



FAIR WORK
AUSTRALIA

DECISION

Fair Work Act 2009

s.185 - Application for approval of a single-enterprise agreement

Hawkesbury Living Pty Ltd
(AG2011/13)

THE HAWKESBURY LIVING ENTERPRISE AGREEMENT 2010

Aged care industry

COMMISSIONER MCKENNA

SYDNEY, 29 MARCH 2011

Application for approval of the Hawkesbury Living Enterprise Agreement 2010.

[1] An application has been made for approval of an enterprise agreement known as the *Hawkesbury Living Enterprise Agreement 2010* ("the Agreement"). The application was made pursuant to s.185 of the *Fair Work Act 2009* ("the Act"). The application has been made by Hawkesbury Living Pty Ltd ("the applicant"). The Agreement is a single-enterprise agreement.

[2] I am satisfied each of the requirements of ss.186, 187 and 188 relevant to this application for approval has been met. The applicant has provided written undertakings addressing miscellaneous matters. 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] The New South Wales Nurses' Association ("NSWNA"), the Australian Nursing Federation NSW Branch ("ANF") and HSU-EAST, along with a number of individual employee bargaining representatives, concur with the content of the undertakings. The NSWNA, the ANF and HSU-EAST have given notice under s.183 of the Act that they wish to be covered by the Agreement. In accordance with s.201(2) of the Act, I note the Agreement covers those organisations.

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from seven days after the issuing of this decision. The nominal expiry date is three years after the Agreement comes into operation.



Annexure "A"

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28/03/2011

Fair Work Australia
Level B,
Terrace Tower
80 William Street,
East Sydney, 2011

By e-mail: chambers.mckenna.c@fwa.gov.au

Dear Commissioner McKenna

RE: Matter number AG2011/13 Hawkesbury Living Enterprise Agreement 2010

Hawkesbury Living Pty Limited provides the following undertakings:

- 1 **Clause 5.1** is in reference with Division 206 of the Fair Work Act whereby *"the base rate of pay payable to the employee under the agreement must not be less than the base rate of pay that would be payable to the employee under the modern award"*.
- 2 **Clause 7**, last paragraph will be deleted;
- 3 **Clause 13.5 (b) Apprentices** will be deleted. A new 13.5 (b) will be inserted with the following words:

(b) "Apprentice means an apprentice within the meaning of the Apprenticeship and Traineeship Act 2001 NSW."
- 4 **Clause 16.3** will not operate;
- 5 **Clause 19.2 (b)** will not operate;
- 6 **Clause 20.5 (a)** after the words Easter Saturday, the following words will be added to include Easter Sunday as a public holiday:

"Easter Sunday,"
- 7 **Clause 20.7** paragraph 1 will be deleted and a new paragraph inserted that will read as follows:

"It is the intention of this agreement that an employee will ordinarily be entitled to 12 public holidays per annum, being 11 named public holidays under subclause 20.5(a)(i) and the extra public holiday under subclause 20.5(b)."
- 8 **Clause 21.2 (a)** will delete the words *"other than a Community Care Employee,"*.

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- 9 **Clause 21.3 (f)** will be deleted and a new 21.3(f) will be inserted and read as follows::

(a) *In lieu of supplying stockings where required to an employee the employer shall pay the employee the weekly allowance set out in Item 14 of Table 2 Schedule B to this Agreement.*

- 10 **Clause 26.1** paragraph 2, after the words "Agreement these provisions shall prevail, the following words will be added:

"if they provide a more favourable outcome for the employee".

- 11 **Clause 26.5 (b)** will be deleted. A new 26.5 (b) will be inserted to the following words

"(b) Where a worker dies and any long service leave:

(i) to which the worker was entitled has not been taken, or

(ii) accrued upon termination of the services of the worker by reason of the worker's death and has not been taken, the employer shall upon request by the worker's personal representative pay to the worker's personal representative in full the ordinary pay that would have been payable to the worker in respect of long service leave less any amount already paid to the worker in respect of that leave."

- 12 **Clause 29.4** we will delete the words "*sub-clause 13.1 and sub-clause 29.4 shall not apply to such employee*", and replace with the following words:

"in accordance with the NES."

- 13 **Clause 31.3** insert at the end of the paragraph after "*Employee either accepts or unreasonably rejects*" the following words:

"subject to an application made to the FWA."

- 14 **Clause 39** will be deleted. A new Clause 39 will be inserted to state the following:

CLAUSE 39 DISPUTE RESOLUTION

39.1 If a dispute relates to a matter arising under this Agreement or the NES then this clause sets out procedures to settle the dispute.

(a) *An Employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this clause.*

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- (b) *In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the Employee or Employees and relevant supervisors and/or management.*
- (c) *The Employer and the Employee may elect to be assisted and/or represented by a third party which can include a person, organisation or association (including a Union representative) during any meetings and discussions that may take place.*
- (d) *If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Australia.*
- (e) *Fair Work Australia may deal with the dispute in 2 stages:*
 - (i) *Fair Work Australia will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and*
 - (ii) *if Fair Work Australia is unable to resolve the dispute at the first stage, Fair Work Australia shall then:*
 - *arbitrate the dispute; and*
 - *make a determination that is binding on the parties.*

Note If Fair Work Australia arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision that Fair Work Australia makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

39.2 While the parties are trying to resolve the dispute:

- (f) *an Employee must continue to perform his or her work as he or she would normally, unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and*
- (g) *an Employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:*

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- (i) the work is not safe; or
- (ii) applicable Occupational Health and Safety legislation would not permit the work to be performed; or
- (iii) the work is not appropriate for the Employee to perform; or
- (iv) there are other reasonable grounds for the Employee to refuse to comply with the direction.

39.3 The parties to the dispute agree to be bound by a decision made by Fair Work Australia in accordance with this term."

15 After **Clause 27 Repatriation Leave**, a new Clause 27A will be inserted as follows

"27A CEREMONIAL LEAVE

27A.1 An employee who is legitimately required by Aboriginal/Torres Strait Islander tradition to be absent from work for Aboriginal/Torres Strait Islander ceremonial purposes will be entitled to up to 10 working days unpaid leave in any one year, with the approval of the employer."

16 Increases to the rates of pay included in "Schedule C Trainee Wages" will reflect changes made in the National Training Wage Schedule of the Modern Award.

17 Clause 29.1 add at end of paragraph "and this Agreement. Where terms of the Agreement are more favourable, the Agreement shall be binding."

Yours Sincerely

Kristen Gower

Group Employee Relations, Compliance and Audit Manager

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28/03/2011

Fair Work Australia
Level B,
Terrace Tower
80 William Street,
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By e-mail: chambers.mckenna.c@fwa.gov.au

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- (g) *an Employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:*

- (i) *the work is not safe; or*
- (ii) *applicable Occupational Health and Safety legislation would not permit the work to be performed; or*
- (iii) *the work is not appropriate for the Employee to perform; or*
- (iv) *there are other reasonable grounds for the Employee to refuse to comply with the direction.*

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Yours Sincerely



Kristen Gower

Group Employee Relations, Compliance and Audit Manager

Group Employee Relations, Compliance and Audit Manager

Bargaining Agents

Annette Tomlinson.

Christine Patterson 

Barbara Wagner

Shirley Metheral 

Satish Sharma 

Rachel Conteh 

Lauren Stanley 

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.

The Hawkesbury Living Enterprise Agreement 2010

CONTENTS

PART 1 - PRELIMINARIES	4
1. TITLE.....	4
2. PARTIES BOUND	4
3. COMMENCEMENT	4
4. EXPIRY.....	4
5. INCREASES TO RATES OF PAY AND ALLOWANCES.....	4
6. DEFINITIONS	5
7. COMPLETE AGREEMENT	7
8. INDIVIDUAL FLEXIBILITY ARRANGEMENTS	7
9. NATIONAL EMPLOYMENT STANDARD.....	8
10. NO EXTRA CLAIMS	9
11. RELATIONSHIP TO POLICIES AND PROCEDURES	9
12. AVAILABILITY OF AGREEMENT	9
PART 2 - ENGAGEMENT	9
13. EMPLOYEE ENGAGEMENT	9
14. PAY AND PAYMENT	12
15. HOURS.....	15
16. ROSTERS	18
17. BREAKS.....	19
18. OVERTIME	20
19. SHIFT AND WEEKEND WORK.....	22
20. PUBLIC HOLIDAYS.....	23
21. ALLOWANCES	25
PART 3 - LEAVE	29
22. ANNUAL LEAVE.....	29
23. PERSONAL/CARER'S LEAVE	33
24. COMPASSIONATE LEAVE	37
25. PARENTAL LEAVE	39
26. LONG SERVICE LEAVE	39
27. REPATRIATION LEAVE	41
28. LEAVE WITHOUT PAY	42
PART 4 - OTHER PROVISIONS	42
29. TERMINATION OF EMPLOYMENT.....	42
30. CONSULTATION REGARDING MAJOR WORKPLACE CHANGE	43
31. REDUNDANCY	44
32. WORKLOAD MANAGEMENT	46

33.	LABOUR FLEXIBILITY AND MIXED FUNCTIONS	47
34.	REMUNERATION PACKAGING	47
35.	SUPERANNUATION	48
36.	ATTENDANCE AT MEETINGS.....	50
37.	TRAINING	51
38.	AMENITIES	51
39.	GRIEVANCE AND DISPUTE RESOLUTION PROCEDURES	52
	PART 9: AGREEMENT SIGNATORIES	54
	SCHEDULE A - EMPLOYMENT CLASSIFICATIONS.....	55
	SCHEDULE B - PAY, OTHER RATES AND ALLOWANCES.....	76
	SCHEDULE C - NATIONAL TRAINING WAGE	82
	APPENDIX C1 - ALLOCATION OF TRAINEESHIPS TO WAGE LEVELS	90

PART 1 - PRELIMINARIES

1. TITLE

This Agreement shall be known as the NSWNA & HSU east (*Health Services Union*) & Hawkesbury Living Enterprise Agreement 2010 and throughout is referred to as "this Agreement".

2. PARTIES BOUND

This Agreement shall be binding according to its terms upon the following:

- (a) Hawkesbury Living Pty Limited;
- (b) *the HSU east (Health Services Union)* ;
- (c) the New South Wales Nurses' Association;
- (d) the Australian Nursing Federation; and
- (e) and all those employees of the employer performing work within the classifications contained in this Agreement and employed in a residential aged care facility operated by the Employer.

3. COMMENCEMENT

The agreement will start to operate on the seventh day after the date of the notice from the Fair Work Australia advising that the agreement has been approved.

4. EXPIRY

The Nominal expiry date of the Agreement is 3 years from the date of commencement.

After the nominal expiry date the Agreement shall continue to operate until it is replaced by a new agreement or terminated in accordance with the Act.

5. INCREASES TO RATES OF PAY AND ALLOWANCES

- 5.1 The rates of pay set out in Schedule 2 shall commence from the first full pay period after the Commencement date of the Agreement. Upon expiration any legislated increases handed down by Fair Work Australia to pay and allowances will be passed on and at no stage will the pay rates fall below the legislative minimum.
- 5.2 Any non-legislated changes to rates of pay require the approval of an Executive Manager.
- 5.3 Nothing in this Agreement prevents Hawkesbury Living paying in excess of the rates set out in Schedule 2.

6. DEFINITIONS

Where a term of this Agreement has a corresponding definition in the Act, the Regulations or the NES, the definition in the Act or the Regulations shall apply. Any such terms that are also defined in this Agreement are defined for the convenience only of the parties and shall be overridden to the extent of any inconsistency with the definition found in the Act, the Regulations or the NES.

For the purposes of this Agreement:

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

Agreement means the Hawkesbury Living Enterprise Agreement 2010;

Base rate of pay means a rate of pay payable to the employee for his or her ordinary hours of work, but not including incentive-based payments and bonuses, loadings, monetary allowances, overtime or penalty rates or any other separately identifiable amounts.

Board means the Australian National Registration Board.

Child (also refer to section 17 of the Fair Work Act 2009) includes the following:

- (a) an adopted child;
- (b) a stepchild;
- (c) an ex-nuptial child;
- (d) an adult child;
- (e) a foster child.

Day worker means an employee who works their ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6:00 a.m. and at or before 10:30 a.m., otherwise than as part of a shift system.

De facto spouse (also refer to section 12 of the Fair Work Act 2009) of an employee, 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 includes a former de facto partner of the employee.

Eligible casual employee means a casual employee:

- (a) who has been engaged by the employer on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months; and
- (b) who, but for an expected birth or an expected placement of a child, would have a reasonable expectation of continuing engagement by the employer on a regular and systematic basis.

Eligible child means in relation to an employee with whom the child is, or is to be, placed for adoption, a child who:

-
- (a) is (or will be) under the age of 5 years as at the day of placement or the proposed day of placement; and
 - (b) has not (or will have not) previously lived continuously with the employee for a period of 6 months or more as at the day of placement or the proposed day of placement; and
 - (c) is not a child or step-child of the employee or the employee's spouse.

Employment classifications mean those set out in Schedule A to this Agreement and shall apply as if they had been reproduced in full in this clause.

Employer means Hawkesbury Living Pty Limited (ACN 83 112 818 158)

HSU East means Health Services Union East

Immediate family (also refer to section 12 of the Fair Work Act 2009): the following are members of an employee's immediate family:

- (a) a spouse, de facto partner, child, parent (including foster parent, legal guardian or same-sex partners), grandparent, grandchild or sibling of the employee;
- (b) a child, parent (including foster parent, legal guardian or same-sex partner), grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

Medical certificate means a certificate signed by a registered health practitioner.

NES means the National Employment Standards.

Ordinary hours worked by an employee for the employer during a week is the number worked out as follows:

- (a) start with the number of hours (if any) in the week that the employee both works and is required or requested to work, for the employer;
- (b) add the number of hours (if any) in the week when the employee is absent from his or her work for the employer on leave that counts as service;
- (c) deduct the number of hours (if any) in the week that the employee works as overtime in accordance with this Agreement; and
- (d) deduct the number of hours (if any) in the week in relation to which the employer is prohibited by section 470 and 474 of the Act from making a payment to the employee (industrial action);

Ordinary pay of an employee includes in addition to the base rate of pay any applicable over-agreement payments for ordinary hours of work, Climatic and Isolation allowance and Leading Hand allowance. It does not include shift or weekend penalties.

