



## DECISION

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

**Sydney Surgery Centre Pty Ltd T/A Chatswood Private Hospital**  
(AG2018/1569)

### **SYDNEY SURGERY CENTRE PTY LTD - NSWNMA & ANMF (NSW BRANCH) ENTERPRISE AGREEMENT 2018 - 2020**

Health and welfare services

COMMISSIONER MCKENNA

SYDNEY, 27 JULY 2018

*Application for approval of the Sydney Surgery Centre Pty Ltd - NSWNMA & ANMF (NSW Branch) Enterprise Agreement 2018 - 2020.*

[1] An application has been made for the approval of an enterprise agreement known as the *Sydney Surgery Centre Pty Ltd - NSWNMA & ANMF (NSW Branch) Enterprise Agreement 2018 - 2020* (“the Agreement”). The application was made by Sydney Surgery Centre Pty Ltd T/A Chatswood Private Hospital (“the applicant”) pursuant to s.185 of the *Fair Work Act 2009* (“the Act”). The Agreement is a single-enterprise agreement.

[2] I am satisfied that each of the requirements of ss. 186, 187, 188 and 190 of the Act relevant to this application for approval have been met with the provision of written undertakings addressing miscellaneous matters. I am also satisfied that any issue in relation to parental leave will be addressed by the operation of clause 7 of the Agreement as it concerns the National Employment Standards. A copy of the undertakings is attached to this decision and marked “Annexure A”. I note that, under s.191 of the Act, the undertakings are taken to be terms of the Agreement.

[3] Separately, to the extent that clause 34.1(10) may purport to allow cashing-out long service leave under the *Long Service Leave Act* (1955) (NSW) (in that it refers to taking long service leave on double pay), that statute’s prohibition on cashing-out leave will continue to apply: *Armacell Australia Pty Ltd* [2010] FWAFB 9985; *St Marys Rugby League Club Ltd* [2010] FWA 9314.

[4] The Australian Nursing and Midwifery Federation – New South Wales Branch has given notice under s.183 of the Act that it wishes to be covered by the Agreement. In accordance with s.201(2) of the Act, I note that the Agreement covers the organisation.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from seven days after the issuing of this approval decision. The nominal expiry date of the Agreement is 31 December 2020.



COMMISSIONER

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Annexure A



Wednesday 25<sup>th</sup> July 2018

Associate to Commissioner McKenna  
Fair Work Commission  
80 William St  
SYDNEY 2000

**Undertaking in accordance with s 190 by Sydney Surgery Centre Pty  
Ltd T/A Chatswood Private Hospital**

1. Clause 12.4 should read as follows "Each shift shall consist of not more than 10 hours unless rostered in accordance with subclause 12.16 . Where this shift is performed there shall be a break of at least ten (10) hours between the following shift.
2. Clause 12.5 shall read as follows "An employee shall not work more than five (5) consecutive shifts unless the employee requests and the Director of Nursing agrees. An employee shall not work more than 2 quick shifts in any period of seven (7) days. A quick shift is an evening shift followed by a morning shift."
3. Clause 25.5 shall read as follows. "Notwithstanding clause 25.4, an employee who agrees to work a 12 hour shift in accordance with clause 12.16 will not be entitled to overtime after working in excess of 10 hours. For such an employee, overtime will apply to all hours worked in excess of 12 hours at a rate of double time"
4. A copy of this undertaking will be affixed to all copies of this Agreement distributed by the employer and the union covered by the Agreement.

Yours faithfully

A handwritten signature in black ink, appearing to read "Roger Cronin".

Roger Cronin  
Chief Executive Officer (CEO)  
As CEO Mr Cronin has the authority to provide this undertaking

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

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# **Sydney Surgery Centre Pty Ltd– NSWNMA & ANMF (NSW Branch) Enterprise Agreement 2018 - 2020**

# Sydney Surgery Centre Pty Ltd – NSWNMA & ANMF (NSW Branch) Enterprise Agreement 2018 - 2020

## Part A – Preliminary

### 1 Title

This Agreement will be known as the Sydney Surgery Centre Pty Ltd - NSWNMA & ANMF (NSW Branch) Enterprise Agreement 2018 - 2020 (“the Agreement”) and is made pursuant to Part 2-4 of the *Fair Work Act 2009*.

### 2 Arrangement

This Agreement is arranged as follows:

Part A – Preliminary .....	2
1 Title .....	2
2 Arrangement .....	2
3 Coverage .....	4
4 Date and Period of Operation.....	4
5 Posting of the Agreement.....	4
6 Objectives.....	4
7 Intention .....	5
8 Definitions.....	5
9 Consultation Regarding Change.....	7
10 Agreement Flexibility .....	9
11 Labour Flexibility.....	11
12 Hours of Work and Free Time of Employees.....	11
13 Staffing and Workload Management Principles .....	14
14 Hours of Work and Free Time of Directors of Nursing .....	15
15 Banking of Hours.....	15
16 Rosters.....	16
17 Salaries .....	17
18 Recognition of Service and Experience.....	18
19 Special Allowances .....	18
20 Continuing Education Allowance .....	19
21 Penalty Rates for Shift Work and Weekend Work .....	20

22	Fares and Expenses .....	21
23	Uniform and Laundry Allowances .....	21
24	Higher Grade Duty .....	22
25	Overtime .....	22
26	Payment and Particulars of Salaries .....	24
27	Part-Time Employees .....	24
28	Casual Employees .....	25
29	Annual Leave .....	26
30	Public Holidays .....	29
31	Annual Leave Loading .....	30
32	Personal/Carer's Leave .....	31
33	Compassionate Leave .....	34
34	Long Service Leave .....	35
35	Emergency Leave .....	37
36	Close Down Provisions .....	37
37	Staff Amenities .....	37
38	Escort Duty .....	38
39	Medical Examination of Nurses .....	38
40	Termination of Employment .....	38
41	Transfer of Business .....	40
42	Attendance at Meetings and Fire Drills and Mandatory Training .....	40
43	Resolution of Disputes .....	41
44	Anti-Discrimination .....	41
45	Parental Leave .....	41
46	Domestic Violence .....	44
47	Superannuation .....	44
48	Redundancy .....	45
49	National Employment Standards .....	49
50	Study Professional/Development Leave .....	49
51	Union Delegates .....	50
	Table 1 – Monetary Rates of Pay .....	51
	Table 2 – Other Rates and Allowances .....	53
	Signature Page for Sydney Surgery Centre .....	54
	Signature Page for ANMF (NSW Branch) .....	55

### **3 Coverage**

3.1 This Agreement shall cover the following:

- (1) The Sydney Surgery Centre Pty Ltd ('the employer') (ABN 59 079 436 310) of Suite 1, 38B Albert Avenue Chatswood NSW 2067 and,
- (2) The Australian Nursing and Midwives Federation - New South Wales Branch ("the ANMF") of 50 O'Dea Avenue, Waterloo NSW 2017 in accordance with Section 183 of the Fair Work Act 2009 ("the Act"), and,
- (3) those nursing employees whose classifications are listed in Table 1.

### **4 Date and Period of Operation**

This Agreement shall commence operation from the 7th day after the agreement is approved by Fair Work Commission (FWC) and the nominal expiry date of this agreement is until 31st December 2020.

The parties agree that discussions shall commence for a new Agreement no later than three months prior to the expiry date of the Agreement.

### **5 Posting of the Agreement**

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

### **6 Objectives**

#### **6.1 General Objective**

It is the objective of the parties to this Agreement to implement workplace practices to provide for flexible working arrangements to ensure continuous improvement in the efficiency and service quality of Sydney Surgery Centre Pty Ltd, to enhance skills and job satisfaction and assist positively towards ensuring that Sydney Surgery Centre Pty Ltd continues to be an efficient and effective enterprise.

#### **6.2 Agreement Objectives**

The parties agree that the objectives of the Agreement are to facilitate:

- (1) The satisfaction of its clients' needs by providing service of the highest quality by motivated employees who are committed to achieving the highest standards of service quality, continuity and client confidentiality;
- (2) The creation of a quality environment which is conducive to a flexible work organisation well placed to meet changing client's priorities, markets and technology;
- (3) A climate which provides support for individuals to enhance their existing skills and develop a broader range of skills thereby providing improved job satisfaction and opportunities;

- (4) Making Sydney Surgery Centre Pty Ltd a viable, productive and enduring business offering secure employment and worthwhile careers for employees, where practicable;
- (5) The fostering of an environment in which employees care about and take pride in their work.

## 7 Intention

- 7.1 This Agreement is entered into on the understanding that it does not contravene any aspect of the Act, the National Employment Standards "NES", or the Fair Work Regulations 2009. Where any term of this Agreement contravenes legislation, such terms shall not apply. Where this Agreement is silent in whole or in part the relevant legislation shall apply.

## 8 Definitions

- 8.1 For the purposes of this Agreement;

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

- (1) "**AHPRA**" means the Australian Health Practitioner Regulation Agency.
- (2) "**Board**" means the Nursing and Midwifery Board of Australia and shall also be taken to mean a reference to AHPRA as appropriate/applicable.
- (3) "**Clinical Nurse Consultant**" means a registered nurse appointed as such to the position, who has at least five years post-basic registration experience and in addition approved post-basic nursing qualifications relevant to the field in which they are appointed or such other qualifications or experience deemed appropriate by the employer.
- (4) "**Clinical Nurse Specialist**" means a registered nurse with relevant post-basic qualifications and 12 months' experience working in the clinical area of their specified post-basic qualification, or a minimum of four years' post-basic registration experience, including three years' experience in the relevant specialist field and who satisfies the local criteria.
- (5) "**Day Worker**" means a worker who works their ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6.00 am and before 10.00 am otherwise than as part of the shift system.
- (6) "**Director of Nursing**" includes a registered nurse who is registered by their employer with the New South Wales Ministry of Health as the person in charge of the Day Procedure Centre. There shall be only one person in each Day Procedure Centre entitled to be classified as Director of Nursing

For the purpose of determining the year of experience for part time or casual employment a year of experience shall be 1824 hours of employment.

- (7) "**Enrolled Nurse**" means a person registered by the Board as an Enrolled Nurse.



