to two (2) month's long service leave on full pay; after fifteen (15) years' continuous service to three (3) month's long service leave on full pay; and for each five (5) years' continuous service thereafter to an additional one and one half months' long service leave on full pay. This long service leave, up to the amount accrued at the date of commencement of such leave, shall be taken at a time to be mutually arranged between the employer and the employee, provided the minimum period taken is one month.
- 32.3 Where an employee has acquired a right to long service leave under subclause 32.2 of this clause, then and in every such case:
- (a) If before such leave has been entered upon, the employment of such an employee has been terminated, the employee shall be entitled to receive the monetary value of the leave to which such staff member has been entitled computed at the rate of salary which such employee had been receiving immediately before the termination of employment.
  - (b) If an employee dies before entering upon long service leave, or if after having entered upon the same, dies before its termination, the employee's partner or children or other dependent relatives or their legal representatives, shall be entitled to receive the monetary value of the leave not taken or not completed, as the case may be, and computed at the rate of salary which the employee had been receiving at the time of death.
- 32.4 For the purpose of this clause:
- (a) one month equals four and one third (4 1/3) weeks;
  - (b) continuous service at the Mater Hospital North Sydney and/or St Vincent's Private Community Hospital Griffith before this Agreement takes effect shall be taken into account;
  - (c) continuous service shall be deemed not to have been broken by:-
    - (i) any period of absence on leave without pay not exceeding six (6) months; or
    - (ii) absence of an employee from the Mater Hospital North Sydney and/or St Vincent's Private Community Hospital Griffith whilst a member of the Defence Forces of the Commonwealth in time of war; or
    - (iii) any period of absence on parental leave taken by the staff member in accordance with the provisions of this Agreement.
- 32.5 Each period of long service leave accessed by an employee must be for a period of one week or more.

- 32.6 Where any employee has been granted a period of long service leave before this Agreement takes effect the amount of such leave shall be debited against the amount of leave due under this Agreement.
- 32.7 Any period(s) of part-time employment with the employer shall count towards long service leave. The payment for such long service leave shall be calculated on a proportionate basis taking into account the average number of hours worked per week relative to thirty eight (38) hours.
- 32.8 An employee returning to duty from long service leave shall be given the next allocated day off duty in sequence irrespective of whether sufficient credits have been accumulated or not.

### **33. Compassionate Leave**

- 33.1 An employee is entitled to two (2) days of compassionate leave for each occasion (a *permissible occasion*) when a member of the employee's immediate family, or a member of the employee's household:
- (a) contracts or develops a personal illness that poses a serious threat to his or her life; or
  - (b) sustains a personal injury that poses a serious threat to his or her life; or
  - (c) dies.
- 33.2 An employee may take compassionate leave for a particular permissible occasion if the leave is taken:
- (a) to spend time with the member of the employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in subclause 33.1; or
  - (b) after the death of the member of the employee's immediate family or household referred to in subclause 33.1.
- 33.3 An employee may take compassionate leave for a particular permissible occasion as a single continuous two (2) day period; or two (2) separate periods of one (1) day each; or any separate periods to which the employee and the employer agree.
- 33.4 Where the employee is involved in funeral arrangements, travelling etc., leave may be allowed for up to three days for each permissible occasion.
- 33.5 If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the employee may take the compassionate leave for that occasion at any time while the illness or injury persists.



- 33.6 The above situations are not intended to codify completely purposes for which compassionate leave with pay may be allowed. The element of unforeseen emergency could be present in other situations, e.g. floods and bushfires, which may prevent attendance for duty.
- 33.7 If, in accordance with this Clause, an employee, other than a casual employee, takes a period of compassionate leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period. For casual employees, compassionate leave is unpaid leave.
- 33.8 The employee, if required by the employer, shall supply relevant evidence of the requirement for such leave.

#### **34. Parental Leave**

- 34.1 Employees are entitled to parental leave in accordance with the provisions of the *Fair Work Act 2009*, as amended from time to time.
- (a) Parental leave consists of primary carer leave, secondary carer/partner leave and adoption-related leave.
  - (b) An employee, other than a casual employee, is not entitled to unpaid leave (other than unpaid pre-adoption leave) unless the employee has, or will have, completed at least 40 weeks of continuous service with the employer.
  - (c) A casual employee is entitled to twelve (12) months unpaid parental leave only if the employee has completed at least twelve (12) months of continuous service with the employer as per the provisions of the Fair Work Act 2009.
- 34.2 Permanent employees eligible for parental/primary care giver leave in accordance with subclause 34.1 shall be entitled to the following paid parental leave:
- (a) Twelve weeks' (12) paid maternity/primary care giver leave and one week paid partner leave at the ordinary rate will be made to any employee who qualifies under the Agreement. This leave may commence up to nine (9) weeks prior to the expected date of birth.
  - (b) The paid maternity/ primary care giver parental leave may be paid in accordance with the normal fortnightly pay period, in advance in a lump sum, or at the rate of half pay over a period of twenty four (24) weeks per fortnightly pay period.
  - (c) Annual leave and/or long service leave credits can be combined with periods of parental leave on half pay to enable an employee to remain on full pay for that period.
  - (d) The amount of paid leave provided in this Agreement shall not be reduced in terms of its monetary value by the current eighteen (18) weeks' paid parental leave prescribed under the Paid Parental Leave Act 2010. For the avoidance of doubt the value of the

paid parental leave provided under this Agreement will be in addition to the value of the eighteen (18) weeks paid parental leave paid at the Federal minimum wage.