Regulations means the regulations associated with the *Fair Work Act 2009* (as amended).

Shift Worker as defined by the Act means an employee:

- (a) Shift Worker means an employee who is not a day worker as defined

Spouse (refer to section 12 of the Fair Work Act 2009) includes the following:

-
- (a) a former spouse;
 - (b) a de facto spouse;
 - (c) a former de facto spouse.
 - (d) a same sex partner

Union means the HSU – East: the New South Wales Nurses' Association and the Australian Nursing Federation New South Wales Branch

7. COMPLETE AGREEMENT

Other than agreements reached in accordance with Clause 8 - Agreement Flexibility this Agreement is intended to cover all matters pertaining to the employment relationship. In this regard, it represents a complete statement of the mutual rights and obligations between the employer and the employees to the exclusion (to the extent permitted by law) of other laws, awards, agreements (whether registered or unregistered), custom and practice and like instruments or arrangements.

For the purposes of this clause, the terms "award" or "awards" include any applicable award or enterprise agreement and includes those howsoever described in the Act as an award, federal award, transitional federal award, pre-reform federal award, pre-reform certified agreement, a rationalised and/or simplified federal award, a preserved State agreement or a notional agreement preserving a State award.

The parties note that the new NES are set to take effect from 1 January 2010 and to the extent of any inconsistency will prevail over the content of this Agreement.

8. INDIVIDUAL FLEXIBILITY ARRANGEMENTS

8.1 Notwithstanding any other provision of this Agreement, the Employer and Employee may agree to vary the application certain terms of this Agreement to meet the individual needs of the Employer and the individual Employee. The Employer and the Individual Employee may agree to vary the terms if

- (a) the agreement deals with 1 or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) leave loading; and
 - (vi) the arrangement meets the genuine needs of the Employer and Employee in relation to 1 or more of the matters mentioned in paragraph 7.1; and

The arrangement is genuinely agreed to by the Employer and Employee.

8.2 The Employer must ensure that the terms of the individual flexibility arrangement:

-
- (a) are about matters permitted under section 172 of the Act; and
 - (b) are not unlawful terms under section 194 of the Act; and
 - (c) result in the Employee being better off overall than the Employee would be if no arrangement was made.

8.3 The Employer must ensure that the individual flexibility arrangement:

- (a) is in writing; and
- (b) includes the name of the Employer and Employee; and
- (c) is signed by the Employer and Employee and if the Employee is under 18 years of age, is signed by a parent or guardian of the Employee; and
- (d) includes details of:
 - (i) the terms of the Agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms of the Agreement; and
 - (iii) how the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - (iv) the day on which the arrangement; and
 - (v) states the day on which the arrangement commences.

8.4 The Employer must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

8.5 The Employer or Employee may terminate the individual flexibility arrangement:

- (a) by giving no more than 14 days written notice to the other party to the arrangement;
- (b) If the Employer and Employee agree in writing — at any time.

9. NATIONAL EMPLOYMENT STANDARD

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

9.2 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 condition or entitlement set out in this Agreement shall be overridden to the extent that it is less favourable than the NES

9.3 Where after the commencement of this Agreement, the NES is varied to remove a condition or entitlement referred to or set out in this Agreement, the condition or entitlement referred to or set out in this Agreement shall have no effect.

9.4 Where after the commencement of this Agreement, the NES is varied to provide a condition or entitlement less favourable (to the employee) in a particular respect than that referred to or set out in this Agreement, the condition or entitlement referred to or set out in this Agreement shall be overridden to the extent that it is more favourable than the NES as varied.

10. NO EXTRA CLAIMS

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

10.2 Without limiting the generality of the foregoing, there shall be no industrial action for the purpose of supporting or advancing claims against the employer until the nominal expiry date has passed and the requirements of the Act have been satisfied.

10.3 Where any disagreement arises, the parties shall follow the Dispute Settlement Procedure contained in this Agreement. The parties acknowledge that the terms of this Agreement represent the totality of all matters in the employment relationship and that no industrial action shall be taken in support of any matter(s) whatsoever which is (are) covered or not covered by this Agreement until its nominal expiry date has passed and the requirements of the Act have been satisfied.

11. RELATIONSHIP TO POLICIES AND PROCEDURES

This Agreement requires the employees to perform their duties in accordance with the policies and procedures determined by the employer, in place and as varied from time to time. This Agreement does not incorporate or otherwise include as terms of this Agreement any such policy or procedure and does not affect the employer's ability to vary, revoke or establish any such policy or procedure from time to time.

12. AVAILABILITY OF AGREEMENT

A copy of this Agreement shall be displayed in the workplace and a copy of the NES will be displayed with a copy of the agreement.

PART 2 - ENGAGEMENT

13. EMPLOYEE ENGAGEMENT

13.1 Minimum Employment Period:

Employees will also be required to serve a qualifying period of employment for the first six months of engagement

13.2 Full-Time Employees:

A full-time employee is one engaged as such and whose ordinary hours of work average 38 hours per week. The employee's ordinary hours of work will not exceed an average of 38 hours per week over a 4 week period. Although the actual hours of work may vary from week to week, with some weeks greater than 38 hours and other weeks less, the employee will not work in excess of 152 ordinary hours in any four week period.

13.3 Permanent Part-Time Employees:

- (a) A permanent part-time employee is one who is engaged as such and who is permanently appointed to work for a specified number of hours, which are less than those prescribed for a full-time employee.
- (b) At the request of an employee, the hours worked by the employee will be reviewed annually. Where the employee is regularly working more than their specified contract hours then such contract hours shall be adjusted by the employer, to reflect the hours regularly worked. The hours worked in the following circumstances will not be incorporated in the adjustment:
 - (i) if the increase in hours is as a direct result of an employee being absent on leave, such as for example, annual leave, long service leave, maternity leave, workers compensation; and
 - (ii) if the increase in hours is due to a temporary increase in hours only due, for example, to the specific needs of a resident or client.
- (c) Any adjusted contracted hours resulting from a review identified in sub-clause 13.3(b) should, however, be such as to readily reflect roster cycles and shift configurations utilised at the workplace.

13.4 Casual Employees:

- (a) A casual employee is one who is engaged as such on an hourly basis otherwise than as a full-time employee or a permanent part-time employee.
- (b) Casual Conversion
 - (i) A casual employee who has been rostered on a regular and systematic basis over a period of 26 weeks has the right to request conversion to permanent employment:
 - (A) on a full-time contract where the employee has worked on a full-time basis throughout the period of casual employment; or
 - (B) on a permanent part-time contract where the employee has worked on a permanent part-time basis throughout the period of casual employment. Such contract would be on the basis of the same number of hours as previously worked, unless other arrangements are agreed between the employer and the employee.

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- (c) The employer may consent to or refuse the request, but shall not unreasonably withhold agreement to such a request.
 - (d) Casual conversion will not apply where a casual has covered absences of permanent staff that are expected to return to work.

13.5 Apprentices:

- (a) In addition to the above categories, employees may be engaged as apprentices.
- (b) Apprentice means an employee who is serving a period of training under a training contract for the purpose of rendering him or her fit to be a qualified worker in the industry.
- (c) No apprentice shall be permitted or required to perform work which would prevent the apprentice from attending classes at his or her relevant training establishment.

13.6 Trainees:

Trainees shall be employed in accordance with the provisions set out in Schedule C to this Agreement.

13.7 Recognition of Service and Experience

- (a) From the time of commencement of employment an employee has three months in which to provide documentary evidence to the employer detailing any other relevant service or experience not disclosed at the time of commencement. This evidence, in the absence of other documentary evidence, may take the form of a statutory declaration.
- (b) Until such time as the employee furnishes any such documentation contemplated in sub-clause (a), the employer shall pay the employee at the level for which proof has been provided.
- (c) If within three months of commencing employment an employee does provide documentary evidence of other previous relevant service or experience not disclosed at the time of commencement, the employer shall pay the employee 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.
- (d) If an employee provides documentary evidence of other previous relevant service or experience not disclosed at the time of commencement after the said three months period, the employee shall be paid a rate appropriate for the previous relevant service or experience then proved, but only from the date of providing that evidence to the employer.
- (e) An employee who is working in the same classification for more than one organisation shall notify the employer within one month of the end of each quarter of their hours worked with those other employers in the last quarter.

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- (f) An employee 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 proof of that entitlement within three months of that entitlement arising. If that proof is so provided, the employee shall be paid at the higher rate as and from the date they were entitled to progress to the next year of service or experience. If the proof is provided outside that three-month period, the employee shall be paid at the higher rate only from the date that proof is provided.
- (g) A registered nurse or enrolled nurse who has trained outside New South Wales shall be paid as a registered nurse or enrolled nurse as from the date she or he notifies the employer in writing that she or he is eligible for registration or enrolment as a registered nurse or enrolled nurse; provided that she or he makes application for registration within seven days after being so notified that she or he is eligible for registration.
- (h) For the purpose of yearly progression based on service and experience an employee must complete 1976 hours of work.

14. PAY AND PAYMENT

An employee's ordinary pay includes in addition to the base rate of pay any applicable over-agreement payments for ordinary hours of work. It does not include, shift or weekend penalties.

14.1 Full-Time and Permanent Part-Time Employees

The base rates of pay in the appropriate employment classification for full-time employees and for permanent part-time employees shall be the hourly rates of pay set out in Column 1 of Table 1 of Schedule B to this Agreement.

14.2 Casual Employees

The base rates of pay in the appropriate employment classification for casual employees shall be the hourly rates of pay set out in Column 1 of Table 1 of Schedule B to this Agreement. In addition, casual employees shall be paid a casual loading equal to 20 per cent and progressively increasing to 25 per cent (refer to table below) of such basic periodic rates of pay

First full pay period on or after

1 July 2010	20%
1 July 2011	21%
1 July 2012	22%
1 July 2013	23%
1 July 2014	24%
1 July 2015	25%

Where it is expressly stated in this Agreement that overtime, weekend payments and public holiday payments are to be made to casual employees, such payments shall be taken to be inclusive of and not in addition to the casual loading referred to in this sub-clause.

14.3 Apprentices

The base rates of pay in the appropriate employment classification for apprentices shall be the hourly rates of pay set out in Column 1 of Table 1 of Schedule B to this Agreement.

14.4 Trainees

The base rates of pay in the appropriate employment classification for trainees shall be the hourly rates of pay set out in Schedule C to this Agreement.

14.5 Other Entitlements

In addition to being paid their ordinary pay:

- (a) **Full-Time Employees:** Full-time employees shall have the benefit of all of the other entitlements set out in this Agreement
- (b) **Permanent Part-Time Employees:** Permanent part-time employees shall have the benefit of all of the other entitlements set out in this Agreement on a pro rata basis in the same proportion as their ordinary hours of work bear to full-time hours.
- (c) **Casual Employees:**
 - (i) For weekend and public holiday work, casual employees shall receive the penalty rates prescribed in Clause 19 - Shift and Weekend Work and Clause 20 - Public Holidays. Such payment shall be taken to be inclusive of and not in addition to the casual loading referred to in sub-clause 14.2.
 - (ii) A casual employee is entitled to overtime payment only when a casual works in excess of 38 hours per week or 76 hours per fortnight depending on the pay period. Overtime shall be paid in accordance with Clause 18 - Overtime. Such payment shall be taken to be inclusive of and not in addition to the casual loading referred to in sub-clause 14.2.
 - (iii) Casual employees shall have the benefit of all of the other entitlements set out in this Agreement on a pro rata basis in the same proportion as their ordinary hours of work bear to full-time hours.
 - (iv) A casual employee's entitlement to long service leave shall be governed by the provisions of the *Long Service Leave Act 1955 (NSW)*.
 - (v) Clauses that shall not apply to casual employees include: Clause 16 - Rosters; Clause 22 - Annual Leave; Clause 27 - Repatriation Leave.
- (d) **Apprentices**

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- (i) Apprentices attending college for training shall be entitled to fares to and from home to college.
 - (ii) An apprentice who obtains and hands to the employer a certificate or statement of having passed his or her first year technical college examination and in respect of whom a satisfactory report as to conduct, punctuality and progress is furnished shall be paid the weekly allowance set out in Item 7 of Table 2 of Schedule B to this Agreement in addition to the rates prescribed in the ensuing twelve months, plus the additional weekly allowance set out in Item 7 of Table 2 of Schedule B to this Agreement if he or she passes each subsequent year.

14.6 Payment of Wages

- (a) Wages shall be paid weekly or fortnightly.
- (b) Employees shall have their wages paid by direct deposit or electronic transfer into one account with a bank or other financial institution in Australia as nominated by the employee. Wages shall be deposited by the employer in sufficient time to ensure that wages are available for withdrawal by employees by the close of business on pay day. Where the wages are not available to the employee by such time due to circumstances beyond the employer's control, the employer shall not be held accountable for such delay.
- (c) Where the services of an employee are terminated with due notice, all moneys owing shall be paid upon cessation of employment, but in the case of termination without due notice, within three working days.
- (d) Where the employer has overpaid an employee, the employer shall notify the employee in writing of such overpayment and how such overpayment is made up, and may recover such amounts, with the agreement of the employee as to the amount of the overpayment and method of such recovery. This sub-clause authorises the use of deductions from wages for the purpose of such recovery. All such deduction from wages must be authorised in writing by the employee.

14.7 Particulars of Wages

On payday a pay slip shall be made available to each employee which complies with the relevant provisions of the Act, including the following particulars:

- (a) the employer's name;
- (b) the employee's name;
- (c) the date on which the payment to which the pay slip relates was made;
- (d) the period to which that pay slip relates;
- (e) if the employee is paid at an hourly rate of pay:
 - (i) the ordinary hourly rate;

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- (ii) the number of hours in that period for which the employee was employed at that rate; and
 - (iii) the amount of the payment made at that rate;
 - (f) if the employee is paid at an annual rate of pay - that rate as at the latest date to which the payment relates;
 - (g) the gross amount of the payment;
 - (h) the net amount of the payment
 - (i) any amount paid that is a bonus, loading, monetary allowance, penalty or other separately identifiable entitlement
 - (j) the details of each amount deducted from the gross amount including the name, or the name and number, of the fund or account into which the deduction was paid;
 - (k) if the employer is required to make superannuation contributions:
 - (i) the amount of each contribution; and
 - (ii) the name of any fund into which the contribution was made

15. HOURS

15.1 Reasonable Additional Hours

All hours worked over an average of 38 ordinary hours per week, will be deemed to be additional hours. All hours worked by permanent part-time employees beyond their specified number of hours will be treated as additional hours for the purpose of this subclause. From time to time, employees may be required to work a reasonable amount of additional hours. All additional hours worked will be paid in accordance with this Agreement.