- (8) **"Enrolled Nurse without medication qualification"** means a person registered by the Board as an enrolled nurse with the notation "does not hold a Board approved qualification in medicines administration".
- (9) **"Experience"** in relation to a student enrolled nurse, enrolled nurse (endorsed or otherwise) or a registered nurse means experience before and/or after the commencement of this Agreement whether within New South Wales or elsewhere and in the case of a trainee enrolled nurse, or enrolled nurse who was formerly a student nurse includes experience as such student nurse.
- (10) **"Immediate family"** is defined as:
  - i. a spouse of the employee; or
  - ii. de facto partner of the employee which:
    - (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 (including a partner of the same sex); or
  - iii. a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto partner (including a partner of the same sex) of the employee; or
  - iv. a relative of the employee who is a member of the same household, where for the purposes of this paragraph:
    - (a) **"relative"** means a person related by blood, marriage or affinity;
    - (b) **"affinity"** means a relationship that one spouse because of marriage has to blood relatives of the other; and
    - (c) **"household"** means a family group living in the same domestic dwelling.
- (11) **"Industry of Nursing"** means the industry of persons engaged in New South Wales in the profession or occupation of nursing and employed in or in connection with Day Procedure Centres.
- (12) **"Medical certificate"** means a certificate signed by a registered health practitioner.
- (13) **"Private Health Facility"** also means a Day Procedure Centres owned and/or operated by The Sydney Surgery Centre Pty Ltd in NSW as defined by the Private Health Facilities Act 2007 and the Private Health Facilities Regulations 2017 ("the employer").
- (14) **"Registered Nurse"** means a person registered by the Board as a Registered Nurse.
- (15) **"Service"** for the purpose of Clause 17, Salaries, 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 post-basic

course whilst an employee of and rendering service in an institution or Day Procedure Centre and such course is recognised by the Board or acceptable to the employer, or is one of the following certificate or diploma courses:

- Certificate in Operating Theatre Management - NSW College of Nursing, Australia.
- Certificate in Operating Theatre Technique - College of Nursing, Australia.
- Provided that no more than three such courses shall count as service. A reference to the New South Wales College of Nursing in this Agreement shall be deemed to be a reference also to the School of Nursing Studies, Cumberland College of Health Sciences.

For the purpose of determining the year of service for part time or casual employment a year of service shall be 1824 hours of employment.

- (16) "**Shift Worker**" means a worker who is not a day worker as defined and for the purposes of the NES is an employee who is regularly rostered over seven days of the week and regularly works on weekends.
- (17) "**Student Enrolled Nurse**" means a person who is being trained to become an enrolled nurse in a Day Procedure Centre approved for this purpose by the Board.
- (18) "**Workplace Representatives**" includes but is not limited to an ANMF workplace representative or delegate.

## 9 Consultation Regarding Change

9.1 This term applies if the employer:

- (1) 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
- (2) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

### Major change

9.2 For a major change referred to in subclause 9.1:

- (1) the employer must notify the relevant employees of the decision to introduce the major change; and
- (2) subclauses 9.3 to 9.9 apply.

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

9.4 If:

- (1) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- (2) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

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

- (1) 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
- (2) 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.

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

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

9.8 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 9.2(1) and subclauses 9.3 and 9.5 are taken not to apply.

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

- (1) the termination of the employment of employees; or
- (2) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
- (3) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- (4) the alteration of hours of work; or
- (5) the need to retrain employees; or
- (6) the need to relocate employees to another workplace; or
- (7) the restructuring of jobs.

Change to regular roster or ordinary hours of work

9.10 For a change referred to in paragraph 9.1(2):

- (1) the employer must notify the relevant employees of the proposed change; and
- (2) subclauses 9.11 to 9.15 apply.

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

9.12 If:

- (1) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- (2) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

9.13 As soon as practicable after proposing to introduce the change, the employer must:

- (1) discuss with the relevant employees the introduction of the change; and
- (2) for the purposes of the discussion—provide to the relevant employees:
  - i. all relevant information about the change, including the nature of the change; and
  - ii. information about what the employer reasonably believes will be the effects of the change on the employees; and
  - iii. information about any other matters that the employer reasonably believes are likely to affect the employees; and
- (3) 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).

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

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

9.16 In this term, relevant employees means the employees who may be affected by a change referred to in subclause (9).1.

## **10 Agreement Flexibility**

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

- (1) arrangements for when work is performed;

- (2) overtime rates;
- (3) penalty rates;
- (4) allowances; and
- (5) leave loading.

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

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

- (1) be confined to a variation in the application of one or more of the terms listed in clause 10.1; and
- (2) are about permitted matters under section 172 of the Fair Work Act 2009; and
- (3) are not unlawful terms under section 194 of the Fair Work Act 2009; and
- (4) result in the employee being better off overall than the employee would be if no arrangement was made and
- (5) not financially disadvantage other employees.

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

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

10.5 The employer must give the individual employee a copy of the agreement within 14 days after it is agreed to and keep the agreement as a time and wages record.

10.6 Except as provided in clause 10.4(1) the agreement must not require the approval or consent of a person other than the employer and the individual employee.

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

10.8 The agreement may be terminated:

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

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

## **11 Labour Flexibility**

11.1 An employer may direct an employee to carry out such duties within the Sydney Surgery Centre Pty Ltd which are within the limits of the employee's skill, competence and training. Such duties may include work which is incidental or peripheral to the employee's main tasks provided that such duties are not designed to promote deskilling.

11.2 The employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment.

11.3 Any direction issued by the employer pursuant to subclause 11.1 and/or 11.2 shall be consistent with the employer's responsibilities to provide a safe and healthy working environment for employees and the employer's duty of care to patients.

## **12 Hours of Work and Free Time of Employees**

12.1 The ordinary hours of work for day workers, exclusive of meal times, shall be 152 hours per 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.

The employer does not require employees to work night duty or be available on call (except during meal breaks). An employee cannot be required or requested to work:

- (1) more than 38 hours per week plus reasonable additional hours; or
- (2) if the employee and employer agree in writing, an average of 38 hours per week over a period of up to 12 months and reasonable additional hours.

12.2 The ordinary hours of work for shift workers, exclusive of meal times, shall not exceed an average of 38 hours per week in each roster cycle.

12.3 The roster cycle shall consist of;

- (1) The hours of work prescribed in subclauses 12.1 and 12.2 of this clause shall, where possible, be arranged in such a manner, that in each roster cycle of 28 calendar days each employee shall not work their ordinary hours or work on more than nineteen days in the cycle.

- (2) Notwithstanding the provision of sub-clause 12.3(1) of this subclause, employees may, with the agreement of the employer work shifts of less than 8 hours each over 20 days in each cycle of 28 days.
  - (3) Provided that on the occasion of an employee's written request, and with the consent of the employer, a 9.5 day fortnight may be worked instead of the 19-day month.
- 12.4 Each shift shall consist of not more than 10 hours unless rostered in accordance with subclause 12.15. Where this shift is performed there shall be a break of at least ten (10) hours between the following shift. An employee
- 12.5 shall not work more than five (5) consecutive shifts unless the employee requests and the Director of Nursing agrees. An employee shall not work more than 2 quick shifts in any period of seven (7) days. A quick shift is an evening shift followed by a morning shift.
- 12.6 The employer is to decide when employees take their additional days off duty prescribed by subclause 12.3 of this clause (as a consequence of the implementation of the 38 hour week). 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 additional days off duty shall be consecutive with the rostered days off duty prescribed in subclause 12.13 of this clause.
- 12.7 Once set, the additional days off may not be changed except in accordance with the provisions of Clause 16, Rosters.
- 12.8 Where the employer's decision (in accordance with subclause 12.3 of this clause) is that an employee's additional days off be accumulated, no more than 6 days may be accumulated in any one year of employment. By mutual agreement this may be extended to no more than 12 days at any one time.
- 12.9 Except for breaks for meals the hours of duty each day shall be continuous. Provided, that in the case of permanent part-time employees, the employer will consult with employees regarding the exemption from this provision, and from subclause 12.4 of this clause with regard to the span of hours only, to enable an additional break of no more than 4 hours. In any event, the span of hours shall not exceed 12 hours.
- 12.10 Each employee shall be allowed a break of not less than thirty minutes and not more than sixty minutes for each meal occurring on duty. Where practicable, employees shall not be required to work more than 5 hours without a meal break. Provided that where practicable an employee engaged to work for 5 hours or less in any one shift may elect not to take a meal break as otherwise provided for by this subclause without penalty to the employer. The term 'where practicable' encompasses regard being paid to the service requirements of the employer. Where an employee is directed to be on duty or available they shall be paid overtime until they are released from duty or the meal break is taken.

12.11 Two separate ten-minute intervals (in addition to meal breaks) shall be allowed each employee on duty during each ordinary shift of up to 10 hours. Subject to agreement between the employer and the employee, such intervals may alternatively be taken as one twenty-minute interval, or by one 10- minute interval with the employee allowed to proceed off duty 10 minutes before the completion of the normal shift finishing time. Such interval(s) shall count as working time.

12.12 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 minutes for such a purpose and such time shall be counted as working time and paid for as such.

12.13 Matters relating to free from duty means;

- (1) each employee shall be free from duty for not less than two full days in each week or four full days in each fortnight or eight full days in each 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.
- (2) an employee, at their request, may be given free from duty time in one or more periods but no period shall be less than one full day.
- (3) for the purpose of this subclause "full day" means from midnight to midnight or midday to midday.

12.14 The 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 employees and their workplace representatives.

12.15 The provisions of subclause 12.13 and of paragraph (1) of subclause 12.16 of this clause, 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.

12.16 For when rostered shifts longer than 12 hours are required, the following conditions will apply:

- (1) the span of hours must not exceed 12.5 hours;
- (2) there must be a minimum break of 11.5 hours rostered between each 12 hour shift;
- (3) for 12 hours shifts, employees must be allowed either two 30 minutes or one 60 minutes meal break. In addition to the meal breaks employees must be allowed either two 10 minute or one 20 minute paid tea break;
- (4) an employee cannot work more than 3 consecutive 12 hours shifts each week or 6 x 12 hours shift a fortnight. This provision does not apply to casual employees.
- (5) these rostered shifts will occur in accordance with the needs of the business and the employees;
- (6) preference to work a 12 hour shift will be given to those employees who request this shift;
- (7) an employee may change this preference at any time;



- (8) In the event of extreme and unforeseen circumstances the employer may request the employee work a 12 hour shift. However the employee may refuse to work unreasonable additional hours.

### **13 Staffing and Workload Management Principles**

Should any Nurse believe they have an unreasonable or excessive workload on a regular basis:

- 13.1 The Nurse should attempt to resolve the matter with the Director of Nursing in the first instance with written evidence of the issues
- 13.2 The CEO or the Director of Nursing shall respond in writing to the Nurse in a reasonable timeframe based on the written evidence provided.
- 13.3 If the matter remains unresolved, the Nurse may seek to resolve the matter using the steps outlined in Clause 43, Dispute Resolution of this Agreement. A nurse may appoint another person, organisation or association, which may be a representative from the ANMF to accompany or represent them in relation to the dispute.
- 13.4 The Employer will ensure that responses to concerns raised by the Nurse enable a better understanding of the Employer's staffing practices, and will include data relating to staffing and activity as necessary.
- 13.5 Staffing and Workload's will be a regular agenda item at staff meetings.