- 34.3 An employee (including casuals) who has once met the conditions for paid parental leave will not be required to meet the eligibility requirements of subclause 34.1 of this clause in order to qualify for a further period of paid parental leave, unless:
- (a) there has been a break in service due to termination of employment for any reason; or
  - (b) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context leave without pay does not include sick leave without pay, parental leave without pay, or leave without pay associated with illness or injury compensable under the Workers' Compensation Act 1987 (NSW).
- 34.4 An employee who intends to proceed on primary carer parental leave should make application to the hospital as early as possible, and not less than eight (8) weeks prior to the commencement of the leave. Written notice must include:
- (a) a medical certificate stating the expected date of birth; and
  - (b) the period of leave desired.
- 34.5 In the event of a miscarriage any absence from work is to be covered by the current sick leave provisions.
- 34.6 In the case of a stillbirth (as classified by the Registry of Births, Deaths and Marriages) an employee may elect to take sick leave, subject to production of a medical certificate, or maternity leave. The employee may resume duty at any time provided she produces a doctor's certificate as to her fitness.
- 34.7 An employee who gives birth prematurely and prior to proceeding on primary carer parental leave will be treated as being on parental leave from the date leave is commenced to have the child.
- 34.8 Should an employee return to duty during the period of paid primary carer parental leave, such paid leave ceases from the date duties are resumed.
- 34.9 If, because of an illness associated with her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.
- 34.10 Where an employee is entitled to paid primary carer parental leave, but because of illness is on sick leave, or on annual leave, long service leave, or sick leave without pay prior to the birth, such leave ceases twelve (12) weeks prior to the expected date of birth. The employee then commences primary carer parental leave with the normal provisions applying.
- 34.11 A female employee shall be entitled to work until the expected date of birth of the child. At six (6) weeks from the date of the expected date of birth of the child, if requested by the Employer or nominee, the employee shall provide a statement from her medical practitioner to the effect

that continuing employment until the date of the expected date of birth of the child is not a risk to the employee or the unborn child.

#### 34.12 Effect of Parental Leave on Accrual of Leave, Increments etc.

- (a) When the employee has resumed duties, any period of full pay leave is counted in full for the accrual of recreation leave and any period of parental leave on half pay is taken into account to the extent of one half thereof when determining the accrual of recreation leave.
- (b) Except in the case of employees who have completed ten (10) years' service the period of parental leave without pay does not count as service for long service leave purposes. Where the employee has completed ten (10) years' service the period of parental leave without pay will count as service provided such leave does not exceed six (6) months.
- (c) Parental leave without pay does not count as service for incremental purposes. Periods of parental leave at full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.

#### 34.13 Right to request

- (a) An employee entitled to parental leave pursuant to the provisions of this clause may request the employer to allow the employee:
  - 1. to extend the fifty two (52) weeks of unpaid parental leave by a further continuous period of leave not exceeding twelve (12) months;
  - 2. to return from a period of parental leave on a part-time basis until the child reaches school age;to assist the employee in reconciling work and parental responsibilities.
- (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect of the workplace or the employer's business.
- (c) Employee's request and the employer's decision to be in writing
- (d) The employee's request and the employer's decision made under (a) and (b) must be recorded in writing.
- (e) Request to return to work part-time
- (f) Where an employee wishes to make a request under 34.13(a)(2), such a request must be made as soon as possible but no less than four (4) weeks prior to the date upon which the employee is due to return to work from parental leave.

#### 34.14 Communication during parental leave

- (a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

1. make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
  2. provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph 34.13(a) of this subclause.

#### 34.15 Lactation Provisions

Employees who are lactating will be entitled to one paid break of 30 minutes per shift for the purpose of expressing their milk or breast feeding their child. The employer will provide access to suitable facilities for such purpose.

#### 34.16 Portability of service for Parental Leave

Portability of service for parental leave involves the recognition of service with the hospital for the purpose of determining an employee's eligibility to receive paid parental leave. For example, where an employee moves between facilities owned by the hospital, previous continuous service will be counted towards the service prerequisite for parental leave.

#### 34.17 Transfer to a Safe Position

Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, the hospital is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position. The employee must provide evidence that she is fit to work in the alternative position.

### 35. Flexible Working Arrangements

The NES provides particular employees with an entitlement to request a flexible working arrangement. In addition to the NES, if the employer does not agree to the employee's request, the employer must discuss the request with the employee to better understand the employee's circumstances and then the employer must provide any available counter-proposals to the employee in writing. Any agreed arrangement must be recorded in writing.

### **36. Special Leave**

- 36.1 Employees shall be entitled to access their Paid Personal/Carer's Leave accrued pursuant to Clause 31, Personal/Carers' Leave for special purposes that require them to be absent from duty. Such leave is referred to in this Agreement as Special Leave.
- 36.2 Subject to subclause 36.5, the employer shall grant Special Leave to an employee for the following special purposes:
- (a) care for family or friends when Carer's Leave does not apply;
  - (b) attendance at a funeral or memorial service (where not provided for under Clause 33, Compassionate Leave);
  - (c) moving between residences;
  - (d) attendance at courses, assessments and graduations conducted by officially recognised organisations;
  - (e) attendance at court as a witness;
  - (f) attendance at emergency incidents and training associated with membership of emergency organisations (e.g. . NSW Rural Fire Service, NSW Fire Brigades, SES, St Johns, SLSA etc);
  - (g) acting as a Blood donor or Bone marrow donor;
  - (h) participation in retirement preparation seminars;
  - (i) attendance at professional or learned society conferences;
  - (j) participation in recognised days of cultural or religious significance; or
  - (k) acceptance of an award for outstanding community service or academic work;
- 36.3 Special Leave is in addition to Community Service Leave as provided by the NES.
- 36.4 A request from an employee to access Special Leave for other special purposes (other than those prescribed above) may be granted by the employer. Such a request from an employee to access Special Leave shall not be unreasonably withheld.
- 36.5 An employee may take up to three (3) days of their personal leave as Special Leave in any one year (or twenty four (24) working hours where employees are working other than eight hour shifts). For the purposes of this clause, the year shall commence from the date of operation of this Agreement; or for future employees their starting date of employment.
- 36.6 As far as practicable and where possible Special Leave shall be applied for at least one week in advance. This notice period can be waived in exceptional circumstances.