An employee may not be required to work additional hours in circumstances where the working of additional hours would result in the employee working hours which are unreasonable having regards to (refer to section 62 of the Act):

- (a) any risk to employee health and safety that might reasonably be expected to arise if the employee worked the additional hours;
- (b) the employee's personal circumstances including any family responsibilities;
- (c) the operational requirements of the workplace;
- (d) the notice (if any) given by the employer of the additional hours and by the employee of his or her intention to refuse it;
- (e) whether any of the additional hours are on a public holiday; and
- (f) the employee's hours of work over the 4 weeks ending immediately before the employee is required or requested to work the additional hours.

15.2 Arrangement of Hours

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- (a) The ordinary hours of work for day workers, exclusive of meal times, shall not exceed 152 hours per 28 calendar days or 76 hours per fortnight to be worked Monday to Friday and to commence on such days at or after 6:00 a.m. and at or before 10:30 a.m.
 - (b) The ordinary hours of work for shift workers, exclusive of meal times, shall not exceed 152 hours per 28 calendar days or 76 hours per fortnight or an average of 38 hours per week in each roster cycle.
 - (c) The hours of work prescribed in sub-clause (a) may be arranged as follows:
 - (i) 152 hours in a 28 calendar-day cycle to be arranged so that each employee shall not work their ordinary hours on more than 19 days in the 28 calendar-day cycle; or
 - (ii) 190 hours per 35 calendar days to be arranged so that each employee shall not work their ordinary hours on more than 19 days in the 35 calendar-day cycle; or
 - (iii) 76 hours per fortnight to be arranged so that each employee shall not work their ordinary hours on more than ten days in the fortnight; or
 - (iv) 38 hours per week to be arranged so that each employee shall not work their ordinary hours on more than five days in the week; or
 - (v) as otherwise agreed in writing between the employer and the employee.
 - (d) The ordinary hours of work for a permanent part-time employee will be a specified number of hours, which are less than those prescribed for a full-time employee. The specified number of hours may be balanced over a week or fortnight, provided that the average weekly hours worked shall be deemed to be the specified number of hours for the purposes of accrual of leave provided for by this Agreement. 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.
 - (e) Each employee shall be entitled to not less than four full days in each fortnight free from duty or two full days in each week free from duty (rostered days off), and every effort shall be made for such rostered days off to be consecutive, unless otherwise agreed.
 - (f) Each shift shall consist of no more than 10 hours on a day shift or 11 hours on a night shift with not less than eight hours break between each shift; provided that an employee shall not work more than seven consecutive shifts unless the employee so requests and the employer agrees.
 - (g) Full-time employees shall receive a minimum payment of four hours for each start in respect of ordinary hours of work.
 - (h) Permanent part-time and casual employees shall receive a minimum payment of two hours for each start.

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- (i) Employees must receive a minimum break of eight (8) hours between ordinary rostered shifts, which are not broken shifts.
 - (j) Except for meal breaks, all time from the commencement to the cessation of duty each shift shall count as working time, except for shifts being worked as broken shifts.
 - (k)
 - (i) A Director of Nursing shall be free from duty for not less than nine days in each 28 consecutive days and such days free from duty may be taken in one or more periods.
 - (ii) If any of the days mentioned in sub-clause (i) cannot be taken by reason of emergency, such day or days shall be given and taken within 28 days of becoming due.
 - (iii) A Director of Nursing shall, where practicable, inform the employer by giving not less than seven days' notice of the days he or she proposes 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.
 - (l) The employer will ensure there is provision for handover between Registered Nurses at the commencement of each shift to inform of any changes to a residents health status.

15.3 Allocated Days Off:

- (a) An employee whose ordinary hours of work are arranged in accordance with sub-clause 15.2(c)(i) and (ii) shall be entitled to an allocated day off (ADO) in each cycle of 28 days or 35 days as the case may be. The ordinary hours of work on each of those days shall be arranged to include a proportion of one hour on the basis of 0.4 of one hour for each 8-hour shift worked and 0.5 of one hour for each 10-hour shift worked which shall accumulate towards the employee's allocated day off duty on pay.
- (b) A full-time employee's allocated day off duty shall be determined by mutual agreement between the employee and the employer having regard to the needs of the place of employment or sections thereof. Such allocated day off duty shall, where practicable, be consecutive with the rostered days off prescribed in sub-clause 15.2(e). Provided that allocated days off shall not be rostered on public holidays.
- (c) Where the employer and the employee agree, up to five (5) allocated days off may be accumulated and taken in conjunction with the employee's annual leave or at another agreed time.
- (d) No time towards an allocated day off shall accumulate during periods of workers' compensation, unpaid parental leave, long service leave, any period of unpaid leave or the first four weeks of annual leave.
- (e) Credit towards an allocated day off shall continue to accumulate whilst an

employee is on paid personal/carers' leave. Where an allocated day off duty falls during a period of sick leave, the employee's available sick leave shall not be debited for that day.

- (f) Employees entitled to allocated days off duty in accordance with this sub-clause 15.3, shall accrue credits towards an allocated day off duty in respect of each day those employees are absent on:
 - (i) additional annual leave in accordance with sub-clause 22.7(b) (Counter Leave);and
 - (ii) leave in accordance with clause 20 (Public Holidays).

15.4 Broken Shifts

- (a) An employee may agree to work broken shifts at any time; however an employee may be required to work broken shifts in the following circumstances:
 - (i) In an emergency – including staff absence; or
 - (ii) up to and including a 4 week continuous period for circumstances other than those covered by subclauses 15.4(a)(i).
 - (A) Where an employee has served a period of broken shifts in accordance with subclause (ii) the employee shall not be required to serve a further period on broken shifts until he or she has been off broken shifts for a period equivalent to the previous period on broken shifts.
- (b) A "broken shift" for the purposes of this sub-clause means a single shift worked by an employee that includes one or more breaks in excess of that provided for meal breaks, where the time between the commencement and termination of the broken shift shall not exceed 12 hours.
- (c) An employee must receive a minimum break of 10 hours between broken shifts rostered on successive days.
- (d) Where broken shifts are worked, employees shall receive the per shift allowance set out in Item 1 of Table 2 of Schedule B to this Agreement.
- (e) Payment for a broken shift shall be at ordinary pay with penalty rates and shift allowances in accordance with Clause 19 - Shift and Weekend Work, with shift allowances being determined by the commencing time of the broken shift.
- (f) All work performed beyond the maximum span of 12 hours for a broken shift will be paid at double ordinary pay.

16. ROSTERS

- 16.1 (a) The ordinary hours of work for each employee shall be displayed on a roster in a place conveniently accessible to employees. Such roster shall be

displayed two weeks prior to the commencing date of the first working period in any roster.

- (b) Sub-clause (a) shall not make it obligatory for the employer to display any roster of ordinary hours of work of members of the casual or relieving staff.
- 16.2 (a) A roster may be altered at any time so as to enable the service of the organisation to be carried on where another employee is absent from duty on account of illness or in an emergency. Where such alteration involves an employee working on a day which would have been his or her rostered day off, such employee may elect to be paid at overtime rates or have a day off in lieu which shall be mutually arranged.
- (b) Sub-clause (a) shall not apply where the only change to the roster of a part-time employee is the mutually agreed addition of extra hours to be worked such that the part-time employee still has two rostered days off in that week or four rostered days off in that fortnight, as the case may be.
 - (c) Any alteration to the roster of hours of a day worker must be consistent with the definition of a day worker contained in Clause 6 - Definitions.
- 16.3 (a) Where the employer is unable to meet the minimum specified hours of a permanent employee for reasons associated with death, hospitalisation or other like extenuating circumstances, the following procedures shall be followed in the sequence provided:
- (i) work shall be re-allocated from casual employees to the permanent employee; or
 - (ii) hours shall be reallocated from another employee who is working hours additional to their minimum specified hours; or
 - (iii) where the employee agrees, the employee may have access to annual or long service leave; or
 - (iv) the employee may be stood down by the employer in accordance with s. 524 of the Act.
- (b) Notwithstanding the provisions in sub-clauses (a) (i) to (a) (iv) inclusive, if after six weeks - or earlier if by mutual agreement - the employer is unable to provide the minimum specified hours, the employee shall be entitled to the provisions set out in Clause 31 - Redundancy.
 - (c) Nothing in this clause shall prohibit the employee and employer reaching agreement as to a period of authorised unpaid leave.
- 16.4 Where an employee is entitled to an allocated day off duty in accordance with clause 15 - Hours that allocated day off duty is to be shown on the roster of hours for that employee.

17. BREAKS

- 17.1 Two separate ten-minute tea breaks (in addition to meal breaks) shall be allowed each employee on duty during each ordinary shift of 7.6 hours or more; where less

than 7.6 ordinary hours are worked employees shall be allowed one 10-minute tea break in each four-hour period. Subject to agreement between the employer and the employee, the two ten-minute tea breaks may alternatively be taken as one 20-minute tea break, or by one ten-minute tea break with the employee allowed to proceed off duty ten minutes before the completion of the normal shift finishing time. Such tea break(s) shall count as working time.

- 17.2 (a) Employees shall not be required to work more than six (6) hours without a meal break. Such meal break shall be of between 30 and 60 minutes duration and shall not count as time worked.
- (b) However, employees engaged in community care duties may be rostered to have a paid 20-minute break in the place of the meal break where they are required to remain with the client during such break.
- (c) In the event that all or some of the meals of breakfast, lunch and dinner are not provided for a live-in housekeeper, the employer shall reimburse such reasonable amounts for same, upon proof of expenditure.
- 17.3 Notwithstanding the provisions of sub-clause 17.2, an employee required to work shifts in excess of 10 hours shall be entitled to a 60-minute meal break. Such time shall be taken as either two thirty-minute meal breaks or one 60-minute meal break, subject to agreement between the employer and employee.
- 17.4 An employee who is required to work overtime for more than two hours and such overtime goes beyond 7:00 a.m., 1:00 p.m., and 6:00 p.m. shall, at the option of the employer, be supplied with a meal or shall be paid, as the case may be:
- (a) the amount for breakfast set out in Item 2 of Table 2 of Schedule B to this Agreement;
- (b) the amount for lunch set out in Item 3 of Table 2 of Schedule B to this Agreement
- (c) the amount for the evening meal set out in Item 4 of Table 2 of Schedule B to this Agreement.

18. OVERTIME

- 18.1 All time worked by employees outside the ordinary hours in accordance with Clause 15 - Hours and Clause 16 - Rosters, shall be paid time and one half ordinary pay up to two hours (2) hours each day and thereafter double ordinary pay; provided however, that all overtime worked on Sunday shall be paid at double ordinary pay and all overtime worked on public holidays shall be paid for at double time and one-half ordinary pay.
- 18.2 An employee must receive an eight or ten hour break between rostered shifts, in accordance with Clause 15 - Hours. Where the next shift is due to commence before the employee has had their appropriate eight or ten hours break, one of the following will apply:
- (a) The employee will be released prior to, or after the completion of their shift to permit them to have their appropriate break under Clause 15 - Hours without

loss of pay for the working time occurring during such absence.

- (b) If at the request of the employer an employee works without their appropriate break, they shall be paid until they are released from duty at overtime rates. Once released from duty such employees shall be entitled to be absent from work until they have had their appropriate break in accordance with Clause 15 - Hours without loss of pay for working time occurring during such an absence.
- 18.3 With the exception of employees working broken shifts, employees who are recalled to work overtime after leaving the employer's place of work shall be paid a minimum of four hours at the applicable overtime rate for each time so recalled. Provided that, except in unforeseen circumstances, an employee shall not be required to work the full four hours if the tasks they were recalled to perform are completed within a shorter period.
- (a) An employee recalled to work overtime pursuant to sub-clause 18.2 shall be reimbursed reasonable travel expenses incurred in respect of the recall to work.
 - (b) Provided that where an employee elects to use his or her own vehicle the employee shall be paid the per kilometre allowance set out in Item 5 of Table 2 of Schedule B to this Agreement.
- 18.4 For the purposes of assessing overtime, each day shall stand alone, provided that where any one period of overtime is continuous and extends beyond midnight, all overtime hours in this period shall be regarded as if they had occurred within the one day.
- 18.5 All time worked by permanent part-time employees in excess of the hours prescribed in subclause 15.2(f) of this Agreement shall be paid for at overtime rates.
- 18.6 In lieu of receiving payment for overtime in accordance with this clause, employees may be compensated by way of time off in lieu of overtime on the following basis:
- (a) Time off in lieu of overtime is taken on the basis of hour for hour at ordinary pay, that is for example, one hour off for each hour of overtime worked. However, any applicable shift and weekend penalties shall still be paid as if the time was worked when taking such time in lieu. It must be taken within four months of it being accrued at a mutually agreed time.
 - (b) Where it is not possible for an employee 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.
 - (c) Employees cannot be compelled to take time off in lieu of overtime and an employer cannot be compelled to agree to provide the employee with time off in lieu of overtime.
 - (d) The employer must maintain records of all time in lieu of overtime owing and taken by employees.

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- (e) Where no election is made the employee shall be paid overtime rates in accordance with this Agreement.

18.7 Overtime rates under this clause will be in substitution for and not cumulative upon the shift and weekend penalties prescribed in Clause 19- Shift and Weekend Work and the casual loading in Clause 14.2.