#### **Staffing Principles**

The following principles shall be applied in determining or allocating a reasonable workload for a nurse:

- 13.6 Workload assessment will take into account measured demand by way of clinical assessment, including skill mix, specialisation where relevant, and geographical and other local requirements/resources.
- 13.7 The work performed by the employee will be able to be satisfactorily completed within the ordinary hours of work assigned to the employee in their roster cycle. Employees will be allowed to take their meal breaks.
- 13.8 The work will be consistent with the duties within the employee's classification description and at a professional standard so that the care provided or about to be provided to a patient or client shall be adequate, appropriate and not adversely affect the rights, health or safety of the patient, client or nurse.
- 13.9 The workload expected of an employee will not be unfair or unreasonable having regard to the skills, experience and classification of the employee for the period in which the workload is allocated.

13.10 An employee will not be allocated an unreasonable or excessive nursing workload or other responsibilities except in emergency or extraordinary circumstances of an urgent nature.

13.11 An employee shall not be required to work an unreasonable amount of overtime.

13.12 An employee's workload will not prevent reasonable and practicable access to 'in-house' courses or activities, or mandatory training and education.

#### **14 Hours of Work and Free Time of Directors of Nursing**

This clause does not apply to part-time employees, where it is envisaged that Directors of Nursing will be full time employees only.

14.1 A Director of Nursing shall be free from duty for not less than 9 days in each 28 consecutive days and such days free from duty may be taken in one or more periods.

14.2 If any of the days mentioned in subclause 14.1 of this clause cannot be taken by reason of emergency, such day or days shall be given and taken within 28 days of becoming due.

14.3 A Director of Nursing shall, where practicable, inform their employer giving not less than seven days' notice of the days they propose to be free from duty; provided that such days shall be subject to the approval of the employer, and such approval shall not be unreasonably withheld.

#### **15 Banking of Hours**

15.1 A full time or part time employee may, by agreement made daily, weekly or fortnightly with their Nurse Unit Manager or DON.

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

15.2 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.

15.3 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.

- 15.4 Time debited or credited under these arrangements shall all be at ordinary time, i.e. an hour for an hour.
- 15.5 An employee may not have more than 30 hours in debit or credit at any point in time.
- 15.6 Employees who have hours in debit must be given first option to work additional hours prior to the use of casual employees.
- 15.7 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.
- 15.8 On termination of employment the employer must pay the employee for all hours in credit and may deduct from termination pay the value of any hours in debit.
- 15.9 Either party shall have the right to terminate an agreement under this clause with two weeks' notice.

## **16 Rosters**

- 16.1 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.
- 16.2 The roster shall be displayed where practicable at least two 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 4 weeks, the roster shall be displayed where practicable, at least 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.
- 16.3 Notwithstanding the foregoing provisions of this clause, a roster may be altered at any time to enable the nursing service of the Day Procedure Centre 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.
- 16.4 Prior to the date of the changed shift, such change of roster shall be notified verbally or in writing to the employee concerned.
- 16.5 An employee may change their roster at short notice, with the agreement of their Director of Nursing for any reasonable ground.

- 16.6 The 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.
- 16.7 Where an employee is entitled to an additional day off duty in accordance with Clause 12 Hours of Work and Free Time of Employees other than Directors of Nursing, of this Agreement, such day is to be shown on the roster of hours for that employee.
- 16.8 All rosters shall be retained for at least six years.

## **17 Salaries**

- 17.1 The minimum salaries per week shall be as set out in Table 1 - Salaries, of Part B, Monetary Rates. The parties have agreed that the following wage increases will be paid commencing on:
- (1) 2.0 percent effective from the first full pay period to commencing on or after 1st January 2018.
  - (2) 2.0 percent effective from the first full pay period to commencing on or after 1st January 2019.
  - (3) 2.0 percent effective from the first full pay period to commencing on or after 1st January 2020.
- 17.2 Where an employee receives rates of pay in excess of those set out in Table 1, the employee will maintain their above Agreement wage and will not be disadvantaged. Such employee's rates will not fall below those set out in Table 1 for their classification.
- 17.3 The allowances as set out in Table 2 – Other Rates and Allowances, of Part B Monetary Rates shall be paid. The parties have agreed to the increases as set out in Columns 1 – 4.
- Provided that an Enrolled Nurse and Enrolled Nurse without Medication, 1st year shall not progress to Enrolled Nurse 2nd year until completion of twelve months' service at the 1st year rate (or for part time or casual employees 1824 hours), and to the 3rd year rate until completion of twelve months' service at the 2nd year rate (or for part time or casual employees 1824 hours), and so on throughout the scale
- 17.4 The wage increases specified above are inclusive of any wage increase; determination or award made by the Fair Work Commission or any other authorised tribunal or commission made during the period of this Agreement. Any increases in the Award rates of pay shall be absorbed into the wage rates paid under this Agreement. Should the application of any increases awarded by the Fair Work Commission result in rates applicable to the employees that are greater than those applying under this Agreement, those rates will be applied in lieu of the above increases from the date specified by the Fair Work Commission.

## **18 Recognition of Service and Experience**

- 18.1 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.
- 18.2 From the time of commencement of employment the nurse has three months in which to provide documentary evidence to their employer detailing any other 'service' or 'experience', as defined in Clause 8, 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.
- 18.3 Until such time as the nurse furnishes any such documentation contemplated in subclause 18.2 above the employer shall pay the nurse at the level for which documentary evidence has been provided.
- 18.4 If within three 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.
- 18.5 If a nurse provides documentary evidence of other previous service or experience not disclosed at the time of commencement after the said three 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.
- 18.6 A nurse who is working as a nurse for more than one organisation shall notify each employer under this Agreement within one 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.
- 18.7 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 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 month period the nurse shall be paid at the higher rate only from the date of proof.

## **19 Special Allowances**

- 19.1 A registered nurse in charge of the Day Procedure Centre shall be paid, in addition to their appropriate salary, whilst so in charge, the sum set out in Item 2 of Table 2 - Other Rates and Allowances, of Part B Monetary Rates, per shift.

19.2 An employee who is directed to remain on call during a meal break shall be paid an allowance of the sum set out in Item 1 of Table 2 provided that no allowance shall be paid if, during a period of 24 hours including such period of on call, the employee is entitled to receive the allowance prescribed in 18.1 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.

19.3 Clause 19, Special Allowances shall not apply to a Director of Nursing.

## **20 Continuing Education Allowance**

20.1 An employee employed in the classifications of Registered Nurse and Enrolled Nurse and Enrolled Nurses without Medication, except for Deputy Director of Nursing and a Director of Nursing, who holds a qualification in a clinical field, in addition to the qualification leading to registration, shall be paid a skills allowance, subject to the following conditions set out below;

- (1) An employee holding more than one relevant qualification is only entitled to one allowance, being the allowance of the highest monetary value.
- (2) The employee claiming entitlement to a qualification allowance must provide evidence to the employer that they hold that qualification.
- (3) Where an employee is part time or a casual, the allowance will be paid on a daily basis of 1/5 the weekly rate for each day worked.

20.2 Subject to the provisions in subclause 20.1 of this clause, an employee who holds a post-registration hospital certificate as recognised by the employer and relevant to the employee's current role shall be paid an allowance as per Table 2. – Item 12 per week

20.3 Subject to the provisions in subclause 20.1 of this clause, an employee who holds a post-graduate certificate or post-graduate diploma as recognised by the employer and relevant to the employee's current role shall be paid an allowance as per Table 2 – Item 13. per week

20.4 Subject to the provisions in subclause 20.1 of this clause, an employee who holds a master degree or a doctorate shall be paid an allowance as per Table 2 – Item 14 per week.

20.5 An enrolled nurse who holds an Advanced Diploma of Nursing (Enrolled/Division 2 Nursing) qualification shall be paid an allowance of per week Table 2 – Item 15 per week.

20.6 The above allowances are not included in the employee's ordinary rate of pay.

20.7 The allowances are not payable during periods of annual leave taken by the employee.

## 21 Penalty Rates for Shift Work and Weekend Work

21.1 Employees are normally not required by the employer to work on weekends. If they are so requested to work on weekends, the following penalties shall apply, plus any casual loading,

- (1) 50% for all ordinary time worked between midnight Friday and midnight Saturday;
- (2) 75% for all ordinary time worked between midnight Saturday and midnight Sunday;
- (3) No employee will be compelled to work on weekends

21.2 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.

- (1) Afternoon shift commencing at or after midday and before 1.00 pm - 10%
- (2) Afternoon shift commencing at 1.00 pm and before 4.00 pm - 12.5%
- (3) Night shift commencing at 4.00 pm and before 4.00 am - 15%
- (4) Night shift commencing at 4.00 am and before 6.00 am - 10%

21.3 Upon commence of this agreement, no current staff member will be compelled to work night shift unless mutually agreed. To be explicit, any future night shifts will be completed by new staff specifically engaged for this purpose on the commencement of this agreement, unless mutually agreed otherwise.

21.4 "Ordinary rate" and "ordinary time" shall not include any percentage addition by reason of the fact that an employee works less than 38 hours per week but shall include amounts payable under Clause 17, Salaries; and Clause 19, Special Allowances subclause 19.2.

21.5 For the purposes of this clause, day, afternoon and night shifts shall be defined as follows:

- (1) "**Day Shift**" means a shift which commences at or after 6.00 am and before 10.00 am.
- (2) "**Afternoon shift**" means a shift which commences at or after midday and before 4.00 pm.
- (3) "**Night Shift**" means a shift which commences at or after 4.00 pm and before 6.00 am on the day following.

21.6 The additional payments prescribed by this clause shall not form part of the employee's ordinary pay for the purposes of this Agreement, except as provided in Clause 29, Annual Leave, of this Agreement.

- 21.7 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.
- (1) 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.
  - (2) 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.

## **22 Fares and Expenses**

- 22.1 An employee required to travel in the performance of duty shall be paid all reasonable out of pocket expenses (including fares).
- 22.2 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.
- 22.3 The amount of reimbursement of fares is \$0.78 per kilometre and any increase shall be in accordance with the annual wage and allowance decision made by Fair Work Commission.

## **23 Uniform and Laundry Allowances**

- 23.1 Subject to subclause 23.3 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.
- 23.2 An employee, on leaving the service of the employer, shall return any uniform or part thereof supplied by that employer which is still in use immediately prior to leaving.
- 23.3 The following subclauses relating to uniforms and protective clothing shall apply where applicable;
- (1) In lieu of supplying uniforms and shoes to an employee, the employer shall pay the said employee the sum set out in Item 3 of Table 2, for uniforms and the sum set out in Item 4 of Table 2 for shoes per week.
  - (2) In lieu of supplying stockings to an employee the employer shall pay the said employee the sum set out in Item 5 of Table 2 per week.
  - (3) In lieu of supplying a cardigan or jacket to an employee the employer shall pay the said employee the sum set out in Item 6 of Table 2 per week.
  - (4) If, in any Day Procedure Centre, the uniforms of an employee are not laundered at the expense of the Day Procedure Centre an allowance



- of the sum set out in Item 7 of Table 2 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.
- (5) Where the employer requires any employee to wear headwear, the Day Procedure Centre shall provide headwear free of charge to the employee.
  - (6) In lieu of supplying socks to an employee the employer shall pay the said employee the sum set out in Item 8 of Table 2 per week.
  - (7) The allowances referred to subclause 23.3 are also payable during any period of paid leave.