- 36.7 Part-time employees shall be entitled to Special Leave on a pro rata basis.
- 36.8 An employee may request Special Leave to be taken during any other period of leave.
- 36.9 In the event that request for Special Leave is withheld the employee has the right to invoke the provisions of Clause 9, Resolution of Disputes, of this Agreement.

## **PART VII - OTHER MATTERS**

### **37. Staff Amenities**

The employer shall provide for the use of employees

- 37.1 A suitable changing room and adequate washing and toilet facilities;
- 37.2 A secure locker or other suitable place for the safe keeping of clothing and personal effects of such employee;
- 37.3 The employer shall provide for an employee morning and afternoon tea, supper and early morning tea (which shall include tea or coffee together with milk and sugar) when the employee is on duty, at times appropriate for the partaking thereof, and shall provide also for such an employee, who requires them, meals of a reasonable standard, which fall due during the duty period, and for such meals so provided may make a charge, provided that the charge for breakfast and other meals shall be the sum set out in Table 3 - Other Rates and Allowances, of Schedule 1 – Wages and Allowances

### **38. Nurses and Midwives' Assoc./Aust. Nursing & Midwifery Federation (NSW) Branch Representatives**

- 38.1 NSWNMA/ANMF – NSW Branch Representatives shall be allowed to approach or be approached by nursing staff that they represent to discuss any matter related to the member's employment, at any time during working hours, taking into account patient care.
- 38.2 NSWNMA/ANMF – NSW Branch Representatives shall also be granted reasonable time during working hours to:
- consult with nursing staff that they represent and with other relevant persons;
  - represent the interests of nursing staff that they represent to the employer; and
  - seek guidance from other relevant persons.
- 38.3 NSWNMA/ANMF – NSW Branch Representatives shall be entitled to confer with management during working hours, without loss of pay, on any matter affecting nursing staff that they represent
- 38.4 The employer shall recognise NSWNMA/ANMF – NSW Branch Representatives at the workplace, and undertakes to permit such NSWNMA/ANMF – NSW Branch Representatives to perform their role without discrimination and victimisation in their employment.

- 38.5 The employer will consult with NSWNMA/ANMF – NSW Branch Representatives before introducing any significant change which will impact on nursing staff that they represent.
- 38.6 The employer will provide an opportunity during orientation for NSWNMA/ANMF – NSW Branch Representatives to address new employees.
- 38.7 The employer will allow NSWNMA/ANMF – NSW Branch Representatives reasonable access to the use of hospital facilities for the purpose of carrying out work representing nursing staff that they represent.
- 38.8 The employer shall provide a notice board in a prominent location in the workplace on which NSWNMA/ANMF – NSW Branch Representatives may place relevant materials.
- 38.9 In addition to any entitlement to paid leave, the employer will give NSWNMA/ANMF – NSW Branch Representatives paid leave of up to five (5) days per annum per employee to attend relevant training and/or networking opportunities.
- 38.10 The employer will allow reasonable time subject to mutual agreement for NSWNMA/ANMF – NSW Branch Representatives to attend the Association's Committee of Delegates and/or Council.
- 38.11 NSWNMA/ANMF – NSW Branch shall be entitled to facilitate up to four (4) paid meetings per year to discuss issues with nursing staff that they represent.

### **39. Attendance at Meetings and Fire Drills**

- 39.1 Any employee required to work outside the ordinary hours of work in satisfaction of the requirements for compulsory fire safety practices (fire drill and evacuation procedures) contained from time to time within the Private Health Facilities Act 2007 (NSW), and the regulations made there under, shall be entitled to be paid the "ordinary rate" for the actual time spent in attendance at such practices. In lieu of receiving payment, employees may with the agreement of the employer be permitted to be free from duty for a period of time equivalent to the period spent in attendance at such meetings. Such time spent in attendance shall not be viewed as overtime for the purposes of this Agreement.
- 39.2 Any employee required to attend Occupational 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. In lieu of receiving payment, employees may with the agreement of the employer be permitted to be free from duty for a period of time equivalent to the period spent in attendance at such meetings. Such time spent in attendance shall not be viewed as overtime for the purposes of this Agreement.
- 39.3 For the purposes of this clause "ordinary rate" shall include amounts payable under Clause 14, Salaries, and Clause 15, Special Allowances, subclauses 15.1 and 15.2, of this Agreement; plus, where appropriate, the loading prescribed in Clause 11, Part-time and Casual Employees

of this Agreement for employees engaged otherwise than as a full time or permanent part time employee.

39.4 Where reasonably practicable, the Employer will deliver, or in the case of meetings set out at clause 39.2 will conduct, the above compulsory training/ meetings within an employee's ordinary hours of work.

(a) In the case of employees classified as an AIN/ Trainee Enrolled Nurse, where it is not practicable to undertake the compulsory training/ meetings in accordance with clause 39.4, up to 8 hours of such compulsory training/ meetings per year may be held outside of an employee's ordinary hours and be paid at the ordinary rate. Such compulsory training/ meetings that fall outside an employee's ordinary hours and are in excess of 8 hours per year will be paid at the applicable overtime penalty rate. The payment arrangements set out in this subclause will also apply to the compulsory training set out at clause 41.4 (Learning and Development).

#### **40. Nursing Workloads**

40.1 The employer is committed to ensuring that staffing levels are appropriate, in order to ensure the delivery of high quality patient care and a safe working environment for nurses. The parties to this Agreement recognise that reasonable workloads are determined by a range of factors including skill mix, acuity, specialisation, geography and supervisory responsibilities.