19. SHIFT AND WEEKEND WORK

19.1 Employees shall be paid the following percentages in addition to their ordinary pay, and where applicable, the 20% casual loading, for shifts rostered as follows:

- (a) 10% for afternoon shift commencing after 10:30 a.m. and before 1:00 p.m.
- (b) 12.5% for afternoon shift commencing at or after 1:00 p.m. and before 4:00 p.m.
- (c) 15% for night shift commencing at or after 4:00 p.m. and before 4:00 a.m.
- (d) 10% for night shift commencing at or after 4:00 a.m. and before 6:00 a.m.
- (e) Laundry staff working afternoon or night shift continuously from 30 September, 1993 shall be paid 20% in addition to the ordinary pay for such shift.

19.2 (a) Notwithstanding sub-clause 19.1, employees working less than the hours prescribed for a full-time employee within Clause 15 - Hours shall only be entitled to the additional rates where their shifts commence prior to 6:00a.m. or finish subsequent to 7:00 p.m.

- (b) The employer may agree to the written request of an employee to work what would normally be a day shift job outside of day shift hours and not be paid any shift or weekend penalties.

- (i) No employee shall be coerced into requesting such a pattern of hours.
- (ii) An arrangement agreed under this subclause must not change or affect any other employee's number or pattern of working hours.
- (iii) The employee may opt out of an agreed arrangement under this subclause at any time by providing two weeks' written notice, in which case the employee shall revert to the original day shift roster and pattern of hours.

19.3 Employees shall be paid the following penalties for ordinary hours of work occurring on a Saturday or a Sunday:

- (a) for work between midnight on Friday and midnight on Saturday - time and one half.
- (b) for work between midnight on Saturday and midnight on Sunday - time and three-quarters.

These extra rates shall be in substitution for and not cumulative upon the shift allowances prescribed in the preceding sub-clauses 19.1 and 19.2.

19.4 Transitional Arrangements

Employees in receipt of a shift loading for working beyond 6pm, prior to the introduction of this Agreement, will continue to receive the loading where their shift finishes at or before 7 pm for a maximum period of 12 months from the date this Agreement comes into operation or a shorter period if transferred to an alternative shift.

20. PUBLIC HOLIDAYS

20.1 An employee is entitled to a day off on a public holiday, subject to subclauses 20.2 and 20.3.

20.2 The employer may request an employee to work on a particular public holiday.

20.3 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.

20.4 Public holidays shall be allowed to employees without loss of ordinary pay.

20.5 (a) For the purposes of this agreement, the following shall be deemed to be public holidays:

(i) New Year's Day; Australia Day; Good Friday; Easter Saturday; Easter Monday; Anzac Day; Queen's Birthday; Labour Day; Christmas Day; Boxing Day.

(ii) If, under (or in accordance with a procedure under) a law of a State or Territory, a day or part-day is substituted for a day or part-day that would otherwise be a public holiday because of subclause 20.5(a)(i), then the substituted day or part-day is the public holiday.

(b) Subject to subclause 20.6, any other day duly proclaimed and observed as a public holiday within the area in which the facility is situated.

20.6 In addition to those ten named public holidays specified in sub-clause 20.5(a)(i), employees shall be entitled to an extra public holiday each year. Such public holiday shall occur on one of the following days as determined by the employer:

(a) On the day on which the August Bank Holiday is observed; or

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- (b) On a day between Christmas and New Year within the days Monday to Friday inclusive and not coinciding with a date that is already a gazetted public holiday for that calendar year; or
 - (c) On a gazetted and proclaimed local public holiday. In areas where only one half-day is proclaimed and observed, the whole day will be regarded as a public holiday for the purposes of this agreement. In these circumstances if a further one half day local public holiday occurs in that calendar year, it will not be observed for the purposes of this clause.
 - (d) The employer shall nominate before July 1 of each calendar year, the date on which this extra public holiday is to be observed. Once such an election is made, such date then becomes the date on which the extra public holiday is to be observed for all workers in that establishment covered by this agreement, provided however that if no such election is duly made, the extra public holiday will be observed on the August Bank Holiday.
 - (e) Notwithstanding anything elsewhere contained in this agreement, this subclause shall apply in substitution for a local public holiday or half public holiday proclaimed and observed in any local government area or part of a local government area under subclause 20.5(b).

20.7 It is the intention of this agreement that an employee will ordinarily be entitled to 11 public holidays per annum, being the ten named public holidays under subclause 20.5(a)(i) and the extra public holiday under subclause 20.5(b).

Example: An employee works full time in the local area of Newcastle. This employee would be entitled to the ten named public holidays under subclause 20.5(a)(i) and an extra public holiday under subclause 20.5(b), being either the (August Bank holiday) or (a day between Christmas and New Year) or (a local public holiday, e.g. Newcastle Show Day). Under no circumstances would this employee be entitled to either of the (August Bank holiday) or (a day between Christmas and New Year) and (a local public holiday, e.g. Newcastle Show Day). However, where a special or additional public holiday is proclaimed and observed in Newcastle, as a 'one-off' additional or special public holiday, the employee would be entitled to that day as a public holiday under this agreement pursuant to subclause 20.5(b).

20.8 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 allowances (except broken shift allowances), weekend penalties, casual loading and part-time loading, as follows:

- (a) **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.
- (b) **Permanent 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.

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- (c) **Casual Employees:** Double time and one-half the basic periodic rates 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 14.2.

20.9 Full-time shift-workers rostered off duty on a public holiday shall be paid one day's pay in addition to the weekly rate, or if the employee so elects have one day added to be taken in conjunction with their period of annual leave.

20.10 The election referred to in subclause 20.9 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.

21. ALLOWANCES

21.1 In Charge Allowance

- (a) A registered nurse who is designated to be in charge during the day, evening or night of a residential aged care facility shall be paid in addition to his or her appropriate salary, whilst so in charge, the per shift allowance set out in Item 8 (for less than 100 beds) or Item 9 (for 100 or more beds) of Table 2 of Schedule B to this Agreement.
- (b) A registered nurse who is designated to be in charge of a shift in a section of a residential aged care facility shall be paid in addition to his or her appropriate salary, the per shift allowance set out in Item 10 of Table 2 of Schedule B to this Agreement.
- (c) This sub-clause shall not apply to registered nurses holding classified positions of a higher grade than a registered nurse.

21.2 Vehicle/Travelling Allowance

- (a) An employee, other than a Community Care Employee, sent for duty to a place other than his or her regular place of duty shall be paid for all excess travelling time at the appropriate rate of pay and reimbursed excess travelling expenses.
- (b) Where an employee is called upon and agrees to use his or her private vehicle for official business, the employee shall be paid the per kilometre allowance set out in Item 6 of Table 2 of Schedule B to this Agreement excluding travel to and from the employee's home to the first place of work and return to home at the end of his or her duties.
- (c) Where an employee is required to use public transport for travel on official business such employee is to be reimbursed actual expenses incurred for such travel, excluding travel from the employee's home to the first place of work and return to home at the cessation of his or her duties.
- (d) No payment shall be made under this sub-clause 21.2(b) and (c) unless the employer is satisfied that the employee has incurred expenditure for such travel.

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- (e) Where community care employees are rostered to work with consecutive clients they shall be paid for the time taken to travel between locations at the rate of 3% of the ordinary pay per hour per kilometre travelled, excluding travel from the employee's home to the first place of work and return to home at the cessation of his/her duties; provided that this payment shall not be made if the employee is being paid at the hourly rate of pay for the time between consecutive clients.

21.3 Uniforms Allowance

- (a) Subject to sub-clause (c) of this sub-clause, sufficient suitable and serviceable uniforms or overalls shall be supplied free of cost, to each employee required to wear them. An employee to whom a new uniform or part of a uniform has been supplied by the organisation, who fails to return the corresponding article last supplied, shall not be entitled to have such article replaced without payment for it at a reasonable price, in the absence of a satisfactory reason for the loss of such article or failure to produce such uniform or part thereof.
- (b) Upon termination, an employee shall return any uniform or part thereof supplied by the organisation, which is still in use by the employee, immediately prior to leaving.
- (c) In lieu of supplying a uniform where required to an employee, the employer shall pay the employee the weekly allowance set out in Item 11 of Table 2 of Schedule B to this Agreement.
- (d) In lieu of supplying special-type shoes where required to an employee, the employer shall pay the employee the weekly allowance set out in Item 12 of Table 2 of Schedule B to this Agreement.
- (e) In lieu of supplying a cardigan or jacket where required to an employee the employer shall pay the employee the weekly allowance set out in Item 13 of Table 2 of Schedule B to this Agreement.
- (f) In lieu of supplying stockings where required to a female employee the employer shall pay the employee the weekly allowance set out in Item 14 of Table 2 of Schedule B to this Agreement.
- (g) In lieu of supplying socks where required to an employee the employer shall pay the employee the weekly allowance set out in Item 15 of Table 2 of Schedule B to this Agreement.
- (h) If, in any facility, the uniforms of an employee are not laundered at the expense of the facility, the sum per week set out in Item 16 of Table 2 of Schedule B to this Agreement 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.
- (i) An employee who works less than thirty-eight hours per week shall be entitled to the allowances prescribed by this clause in the same proportion as the average hours worked each week bears to thirty-eight ordinary hours.

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- (j) Each employee whose duties require them to work out of doors shall be supplied with overboots. Sufficient raincoats shall also be made available for use by these employees.
 - (k) Each employee whose duties require them to work in a hazardous situation with or near machinery shall be supplied with appropriate protective clothing and equipment.

21.4 On Call Allowance

- (a) An employee who agrees to be on call, that is, the employee agrees to make themselves ready and available to return to work at short notice whilst off duty, shall be paid the allowance, for each period of 24 hours or part thereof, set out in Item 17 of Table 2 of Schedule B to this Agreement.
- (b) An employee who is directed to remain on call during a meal break shall be paid the meal break allowance set out in Item 18 of Table 2 of Schedule B to this Agreement, 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 sub-clause 21.4(a).
- (c) Where an employee on call in accordance with sub-clause 21.4(a), leaves the residential aged care facility and is recalled to duty, she or he shall be reimbursed all reasonable fares and expenses actually incurred. Where in these circumstances the employee elects to use his or her own vehicle the employee shall be paid the per kilometre allowance set out in Item 5 of Table 2 of Schedule B to this Agreement.
- (d) This subclause shall not apply to a Director of Nursing, Deputy Director of Nursing or Assistant Director of Nursing.

21.5 Continuing Education Allowance

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

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- (g) A registered nurse who holds a relevant postgraduate certificate in a clinical field (not including a hospital certificate) that is accepted by the employer to be directly relevant to the competency and skills used by the registered nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 21 of Table 2 of Schedule B to this Agreement.
 - (h) A registered nurse who holds a relevant postgraduate diploma or degree in a clinical field (other than a nursing undergraduate degree) that is accepted by the employer to be directly relevant to the competency and skills used by the registered nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 22 of Table 2 of Schedule B to this Agreement.
 - (i) A registered nurse who holds a relevant master's degree or doctorate in a clinical field that is accepted by the employer to be directly relevant to the competency and skills used by the registered nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 23 of Table 2 of Schedule B to this Agreement.
 - (j) An enrolled nurse who holds a relevant certificate IV qualification in a clinical field (not including a certificate IV qualification which has the effect of upgrading the qualification leading to enrolment) that is accepted by the employer to be directly relevant to the competency and skills used by the enrolled nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 24 of Table 2 of Schedule B to this Agreement.
 - (k) The allowances set out in sub-clauses 21.5 (g), (h), (i) and (j) are not included in the employee's ordinary rate of pay and will not constitute part of the all-purpose rate.
 - (l) A registered nurse or enrolled nurse who is employed on a part-time or casual basis shall be paid these allowances on a pro rata basis.
 - (m) The rates for these allowances shall be adjusted in accordance with increases in other wage-related allowances contained in this Agreement.

21.6 Higher Duties Allowance

- (a) Subject to sub-clauses (b), (c) and (d) of this clause, 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 he or she so acts the minimum payment for such higher classification.
- (b) The provisions of sub clause (a) of this clause shall not apply where the employee of the higher classification is off duty pursuant to sub-clause 15.2(k) - Arrangement of Hours, except insofar as a Director of Nursing accumulates days off for a continuous period of one week or more; nor when an employee in a higher grade is absent from duty by reason of his/her additional day off duty as a consequence of working a 38 hour week.

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- (c) Further, the provisions of sub-clause (a) of this clause 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 pursuant to sub-clause 15.2(k) - Arrangement of Hours.
 - (d) Subject to sub-clauses (b) and (c) above, the provisions of sub-clause (a) shall not apply where a day worker is being relieved and is absent from duty for a period of three consecutive working days or less which have been rostered in advance.

PART 3 - LEAVE

22. ANNUAL LEAVE

22.1 The National Employment Standard

- (a) Employees are entitled to annual leave in accordance with the provisions of the Standard (refer to Division 6 of Part 2.2 of the Act).
- (b) Casual employees have no entitlement to annual leave.

Entitlement to annual leave

22.2 Amount of leave

For each year of service with his or her employer, an employee is entitled to:

- (a) 4 weeks of paid annual leave; or
- (b) 5 weeks of paid annual leave, if: clause 22.7 applies

Note: Section 196 affects whether FWA may approve an enterprise agreement covering an employee, if the employee is covered by a modern award that is in operation and defines or describes the employee as a shiftworker for the purposes of the National Employment Standards.

22.3 Accrual of Annual Leave

An employee's 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.

Note: If an employee's employment ends during what would otherwise have been a year of service, the employee accrues paid annual leave up to when the employment ends.

- (a) An employee shall accrue an amount of paid annual leave, for each completed 4 week period of continuous service with the employer, of $\frac{1}{13}$ of the number of ordinary hours worked by the employee for the employer during that 4 week period.

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- (b) Annual leave shall accrue on a pro-rata basis and be credited to the employee monthly.