## **24 Higher Grade Duty**

- 24.1 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.
- 24.2 The provisions of subclause 24.1 shall not apply where the employee being relieved is absent from duty for a period of three 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.
- 24.3 Further, the provisions of subclause 24.1 shall not apply where a Director of Nursing is absent from duty for a period of three working days or less for any reason other than Clause 14, Hours of Work and Free Time of Directors of Nursing.

## **25 Overtime**

- 25.1 Subject to subclause 25.2 the employer may require an employee to work reasonable overtime.
- 25.2 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.
- 25.3 For the purposes of subclause 25.2 what is unreasonable or otherwise will be determined having regard to:
- (1) the risk to the employee's health and safety;
  - (2) the employee's personal circumstances including any family and carer responsibilities;
  - (3) the needs of the facility;
  - (4) the notice (if any) given by the employer of the overtime and by the employee of their intention to refuse it; and
  - (5) any other relevant matter.

- 25.4 Subject to clause 25.1 hereof all time worked by employees other than Directors of Nursing in excess of 10 hours per day or 12 hours per day where specified and mutually agreed in advance, shall be overtime and shall be paid for at the rate of time and one half for the first two 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.
- 25.5 Notwithstanding Clause **Error! Reference source not found.**, an employee who agrees to work a 12 hour shift in accordance with clause 12.16 will not be entitled to overtime after working in excess of 10 hours. For such an employee, overtime will apply to all hours worked in excess of 12 hours at a rate of double time.
- 25.6 An employee recalled to work overtime after leaving the employer's premises shall be paid for a minimum of four hours work at the appropriate rate for each time so recalled. If the work required is completed in less than four hours, the employee shall be released from duty provided that this subclause does not apply to a Director of Nursing.
- 25.7 An employee required to work overtime following the completion of their normal shift for more than two hours shall be allowed twenty minutes for the partaking of a meal and a further twenty minutes after each subsequent four hours overtime. An employee recalled to work overtime after leaving the employer's premises and who is required to work for more than four hours shall be allowed twenty minutes for the partaking of a meal and a further twenty minutes after each subsequent four hour's overtime; all such time shall be counted as time worked.
- 25.8 The meals referred to in subclauses 25.7 shall be allowed to the employee free of charge. Where the Day Procedure Centre is unable to provide such meals, an allowance per meal of the sum set out in Item 9 Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, shall be paid to the employee concerned.
- 25.9 Where an employee is required to work an overtime shift on their rostered day off, the appropriate meal breaks for that shift, as prescribed by Clause 12, Hours of Work and Free Time of Employees other than Directors of Nursing, shall apply.
- 25.10 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.
- 25.11 An employee who works so much overtime:
- 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 ten consecutive hours off duty between these times; or unless the employee works a 12 hour shift as per sub-clause 12.15; or

on a Saturday, a Sunday and a holiday, not being ordinary working days, or on a rostered day off without having had ten consecutive hours off duty in the twenty-four hours preceding their next day or shift; shall subject to this subclause, be released after completion of such overtime until they have had ten 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 ten (10) 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 ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

25.12 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:

- (1) Time off in lieu of overtime must be taken within four months of it being accrued at the appropriate overtime rate.
- (2) Where it is not possible for a nurse to take the time off in lieu of overtime within the four month period, it is to be paid out at the appropriate overtime rate based on the rates of pay applying at the time payment is made.
- (3) Nurses cannot be compelled to take time off in lieu of overtime.
- (4) Records of all time off in lieu of overtime owing to nurses and taken by nurses must be maintained by the employer.

## **26 Payment and Particulars of Salaries**

26.1 Payment of Wages will be by electronic transfer into the employee's nominated financial institution account at the end of each weekly or fortnightly pay period, along with hard or soft copy pay advice slips. Wherever practicable such payment shall be available for withdrawal by employees on the designated pay day, except where if the ordinary pay day falls on a public holiday, the business will use all of its endeavour that any payments will be made on the preceding business day. Any other form of payment will be at the discretion of the employer by agreement with the employee.

26.2 Notwithstanding the provisions of subclause 25.1 of this clause, an employee who has given or has been given the required notice of termination of employment, in accordance with Clause 40, Termination of Employment, of this Agreement, shall be paid all moneys due to them prior to ceasing duty on the last day of employment. Where an employee is summarily dismissed or their services are terminated without due notice, any moneys due to them shall be paid as soon as possible after such dismissal or termination but in any case not more than three days thereafter.

## **27 Part-Time Employees**

- 27.1 A permanent part-time employee is one who is permanently appointed by a facility to work a specified number of hours which are less than those prescribed for a full-time employee with a minimum engagement of four hours or less by agreement.
- (1) By agreement between employer and employee, the specified number of hours may be balanced over a week, fortnight and/or 4 weekly period, provided that the average weekly hours shall be deemed to be the specified number of hours for the purposes of accrual of annual leave, long service leave and sick leave. Provided further that there shall be no interruption to the continuity of employment merely by reason of an employee working on a "week on, week off" basis in accordance with this subclause.
- 27.2 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 17, Salaries, of this Agreement and, where applicable, one thirty-eighth of the appropriate allowance or allowances prescribed by Clause 19, Special Allowances, of this Agreement, and one thirty-eighth of the appropriate allowances prescribed by Clause 23, Uniform and Laundry Allowances of this Agreement, but shall not be entitled to an additional day off or part thereof, as prescribed by subclauses 12(3) and 12(4) of Clause 12, Hours of Work and Free Time of Employees.

#### **Part time Review of Hours**

- 27.3 Where the 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.
- 27.4 Four weeks' annual leave applies to all permanent employees, unless they are deemed a shift worker as per Clause (8)- Definitions. Annual leave accrues progressively on a pro-rata basis and is paid on the ordinary hours.
- 27.5 Employees engaged under Part I 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.

### **28 Casual Employees**

- 28.1 A casual employee is one engaged other than a permanent part-time or full-time employee, with a minimum engagement of 4 hour shifts.

- 28.2 A casual employee shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate plus 25% casual loading and where applicable, one thirty-eighth of the appropriate allowance or allowances prescribed by Clause 19- Allowances, with a minimum engagement of four three hours or less by agreement and one thirty-eighth of the appropriate allowances prescribed by Clause 23 Uniform and Laundry Allowances, of this Agreement.
- 28.3 A casual employee shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate, prescribed by Clause 17, Salaries, of this Agreement and where applicable one thirty-eighth of the appropriate allowance or allowances prescribed by Clause 19, Special Allowances, of this Agreement plus the casual loading referred to in subclause 28.2.
- 28.4 A casual employee will be paid shift allowances calculated on the ordinary rate of pay excluding the casual loading with the casual loading component then added to the penalty rate of pay.
- 28.5 With respect to a casual employee the provisions of Clause 14, Hours of Work and Free Time of Directors of Nursing; Clause 16, Rosters; Clause 25, Overtime; Clause 29, Annual Leave and Clause 22, Fares and Expenses of this Agreement, shall not apply. Further, casual employees shall not be entitled to an additional day off or part thereof as prescribed by subclauses 12.3 and 12.4 of Clause 12, Hours of Work and Free Time of Employees Other Than Directors of Nursing.
- 28.6 A casual employee who is required to and does work on a public holiday as defined in sub-clauses 30.4(1) 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 referred to in subclause 28.2 in respect of such work.
- 28.7 For the entitlement to payment in respect of long service leave, see the Long Service Leave Act 1955.
- 28.8 Casual Conversion
- A casual employee who has been rostered on a regular and systematic basis over 26 weeks, (provided that the rostering pattern has not resulted from coverage for extended absences such as parental leave, long service leave, workers compensation leave and extended sick leave), has the right to request conversion to permanent employment and that request will not be unreasonably refused by the Employer.

## **29 Annual Leave**

- 29.1 Employees are entitled to annual leave in accordance with the provisions of the NES (refer to Chapter 2, Part 2-2, Division 6 of the Act).

- (1) Casual employees have no entitlement to annual leave.

## 29.2 Accrual of Annual Leave

- (1) All employees, other than shiftworkers, are entitled to 4 weeks paid annual leave.
- (2) Shiftworkers are entitled to one additional week of annual Leave.
- (3) For the purposes of the NES a shiftworker is defined in Clause 8, Definitions.
- (4) The entitlement to paid annual leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.

## 29.3 Payment of Annual Leave

- (1) If an employee takes annual leave during a period, the annual leave shall be paid at the employee's base rate of pay for the employee's ordinary hours of work in the period.
- (2) An employee going on leave may elect to be paid:
  - (a) prior to commencing such leave; or
  - (b) through their normal pay cycle.
- (3) Once the leave has commenced the election cannot be changed unless the Employer agrees.
- (4) If the employment of an employee who has not taken an amount of accrued annual leave ends at a particular time, the employee's untaken accrued annual leave shall be paid at the employee's ordinary pay at that time.
- (5) Annual leave loading, if any, shall be paid in accordance with Clause 31, Annual Leave Loading.

## 29.4 Taking of Annual Leave

- (1) An employee is entitled to take an amount of annual leave during a particular period if:
  - (a) at least that amount of annual leave is credited to the employee; and
  - (b) the employer has authorised the employee to take the annual leave during that period.
- (2) In the taking of leave, the employee shall make written application to the employer, giving timely notice of the desired period of such leave.
- (3) 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.

## 29.5 Cashing out of Annual Leave

- (1) Annual leave credited to an employee may be cashed out by agreement, subject to the following conditions: (refer to section 93 of the Act)
  - (a) paid annual leave must not be cashed out if the cashing out would result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks; and
  - (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; and
  - (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.

#### 29.6 Leave without Pay

- (1) The employee with the employers permission may seek to have a period of Leave without Pay.
- (2) Leave without Pay will be granted when the employee has no annual leave, and no other arrangement has been entered into, if the facility has annual close down.
- (3) Leave without Pay, might be granted depending on the needs of the business allowing for individual circumstances.
- (4) The granting of leave, less than 12 months of pay does not count as a break of service, but does not count for service in accruing benefits otherwise.

#### 29.7 Annual Leave and Service

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

#### 29.8 Payment of Annual Leave on Termination

- (1) If, when the employment of an employee ends, the employee has a period of untaken paid annual leave, the employer must pay the employee the amount that would have been payable to the employee had the employee taken that period of leave.