40.2 The parties agree that existing flexibility in respect of staffing will be maintained. In determining whether staffing levels are appropriate, the current practice of staffing based on collaboration between Nursing Administration and Ward/unit management will continue on a shift basis, taking into account the following factors:

- (a) occupancy;
- (b) patient acuity;
- (c) the skill level of staff;
- (d) the availability of support staff, including educators;
- (e) patient movements;
- (f) access to training, including e-learning;
- (g) workplace health and safety;
- (h) practice with comparative wards/units within the Employer's other facilities;
- (i) obligations arising from professional registration; and
- (j) professional nursing standards, where appropriate.

40.3 All rostered and unplanned leave will be replaced with a nurse of the same classification level wherever reasonably practicable, taking into account the factors outlined above at clause 40.2.

Monitoring staffing at ward/unit meetings



- 40.4 Staffing will be reviewed collaboratively at monthly meetings where practicable. These meetings will be minuted with the minutes displayed in a prominent place.

#### Resolving staffing issues

- 40.5 Should any nurse or group of nurses in any one ward or unit feel the workloads are unreasonably heavy, on a regular basis, then they have a responsibility to raise their concerns in writing with their nurse manager.

- 40.6 The nurse manager shall investigate any issue that is raised within forty eight (48) hours, where practicable, and provide a response to the issues.

If the nurse manager is unable to resolve the workload issue or respond within this period, the issue is to be referred to the Director of Nursing.

- 40.7 The employee may be represented by their NSW Nurses and Midwives Association (NSWNMA) branch representatives.

- 40.8 If the matter is not settled within a reasonable period of time, the Clause 9, Resolution of Disputes will apply.

- 40.9 In determining workloads the employer is entitled to take into account the needs of the workplace including patient care and the need to roster employees at short notice in accordance with this Agreement

#### Process to adjust staffing

- 40.10 When a nurse manager considers additional nursing hours should be provided in order to meet clinical needs, they will inform their immediate supervisor.

- 40.11 Where it is determined to backfill an absence, the default position is to fill the absence with a nurse/midwife of the same classification as the absent nurse/midwife, wherever reasonably practicable.

- 40.12 The Employer will collaboratively consider a solution(s) including, but not limited to, the following options:

- (a) deployment of appropriately skilled nurses/midwives from other wards/units;
- (b) additional hours for part-time staff;
- (c) engagement of casual or agency nursing/midwifery staff;
- (d) overtime;
- (e) prioritisation of nursing activities on the ward/unit;
- (f) reallocation of patients.

- 40.13 The Employer's decision will be recorded in writing.

## 41. Learning and Development

- 41.1 Managers and supervisors are responsible for promoting and supporting learning activities for employees in their area of responsibility.
- 41.2 Professional development shall be identified annually through the employees' annual performance appraisal.
- 41.3 Leave for learning or development will be negotiated between the employee and the employer, based on the requirements of the course.
- 41.4 When an employee is required by the employer to undertake training outside ordinary working hours, the employee will be paid at their ordinary rate for the time spent in training.

#### **42. Continuing Professional Development**

- 42.1 In order to fulfil the continuing professional development requirements of the Nursing and Midwifery Board of Australia and Australian Health Practitioner Regulation Agency, registered nurses and enrolled nurses, in consideration of operational requirements, shall be provided access to appropriate training. This training may involve any combination of the following and is subject to management approval:
- writing or reviewing nursing educational materials;
  - presenting at or attending workplace education sessions;
  - attendance or presentation at external conferences, lectures, seminars or professional meetings; and
  - undertaking relevant online or face to face undergraduate or post graduate studies which are relevant to their clinical practice.
- 42.2 The parties acknowledge that professional development is a shared responsibility.

#### **43. Proportion**

Except in cases of emergency not more than four (4) enrolled nurses and/or assistants in nursing to each registered nurse shall be employed in a hospital and for this purpose a director of nursing shall count; provided that the proportions specified by this clause may be altered by agreement between the hospital concerned and the employees or their nominated Association branch representative.

#### **44. Leave to deal with Family and Domestic Violence**

##### **44.1 Leave to deal with Family and Domestic Violence**

This clause applies to all employees, including casuals.

##### **44.2 Definitions**

In this clause:

***family and domestic violence*** means violent, threatening or other abusive behaviour by a family member of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful.

***family member*** means:

- (a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- (b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee; or
- (c) a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

A reference to a spouse or a de facto partner in the definition of family member in this clause includes a former spouse or de facto partner.

#### 44.3 Entitlement to leave

An employee is entitled to 10 days' leave to deal with family and domestic violence, as follows:

- (a) The entitlement to leave is paid for full time and part time employees and unpaid for casual employees;
- (b) the leave is available in full at the start of each 12 month period of the employee's employment; and
- (c) the leave does not accumulate from year to year; and
- (d) is available in full to part-time and casual employees.

A period of leave to deal with family and domestic violence may be less than a day by agreement between the employer and employee. The employer and the employee may agree that the employee may take additional unpaid leave to deal with family and domestic violence.

#### 44.4 Taking leave to deal with family and domestic violence

An employee may take unpaid leave to deal with family and domestic violence if the employee:

- (a) is experiencing family and domestic violence; and
- (b) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the employee to do that thing outside their ordinary hours of work.

The reasons for which an employee may take leave include making arrangements for their safety or the safety of a family member (including relocation), attending urgent court hearings, or accessing police services.

#### 44.5 Service and continuity

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

#### 44.6 Notice and evidence requirements

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

- (a) must be given to the employer as soon as practicable (which may be a time after the leave has started); and
- (b) must advise the employer of the period, or expected period, of the leave.