22.4 Payment of Annual Leave

- (a) If an employee takes annual leave during a period, the annual leave shall be paid at the employee's ordinary pay immediately before the period begins.
- (b) 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.
- (c) Annual leave loading, if any, shall be paid in accordance with clause 22.8 of this Agreement

22.5 Taking of Annual Leave

- (a) An employee is entitled to take an amount of annual leave during a particular period if:
 - (i) at least that amount of annual leave is credited to the employee; and
 - (ii) the employer has authorised the employee to take the annual leave during that period.
- (b) In the taking of leave, the employee shall make written application to the employer, giving timely notice of the desired period of such leave.
- (c) 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.
- (d) **Extensive accumulated annual leave:** An employee must take an amount of annual leave during a particular period if:
 - (i) the employee is directed to do so by the employer;
 - (ii) at the time that the direction is given, the employee has annual leave credited to him or her of more than $\frac{1}{13}$ of the number of ordinary hours worked by the employee for the employer during the period of 104 weeks ending at the time that the direction is given; and
 - (iii) the amount of annual leave that the employee is directed to take is less than, or equal to, $\frac{1}{4}$ of the amount of credited annual leave of the employee at the time that the direction is given.
- (e) **Employee not taken to be on paid annual leave at certain times**

Public holidays

- (i) If the period during which an employee takes paid annual leave includes a day or part-day that is a public holiday in the place where

the employee is based for work purposes, the employee is taken not to be on paid annual leave on that public holiday.

Other periods of leave

- (ii) If the period during which an employee takes paid annual leave includes a period of any other leave (other than unpaid parental leave) under this Part, or a period of absence from employment under Division 8 (which deals with community service leave), the employee is taken not to be on paid annual leave for the period of that other leave or absence.

22.6 Cashing out of Annual Leave

- (a) Annual leave credited to an employee may be cashed out, subject to the following conditions:
 - (i) the employee must elect in writing to receive pay in lieu of an amount of annual leave;
 - (ii) during each 12 month period, an employee is not entitled to forgo an amount of annual leave that is equal to more than $\frac{1}{26}$ of the ordinary hours worked by the employee during the period;
 - (iii) the employer has agreed to the employee cashing out the annual leave; and
 - (iv) the payment in lieu of the amount of annual leave shall be at a rate that is no less than the employee's ordinary pay at the time that the election is made.
 - (v) paid annual leave must not be cashed out if the cashing out would result in the employees remaining accrued entitlement to paid annual leave being less than 4 weeks

22.7 Additional Annual Leave

(a) Shift Worker as defined by the Act

An employee is entitled to accrue an additional amount of paid annual leave, for each completed 12 month period of continuous service with the employer, of $\frac{1}{52}$ of the number of ordinary hours worked by the employee, for the employer, as a Shift Worker as defined in this agreement during that 12 month period.

- (i) all employees, other than shiftworkers, are entitled to 4 weeks paid annual leave.
- (ii) Shiftworkers are entitled to one additional week of Annual Leave

The additional paid annual leave set out in this sub-clause is not cumulative upon the additional paid annual leave set out in the next sub-clause 22.7(b). The entitlement set out in this sub-clause shall only apply in the event that it

provides a more favourable outcome for the employee and, if it does, then sub-clause 22.7(b) shall not apply.

(b) Counter Leave

Full-time employees and permanent part-time employees who are rostered to work their ordinary hours on Sundays and/or public holidays shall be entitled to receive additional paid annual leave if, during each 12 month period of continuous service the employee has worked:

	Full-time Employees	Permanent Part-time Employees
3 shifts or less	Nil	Nil
4 - 10 shifts	one day	0.2 weeks
11 - 17 shifts	two days	0.4 weeks
18 - 24 shifts	three days	0.6 weeks
25 - 31 shifts	four days	0.8 weeks
32 or more shifts	five days	1 week.

The additional paid annual leave set out in this sub-clause is not cumulative upon the additional paid annual leave set out in the previous sub-clause 22.7(a). The entitlement set out in this sub-clause shall only apply in the event that it provides a more favourable outcome for the employee and, if it does, then sub-clause 22.7(a) shall not apply.

22.8 Annual Leave Loading

- (a) 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 (b) of this clause, whichever is the greater.
- (b) A shift worker shall be paid whilst on annual leave his or her ordinary pay plus shift allowances and weekend penalties relating to ordinary time the shift worker would have worked if he/she 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 20 - Public Holidays or clause 22.7(b) - Counter Leave of this Agreement.
- (c) 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.
- (d) Where the employment of an employee is terminated for a cause other than misconduct and at the time of the termination the employee has not been given and has not taken the whole of the annual leave accrued as at their last

anniversary date, they shall be paid the leave loading for such leave on termination. No leave loading is payable on pro-rata leave on termination.

- (e) Where the employment of an employee is terminated for misconduct and at the time of the termination the employee has not been given and has not taken the whole of the annual leave accrued as at their last anniversary date, they shall not be paid the leave loading for such leave on termination.

22.9 Annual Leave and Service

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

23. PERSONAL/CARER'S LEAVE

23.1 The National Employment Standard

- (a) Employees are entitled to personal leave in accordance with the provisions of the Standard (refer to Part 2.2, Division 7 of the Act)..
- (b) Casual employees have no entitlement to paid personal/carer's leave, but do have an entitlement to unpaid carer's leave.

(c) Entitlement to paid personal/carer's leave

Amount of leave

- (i) For each year of service with his or her employer, an employee is entitled to 10 days of paid personal/carer's leave.

Accrual of leave

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

23.2 Meaning of Personal/Carer's Leave

Personal/carer's leave is either:

- (a) paid leave (**sick leave**) taken by an employee because of a personal illness, or injury, of the employee; or
- (b) paid or unpaid leave (**carer's 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.

23.3 Accrual of Paid Personal/Carer's Leave

- (a) Subject to the transitional arrangements of sub-clause 23.1(b), an employee shall accrue an amount of paid personal/carers leave, for each completed 4 week period of continuous service with the employer, of $\frac{1}{26}$ of the number of ordinary hours worked by the employee for the employer during that 4 week period.
- (b) Paid personal/carers leave shall accrue on a pro-rata basis and be credited monthly.
- (c) Paid personal/carers leave is cumulative.
- (d) No payment will be made in lieu of accumulated personal/carers leave.
- (e) Casual employees have no entitlement to paid personal/carers leave.

23.4 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.

23.5 Annual Limit - Paid Carer's Leave

- (a) The employee is not entitled to take paid carer's leave from his or her employment with the employer at the time if, during the period of 12 months ending at the time, the employee has already taken a total amount of paid carer's leave from that employment of $\frac{1}{26}$ of the ordinary hours worked by the employee for the employer during that period.
- (b) The annual limit on paid carer's leave set out in this clause shall not apply to sick leave accrued to that employee prior to 27 March 2006 subsequently taken as paid carer's leave.

23.6 Taking Unpaid Carer's Leave

- (a) An employee is entitled to a period of up to 2 days unpaid carer's 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:
 - (i) a personal illness, or injury, of the member; or
 - (ii) an unexpected emergency affecting the member.
- (b) 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.
- (c) An employee is entitled to unpaid carer's leave for a particular occasion only if the employee cannot take an amount of paid personal/carers leave.

23.7 Taking of Paid Sick Leave

- (a) An employee is entitled to use their paid personal/carer's leave entitlement as paid sick leave in accordance with the Standard.
- (b) An employee is not entitled to be paid sick leave whilst they are in receipt of workers' compensation payments.
- (c) 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.

- (d) 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:
 - (i) 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):
 - (A) if it is reasonably practicable to do so - a medical certificate from a medical practitioner;
 - (B) if it is not reasonably practicable for the employee to give the employer a medical certificate - a statutory declaration made by the employee; and
 - (ii) The document must include a statement to the effect that:
 - (A) if the document is a medical certificate - in the medical practitioner's opinion, the employee was, is, or will be unfit for work during the period because of a personal illness or injury; or
 - (B) 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.

23.8 Taking of Carer's Leave

- (a) An employee is entitled to use their paid personal/carer's leave entitlement as paid carer's leave in accordance with the Standard.
- (b) An employee who is entitled to a period of unpaid carer's leave is entitled to take the unpaid carer's leave as:
 - (i) a single, unbroken period of up to 2 days; or

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- (ii) any separate periods to which the employee and the employer agree.
 - (c) **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:
 - (i) a personal illness, or injury, of the member; or
 - (ii) 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.

- (d) **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:
 - (i) 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):
 - (A) if the care or support is required because of a personal illness, or injury, of the member - a medical certificate from a medical practitioner or a statutory declaration made by the employee;
 - (B) if the care or support is required because of an unexpected emergency affecting the member - a statutory declaration made by the employee; and
 - (ii) The document must include a statement to the effect that:
 - (A) if the document is a medical certificate - in the medical practitioner's opinion, the member had, has or will have a personal illness or injury during the period; or
 - (B) 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:
 - (I) a personal illness, or injury, of the member; or
 - (II) 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.

23.9 Employee taken not to be on paid personal/carers leave on public holiday

If the period during which an employee takes paid personal/carer's leave includes a day or part-day that is a public holiday in the place where the employee is based for work purposes, the employee is taken not to be on paid personal/carer's leave on that public holiday.

23.10 Payment for paid personal/carer's leave

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

24. COMPASSIONATE LEAVE

24.1 The National Employment Standard

- (a) Employees are entitled to compassionate leave in accordance with the provisions of the Standard (refer to Part 2.2, Division 7 of the Act).
- (b) 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 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.

24.2 Compassionate leave is paid leave taken by an employee:

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

24.3 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:

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

24.4 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.

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- 24.5 An employee who is entitled to a period of compassionate leave is entitled to take the compassionate leave as:
- (a) a single, unbroken period of 2 days; or
 - (b) 2 separate periods of 1 day each; or
 - (c) any separate periods to which the employee and the employer agree.
- 24.6 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.
- 24.7 A period of compassionate leave does not break an employee's continuity of service and compassionate leave counts as service for all purposes.
- 24.8 If an employee has to travel further than 100km they are entitled to take an extra day of compassionate leave
- 24.9 Notice and evidence requirements

Notice

- (a) An employee must give his or her employer notice of the taking of leave under this Division by the employee.
- (b) The notice:
 - (i) must be given to the employer as soon as practicable (which may be a time after the leave has started); and
 - (ii) must advise the employer of the period, or expected period, of the leave.

Evidence

- (a) An employee who has given his or her employer notice of the taking of leave under this Division must, if required by the employer, give the employer evidence that would satisfy a reasonable person that:
 - (i) if it is paid personal/carer's leave—the leave is taken for a reason specified in section 97; or
 - (ii) if it is unpaid carer's leave—the leave is taken for a permissible occasion in circumstances specified in subsection 103(1); or
 - (iii) if it is compassionate leave—the leave is taken for a permissible occasion in circumstances specified in subsection 105(1).

25. PARENTAL LEAVE

25.1 The National Employment Standard

- (a) Employees are entitled to parental leave in accordance with Part 2-2, Division 5 of the Act.

25.2 Paid Parental Leave

- (a) Full-time and part-time employees, who have completed at least 52 weeks of continuous service are eligible for unpaid parental leave, will also be entitled to paid parental leave at ordinary pay, from the date the parental leave commences.
- (b) Casual employees have no entitlement to parental leave unless they are eligible casual employees.
- (c) In addition to any government schemes paid parental leave includes:
 - (i) 9 weeks paid maternity leave for the birth mother;
 - (ii) 9 weeks paid adoption leave for the initial primary carer of the adopted child;
 - (iii) 1 week paid parental leave taken by the partner which must commence within four weeks of the birth of the child.
- (d) Unpaid parental leave includes:
 - (i) 1 week unpaid parental leave.
 - (ii) Unpaid parental leave commences from the date of the birth of the child
- (e) The father, partner of the birth mother, or partner of the initial primary carer of an adopted child is entitled to unpaid parental leave

26. LONG SERVICE LEAVE

26.1 The National Employment Standard

Employees shall be entitled to long service leave in accordance with Part 2-2, Division 9 of the Act.

An employee's entitlement to long service leave shall be in accordance with the provisions of this Agreement and the *Long Service Leave Act 1955 (NSW)* provided that should there be any inconsistency between that legislation and the provisions of this Agreement these provisions shall prevail.

- 26.2 (a) Each employee shall be entitled to two months long service leave on ordinary pay after ten years' service; thereafter additional long service leave shall

accrue on the basis of five months long service leave for each ten years' service. This additional leave may be taken on a pro-rata basis each five years after completing the initial 10 year period of service.

- (b) Where the services of an employee with at least five years' service are terminated by the employee or the employer he/she shall be entitled to be paid a proportionate amount on the basis of two months for ten years service if he/she resigns as a result of illness incapacity or domestic or other pressing necessity, or by reason of death. The employee is not entitled to this amount if he/she is dismissed for reasons of serious and wilful misconduct.

26.3 For the purpose of sub-clause 26.2:

- (a) service shall mean continuous service with any one employer/organisation;
- (b) service shall not include:
- (i) any period of leave without pay except in the case of employees who have completed at least ten years service (any period of absence without pay being excluded there from) in which case service shall include any period without pay not exceeding six months taken after 1 June, 1980;
- (ii) any period of service as a part-time worker except as provided for in sub-clause 26.6.

26.4 The employer shall give to each employee at least one month's notice of the date from which it is proposed that the employee's long service leave shall be given and taken. Long service leave shall be taken as soon as practicable having regard to the needs of the workplace, or where the employer and the employee agree, such leave may be postponed to an agreed date.

26.5 (a) On the termination of employment of an employee, otherwise than by his or her death, an employer shall pay to the employee the monetary value of all long service leave accrued and not taken at the date of such termination and such monetary value shall be determined according to the salary payable to the employee at the date of such termination.

- (b) Where an employee who has acquired a right to long service leave, or after having had five years' service and less than ten years' service dies, the widow or the widower of such employee or if there is no such widow or widower, the children of such employee, or if there is no such widow, widower or children such person who, in the opinion of the employer, was at the time of the death of such an employee, a dependent relative of such employee shall be entitled to receive the monetary value of the leave not taken or which would have accrued to such employee had his or her services terminated as referred to in sub-clause 26.2(b) and such monetary value shall be determined according to the salary payable to the employee at the time of his or her death.

Where there is a guardian of any children entitled under this sub-clause the payment to which such children are entitled may be made to such guardian for their maintenance, education and advancement.

Where there is no person entitled under this sub-clause to receive the monetary value of leave payable under the foregoing provisions payment in respect thereof shall be made to the legal personal representative of such employee.