#### 29.9 Purchased Additional Leave (PAL)

- (1) The employer may offer permanent employees the opportunity to "purchase" an additional one week of leave each year in exchange for a proportional reduction in their salary over 12 months and within each financial year and is treated as leave without pay.
- (2) An employee wishing to purchase additional leave must enter into a written agreement with the employer which shall include:
  - (a) an election at the beginning of each financial year (i.e. at 1 July each year).;
  - (b) agreement that the employee's salary will be reduced by 1.92% for the period of the agreement; and

- (c) authority for the employer to withhold an amount of money, from any monies owing to the employer for PAL taken but not accrued by the final pay within the financial year or at termination.
- (3) Annual leave entitlements shall be exhausted before the employee's PAL can be accessed.
- (4) All PAL must be used within each financial year (i.e. by 30 June each year). If any PAL is not used by the final pay within the financial year, or the employee wishes to cease the arrangement, the foregone salary (if any) will be re-credited and paid to the employee.
- (5) Superannuation entitlements will be calculated on the pre-reduction salary and leave loading shall not apply to PAL.

### **30 Public Holidays**

- 30.1 Public holidays are provided for in the NES. This clause contains additional provisions.
- 30.2 The employee may refuse the request (and take the day off) if the employee has reasonable grounds for doing so. In determining whether an employee has reasonable grounds for refusing a request to work on a public holiday regard must be had to the matters set out in section 114 of the Act. This Agreement expressly contemplates that the employer will require work on public holidays, or particular public holidays, and the parties acknowledge that the nature of the work performed by the employee, the type of employment (for example, whether full-time, part-time, casual or shift work) and the nature of the employer's workplace or enterprise (including its operational requirements) will require work on public holidays, or particular public holidays.
- 30.3 Public holidays shall be allowed to employees without loss of ordinary pay.
- 30.4 For the purposes of this agreement, the following shall be deemed to be public holidays:
  - (1) New Year's Day; Australia Day; Good Friday; Easter Saturday; Easter Sunday; Easter Monday; Anzac Day; Queen's Birthday; Labour Day; Christmas Day; Boxing Day;
  - (2) any other day, or part-day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory as a public holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the regulations from counting as a public holiday
- 30.5 If, under (or in accordance with a procedure under) a law of a State or Territory, a day or part-day is substituted for a day or part-day that would otherwise be a public holiday because of clause 30.4, then the substituted day or part-day is the public holiday.



- 30.6 Where, in accordance with clause 30.4(2), less than a full day is proclaimed and observed as a public holiday, within the calendar year and within the area in which the facility is situated, a full day will be observed as a public holiday between Christmas and New Year, within the days Monday to Friday inclusive and not coinciding with a date that is already a gazetted public holiday for that calendar year.
- 30.7 The employer and employees may agree to substitute another day for a public holiday observed at 30.4.
- 30.8 An employee who is required to and does work on any public holiday prescribed in this clause shall be paid in lieu of all other shift penalties (except broken shift allowances), weekend penalties, casual loading and part-time loading, as follows:
- (1) Full-time Employees: Time and one half for all ordinary time worked in addition to the weekly rate. Alternatively, if the employee elects, half-time extra for all time worked in addition to the weekly rate and have one ordinary working day added to be taken in conjunction with the period of annual leave.
  - (2) Part-time Employees: Double and a half for all time worked on the public holiday, although where the time worked by agreement is less than the rostered shift, the balance of the rostered shift will be paid at ordinary pay. Alternatively, if the employee elects, half-time extra for all time worked in addition to the weekly rate and have the equivalent number of hours worked added to be taken in conjunction with the period of annual leave.
  - (3) Casual Employees: Double time and one-half the basic rate of pay for casuals for all time worked. Such payment shall be taken to be inclusive of and not in addition to the casual loading referred to in sub-clause 28.2.
- 30.9 The election referred to in subclause 30.7 is to be made in writing by the employee at the commencement of each year of employment and is irrevocable during that period of employment.

## **31 Annual Leave Loading**

- 31.1 Employees shall be entitled to annual leave loading of 17.5% on four weeks of the appropriate weekly rate of pay, or shift allowances and weekend penalties as set out in sub-clause 31.2 of this clause, whichever is the greater.
- 31.2 A shift worker shall be paid whilst on annual leave their ordinary pay plus shift allowances and weekend penalties relating to ordinary time the shift worker would have worked if the employee had not been on annual leave. Provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during a period of annual leave, for days which have been added to annual leave in accordance with the provisions of clause 29 – Annual Leave or Clause 31 Annual Leave Loading of this Agreement.

- 31.3 No loading is payable where the annual leave is taken wholly or partly in advance, provided however, that if the employment of such an employee continues until their next anniversary date, the loading then becomes payable.
- 31.4 Where the employment of an employee is terminated and at the time of the termination the employee has not taken the whole of the annual leave they shall be paid the leave loading for such leave on termination.
- 31.5 .

## **32 Personal/Carer's Leave**

### **32.1 The NES**

- (1) Employees are entitled to personal leave in accordance with the provisions of the NES (refer to Division 7 of Part 2-2 of the Act).
- (2) Casual employees have no entitlement to paid personal/carers leave, but do have an entitlement to unpaid carers leave.

### **32.2 Meaning of Personal/Carer's Leave** Personal/carers leave is either:

- (1) paid leave (sick leave) taken by an employee because of a personal illness, or injury, of the employee; or
  - (a) paid or unpaid leave (carers leave) taken by an employee to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
    - (i) a personal illness, or injury, of the member; or
    - (ii) an unexpected emergency affecting the member.

### **32.3 Accrual of Paid Personal/Carer's Leave**

- (1) Paid personal/carers leave shall accrue on a pro-rata basis.
- (2) Paid personal/carers leave is cumulative.
- (3) No payment will be made in lieu of accumulated personal/carers leave.
- (4) Casual employees have no entitlement to paid personal/carers leave.

### **32.4 Payment of Paid Personal/Carer's Leave.** If an employee takes paid personal/carers leave during a period, the personal/carers leave shall be paid at the employee's ordinary pay immediately before the period begins.

### **32.5 Unpaid Carer's Leave**

- (1) An employee is entitled to a period of up to 2 days unpaid carers leave for each occasion when a member of the employee's immediate family, or a member of the employee's household, requires care or support during such a period because of:
  - (a) a personal illness, or injury, of the member; or

- (b) an unexpected emergency affecting the member.
- (2) This entitlement extends to casual employees and the employer agrees not to fail to re-engage a casual employee because the employee accessed the entitlements provided for in this sub-clause. The rights of the employer to engage or not to engage a casual employee are otherwise not affected.
- (3) An employee is entitled to unpaid carer's leave for a particular occasion only if the employee cannot take an amount of paid personal/carer's leave.

### 32.6 Taking of Paid Sick Leave

- (1) An employee is entitled to use their paid personal/carer's leave entitlement as paid sick leave in accordance with the NES.
- (2) An employee is not entitled to be paid sick leave whilst they are in receipt of workers' compensation payments.
- (3) Sick Leave - Notice: To be entitled to sick leave during a period, an employee must give the employer notice as soon as reasonably practicable (which may be at a time before or after the sick leave has started) that the employee is (or will be) absent from his or her employment during the period because of a personal illness, or injury, of the employee. This requirement does not apply to an employee who could not comply with it because of circumstances beyond the employee's control.
- (4) Sick Leave - Documentary Evidence: If the employer requires an employee to give the employer documentary evidence in relation to a period of sick leave taken (or to be taken) by the employee:
  - (a) To be entitled to sick leave during the period, the employee must give the employer as soon as reasonably practicable (which may be at a time before or after the sick leave has started):
    - (i) if it is reasonably practicable to do so - a medical certificate from a registered health practitioner;
    - (ii) if it is not reasonably practicable for the employee to give the employer a medical certificate - a statutory declaration made by the employee; and
  - (b) The document must include a statement to the effect that:
    - (i) if the document is a medical certificate - in the registered health practitioner's opinion, the employee was, is, or will be unfit for work during the period because of a personal illness or injury; or
    - (ii) if the document is a statutory declaration - the employee was, is, or will be unfit for work during the period because of a personal illness or injury. This requirement does not apply to an employee who could not comply with it because of circumstances beyond the employee's control.

### 32.7 Taking of Carer's Leave

- (1) An employee is entitled to use their paid personal/carer's leave entitlement as paid carer's leave in accordance with the NES Standard.
- (2) An employee who is entitled to a period of unpaid carer's leave is entitled to take the unpaid carer's leave as:
  - (a) a single, unbroken period of up to 2 days; or
  - (b) any separate periods to which the employee and the employer agree.
- (3) Carer's Leave - Notice: To be entitled to carer's leave during a period, an employee must give the employer notice as soon as reasonably practicable (which may be at a time before or after the carer's leave has started) that the employee requires (or required) leave during the period to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires (or required) care or support because of:
  - (a) a personal illness, or injury, of the member; or
  - (b) an unexpected emergency affecting the member. This requirement does not apply to an employee who could not comply with it because of circumstances beyond the employee's control.
- (4) Carer's Leave - Documentary Evidence: If the employer requires an employee to give the employer documentary evidence in relation to a period of carer's leave taken (or to be taken) by the employee:
  - (a) To be entitled to carer's leave during the period, the employee must give the employer as soon as reasonably practicable (which may be at a time before or after the carer's leave has started):
    - (i) if the care or support is required because of a personal illness, or injury, of the member - a medical certificate from a registered health practitioner or a statutory declaration made by the employee;
    - (ii) if the care or support is required because of an unexpected emergency affecting the member - a statutory declaration made by the employee; and
  - (b) The document must include a statement to the effect that:
    - (i) if the document is a medical certificate - in the registered health practitioner's opinion, the member had, has or will have a personal illness or injury during the period; or
    - (ii) if the document is a statutory declaration - the employee requires (or required) leave during the period to provide care or support to the member because the member requires (or required) care or support during the period because of:
      - A) a personal illness, or injury, of the member; or
      - B) an unexpected emergency affecting the member. This requirement does not apply to an employee who could

not comply with it because of circumstances beyond the employee's control.

### 32.8 Personal/Carer's Leave and Service

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

### 32.9 Replacement of Staff

- (1) When an unplanned absence occurs (e.g. due to unexpected sick leave) the DON (or delegate) will immediately review the roster to determine the effect of the absence on workload.
- (2) The default position, if possible is to fill the absence with a nurse of the same classification as the absent nurse.
- (3) If all avenues to backfill the absence with a nurse at the same classification are exhausted and the only remaining option is to backfill the absence with a nurse of a lower classification, the DON (or delegate), where possible must consider how the functions performed in the ward/unit can be safely and appropriately performed by a nurse of another nursing classification.
- (4) In some circumstances it may be possible to backfill with a nurse of a lower classification. Where it is determined to backfill with a nurse of a lower classification

## 33 Compassionate Leave

33.1 Employees are entitled to compassionate leave in accordance with the provisions of the Standard (refer to Sub Division C, Division 7 of Part 2-2 of the Fair Work Act 2009).