An employee who has given the Employer notice of the taking of leave under this clause must, if required by the Employer, give the Employer evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in this clause. Depending on the circumstances such evidence may include a document issued by the police service, a court or a family violence support service, or a statutory declaration.

#### 44.7 Confidentiality

Employers must take steps to ensure information concerning any notice an employee has given, or evidence an employee has provided under clause 44(vi), is treated confidentially, as far as it is reasonably practicable to do so.

Nothing in clause 44 prevents the Employer from disclosing information provided by an employee if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the employee or another person.

Note: Information concerning an employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the employee. Employers should consult with such employees regarding the handling of this information.

#### 44.8 Compliance

An employee is not entitled to take leave under clause 44 unless the employee complies with clause 44.

# SCHEDULE 1 – WAGES AND ALLOWANCES

**TABLE 1: WAGES**

First full pay period on or after	1/01/2018	1/01/2019	1/01/2020	1/01/2021
<b>Increase</b>	<i>Current</i>	<i>2.50%</i>	<i>2.50%</i>	<i>2.50%</i>
<b>Assistant In Nursing</b>				
Year 1	\$868.46	\$890.17	\$912.43	\$935.24
Year 2	\$896.59	\$919.00	\$941.98	\$965.53
Year 3	\$924.60	\$947.72	\$971.41	\$995.69
Thereafter	\$953.86	\$977.71	\$1,002.15	\$1,027.20
<b>Enrolled Nurse/EEN</b>				
Year 1	\$1,089.48	\$1,116.72	\$1,144.63	\$1,173.25
Year 2	\$1,136.49	\$1,164.90	\$1,194.02	\$1,223.88
Year 3	\$1,160.67	\$1,189.69	\$1,219.43	\$1,249.91
Year 4	\$1,186.96	\$1,216.63	\$1,247.05	\$1,278.23
Year 5	\$1,208.92	\$1,239.14	\$1,270.12	\$1,301.87
<b>Nurse-Undergoing Pre Registration training/ AIN in 3<sup>rd</sup> yr of U/G study</b>				
	\$1,042.45	\$1,068.51	\$1,095.22	\$1,122.60
<b>Registered Nurse / Midwife</b>				
Level 1 (New Graduate)	\$1,208.92	\$1,239.14	\$1,270.12	\$1,301.87
Level 2 (Senior Graduate)	\$1,274.81	\$1,306.68	\$1,339.35	\$1,372.83
Level 3	\$1,340.82	\$1,374.34	\$1,408.70	\$1,443.92
Level 4	\$1,411.04	\$1,446.32	\$1,482.47	\$1,519.54
Level 5	\$1,550.98	\$1,589.75	\$1,629.50	\$1,670.24
Level 6	\$1,697.94	\$1,740.39	\$1,783.90	\$1,828.50
Level 7	\$1,729.64	\$1,772.88	\$1,817.20	\$1,862.63
<b>Lactation Breast Care Specialist</b>				
	\$1,767.04	\$1,811.22	\$1,856.50	\$1,902.91
<b>Clinical Nurse/ Midwife Educator</b>				
	\$1,767.04	\$1,811.22	\$1,856.50	\$1,902.91
<b>Nurse/Midwife Educator</b>				
Grade 1 Year 1	\$1,960.15	\$2,009.15	\$2,059.38	\$2,110.87
Grade 1 Year 2	\$2,015.31	\$2,065.69	\$2,117.34	\$2,170.27
Grade 1 Year 3	\$2,064.79	\$2,116.41	\$2,169.32	\$2,223.55
Grade 2 Year 1	\$2,064.79	\$2,116.41	\$2,169.32	\$2,223.55
Grade 2 Year 2	\$2,172.77	\$2,227.09	\$2,282.77	\$2,339.84
<b>Clinical Nurse / Midwife Specialist</b>				
Grade 1	\$1,767.04	\$1,811.22	\$1,856.50	\$1,902.91
Grade 2	\$1,839.71	\$1,885.70	\$1,932.85	\$1,981.17
Grade 3	\$1,939.05	\$1,987.53	\$2,037.21	\$2,088.14
<b>Clinical Nurse / Midwifery Consultant</b>				
Grade 1	\$2,172.77	\$2,227.09	\$2,282.77	\$2,339.84
Grade 2	\$2,219.17	\$2,274.65	\$2,331.52	\$2,389.80
Grade 3	\$2,369.84	\$2,429.09	\$2,489.81	\$2,552.06
<b>Nurse / Midwifery Unit Manager</b>				
Level 1	\$2,129.96	\$2,183.21	\$2,237.79	\$2,293.73
Level 2	\$2,231.14	\$2,286.92	\$2,344.09	\$2,402.69
Level 3	\$2,290.86	\$2,348.13	\$2,406.83	\$2,467.01

<b>Senior Nurse / Midwife Educator</b>				
First Year	\$2,224.84	\$2,280.46	\$2,337.47	\$2,395.91
Second Year	\$2,270.75	\$2,327.52	\$2,385.71	\$2,445.35
Third Year	\$2,346.88	\$2,405.55	\$2,465.69	\$2,527.33
<b>Assistant DON</b>				
	\$2,290.86	\$2,348.13	\$2,406.83	\$2,467.01
<b>Deputy DON</b>				
100 less than 200	\$2,290.86	\$2,348.13	\$2,406.83	\$2,467.01
200 less than 250	\$2,456.22	\$2,517.63	\$2,580.57	\$2,645.08
<b>DON</b>				
200 less than 250	\$2,698.94	\$2,766.41	\$2,835.57	\$2,906.46
250 less than 350	\$2,917.35	\$2,990.28	\$3,065.04	\$3,141.67