- 26.6 Full-time and permanent part-time employees shall be entitled to have previous part-time service as a part-time worker which is the equivalent of at least two full days' duty per week taken into account for long service leave purposes in conjunction with full-time and/or permanent part-time service on the basis of the proportion that the actual number of hours worked each week bears to forty hours up until 30 April, 1985 and bears to thirty-eight hours on and from 1 May, 1985, provided the part-time service as a part-time worker merges without break with the subsequent full-time service or permanent part-time employment.
- 26.7 Where an 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.
- 26.8 Employees of the employer previously covered by long service leave provisions or arrangements contained in industrial instruments or State legislation will have their long service leave accrued entitlement carried over but the accrual and access to long service leave entitlements from the date of transfer shall be in accordance with this Agreement.

e.g. an employee with 15 years continuous service under an industrial instrument or State legislation at the time of transfer may have an accrued entitlement of 3 months long service leave. From this time onwards employees would accrue their entitlements in accordance with this Agreement, at the rate of 2.5 months for each five years service as the continuity of service for long service leave purposes is not affected by the entering into of this Agreement. Thus, after 20 years continuous service the employee would be entitled to 5.5 months long service leave, made up of 3 months under the previous industrial instrument or State legislation and a further 2.5 months under this Agreement.

27. REPATRIATION LEAVE

- 27.1 Employees who are ex-servicemen or ex-service women may be granted special leave in one or more periods up to a maximum of 6½ working days in any period of twelve months without deduction from annual or sick leave credits for the following purposes in connection with an accepted war-caused disability or in connection with an application to the Repatriation Department for a disability to be so accepted:
- (a) to attend a hospital or clinic or visit a medical officer in that regard;
 - (b) to attend a hospital, clinic or medical officer or to report for periodical examination or attention;
 - (c) to attend limb factories for the supply, renewal and repair of artificial replacements and surgical appliances.
- 27.2 Employees are to provide the employer with documentary evidence as to the attendance prior to the payment of special leave being granted.

28. LEAVE WITHOUT PAY

- 28.1 By agreement between the employer and a permanent employee, an employee may be granted a period of leave without pay.
- 28.2 The period of leave without pay will not break the continuity of service but will not count for the purpose of:
- (a) accruing annual leave, incremental progression, sick leave and public holidays;
 - (b) accruing long service leave except in the case of employees who have completed at least ten years service (any period of absence without pay being excluded there from) in which case service shall include any period without pay not exceeding six months taken after 1 June, 1980;
 - (c) qualifying period for paid and unpaid parental leave; and
 - (d) the calculation of notice and severance pay in accordance with clause 29 - Termination of Employment and clause 31 - Redundancy.

PART 4 - OTHER PROVISIONS

29. TERMINATION OF EMPLOYMENT

- 29.1. An Employee shall be entitled to Notice of termination and redundancy in accordance with Chapter 2, Part 2.2 – Division 11 of the Act.
- 29.2 Prior to reaching any decision to terminate the employment of an employee on grounds other than would justify summary dismissal, the employer will:
- (a) inform the employee that the termination of their employment is being considered;
 - (b) advise the employee of the reasons for termination; and
 - (c) provide the employee with an opportunity to show cause why their employment should not be terminated.
- 29.3 An employee shall be given reasonable time to respond, and shall be provided with details of any relevant material. Where a meeting is held with the employee, the employee is entitled to have a witness present. The witness may be e.g. a co-worker, a workplace union delegate, an officer of the union, a family member, or any other person.
- 29.4 Employment, other than of a casual, will be terminated only by appropriate notice on either side or by the payment by the employer or forfeiture by the employee of wages in lieu of notice. Provided that employment may be terminated by part of the period of notice specified, and part payment or forfeiture, in lieu of the period of notice specified. The employment of an employee on probation shall be terminated in accordance with sub-clause 13.1, and sub-clause 29.4 shall not apply to such employee.
- 29.5 **Notice of termination by the employer:**

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- | | | | |
|-----|-----|---|---------------------------------|
| (a) | (i) | <u>Period of Continuous Service</u> | <u>Minimum Period of Notice</u> |
| | | 1 year or less | 1 week |
| | | More than 1 year but not more than 3 years | 2 weeks |
| | | More than 3 years but not more than 5 years | 3 weeks |
| | | More than 5 years | 4 weeks |
- (ii) A Director of Nursing shall be entitled to four weeks notice.
- (iii) A Care Service Employee Grade 5 shall be entitled to four weeks notice.
- (b) Employees (other than casuals) aged 45 years or older will be entitled to an additional one week's notice if the employee has completed at least two years continuous service for the employer.
- (c) Casuals are to be given notice to the end of the current shift worked.

29.6 Notice by employee -

- (a) Subject to sub-clauses 29.5(b), (c) and (d), employees shall give the employer one week's notice of termination in writing.
- (b) A Director of Nursing shall give four (4) weeks notice of termination in writing.
- (c) A Care Service Employee Grade 5 shall give four (4) weeks notice of termination in writing.
- (d) Casuals shall only be required to give notice to the end of the current shift worked.
- 29.7 The employer may, without notice, summarily dismiss an employee at any time for serious misconduct or wilful disobedience. Payment is up to the time of dismissal only.
- 29.8 The employer will give the employee a statement signed by the employer stating the period of employment and when the employment was terminated if the employee requests.

29.9 Abandonment of Employment

Where an employee is absent from work for a continuous period of two working days without the consent of the employer, and without notification to the employer, the employer shall be entitled to inform the employee by written correspondence that unless the employee provides a satisfactory explanation for her or his absence within two days of the receipt of such a request, the employee will be considered to have abandoned employment.

30. CONSULTATION REGARDING MAJOR WORKPLACE CHANGE

This clause applies if:

30.1 Employer to notify

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

30.2 Employer to discuss change

- (a) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 30.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (b) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 30.1.
- (c) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

31. REDUNDANCY

31.1 Redundancy

In addition to the period of notice prescribed for ordinary termination, where the Employee's employment is terminated in circumstances where the Employer no longer wishes the job the Employee has been doing to be done by anyone and this is not due to the customary turnover of labour, the Employee will be entitled to the following amount of severance pay in respect of continuous periods of service:

Minimum Years of Service:

Redundancy Pay

1 year or less	nil
At least 1 year but less than 2 years	4 weeks pay
At least 2 years but less than 3 years	7 weeks pay
At least 3 years but less than 4 years	10 weeks pay
At least 4 years but less than 5 years	12 weeks pay
At least 5 years but less than 6 years	14 weeks pay
At least 6 years and over	16 weeks pay

- (a) 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
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

- (b) "Weeks pay" means the rate of pay for the employee concerned at the date of termination, and shall include in addition to the ordinary pay any over-agreement payments and the following, if applicable:
- (c) shift allowances as prescribed in sub-clauses 19.1 and 19.2 -Shift and Weekend Work;
- (d) weekend penalties as prescribed in sub-clause 19.3 -Shift and Weekend Work;

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- (e) broken shift allowances as prescribed in clause 15.4 - Broken Shifts;
 - (f) apprentices' TAFE examination allowances as prescribed in clause 14.5(d) - Other Entitlements; and

31.2 The term 'weeks pay' means the Ordinary Hourly Rate of pay for the Employee listed in Schedule 2 multiplied by the average actual hours worked over the preceding 12 months.

31.3 The Employer will not be obliged to make a severance payment if the Employer obtains suitable alternative employment for the Employee, which the Employee either accepts or unreasonably rejects.

31.4 For the purposes of this clause, "continuous service" shall be interpreted in the same manner as "service of a worker" is interpreted in the *Long Service Leave Act 1955 (NSW)* as at the date this Agreement comes into operation. Periods of leave without pay, including parental leave without pay, do not break the continuity of service of an employee but are not to be taken into account in calculating length of service for the purposes of this clause.

32. WORKLOAD MANAGEMENT

32.1 The parties to this agreement acknowledge that employees and management have a responsibility to maintain a balanced workload and recognise the adverse affects that excessive workloads may have on employee/s and the quality of resident/client care.

32.2 To ensure that employee concerns involving excessive workloads are effectively dealt with by Management the following procedures should be applied:

- (a) In the first instance, employee/s should discuss the issue with their immediate supervisor and, where appropriate, explore solutions.
- (b) If a solution cannot be identified and implemented, the matter should be referred to an appropriate senior manager for further discussion.
- (c) If a solution still cannot be identified and implemented, the matter should be referred to the Facility Manager for further discussion.
- (d) The outcome of the discussions at each level and any proposed solutions should be recorded in writing and fed back to the effected employees.

32.3 Workload management must be an agenda item at staff meetings on at least a quarterly basis. Items in relation to workloads must be recorded in the minutes of the staff meeting, as well as actions to be taken to resolve the workloads issue/s. Resolution of workload issues should be based on the following criteria including but not limited to:

- (a) Clinical assessment of residents' needs;
- (b) The demand of the environment such as facility layout;
- (c) Statutory obligation, (including, but not limited to, workplace health and safety legislation;

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- (d) The requirements of nurse regulatory legislation;
 - (e) Reasonable workloads;
 - (f) Accreditation standards; and
 - (g) Budgetary considerations.

32.4 If the issue is still unresolved, the employee/s may advance the matter through Clause 40 - Grievance and Disputes Resolution Procedures. Arbitration of workload management issues may only occur by agreement of all parties.

33. LABOUR FLEXIBILITY AND MIXED FUNCTIONS

- 33.1 The employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training
- 33.2 The employer may direct an employee to carry out such duties and use such tools and equipment as may be required, provided the employee possesses the relevant skills and competence to perform such tasks. Where the employee does not possess such skills and competence, appropriate training shall be facilitated.
- 33.3 Any direction issued by the employer pursuant to sub-clauses 33.1 and/or 33.2 shall be consistent with the employer's responsibility to provide a safe and healthy working environment for employees, and the employer's duty of care to residents and/or clients.
- 33.4 Where an employer has decided there is no longer a requirement for a Deputy Director of Nursing or an Assistant Director of Nursing to be appointed in a workplace, the employer shall ensure that the workload previously performed by that nurse manager is adequately allocated to other management staff, and that the workloads of all other nurses on the nursing care roster within that workplace will remain consistent with their substantive role, duties and classifications.

34. REMUNERATION PACKAGING

Where agreed between the employer and an employee, the employer may introduce remuneration packaging. The terms and conditions of such a package may make provision for a salary greater than that contained in the salary band. The package overall shall not be less favourable than the entitlements otherwise available under this Agreement on a global or overall basis and shall be subject to the following provisions:

- (a) the employer shall ensure that the structure of any package complies with taxation and other relevant laws;
- (b) the employer shall confirm in writing to the employee the classification level and the current salary payable as applicable to the employee under this Agreement;
- (c) the employer shall advise the employee in writing of his or her right to choose payment of that salary referred to in sub-clause (b) above instead of a remuneration package;

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- (d) the employer shall advise the employee, in writing, that all Agreement conditions, other than the salary and those conditions as agreed in sub-clause (e) below shall continue to apply;
 - (e) when determining the remuneration package, the non-salary fringe benefit shall be in accordance with relevant Australian Taxation Office legislation;
 - (f) a copy of the agreement shall be made available to the employee;
 - (g) the employee shall be entitled to inspect details of the payments made under the terms of this agreement;
 - (h) the configuration of the remuneration package shall remain in force for the period agreed between the employee and the employer;
 - (i) where at the end of the agreed period the full amount allocated to a specific benefit has not been utilised, by agreement between the employer and the employee, an unused amount may be carried forward to the next period, or paid as salary which will be subject to usual taxation requirements;
 - (j) remuneration packaging is only offered on the strict understanding and agreement that in the event existing taxation law is changed regarding Fringe Benefit Tax or personal tax arrangements, and that change may impact on this agreement, all salary packaging arrangements may at the discretion of the employer be terminated. Upon termination in these circumstances the employee's rate of pay will revert to the rate of pay that applied immediately prior to a salary packaging agreement made pursuant to this clause, or the appropriate Agreement rate of pay whichever is greater;
 - (k) where changes are proposed to salary packaging arrangements other than to flow on wage increases, or salary packaging arrangements are to be cancelled for reasons other than legislative requirements, then the employer and/or the employee must give three months notice of the proposed change;
 - (l) in the event that an employee ceases to be employed by the employer this agreement will cease to apply as at the date of termination and all leave entitlements due on termination shall be paid at the rates in accordance with sub-clause (b) above. Any outstanding benefit shall be paid on or before the date of termination; and
 - (m) any pay increases granted to employees under this Agreement shall also apply to employees subject to remuneration packaging arrangements within this clause.

35. SUPERANNUATION

35.1 The employer will make superannuation contributions into an approved Superannuation Fund nominated by the employee in accordance with the Superannuation Guarantee (SG) legislation as varied from time to time.

35.2 An 'approved fund' means:

- (a) the Health Employees' Superannuation Trust Australia (H.E.S.T.A.);

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- (b) the Health Industry Plan;
 - (c) the First State Super;
 - (d) the Health Super; or
 - (e) any agreed complying superannuation fund; provided that the employer shall not unreasonably withhold agreement unless it establishes good and proper reasons for the withholding of agreement.
- 35.3 An employee will nominate one approved fund to which all statutory superannuation contributions shall be paid.
- 35.4 Should an employee fail to nominate a fund, the employer will choose one of the above approved funds as the default fund into which contributions shall be paid under this Agreement.
- 35.5 The superannuation contributions will be paid at ordinary time earnings, which for the purpose of this Agreement include ordinary time worked on public holidays and public holiday loadings.
- 35.6 **Contributions:**
- The employer shall make, in respect of qualified employees, superannuation contributions into an approved fund on a monthly basis. With respect to casual employees, contributions shall be remitted at least quarterly.
- 35.7 **Salary Sacrifice to Superannuation**
- (a) 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.
 - (b) 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.
 - (c) 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 SG legislation.
 - (d) Contributions payable by the employer in relation to the SG 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.
 - (e) Any additional superannuation contributions made in accordance with this clause shall be paid into the same superannuation fund that receives the employer's SG contributions.
 - (f) 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

36. ATTENDANCE AT MEETINGS

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 ordinary pay per hour 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 shall not be viewed as overtime for the purposes of this Agreement.