33.2 Casual employees have no entitlement to paid compassionate leave. However casual employees are entitled to unpaid compassionate leave provided the casual employee would otherwise be entitled to such leave and complies with

33.3 the provisions of this clause. The employer agrees not to fail to re-engage a casual employee because the employee accessed the entitlements provided for in this sub-clause. The rights of the employer to engage or not to engage a casual employee are otherwise not affected.

33.4 Compassionate leave is paid leave taken by an employee:

- (1) for the purposes of spending time with a person who:
  - (a) is a member of the employee's immediate family or a member of the employee's household; and
  - (b) has a personal illness, or injury, that poses a serious threat to his or her life; or

- (2) after the death of a member of the employee's immediate family or a member of the employee's household.
- 33.5 An employee is entitled to a period of 2 days of compassionate leave for each occasion when a member of the employee's immediate family or a member of the employee's household:
  - (1) contracts or develops a personal illness that poses a serious threat to his or her life; or
  - (2) sustains a personal injury that poses a serious threat to his or her life; or
  - (3) dies.
- 33.6 However, the employee is entitled to compassionate leave only if the employee gives the employer any evidence that the employer reasonably requires of the illness, injury or death.
- 33.7 An employee who is entitled to a period of compassionate leave is entitled to take the compassionate leave as:
  - (1) a single, unbroken period of 2 days; or
  - (2) 2 separate periods of 1 day each; or
  - (3) any separate periods to which the employee and the employer agree.
- 33.8 If an employee takes compassionate leave during a period, the compassionate leave shall be paid at the employee's ordinary pay immediately before the period begins.
- 33.9 A period of compassionate leave does not break an employee's continuity of service and compassionate leave counts as service for all purposes.

## **34 Long Service Leave**

- 34.1 The provisions of this clause shall apply for Long Service Leave. Where the provisions of this clause are more beneficial these provisions shall apply. Where this clause is silent the provisions of the Long Service Leave Act 1955 shall apply.
  - (1) Every employee after ten years' continuous service with the same employer shall be entitled to two months' long service leave on full pay; after fifteen years' continuous service to an additional one month's long service leave on full pay; and for each five years' continuous service thereafter to an additional one and one half months' long service leave on full pay. Such leave shall be taken at a time to be mutually arranged between the employer and the employee.
  - (2) Where the service of an employee with at least five years' service is terminated by the employer for any reason other than the worker's serious and wilful misconduct, the employee shall be entitled for five years' service to one month's long service leave on full pay and for service after 5 years to a proportionate amount of such leave on full pay calculated on the basis of 2 months' long service leave for 10 years' service.

- (3) Where the service of an employee with at least five years' service is terminated by the employee on account of illness, incapacity or domestic or other pressing necessity, or by reason of the death of the worker, the employee shall be entitled for five years' service to one month's long service leave on full pay and for service after 5 years to a proportionate amount of such leave on full pay calculated on the basis of 2 months' long service leave for 10 years' service.
- (4) Where an employee has acquired a right to extended leave under subclauses (1), (2), (3) and (4) of this clause, then and in every such case:
  - (a) If before such leave has been entered upon the employment of such employee has been terminated such employee shall be entitled to receive the monetary value of the leave to which such employee has been entitled computed at the rate of salary which such employee had been receiving immediately prior to the termination of employment.
  - (b) If such employee dies before entering upon such extended leave, or if after having entered upon the same dies before its termination, their beneficiary or 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.
- (5) For the purpose of this clause:
  - (a) Continuous service in the same Day Procedure Centre prior to the coming into force of this Agreement shall be taken into account.
  - (b) One month equals four and one-third weeks.
  - (c) Continuous service shall be deemed not to have been broken by: any period of absence on leave without pay not exceeding six months;
- (6) absence of an employee from the Day Procedure Centre whilst a member of the Defence Forces of the Commonwealth in time of war.
- (7) Where any employee has been granted a period of long service leave prior to the coming into force of this Agreement the amount of such leave shall be debited against the amount of leave due under this Agreement.
- (8) Any period(s) of part-time employment with the same employer shall count towards long service leave as provided for clause 34.1(1). Such long service leave shall be paid for on the basis of the proportion that the average number of hours worked per week bears to 38 hours.
- (9) Where an employee has accrued a right to an allocated day off duty on pay prior to entering a period of long service leave such day shall be taken on the next working day immediately following the period of long service leave. 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.
- (10) Long Service Leave can either be taken as half pay or double pay by election of the employee. To avoid any doubt, an example is an employee can elect to take one (1) months accrued Long Service Leave to be paid at half of the amount they would usually receive and then leave is to taken over a two (2) month period.

## **35 Emergency Leave**

- 35.1 Where a permanent employee is unable to attend work because of a natural disaster, ie bushfire or flood, they will be entitled to be use their annual leave for one day to be paid at their ordinary pay (including annual leave loading). This entitlement will apply once per calendar year and is not cumulative from year to year.
- 35.2 The employer may require the employee to provide evidence to support their claim.

## **36 Close Down Provisions**

- 36.1 The employer may specify a temporary close down provision for a part, or a whole of the hospital. In the event of invoking the close down, the employer must give at least three (3) month's notice of the date(s) of the close down and in the case of an employee who commences employment within the three months of the close down period, notice must be given on the day the employee commences employment.
- 36.2 Where an employee has an entitlement to annual leave in excess of the close down period, take part of their annual leave for a period of not less than the closedown and postpone the balance to a time to be agreed.
- 36.3 Where the employee has an entitlement to annual leave which is less than the period of the close down, the employee must be given and take the whole of the leave outstanding and must be given and take leave without pay for the balance of the close down period. By mutual agreement, annual leave may be taken in advance.

## **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 full-length locker fitted with lock and key or other suitable place for the safe keeping of clothing and personal effects of such employee;
- 37.3 The facility provides morning and afternoon tea, supper and early morning tea when an employee is on duty. These provisions include tea, coffee, milk, sweet biscuits, savory crackers and bread. Margarine and condiments are also available for use on the bread and crackers.
- 37.4 Employees are provided with meals of a reasonable standard when theatre is in progress. This is dictated by work flow and list times.
- 37.5 Meals will be provided in the following situations:
- (1) Lunch will be provided for employees who are working all day on morning and afternoon shifts while lists are in running.



- (2) Lunch will be provided for employees working a morning shift if the list finishes after 11am.
- (3) Dinner will be provided for employees on an evening shift if the list finishes after 6pm.
- (4) If there is no theatre in progress, no meal will be provided.
- (5) Employees commencing at 1pm are not entitled to partake if lunch has been provided for morning or all day employees.

37.6 In the absence of any meals provided in clause 37 - Staff Amenities, employees shall be paid an allowance as per Table 2 - Items 10 and 11 per occasion.

### **38 Escort Duty**

38.1 Periods during which an employee, other than Director of Nursing, is engaged in nursing duties, viz, in attendance on a patient, shall be paid as working time under this Agreement. Where applicable, overtime shall be payable.

38.2 All reasonable out-of-pocket expenses shall be reimbursed.

38.3 Rostered time shall be paid as such even though an employee may be travelling, in hotel/motel accommodation, or waiting for transport.

38.4 In respect of non-rostered time not spent in nursing duties:

- (1) Periods in hotel/motel accommodation or waiting for transport shall not be counted as working time;
- (2) Periods in travelling shall count as working time.

### **39 Medical Examination of Nurses**

39.1 Medical examination of nurses will be in accordance with employer's policy in line with NSW Health PD2011\_005 (Occupational Assessment, Screening and Vaccination against the Specified Infectious Diseases) as varied from time to time.

### **40 Termination of Employment**

40.1 Except in the case of casual and probationary employees, either party may terminate employment at any time by giving the other party the required period of notice specified below. Instead of providing the specified notice the employer may choose to make payment in lieu of notice.

40.2 Nothing in this agreement affects the employer's right to dismiss an employee without notice for serious misconduct and if so dismissed shall only be entitled to be paid for the time worked up to the time of dismissal and any entitlements accrued to such time.

40.3 An employee on probation shall be entitled to one week's notice of termination.

40.4 The notice of termination period by the employer shall be:

<b>Years of Service Required Notice</b>	<b>Number of Weeks</b>
Not more than 1 year	At least 1 week
More than 1 year but less than 3 years	At least 2 weeks
More than 1 year but less than 5 years	At least 3 weeks
More than 5 years	At least 4 weeks

40.5 The notice of termination period by the employee shall be two weeks notice in writing or such other period as agreed by the parties.

40.6 An employee aged 45 years or over who has completed at least two years continuous service with the employer will receive one additional week's notice.

40.7 The notice of termination required to be given by the Employee is the same as that required of the Employer, save and except that there is no requirement on the Employee to give additional notice based on the age of the Employee concerned.

40.8 Upon the termination of the services of an employee the employer shall furnish the employee with a written statement, surely signed by or on behalf of the employer, setting out the period of the employment and the capacity in which the employee was employed.

40.9 Except for misconduct justifying summary dismissal, the services of an employee shall be terminated only by the notice requirements set out in subclauses 40.4 and 40.5 of this clause.

40.10 Prior to reaching any decision to terminate the employment of an employee on grounds other than would justify summary dismissal, the employer will use their best endeavours to:

- (1) inform the employee that the termination of their employment is being considered;
- (2) advise the employee of the reasons for termination; and
- (3) provide the employee with an opportunity to show cause why their employment should not be terminated.

40.11 An employee shall be given reasonable time to respond, and shall be provided with details of any relevant material. An employee who wishes may choose to be represented during this process.

40.12 No employee shall, without the consent of the employer, resign without having given fourteen days notice of intention to do so or forfeiture of salary in lieu of notice.

#### **41 Transfer of Business**

41.1 To the extent that it is permissible in accordance with the Fair Work Act 2009 and associated Regulations, in the event of any change in employer of the Day Procedure Centre covered by this Agreement, all employee rights and benefits provided by this Agreement shall continue as if no such change in ownership, licensee or management had taken place.

41.2 Where such changes do occur, either an employee shall be paid out by the transmitter for accrued annual leave, long service leave or any other benefit, and such benefits shall be continuous or the responsibility for leave entitlements will be carried over to the new employer/transmittee and shall be continuous.

41.3 No employee, full-time or part-time, shall be required to take leave without pay where such leave is used to avoid the requirements of any Act or to avoid payment of any rights or benefits provided by this Agreement.

#### **42 Attendance at Meetings and Fire Drills and Mandatory Training**

42.1 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 and the Private Health Facilities Regulations 2017, 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.

42.2 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.

42.3 It is the intention of the employer to provide mandatory training to employees within the ordinary hours of work. Any employee required by the employer to attend training outside of the ordinary hours of work shall be entitled to receive payment for such time at the "ordinary rate" for the actual time spent attending such training. 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.