**TABLE 2: PROFESSIONAL PRACTICE ALLOWANCE**

First full pay period on or after	1/01/2018	1/01/2019	1/01/2020	1/01/2021
<b>Increase</b>	2.50%	2.50%	2.50%	2.50%
<b>Clinical Nurse Specialist</b>				
Grade 1	\$34.42	\$35.28	\$36.16	\$37.07
Grade 2	\$34.42	\$35.28	\$36.16	\$37.07
Grade 3	\$68.85	\$70.57	\$72.34	\$74.14
<b>Clinical Nurse Consultant</b>				
Grade 1	\$34.42	\$35.28	\$36.16	\$37.07
Grade 2	\$34.42	\$35.28	\$36.16	\$37.07
Grade 3	\$34.42	\$35.28	\$36.16	\$37.07
<b>Nurse Unit Manager</b>				
Level 1	\$34.42	\$35.28	\$36.16	\$37.07
Level 2	\$34.42	\$35.28	\$36.16	\$37.07
Level 3	\$68.85	\$70.57	\$72.34	\$74.14
<b>Nurse Educator</b>				
Grade 2	\$68.85	\$70.57	\$72.34	\$74.14
<b>Senior Nurse Educator</b>				
	\$68.85	\$70.57	\$72.34	\$74.14
<b>Assistant Director of Nursing</b>				
	\$68.85	\$70.57	\$72.34	\$74.14
<b>Deputy DON</b>				
	\$68.85	\$70.57	\$72.34	\$74.14
<b>DON</b>				
	\$68.85	\$70.57	\$72.34	\$74.14
<b>Senior Midwife (Level 6 thereafter)</b>				
<b>*Not referred to in wage rates</b>	\$34.42	\$35.28	\$36.16	\$37.07
<b>Nurse Practitioner/Midwife</b>				
<b>*Not referred to in wage rates</b>	\$68.85	\$70.57	\$72.34	\$74.14

<b>Eligible Midwife</b>				
<b>*Not referred to in wage rates</b>	\$68.85	\$70.57	\$72.34	\$74.14

As set out in clause 6, the eligible nurse or midwife must complete the Professional Practice Allowance application form, and submit it to HR along with evidence that establishes the nurse or midwife has the qualification as set out below. Payment of the Professional Practice Allowance commences on the first full pay period after the application and evidence has been submitted and approved by the Employer. Payment of the Professional Practice Allowance will not be backdated.

**TABLE 3: OTHER ALLOWANCES AND RATES**

	<b>FFPPOA 1/01/2018</b>	<b>FFPPOA 1/01/2019</b>	<b>FFPPOA 1/01/2020</b>	<b>FFPPOA 1/01/2021</b>
<b>Allowance Type</b>	Current	2.50%	2.50%	2.50%
In charge ward/unit (in absence of NUM)	\$38.23	\$39.19	\$40.17	\$41.17
In charge hospital - day, evening or night shifts (<100beds)	\$25.71	\$26.35	\$27.01	\$27.69
In charge ward/unit & hospital (<100beds)	\$38.49	\$39.45	\$40.44	\$41.45
<b>On-call Rates</b>				
On Call (12 Hours)	\$32.46	\$33.27	\$34.10	\$34.96
On Call (12 Hours) on day off	\$64.93	\$66.55	\$68.22	\$69.92
On call (24 hours)	\$45.79	\$46.93	\$48.11	\$49.31
On call (24 hours) on day off	\$90.48	\$92.74	\$95.06	\$97.44
On call during meal break	\$12.95	\$13.27	\$13.61	\$13.95
Lead Apron Allowance	\$1.81	\$1.86	\$1.90	\$1.95
Meal Allowance overtime	\$19.95	\$20.45	\$20.96	\$21.48
<b>Uniform and Laundry</b>				
Uniform	\$7.31	\$7.49	\$7.68	\$7.87
Shoes	\$2.26	\$2.32	\$2.37	\$2.43
Cardigan or Jacket	\$2.20	\$2.26	\$2.31	\$2.37
Stockings	\$3.79	\$3.88	\$3.98	\$4.08
Socks	\$0.73	\$0.75	\$0.77	\$0.79
Laundry	\$6.07	\$6.22	\$6.38	\$6.54
<b>Staff Amenities</b>				
Breakfast	\$4.07	\$4.17	\$4.28	\$4.38
Other Meals	\$7.39	\$7.57	\$7.76	\$7.96

## APPENDIX 1 - CLASSIFICATIONS

**"Assistant Director of Nursing"** means:

- (a) A person appointed as such in a hospital where the adjusted daily average of occupied beds is not less than 150 and includes a person appointed as the nurse in charge during the evening or night in a hospital where the adjusted daily average of occupied beds is not less than 150.
- (b) A person appointed to be a registered nurse in charge of all theatres in a hospital having four or more major theatres in regular use.
- (c) A person appointed as such to a position approved by the employer including persons appointed to be in charge of the administration of a group of wards or department of a hospital including a community nursing department.

**"Assistant in Nursing"** means a person, other than a registered nurse, student nurse or enrolled nurse, who is employed in nursing/midwifery duties in a hospital.

**"Association"** means the New South Wales Nurses and Midwives' Association and the Australian Nursing Federation, NSW Branch.

**"Average Occupied Beds"** means calculating the adjusted daily average of occupied beds of a hospital, each newly born baby shall count as one half patient and 700 outpatients per annum shall count as one occupied bed. The average shall be taken for the twelve months ended on the 30 June in each and every year and such average shall relate to the salary of the succeeding year.

**"Board"** means the Nursing and Midwifery Board of Australia and shall also be taken to mean a reference to Australian Health Practitioner Regulations Agency as appropriate.

**"Clinical Nurse / Midwife Consultant Grade 1 "** means a registered nurse appointed as such to the position approved by the hospital who has at least five (5) years full time equivalent post registration nursing experience and who has in addition approved post registration nursing qualifications relevant to the field in which they are appointed or such other qualifications or experience deemed appropriate by the employer.