36.1 UNION REPRESENTATION RIGHTS

- (a) A recognised workplace representative will be released from the performance of normal duty for reasonable periods to:
- represent employees in bargaining;
 - represent the interests of employees to the employer and to industrial tribunals or courts;
 - undertake necessary preparation for bargaining or other meetings in which they will represent employees' interests. This includes consulting with the employees that they represent;
 - meet the employer to represent employee interests;
 - address new employees about the benefits of union membership at the time they enter employment; and
 - distribute official union publications at a time convenient to the workplace.

While undertaking the activities listed in the preceding clause on a normal rostered day on duty, the recognised workplace representative will be regarded as being on duty and will not be required to apply for leave. They will be paid "ordinary time earnings" i.e. the classification rate, superannuation and shift loading which would otherwise be paid. The recognised workplace representative will not be entitled to overtime at the end of the roster cycle as a consequence of undertaking these activities.

- (b) Recognised workplace representatives 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 recognised workplace representative including consulting with workplace colleagues and their union, at times and place as agreed to between management and union representatives

37. TRAINING

- 37.1 Employees will be given on-going training as necessary, relevant to their roles and responsibilities.
- 37.2 Each employee shall provide to the employer details of their attendance at training and the employer shall keep a record of this attendance.
- 37.3 Upon termination of the employee's employment the employer shall provide to the employee a written statement of the hours of training attended by the employee.
- 37.4 Where practicable, such training shall be provided to employees during their normal rostered hours of work. Where this is not practicable:
- (a) Employees shall attend training outside their normal rostered working hours when required to do so by the employer;
 - (b) The employer shall provide employees with two (2) weeks notice of the requirement to attend training outside of their normal rostered working hours;
 - (c) Notwithstanding Clause 18 - Overtime, attendance at such training shall be paid ordinary pay for the period of training.
 - (d) The employer requiring an employee to attend training shall also pay to the employee ordinary pay for time travelling to and from a period of training referred to in sub-clause (c) that is in excess of the time normally taken for that employee to attend work.
 - (e) When receiving travelling time as set out in sub-clause (d), an employee using his or her own vehicle for attendance at such training shall be paid the per kilometre allowance set out in Item 5 of Table 2 of Schedule B to this Agreement.
 - (f) Training provided outside the normal rostered hours of work shall be arranged so as to allow full-time employees to have at least eight or ten hours off-duty before or after training and the end or beginning of their shift, whichever is applicable as set out in Clause 15 - Hours. Where practicable, similar arrangements should also be made available to all other employees.
 - (g) Any training undertaken by an employee that occurs at a workplace is not intended to replace or supplement staffing levels and the normal levels of service delivery at such a workplace.
 - (h) Notwithstanding sub-clause 15.2(i) - Hours, sub-clause 18.2 - Overtime will not apply where attendance at such training is outside the normal rostered working time of other than full-time employees and where it interrupts the applicable eight or ten hour break between shifts.

38. AMENITIES

- 38.1 The minimum standards as set out in all relevant occupational health and safety legislation shall be met in the provision of amenities to employees.
- 38.2 Such amenities may include:

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- (a) change rooms and lockers;
 - (b) meal room;
 - (c) facilities for boiling water, warming and refrigerating food and for washing and storing dining utensils;
 - (d) rest room;
 - (e) washing and bathing facilities;
 - (f) sanitary conveniences; and
 - (g) safe and secure workplace.

38.3 Sub-clauses 38.1 and 38.2 shall not apply to community care employees.

38.4 This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

39. GRIEVANCE AND DISPUTE RESOLUTION PROCEDURES

39.1 Unless otherwise stated the terms "party" or "parties" referred to in this clause means the employer and/or the employees, as the context requires.

39.2 This dispute resolution procedure will apply to disputes about:

- (a) any matters arising in the employment relationship, except matters relating to the actual termination of employment of an employee;
- (b) threatened termination, with the exception that the arbitration provisions in subclause 40.6 do not apply unless the parties agree. Further, the parties rights are reserved during this process and the employer may exercise there right to terminate the employee in accordance with the agreement;
- (c) matters in relation to the NES as of 1 January 2010;
- (d) whether an employer had reasonable business grounds under subsection 65(5) of the Act - (requests for flexible working arrangements) or 76(4) of the Act - (requests for extending unpaid parental leave).

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

39.4 In the event of a dispute the parties will initially attempt to resolve the matter at the workplace level, including, but not limited to:

- (a) the employee and his or her supervisor discussing the matter; and
- (b) if the matter is still not resolved the parties arranging further discussions involving more senior levels of management (as appropriate).

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- 39.5 If a dispute is unable to be resolved at the workplace, in accordance with subclause 40.4, a party to the dispute may refer the matter to FWA or other appropriate statutory tribunal.
- 39.6 The parties agree that FWA shall have the power to do all such things as are necessary for the just resolution of the dispute including mediation, conciliation and finally arbitration.

While the dispute resolution procedure is being conducted, work must continue in accordance with this agreement and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace that is safe and appropriate for the employee to perform.

PART 9: AGREEMENT SIGNATORIES

The signatories below confirm that this Agreement has been made and approved in accordance with Part 2-4 of the Fair Work Act 2009 (Cth)

For and on behalf of the Employer

Print Name: PAULINE RUTH CHEW

Signature: [Signature]

Capacity: RESIDENTIAL CARE WING Date: 29th December 2010

Address: 110 WARRIN STREET RICHMOND 2753 NSW

Witnessed By:

Print Name: KRISTEN GOWER

Signature: [Signature]

Address: 2 REEDE PLACE WINSTON HILLS

Date: 29-12-10

For and on behalf of the Employee

Print Name: _____

Signature: _____

Capacity: _____ Date: _____

Address: _____

Witnessed By:

Print Name: _____

Signature: _____

Address: _____

Date: _____

For and on behalf of the HSU - East

Print Name: _____

Signature: _____

Capacity: _____ Date: _____

Address: _____

Witnessed By:

Print Name: _____

For and on behalf of the NSW Nurses' Association

Print Name: Judith Kiejda

Signature: [Signature]

Capacity: Act General Secretary Date: 6.1.11

Address: 50 O'Sea Av Waterloo NSW 2017

Witnessed By:

Print Name: Rhonda Kassir

PART 9: AGREEMENT SIGNATORIES

The signatories below confirm that this Agreement has been made and approved in accordance with Part 2-4 of the Fair Work Act 2009 (Cth)

For and on behalf of the Employer

Print Name: Patricia Ruth Chew

Signature: [Signature]

Capacity: Residential Care Manager Date: 29th December 2010

Address: 110 March Street Richmond 2753 NSW

Witnessed By:

Print Name: Kristen Gower

Signature: [Signature]

Address: 2 Pelee Place Winston Hills

Date: 29-12-10

For and on behalf of the Employee

Print Name: Annette Tomlinson

Signature: [Signature]

Capacity: AIN Date: 30/12/10

Address: C/O 110 March St Richmond

Witnessed By:

Print Name: Rachel Coultch

Signature: [Signature]

Address: C/O 110 March St Richmond

Date: 30/12/10

For and on behalf of the HSU - East

Print Name: _____

Signature: _____

Capacity: _____ Date: _____

Address: _____

Witnessed By:

Print Name: _____

For and on behalf of the NSW Nurses' Association

Print Name: _____

Signature: _____

Capacity: _____ Date: _____

Address: _____

Witnessed By:

Print Name: _____

PART 9: AGREEMENT SIGNATORIES

The signatories below confirm that this Agreement has been made and approved in accordance with Part 2-4 of the Fair Work Act 2009 (Cth)

For and on behalf of the Employer

Print Name: _____

Signature: _____

Capacity: _____ Date: _____

Address: _____

Witnessed By

Print Name: _____

Signature: _____

Address: _____

Date: _____

For and on behalf of the Employee

Print Name: _____

Signature: _____

Capacity: _____ Date: _____

Address: _____

Witnessed By:

Print Name: _____

Signature: _____

Address: _____

Date: _____

For and on behalf of the HSU - East

Print Name: M. J. [Signature]

Signature: [Signature]

Capacity: GENERAL SECRETARY Date: _____

Address: 28/109 [Signature]

Witnessed By:

Print Name: A. J. [Signature]

For and on behalf of the NSW Nurses' Association

Print Name: _____

Signature: _____

Capacity: _____ Date: _____

Address: _____

Witnessed By

Print Name: _____

SCHEDULE A - EMPLOYMENT CLASSIFICATIONS

This Schedule contains the following employment classifications and definitions:

I. GENERAL EMPLOYMENT CLASSIFICATIONS

II. NURSES' EMPLOYMENT CLASSIFICATIONS

I. GENERAL EMPLOYMENT CLASSIFICATIONS

The following employment classifications and definitions apply to this Agreement:

1. CARE SERVICE EMPLOYEES

- 1.1 **Care Service Employee New Entrant** means an employee with less than 500 hours work experience in this industry who performs basic duties under direct supervision. Such employees perform routine functions requiring understanding of clear rules and procedures. Work is performed using established practices, procedures and instructions including compliance with documentation requirements as determined by the employer. Problems should be referred to a more senior staff member. Indicative tasks an employee at this level may perform are as follows:

Typical Duties - New Entrant - Care Stream: Carry out simple tasks under supervision to assist a higher grade Care Service Employee attending to the personal needs of residents.

Typical Duties - New Entrant - Support Stream: General assistance to higher grade employees in the full range of domestic duties.

Typical Duties - New Entrant - Maintenance Stream: General labouring assistance to higher grade employees in the full range of gardening and maintenance duties.

- 1.2 **Care Service Employee Grade 1** means an employee who has 500 hours work experience in the industry or who has or can demonstrate relevant prior experience, acceptable to the employer, which enables the employee to work effectively at this level. A Junior Employee (less than 18 years) when classified at this grade may be paid as a new entrant. An employee who works under limited supervision individually or in a team environment or on sleep-over. Employees at this level work within established guidelines including compliance with documentation requirements as determined by the employer. In some situations detailed instructions may be necessary. Indicative tasks an employee at this level may perform are as follows:

Typical Duties - Grade 1 - Care Stream: Under limited supervision, provide assistance to residents in carrying out simple personal care tasks which shall include but not be limited to: supervise daily hygiene eg assisting with showers or baths, shaving, cutting nails; lay out clothes and assist in dressing; make beds and tidy rooms; store clothes and clean wardrobes; assist with meals. Under direct

supervision, provide assistance to a higher Grade Care Service Employee in attending to the personal care needs of a resident.

Typical Duties - Grade 1 - Support Stream: Performance under limited supervision of the full range of Domestic duties including but not limited to: general cleaning of accommodation, food service, and general areas; general waiting, table service and clearing duties; assistance in the preparation of food, including the cooking and/or preparation of light refreshments; all laundry duties.

Typical Duties - Grade 1 - Maintenance Stream: Performance under limited supervision of labouring duties associated with gardening and general maintenance activities, including but not limited to: sweeping; hosing; garbage collection and disposal; keeping the outside of buildings clean and tidy; mowing lawns and assisting the gardener in labouring.

- 1.3 **Care Service Employee Grade 2** means an employee with relevant experience who works individually or in a team environment, and is responsible for the quality of their own work, subject to general supervision, including compliance with documentation requirements as determined by the employer. Indicative tasks an employee at this level may perform are as follows:

Typical Duties - Grade 2 - Care Stream: Provide a wide range of personal care services to residents, under limited supervision, in accordance with Commonwealth and State Legislative requirements, and in accordance with the resident's Care Plan, including: assist and support residents with medication utilising medication compliance aids; simple wound dressing; Implementation of continence programs as identified in the Care Plan; attend to routine urinalysis, blood pressure, temperature and pulse checks; blood sugar level checks etc and assist and support diabetic residents in the management of their insulin and diet, recognising the signs of both Hyper and Hypo-Glycemia. recognise, report and respond appropriately to changes in the condition of residents, within the skills and competence of the employee and the policies and procedures of the organisation; assist in the development and implementation of resident care plans; assist in the development and implementation of programs of activities for residents, under the supervision of a Care Service Employee Grade 3 or above, or a Diversional Therapist.

Typical Duties - Grade 2 - Support Stream: Assist a higher grade worker in the planning, cooking and preparation of the full range of meals. Drive a Sedan or Utility.

Typical Duties - Grade 2 - Maintenance Stream: Undertake basic repairs to buildings, equipment, appliances, and similar items not calling for trades skills or knowledge. Work with and undertake limited coordination of the work of other maintenance workers. Where no tradesperson is employed, an employee at this level may be called upon to perform tasks falling within the scope of trades skills, provided the time involved in performing such work, is paid at the rate of Care Service Employee Grade 3. Perform gardening duties. Provide advice on planning and plant maintenance. Attend to indoor plants, conduct recycling and re-potting schedules. Carry out physical inspections of property and premises and report.

1.4 Care Service Employee Grade 3 means an employee who holds either a Certificate Level III in Aged Care Work or other appropriate Qualifications/Experience acceptable to the employer and:

- (a) is designated by the employer as having the responsibility for leading and/or supervising the work of others; or
- (b) is required to work individually with minimal supervision and has been designated by the employer as having overall responsibility for a particular function within the residential aged care facility.

An employee who holds appropriate Trade Qualifications and is required to act on them. Where the work of such employee requires the holding of a licence, the licence allowance from the applicable State trades award shall be paid. Employees at this level may be required to plan, direct, and train staff and comply with documentation requirements as determined by the employer and assist in the development of budgets. Indicative tasks an employee at this level may perform are as follows:

Typical Duties – Grade 3 - Care Stream: Coordinate and direct the work of staff. Schedule work programs on a routine and regular basis. Develop and implement programs of activities for residents. Develop resident care plans.

Typical Duties - Grade 3 - Support Stream: Responsible for the planning, ordering and preparing of all meals. Responsible for the provision of domestic services. Schedule work programs on a routine and regular basis. Coordinate and direct the work of staff. Drive a Minibus or Larger Vehicle.

Typical Duties - Grade 3 - Maintenance Stream: Carry out maintenance, repairs, gardening and other tasks falling within the scope of trades skills. Undertake the more complicated repairs to equipment and appliances calling for trades skills. Coordinate and direct the work of staff performing gardening duties. Schedule work programs on a routine and regular basis.