- 42.4 For the purposes of this clause "ordinary rate" shall include amounts payable under Clause 17, Salaries, and Clause 19, Special Allowances, plus, where appropriate, the appropriate loading prescribed in Clause 27 Part-time, Clause 28 Casual of this Agreement for employees engaged otherwise than as a full-time or permanent part-time employee.

### **43 Resolution of Disputes**

- 43.1 In the event of a dispute in relation to a matter arising under this agreement or the 'NES, in the first instance the parties, will attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor and, if such discussions do not resolve the dispute, by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 43.2 A party to the dispute, may appoint another person, organisation or association, which may be a representative from the ANMF to accompany or represent them in relation to the dispute.
- 43.3 If a dispute in relation to a matter arising under this agreement, or the National Employment Standards is unable to be resolved at the workplace, and all agreed steps for resolving it have been taken, the dispute may be referred to Fair Work Commission for resolution by conciliation and, where the matter in dispute remains unresolved, arbitration.
- 43.4 If arbitration is necessary, Fair Work Commission may exercise the procedural powers in relation to hearings, witnesses, evidence and submissions which are necessary to make the arbitration effective.
- 43.5 It is a term of this agreement that while the dispute resolution procedure is being conducted work shall continue normally unless an employee has a reasonable concern about an imminent risk to their health or safety.

### **44 Anti-Discrimination**

- 44.1 It is the intention of the parties bound by this Agreement to achieve the object in section 351 of the Fair Work Act 2009 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, colour, sex, sexual preference, age, marital status, physical or mental disability, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

### **45 Parental Leave**

- 45.1 The NES;
- (1) Employees are entitled to parental leave in accordance with the provisions of the NES (refer to Division 5 of Part 2-2 of the Fair Work Act 2009).

- (2) Casual employees have no entitlement to parental leave unless they are eligible casual employees.
- (3) Parental leave comprises primary caregiver leave, secondary caregiver leave and adoption leave. The following provisions shall also apply in addition to those set out in the National Employment Standard.

#### 45.2 The Basic Entitlement

- (1) After 12 months continuous service parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child.
- (2) Paid Parental Leave:
  - (a) Full-time employees and permanent part-time employees are eligible for 2 weeks paid parental leave at ordinary pay from the date the parental leave commences.
  - (b) To be eligible the employee must have completed at least 52 weeks' of continuous service prior to the expected date of birth or prior to the date of taking custody of the child.
- (3) Parents may simultaneously take an unbroken period of one week of leave at the time of the birth of the child (or up to three weeks in the case of an adoption).
- (4) Return to work after parental leave:
  - (a) An employee returning to work after a period of parental leave is entitled to be employed in the position held by the employee immediately before proceeding on that leave, or
  - (b) if the employee worked part-time or on a less regular casual basis because of the pregnancy before proceeding on parental leave—the position held immediately before commencing that part-time work or less regular casual work, or
  - (c) if the employee was transferred to a safe job before proceeding on parental leave—the position held immediately before the transfer.
  - (d) If the position no longer exists but there are other positions available that the employee is qualified for and is capable of performing, the employee is entitled to be employed in a position as nearly as possible comparable in status and pay to that of the employee's former position.
  - (e) In this section, a reference to employment in a position includes, in the case of a casual employee, a reference to work for the employer on a regular and systematic basis.
- (5) Transfer to a safe job
  - (a) This section applies whenever the present work of a female employee is, because of her pregnancy or breastfeeding, a risk to the health or safety of the employee or of her unborn or new born child. The assessment of such a risk is to be made on the basis of a medical certificate supplied by the employee and of the

- obligations of the employer under the Occupational Health and Safety Act 2000, or its replacements Act.
- (b) The employer is to temporarily adjust the employee's working conditions or hours of work to avoid exposure to that risk.
- (c) If such an adjustment is not feasible or cannot reasonably be required to be made, the employer is to transfer the employee to other appropriate work that:
  - i. will not expose her to that risk, and
  - ii. is as nearly as possible comparable in status and pay to that of her present work.
- (d) If such a transfer is not feasible or cannot reasonably be required to be made, the employer is to grant the employee parental leave (or any available paid sick leave) for as long as is necessary to avoid exposure to that risk, as certified by a medical practitioner.
- (6) The employer must not fail to re-engage a regular casual employee because:
  - (a) the employee or employee's spouse, including de facto or same sex partner is pregnant; or
  - (b) the employee is or has been immediately absent on parental leave. The rights of the employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

#### 45.3 Right to request

- (1) An employee entitled to parental leave may request the employer to allow the employee:
  - (a) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
  - (b) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
  - (c) 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.
- (2) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement employees, loss of efficiency and the impact on customer service.
- (3) Employee's request and the employer's decision to be in writing. The employee's request and the employer's decision made pursuant to subparagraph (b) of subclause 45.3(1) - Right to Request and subparagraph (c) of subclause 45.3(1) - Right to Request of this Clause must be recorded in writing.

- (4) Request to return to work part-time; where an employee wishes to make a request pursuant subparagraph (c) of subclause 45.3(1) - Right to Request of this Clause such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

#### **45.4 Communication during parental leave**

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

### **46 Domestic Violence**

- 46.1 The employer is committed to supporting an employee through such situations by providing, where practical, flexible working arrangements and support through the company employee assistance programme (EAP). By agreement, the employee may access the accumulation of their paid personal leave (in the first instance), annual leave and/ or long service leave for absences related to the domestic violence. The employer will not unduly refuse any such requests for leave under this clause.

### **47 Superannuation**

- 47.1 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. Such contributions shall be remitted to the approved fund on a monthly basis. The minimum contribution is 9.5% at the commencement of this Agreement.

47.2 The employee shall notify the employer of their choice of approved fund within 28 days of commencing employment. Should the employee fail to do so the employee has the right to make contributions to the employer's default fund.

The employer's default fund is the HESTA Super Fund, which is a my Mysuper product.

47.3 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.

47.4 Superannuation fund payments will be made in accordance with trust fund deeds.

47.5 Salary Sacrifice to Superannuation

- (1) An employee can elect to sacrifice a portion of salary to superannuation. Such election must be made prior to the commencement of the period of service to which the earnings relate and be in accordance with relevant legislation.
- (2) Salary sacrifice to superannuation means the option of making additional superannuation contributions by electing to sacrifice a portion of the gross earnings (pre tax dollars). This will give the effect of reducing the taxable income by the amount for salary sacrifice.
- (3) Employers will not use any amount that is salary sacrificed by an employee to count towards the employer's obligation to pay contributions under the Superannuation Guarantee legislation.
- (4) Contributions payable by the employer in relation to the Superannuation Guarantee legislation shall be calculated by reference to the salary which would have applied to the employee under this Agreement in the absence of any salary sacrifice.
- (5) Any additional superannuation contributions made in accordance with this clause shall be paid into the same superannuation fund that receives the employer's Superannuation Guarantee contributions.
- (6) Any allowance, penalty rate, overtime payment for unused leave entitlements, other than any payments for leave taken whilst employed, shall be calculated by reference to the salary which would have applied to the employee in the absence of any salary sacrifice to superannuation. Payment for leave taken whilst employed will be at the post-salary sacrificed amount.

## **48 Redundancy**

48.1 For the purposes of this clause, "continuous service" shall be interpreted in the same manner as "service of a worker" as interpreted in the Long Service Leave Act 1955 as amended from time to time.

48.2 Introduction of Change

- (1) Employer's duty to notify –



- (a) Where the employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes. The employee may bring a representative, including a workplace representative, to any meeting. The employee will be advised of this in writing by the employer prior to the meeting.
  - (b) "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.
- (2) Employer's duty to discuss change
- (a) The employer shall discuss with the employees affected, the introduction of the changes referred to in sub-clause 48.2(1) of this clause, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees in relation to the changes.
  - (b) The discussion shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in sub-clause 48.2(1) of this clause.
  - (c) For the purpose of such discussions, the employer shall provide to the employees concerned all relevant information about the changes, including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer. Provided that the making of any positions redundant shall not be deemed to be confidential information for the purposes of this Agreement.

### 48.3 Redundancy

- (1) Discussions before terminations
- (a) Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and that decision may lead to termination of the employee's employment, the employer shall hold discussions with the employees directly affected.
  - (b) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provisions of sub-clause 48.2(1) of this clause and, in any case, prior to the beginning of the period of notice required by sub-clause 48.4 Termination of Employment of this clause. These discussions shall cover, inter alia, any reasons for the proposed terminations, and measures to avoid or minimise the terminations, and measures to mitigate any adverse effects of any terminations on the employees concerned.

- (2) For the purposes of the discussion the employer shall, as soon as practicable and, in any case, prior to the beginning of the period of notice required by sub-clause 48.4 Termination of Employment of this clause, provide to the employees concerned, all relevant information about the proposed terminations, including the reasons for the proposed terminations. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer. Provided that the making of any positions redundant shall not be deemed to be confidential information for the purposes of this Agreement.

#### 48.4 Termination of Employment

- (1) Notice for changes in production, program, organisation or structure - This sub-clause sets out the notice provisions to be applied to terminations or proposed terminations of the employment of an employee by the employer in circumstances where the employer no longer wishes the job which the employee has been doing to be done by anyone, for any reason (other than technological change), and for reasons arising from production, program, organisation or structure in accordance with sub-clause 48.2 (1)(a).
- (2) Notice for technological change - This subclause sets out the notice provisions to be applied to terminations or proposed terminations by the employer for reasons arising from technology in accordance with subclause 48.2 (2) Introduction of Change.
- (3) Time off during the notice period -
  - (a) During the period of notice of termination given by the employer, each affected employee shall be allowed up to one day's time off without loss of pay for each week of notice, up to a maximum of five days off, for the purposes of seeking other employment.
  - (b) If an employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, if the employer so requests, the employee shall be required to produce proof of attendance at an interview. If the employee is so required to produce such proof of attendance and fails to do so, the employee shall not be entitled to receive payment for such time.

48.5 Employee leaving during the notice period - If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments to which the employee shall be entitled had the employee remained with the employer until the expiry of such notice.