**"Clinical Nurse / Midwife Consultant Grade 2 "** means a registered nurse appointed as such to the position approved by the hospital who has at least five (5) years full time equivalent post registration experience with at least three (3) years full time equivalent experience in the speciality field. In addition the nurse must have approved postgraduate nursing qualifications relevant to the field in which they are appointed or such other qualifications or experience deemed appropriate by the hospital. The employer may also require a higher qualification in the specialist nursing field where such a qualification is considered essential for the performance of the individual position.

**"Clinical Nurse / Midwife Consultant Grade 3"** means a registered nurse appointed as such to a position approved by the hospital, who has at least seven (7) years full time equivalent post registration experience, with at least five (5) years full time equivalent experience in the specialty field. In addition the nurse must have approved postgraduate nursing qualifications



relevant to the field in which they are appointed or such other qualifications or experience deemed appropriate by the hospital. The employer may also require a higher qualification in the specialist nursing field where such a qualification is considered essential for the performance of the individual position.

**"Clinical Nurse/ Midwife Educator"** means a registered nurse with relevant post basic registration certificate qualifications or experience deemed appropriate by the employer, who is required to implement and evaluate educational programmes at the ward/unit level. The Clinical Nurse Educator shall cater for the delivery of clinical nurse education in the ward/unit level only.

A nurse will achieve Clinical Nurse Educator status on a personal basis by being required by the hospital to provide the educational programmes detailed above.

A Clinical Nurse Educator will progress to Nurse Educator on completion of 1976 hours. Proof of previous experience will be considered for the purposes of reaching 1976 hours.

Nothing in this clause 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.

**"Clinical Nurse/ Midwife Specialist Grade 1"** means a registered nurse with relevant post-basic qualifications and 12 months' experience working in the clinical area of the specified post-basic qualification, or a minimum of four (4) years' post-basic registration experience, including (3) three years' experience in the relevant specialist field and who satisfies the local criteria.

**"Clinical Nurse/ Midwife Specialist Grade 2"** means a registered nurse appointed as such who has been appointed as a Clinical Nurse Specialist Grade 1, and who has a post graduate qualifications and has two (2) years experience working in the clinical area of the specified post graduate qualification or a minimum of five (5) years post basic registration experience, including four (4) years' experience in the relevant specialist field and who satisfies the local criteria.

**"Clinical Nurse/ Midwife Specialist Grade 3"** means a registered nurse appointed as such who has been appointed as a Clinical Nurse Specialist Grade 2, and holds a relevant Masters degree or who is working toward one or who acts as a clinical mentor in the development of the unit's nursing staff, and routinely and competently practises at an advanced level and demonstrates improved patient outcomes.

**"Deputy Director of Nursing"** means a person appointed to that position or deemed to hold that position pursuant to Clause 29, Deputy Directors of Nursing and Assistant Directors of Nursing, of this Agreement and who holds a relevant Masters Degree or degree in Health Administration or will be working toward such.

**"Director of Nursing"** includes a registered nurse who holds a relevant Masters Degree or degree in Health Administration or is working toward such and is appointed accordingly. There shall be only one person in each hospital entitled to be classified as Director of Nursing or whatever title the Senior Nursing Administrator is known by at the hospital.

**“Eligible Midwife”** means a registered midwife who no longer holds their Registered Nurse registration and is solely registered to work as a midwife, appointed to such a position by the Director of Nursing.

**“Enrolled Nurse”** means a person enrolled by the Nursing and Midwifery Board of Australia who:

- (a) prior to July 1, 2010 held an endorsement for medication administration; or
- (b) subsequent to July 1, 2010 has completed the Board’s required subsequent to July 1, 2010 has completed the Board’s required approved qualifications in order to have the notation on their licence removed. For a nurse who applies to have their enrolment notation removed, this classification shall also apply from the date upon which the Board so removes the notation; or
- (c) has been enrolled for the first time subsequent to July 1, 2010.

**“Enrolled Nurse - Endorsed”** means an enrolled nurse who has successfully completed an appropriately accredited course that includes a medication component and the Nurses Registration Board of NSW has issued the enrolled nurse with an endorsement for the administration of medications either by:

- (a) a notation on the enrolled nurse’s Authority to Practice certificate; or
- (b) a letter (original) from the Board stating that the enrolled nurse has successfully completed an accredited medication course and that the nurse is endorsed for this practice.

**“Enrolled Nurse - Special Grade”** means an enrolled nurse with an Advanced Certificate qualification and a minimum of three (3) years equivalent post enrolment experience. Such a nurse is appointed to a position established by the hospital which satisfies this criteria as agreed between the Association and the hospital from time to time.

**“Enrolled Nurse - Without Medication Endorsement”** means a person registered by the Board as enrolled nurses with the notation ‘does not hold a Board approved qualification in medicines administration.

**“Lactation/Breast Care Specialist”** means a registered nurse/midwife who has obtained a relevant post graduate registration certificate in a specialist area relevant to midwifery, who works in this specific specialist area within midwife, and has had at least 12 months experience as a nurse/midwife and who satisfies the local criteria.

**“Nurse/ Midwife Educator”** means a registered nurse with post basic registration certificate qualifications, or who has relevant experience or other qualifications, deemed appropriate by the employer and who is appointed to a position of Nurse Educator.

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

Progression for Nurse Educators will be as follows:

Nurse Educator Grade 1 Year 1	Completion of 1976 hours as a Clinical Nurse Educator
Nurse Educator Grade 1 Year 2	Completion of 1976 hours as a Nurse Educator Grade 1 Year 1
Nurse Educator Grade 1 Year 3	Completion of 1976 hours as a Nurse Educator Grade 1 Year 2 or appointed as sole nurse educator for a hospital or group of hospitals
Nurse Educator Grade 2 Year 1	Appointed as Nurse Educator and holds a relevant graduate qualification in education or tertiary post graduate specialist clinical nursing qualification
Nurse Educator Grade 2 Year 2	Completion of 1976 hours as a Nurse Educator Grade 2 Year 2

**"Nurse Practitioner"** means a registered nurse midwife who is endorsed by the Board to practise as a nurse practitioner and appointed to such a position by the employer.

**"Nurse Undergoing Pre-registration Training"** means an Assistant in Nursing in at least their second year of undergraduate nursing study.

**"Nursing/ Midwifery Unit Manager"** means a registered nurse in charge of a ward or unit or group of wards or units in a hospital who holds as part of a requirement of the position or is working towards a relevant clinical, leadership or management post graduate qualification and shall include:

(a) **"Nursing Unit Manager Level 1"** whose responsibilities include:

- (1) Co-ordination of Patient Services
  - Liaison with all health care disciplines for the provision of services to meet patient needs.
  - The orchestration of services to meet patient needs after discharge.
  - Monitoring catering and transport services.
- (2) Unit Management
  - Implementation of hospital policy.
  - Dissemination of information to all personnel.
  - Ensuring environmental safety.
  - Monitoring the use and maintenance of equipment.
  - Monitoring the supply and use of stock and supplies.
  - Monitoring cleaning services.
- (3) Nursing Staff Management
  - Direction, co-ordination and supervision of nursing activities.
  - Training, appraisal and counselling of nursing staff.
  - Rostering and/or allocation of nursing staff.
  - Development and/or implementation of new nursing practice according to patient need.

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

- (c) **"Nursing Unit Manager Level 3"** whose responsibilities in relation to patient services ward or unit management and staff are in excess of those of a Nursing Unit Manager Level 2 and who holds a relevant Masters Degree or degree in Health Administration.

**"Registered Nurse"** means a person registered by the Board as a Registered Nurse and/or Registered Midwife.

**'Senior Midwife'** is a Registered Nurse Eighth Year or Registered Nurse Level 6 who holds a relevant post graduate degree in midwifery or relevant hospital midwife certificate.

**"Senior Nurse/ Midwife Educator"** means a registered nurse with a post registration certificate or appropriate qualifications, who has, or is working towards recognised tertiary qualifications in education or tertiary post graduate specialist clinical nursing qualifications and has demonstrated experience and skills in the field of education appointed to the position of Senior Nurse Educator.

A Senior Nurse Educator shall be responsible for one or more Nurse Educators in the planning, co-ordination, delivery, and evaluation of educational programmes such as post registration certificate courses, continuing nurse education, new graduate orientation, post registration enrolled nurses courses and where applicable general staff development courses either for a hospital or group of hospitals.

**"Sessional Facilitator"** means a Registered Nurse/Midwife that provides antenatal education to parents to be. The work done by sessional facilitators will be paid at the employee's normal rate of pay (including shift and weekend penalties). In the event that a Nurse/Midwife classified above Registered Nurse Level 6 elects to facilitate these sessions, outside of their rostered hours, they will be paid the ordinary rate for a Registered Nurse Level 6.

## EXECUTION OF AGREEMENT

I am authorised to sign this Agreement on behalf of Mater Hospital Sydney and St Vincent's Private Community Hospital Griffith:

Signature: 

Name: ANNA CLARKE

Title: DIRECTOR OF HUMAN RESOURCES  
PRIVATE HOSPITAL DIVISION

Address: LEVEL 5, 340 ALBERT ST  
EAST MELBOURNE VIC 3002

Date: 1/5/19.

*Brett Holmes*

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

*Margaret Potts*

WITNESS

Margaret Mary Potts  
50 O'Dea Ave, Waterloo

*O'Bray Smith*

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

*Margaret Potts*

WITNESS

Margaret Mary Potts  
50 O'Dea Ave, Waterloo

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

## IN THE FAIR WORK COMMISSION

**FWC Matter No:**  
AG2019/1460

**Applicant:**  
St Vincent's Private Hospitals Limited (SVPHL)

Section 185 – Application for approval of a single enterprise agreement

### UNDERTAKINGS

I, Tania Dixon, Human Resources Manager, for SVPHL, give the following undertakings in accordance with section 190 of the *Fair Work Act 2009* with respect to the *Mater Hospital North Sydney and St Vincent's Private Community Hospital Griffith Nurses' Enterprise Agreement 2019 (the Agreement)*:

1. In accordance with clause 3, the nominal expiry date for this Agreement is 31 December 2021
2. A new subclause will be included at 11.16A as follows:

*A casual employee who works ordinary hours in accordance with clause 26 of the Agreement, thereby entitling the employee to payment of applicable shift penalties (excluding weekend work), will be entitled to payment of the casual loading in addition to the shift penalties.*

3. Clause 11.16 of the Agreement will be amended - as underlined:

*For weekend work, casual employees will not receive weekend penalty rates or the casual loading, but instead will receive the following loadings:*

(1) Casuals (excluding AINs):

- 58.3% for work between midnight Friday and midnight Saturday;
- 83.3% for work between midnight Saturday and midnight Sunday;

(2) A casual AIN:

- 66% for work between midnight Friday and midnight Saturday;
- 93% for work between midnight Saturday and midnight Sunday;

*in addition to their ordinary rate.*

4. Clause 11.1(a) of the Agreement will be amended - as underlined:

*A part-time employee is one who is permanently appointed by the Employer to work a specified number of hours which are less than those prescribed for a full-time employee, to be worked in accordance with a roster. Before commencing part-time employment, the Employer and Employee will agree in writing on the specified number of hours.*



Tania Dixon  
**Human Resources Manager**  
22 August 2019