- 48.6 Statement of employment - The employer shall provide to each employee whose employment has been terminated, a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.
- 48.7 Notice to Centrelink - Where a decision has been made to terminate the employment of 15 or more employees, the employer shall notify Centrelink of this, 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.
- 48.8 Centrelink Employment Separation Certificate - The employer shall provide to an employee whose employment has been terminated an Employment Separation Certificate in the form required by Centrelink.
- 48.9 Transfer to Lower Paid Duties - Where an employee is genuinely transferred to a lower paid classification for reasons set out in subclause 48.2(2) Introduction of Change, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment has been terminated. The employer will however in addition continue to pay the employee their former ordinary pay for a period equivalent to one week for each year of service completed with the employer to a maximum of six weeks.
- 48.10 Retrenchment Pay - Unless Fair Work Commission subsequently orders otherwise pursuant to sub-clause 48.11 - Incapacity to Pay, where the employment of an employee is to be terminated, for reasons set out in sub-clause 48.2(2) Introduction of Change, the employer shall pay, in addition to other payments due to that employee, the following retrenchment pay in respect of the following continuous periods of service:

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

Minimum Years of Service	Number of Weeks pay Retrenchment Pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks pay
2 years and less than 3 years	7 weeks pay
3 years and less than 4 years	10 weeks pay
4 years and less than 5 years	12 weeks pay
5 years and less than 6 years	14 weeks pay
6 years and over	16 weeks pay

- (2) Where the employee is 45 years of age or over, the employer shall pay the employee in accordance with the following scale: Minimum Years of Service Retrenchment Pay

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

- (3) "Week's pay" means the ordinary rate of pay for the employee concerned at the date of termination including applicable shift allowances, weekend penalties, broken shift allowance and laundry and dry cleaning certificate allowance.

48.11 Incapacity to Pay - Subject to an application by the employer and further order of Fair Work Commission, an employer may pay a lesser amount (or no amount) of retrenchment pay than that contained in sub-clause 48.10 Retrenchment Pay. Fair Work Commission shall have regard to such financial and other resources of the employer concerned as the Fair Work Commission thinks relevant, and the probable effect paying the amount of retrenchment pay in the said sub-clause 48.10 will have on the employer.

48.12 Alternative Employment - Subject to an application by the employer and further order of Fair Work Commission an employer may pay a lesser amount (or no amount) of severance pay than that contained in 48.10 above if the employer obtains acceptable alternative employment for an employee.

## **49 National Employment Standards**

49.1 It is the intention of this Agreement that the NES, as it may be varied from time to time, shall apply to the employees covered by this Agreement. Any provisions of the NES that are also referred to or set out in this Agreement are for the ease of the parties.

49.2 Where the NES provides, or is varied to provide, a condition or entitlement more favourable to the employee in a particular respect than that set out in this Agreement, the better entitlement will apply

49.3 The minimum guarantees provided by the NES will override less favourable provisions in this Agreement.

## **50 Study Professional/Development Leave**

50.1 Each full time nurse (pro rata, for part time employees) may make application to the Employer in order to access study/ professional development leave. Each application will be assessed on its merits in the context of the applicability of the conference/ seminar, the number of other similar applications and the resources available to the employer.

50.2 If an employee is required to do mandatory training as reasonable directed by management then they shall be paid at their ordinary rate of pay for this training.

- 50.3 In accordance with subclause 50.1 above the employee may apply to the Employer to access paid leave per year for the purposes of attendance at approved conferences/ seminars.
- 50.4 The time and manner of taking any such approved leave under this provision is to be mutually agreed between the employer and the employee and the course and means of dissemination of conference/seminar information is to be approved by the Employer.
- 50.5 Reasonable travel, accommodation and registration costs may be paid by the employer, when the employer approves the employee's attendance at the conference/seminar.

## **51 Union Delegates**

- 51.1 The employer recognises the right of all employees to join a union, to access meaningful union representation, to participate collectively in workplace issues, and to collectively bargain through their union.
- 51.2 Upon request and 4 weeks' notice to the employer, an employee will be released from work in paid time to attend one (1) day of the New South Wales Nurses and Midwives' Association Annual Conference Professional Day. Subject to operational requirements an employer shall not unreasonably refuse such a request.

A delegate will be provided with reasonable access to telephone, internet, email, facsimile, photocopying, notice boards and meeting facilities (where available) for the purpose of carrying out work as a delegate.

**Table 1 – Monetary Rates of Pay**

	First Full Pay Period after 1/01/2018		First Full Pay Period after 1/01/2019		First Full Pay Period after 1/01/2020	
	Per week	Per Hour	Per week	Per Hour	Per week	Per Hour
<b>Assistant in Nursing</b>						
Without Sterilisation Certificate	\$1,026.75	\$27.02	\$1,047.29	\$27.56	\$1,068.23	\$28.11
With Sterilisation Certificate	\$1,126.75	\$29.65	\$1,149.29	\$30.24	\$1,172.27	\$30.85
<b>Enrolled Nurse</b>						
First Year of Experience	\$1,056.21	\$27.80	\$1,077.33	\$28.35	\$1,098.88	\$28.92
Second Year of Experience	\$1,079.08	\$28.40	\$1,100.66	\$28.96	\$1,122.67	\$29.54
Third Year of Experience	\$1,102.33	\$29.01	\$1,124.38	\$29.59	\$1,146.87	\$30.18
Fourth Year of Experience	\$1,125.98	\$29.63	\$1,148.50	\$30.22	\$1,171.47	\$30.83
Thereafter	\$1,149.23	\$30.24	\$1,172.22	\$30.85	\$1,195.66	\$31.46
<b>Medication Endorsed Enrolled Nurse</b>						
First Year of Experience	\$1,076.75	\$28.34	\$1,098.29	\$28.90	\$1,120.25	\$29.48
Second Year of Experience	\$1,100.78	\$28.97	\$1,122.80	\$29.55	\$1,145.26	\$30.14
Third Year of Experience	\$1,124.43	\$29.59	\$1,146.92	\$30.18	\$1,169.85	\$30.79
Fourth Year of Experience	\$1,148.46	\$30.22	\$1,171.43	\$30.83	\$1,194.86	\$31.44
Thereafter	\$1,172.49	\$30.86	\$1,195.94	\$31.47	\$1,219.86	\$32.10
<b>Nurse undergoing pre-registration training</b>	\$1,032.18	\$27.16	\$1,052.82	\$27.71	\$1,073.88	\$28.26

**Registered Nurse**

First Year of Experience	\$1,197.30	\$31.51	\$1,221.24	\$32.14	\$1,245.67	\$32.78
Second Year of Experience	\$1,262.41	\$33.22	\$1,287.66	\$33.89	\$1,313.41	\$34.56
Third Year of Experience	\$1,327.53	\$34.94	\$1,354.08	\$35.63	\$1,381.16	\$36.35
Fourth Year of Experience	\$1,397.30	\$36.77	\$1,425.24	\$37.51	\$1,453.75	\$38.26
Fifth Year of Experience	\$1,466.29	\$38.59	\$1,495.62	\$39.36	\$1,525.53	\$40.15
Sixth Year of Experience	\$1,536.06	\$40.42	\$1,566.78	\$41.23	\$1,598.12	\$42.06
Seventh Year of Experience	\$1,614.74	\$42.49	\$1,647.04	\$43.34	\$1,679.98	\$44.21
Thereafter	\$1,681.41	\$44.25	\$1,715.04	\$45.13	\$1,749.34	\$46.04

**Clinical Nurse Specialist**

\$1,750.01	\$46.05	\$1,785.01	\$46.97	\$1,820.71	\$47.91
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**Clinical Nurse Consultant**

\$2,151.57	\$56.62	\$2,194.60	\$57.75	\$2,238.49	\$58.91
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**Director of Nursing**

Less than 25 beds	\$2,277.15	\$59.93	\$2,322.69	\$61.12	\$2,369.15	\$62.35
25 beds, less than 50 beds	\$2,410.87	\$63.44	\$2,459.09	\$64.71	\$2,508.27	\$66.01

**Table 2 – Other Rates and Allowances**

	First Full Pay Period after 1/01/2018	First Full Pay Period after 1/01/2019	First Full Pay Period after 1/01/2020
On call during meal break	14.62 per shift	14.91 per shift	15.21 per shift
RN in charge of Day Procedure Centre in the absence of DON as per higher duties	44.04 per week	44.92 per week	45.82 per week
Uniforms	8.04 per week	8.20 per week	8.36 per week
Shoes	2.47 per week	2.52 per week	2.57 per week
Stockings	4.13 per week	4.21 per week	4.29 per week
Cardigan or Jacket	2.41 per week	2.46 per week	2.50 per week
Laundry	6.63 per week	6.76 per week	6.89 per week
Socks	0.80 per week	0.82 per week	0.84 per week
Meals on Overtime	22.67 per occasion	23.13 per occasion	23.59 per occasion
Breakfast when not supplied	4.61 per occasion	4.7 per occasion	4.8 per occasion
Other meals when not supplied	8.42 per occasion	8.58 per occasion	8.75 per occasion
Continuing education allowance: RN - Post Registration Hospital Certificate	30.42 per week	31.02 per week	31.65 per week
Continuing education allowance: RN – Post Graduate Certificate or Diploma.	30.42 per week	31.02 per week	31.65 per week
Continuing education allowance: RN – Master degree or a Doctorate	42.59 per week	43.44 per week	44.31 per week
Continuing education allowance: EN -Advanced Diploma of Nursing	34.07 per week	34.75 per week	35.44 per week





**CHATSWOOD**  
PRIVATE HOSPITAL

Signature Page for Sydney Surgery Centre Pty Ltd NSWMA & ANMF (NSW Branch) Enterprise Agreement 2018 - 2020

Mr Roger Cronin  
Chief Executive Officer  
Suite 1, 38B. Albert Avenue  
CHATSWOOD NSW 2067

Signature..... *RLC*

Date..... *16/4/18*

Witness Name: *Joanne Brown* JOANNE BROWN

Witness Address..... *21/9 Milray St*  
*Lindfield 2070*

Date ..... *16.4.2018*

As Chief Executive Officer Mr Cronin is authorized to sign this Agreement on behalf of the employer.

*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

*Coral Levett*

Coral Vicky Levett  
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.*

Wednesday 25<sup>th</sup> July 2018

Associate to Commissioner McKenna  
Fair Work Commission  
80 William St  
SYDNEY 2000

**Undertaking in accordance with s 190 by Sydney Surgery Centre Pty  
Ltd T/A Chatswood Private Hospital**

1. Clause 12.4 should read as follows” Each shift shall consist of not more than 10 hours unless rostered in accordance with subclause 12.16 . Where this shift is performed there shall be a break of at least ten (10) hours between the following shift.
2. Clause 12.5 shall read as follows “An employee shall not work more than five (5) consecutive shifts unless the employee requests and the Director of Nursing agrees. An employee shall not work more than 2 quick shifts in any period of seven (7) days. A quick shift is an evening shift followed by a morning shift.”
3. Clause 25.5 shall read as follows. “Notwithstanding clause 25.4, an employee who agrees to work a 12 hour shift in accordance with clause 12.16 will not be entitled to overtime after working in excess of 10 hours. For such an employee, overtime will apply to all hours worked in excess of 12 hours at a rate of double time”
4. A copy of this undertaking will be affixed to all copies of this Agreement distributed by the employer and the union covered by the Agreement.

Yours faithfully



Roger Cronin

Chief Executive Officer (CEO)

As CEO Mr Cronin has the authority to provide this undertaking