1.5 Care Service Employee Grade 4 means:

- (a) **Level One:** An employee who holds a Certificate IV in Aged Care Work (CHC40102) or other appropriate qualifications/experience acceptable to the employer is required to act on them and:
 - (i) is designated by the employer as having the responsibility for leading and/or supervising the work of others in excess of that required for a CSE 3; and
 - (ii) is required to work individually with minimal supervision.

Employees at Grade 4 may be required to exercise any/all managerial functions in relation to the operation of the care service and comply with documentation requirements as determined by the employer. Indicative tasks an employee at this level may perform are as follows.

Typical Duties – Grade 4 - Level 1 - Care Stream: Overall responsibility for the provision of personal care to residents. Coordinate and direct the work of staff. Schedule work programs.

Typical Duties - Grade 4 - Level 1 - Support Stream: Coordinate and direct the work of staff involved with the preparation and delivery of food. Schedule work programs.

Typical Duties - Grade 4 - Level 1 - Maintenance Stream: Coordinate and direct the work of staff performing gardening duties. Schedule gardening work programs. Where required, let routine service contracts associated with gardening.

(b) **Level Two:** An employee who is required to deliver medication to residents in residential aged care facilities:

(i) previously defined as Nursing Homes (as at 31 December 2004) by the Nursing Homes Act 1988 (NSW); or

(ii) in which more than 80% of places are "allocated high care places" as defined in the Aged Care Act 1997 (Cth).

An employee at this level must hold the following qualifications, which may be varied from time to time by the relevant National Vocational, Education and Training Body:

(iii) a Certificate III in Aged Care Work (CHC30102); and

(iv) a Certificate IV in Aged Care Work (CHC40102); and

(v) medication module – "Provide Physical Assistance with Medication" (CHCCS303A); or

Hold other appropriate qualifications acceptable to the employer.

Employees at this level may be required to perform the duties of a CSE 4 - Level 1.

1.6 Care Service Employee Grade 5

This grade shall only apply to employees having responsibility for supervision of the care service. An employee who may be required to have and use any additional qualifications than would be required for a grade 4 employee. Employees at this level may be required to exercise any/all managerial functions in relation to the operation of the care service and comply with documentation requirements as determined by the employer

1.7 Other

"Catering Officer" means a person who is responsible for catering services.

"Diversional Therapist" means a person who provides, facilitates and co-ordinates group and individual leisure and recreational activities. This person must be a graduate from an approved university course which includes: the Associate Diploma and Diploma of Applied Science (Diversional Therapy) at the University of Sydney; Bachelor of Applied Sciences (Leisure and Health) at the University of Sydney; Bachelor of Applied Science (Diversional Therapy) at the University of Western Sydney, Macarthur; the Diploma or Bachelor of Health Sciences (Leisure and Health) at Charles Sturt University; the Associate Diploma course in Diversional Therapy conducted by the Cumberland College of Health Sciences; or who has such other qualifications deemed to be equivalent.

"Maintenance Supervisor (Tradesperson)" means an employee who has trade qualifications and has overall responsibility for maintenance at the place of employment and may be required to supervise other maintenance staff.

"Maintenance Supervisor (Otherwise)" means an employee who is required to perform maintenance duties as required and who may be required to supervise other maintenance staff and has overall responsibility for maintenance at the place of employment.

2. COMMUNITY CARE EMPLOYEES

3. CLERICAL & ADMINISTRATIVE EMPLOYEES

- (a) Grades: All employees shall be graded in one of the following grades and informed accordingly in writing within 14 days of appointment to the position held by the employee and subsequent graded positions.
- (b) An employee shall be graded in the grade where the principal function of his or her employment, as determined by the employer, is of a clerical nature and is described in subclauses (c) to (g) of this clause.
- (c) **A Clerical & Administrative Employee Grade 1** position is described as follows:
 - (i) The employee may work under direct supervision with regular checking of progress.
 - (ii) An employee at this grade applies knowledge and skills to a limited range of tasks. The choice of actions required is clear.
 - (iii) Usually work will be performed within established routines, methods and procedures that are predictable, and which may require the exercise of limited discretion.

Indicative tasks an employee at this level may perform are as follows:

Grade 1 - Information Handling: Receive and distribute incoming mail; receive and dispatch outgoing mail; collate and dispatch documents for bulk mailing; file and retrieve documents

Grade 1 - Communication: Receive and relay oral and written messages; complete simple forms.

Grade 1 - Enterprise: Identify key functions and personnel; apply office procedures.

Grade 1 - Technology: Operate office equipment appropriate to the tasks to be completed; open computer file, retrieve and copy data; close files

Grade 1 - Organisational: Plan and organise a personal daily work routine.

Grade 1 - Team: Complete allocated tasks.

Grade 1 - Business Financial: Record petty cash transactions; prepare banking documents; prepare business source documents.

(d) **A Clerical & Administrative Employee Grade 2 position is described as follows:**

- (i) The employee may work under routine supervision with intermittent checking.
- (ii) An employee at this grade applies knowledge and skills to a range of tasks. The choice of actions required is usually clear, with limited complexity in the choice.
- (iii) Work will be performed within established routines, methods and procedures, which involve the exercise of some discretion and minor decision making.

Indicative tasks an employee at this level may perform are as follows:

Grade 2 - Information Handling: Update and modify existing organisational records; remove inactive files; copy data on to standard forms.

Grade 2 - Communication: Respond to incoming telephone calls; make telephone calls; draft simple correspondence.

Grade 2 - Enterprise: Provide information from own function area; re-direct inquiries and/or take appropriate follow-up action; greet visitors and attend to their needs.

Grade 2 - Technology: Operate equipment; identify and/or rectify minor faults in equipment; edit and save information; produce document from written text using standard format; shutdown equipment.

Grade 2 - Organisational: Organise own work schedule; know roles and functions of other employees.

Grade 2 - Team: Participate in identifying tasks for team; complete own tasks; assist others to complete tasks.

Grade 2 - Business Financial: Reconcile invoices for payment to creditors; prepare statements for debtors; enter payment summaries into journals; post journals to ledger.

(e) A **Clerical & Administrative Employee Grade 3** position is described as follows:

- (i) The employee may work under limited supervision with checking related to overall progress.
- (ii) An employee at this grade may be responsible for the work of others and may be required to co-ordinate such work.
- (iii) An employee at this grade applies knowledge with depth in some areas and a broad range of skills. Usually work will be performed within routines, methods and procedures where some discretion and judgement is required.

Indicative tasks an employee at this level may perform are as follows:

Grade 3 - Information Handling: Prepare new files; identify and process inactive files; record documentation movements.

Grade 3 - Communication: Respond to telephone, oral and written requests for information; draft routine correspondence; handle sensitive inquiries with tact and discretion.

Grade 3 - Enterprise: Clarify specific needs of client/other employees; provide information and advice; follow-up on client/employee needs; clarify the nature of a verbal message; identify options for resolution and act accordingly.

Grade 3 - Technology: Maintain equipment; train others in the use of office equipment; select appropriate media; establish document structure; produce documents.

Grade 3 - Organisational: Co-ordinate own work routine with others; make and record appointments on behalf of others; make travel and accommodation bookings in line with given itinerary.

Grade 3 - Team: Clarify tasks to achieve group goals; negotiate allocation of tasks; monitor own completion of allocated tasks.

Grade 3 - Business Financial: Reconcile accounts to balance; prepare bank reconciliations; document and lodge takings at bank; receive and document payment/takings; dispatch statements to debtors; follow up and record outstanding accounts; dispatch payments to creditors; maintain stock control records.

(f) A **Clerical & Administrative Employee Grade 4** position is described as follows:

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- (i) The employee may be required to work without supervision, with general guidance on progress and outcomes sought. Responsibility for the organisation of the work of others may be involved.
 - (ii) An employee at this grade applies knowledge with depth in some areas and a broad range of skills. There is a wide range of tasks, and the range and choice of actions required will usually be complex.
 - (iii) An employee at this grade applies competencies usually applied within routines, methods and procedures where discretion and judgement is required, for both self and others.

Indicative tasks an employee at this level may perform are as follows:

Grade 4 - Information Handling: Categorise files; ensure efficient distribution of files and records; maintain security of filing system; train others in the operation of the filing system; compile report; identify information source(s) inside and outside the organisation.

Grade 4 - Communication: Receive and process a request for information; identify information source(s); compose report/correspondence.

Grade 4 - Enterprise: Provide information on current service provision and resource allocation within area of responsibility; identify trends in client requirements.

Grade 4 - Technology: Maintain storage media; devise and maintain filing system; set printer for document requirements when various setups are available; design document format; assist and train network users; shutdown network equipment.

Grade 4 - Organisational: Manage diary on behalf of others; assist with appointment preparation and follow up for others; organise business itinerary; make meeting arrangements; record minutes of meeting; identify credit facilities; prepare content of documentation for meetings.

Grade 4 - Team: Plan work for the team; allocate tasks to members of the team; provide training for team members.

Grade 4 - Business Financial: Prepare financial reports; draft financial forecasts/budgets; undertake and document costing procedures.

- (g) **A Clerical & Administrative Employee Grade 5 position is described as follows:**

- (i) The employee may be supervised by professional staff and may be responsible for the planning and management of the work of others.
- (ii) An employee at this grade applies knowledge with substantial depth in some areas, and a range of skills, which may be varied or highly specific. The employee may receive assistance with specific problems.

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- (iii) An employee at this grade applies knowledge and skills independently and non-routinely. Judgement and initiative are required.

Indicative tasks an employee at this level may perform are as follows:

Grade 5 - Information Handling: Implement new/improved system; update incoming publications; circulate publications; identify information source(s) inside and outside the organisation.

Grade 5 - Communication: Obtain data from external sources; produce reports; identify need for documents and/or research.

Grade 5 - Enterprise: Assist with the development of options for future strategies; assist with planning to match future requirements with resource allocation.

Grade 5 - Technology: Establish and maintain a small network; identify document requirements; determine presentation and format of document and produce it.

Grade 5 - Organisational: Organise meetings; plan and organise conference.

Grade 5 - Team: Draft job vacancy advertisement; assist in the selection of staff; plan and allocate work for the team; monitor team performance; organise training for team.

Grade 5 - Business Financial: Administer PAYE salary records; process payment of wages and salaries; prepare payroll data.

- (h) Any employee paid on a classification/grade carrying a higher wage rate as at 10 November, 1998 shall have the difference between the higher rate and the new agreed grade/rate preserved whilst remaining to undertake the duties associated with the classification held prior to the date referred to above.

Clerks who are paid at a grade above that of Grade 5 as at 10 November, 1998 shall have the difference between that grade, inclusive of the 1998 State Wage Case Increase, and the new agreed grade preserved whilst employed in a clerical position with their current employer.

II. NURSES' EMPLOYMENT CLASSIFICATIONS

1. ASSISTANT IN NURSING

Assistant in Nursing is a Nursing Assistant, and means an employee, other than one registered pursuant to the provisions of the State or Territory Nurse Registration Board or one who is in training for the purpose of such registration. An AIN may provide full range of personal care services according to care plan including Blood Sugar Levels (BSLs), blood pressure and temperature checks, simple wound dressings, and implementation of continence programs. An AIN will participate in achieving clinical outcomes under the direction of an RN, EN or EEN.

An AIN may be required to use limited discretion, within acceptable scope of practice for the role, although the choice of actions will be reasonably clear.

2. NURSING CARE

Nursing care means:

- 2.1 giving assistance to a person who, because of disability, is unable to maintain their bodily needs without frequent assistance;
- 2.2 carrying out tasks which are directly related to the maintenance of a person's bodily needs where that person because of disability is unable to carry out those tasks for themselves; and/or
- 2.3 assisting a registered nurse to carry out the work described in B.5.

3 STUDENT ENROLLED NURSE

Student enrolled nurse means a student undertaking study to become an enrolled nurse.

4. ENROLLED NURSES – WITH RESTRICTIONS

4.1 Enrolled nurse—pay point 1

- (a) Pay point 1 refers to the pay point to which an enrolled nurse (EN) has been appointed.
- (b) An employee will be appointed based on training and experience including:
 - (i) having satisfactorily completed a hospital based course of training in nursing of not more than 12 months duration leading to enrolment as an EN; or
 - (ii) having satisfactorily completed a course of training of 12 months duration in a specified branch of nursing leading to enrolment on a register or roll maintained by a state/territory nurses registration board; and
 - (iii) having practical experience of up to but not more than 12 months in the provision of nursing care and/or services, and, the undertaking of in-service training, subject to its provision by the employing agency, from time to time.
- (c) Skill indicators
 - (i) The employee has limited or no practical experience of current situations; and
 - (ii) The employee exercises limited discretionary judgment, not yet developed by practical experience.

4.2 Enrolled nurse—pay point 2

- (a) Pay point 2 refers to the pay point to which an EN has been appointed.
- (b) An employee will be appointed to this pay point based on training and experience including:
 - (i) having satisfactorily completed a hospital based course of general training in nursing of more than 12 months duration and/or 500 or more hours theory content or a course accredited at advanced certificate level leading to enrolment as an EN; or
 - (ii) not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for pay point 1; and
 - (iii) the undertaking of in-service training, subject to its provision by the employing agency, from time to time.
- (c) Skill indicators

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

- (i) a developing ability to recognise changes required in nursing activity and in consultation with the RN, implement and record such changes, as necessary;
- (ii) an ability to relate theoretical concepts to practice; and/or
- (iii) requiring assistance in complex situations and in determining priorities.

4.3 Enrolled nurse—pay point 3

- (a) Pay point 3 refers to the pay point to which an EN has been appointed.
- (b) An employee will be appointed to this pay point based on training and experience including:
 - (i) not more than one further year of practical experience in the provision of nursing care and/or services, in addition to the experience, skill and knowledge requirements specified for pay point 2; and
 - (ii) the undertaking of in-service training, subject to its provision by the employing agency, from time to time.
- (c) Skill indicators

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

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- (i) an ability to organise, practise and complete nursing functions in stable situations with limited direct supervision;
 - (ii) observation and assessment skills to recognise and report deviations from stable conditions;
 - (iii) flexibility in the capacity to undertake work across the broad range of nursing activity and/or competency in a specialised area of practice; and/or
 - (iv) communication and interpersonal skills to assist in meeting psychosocial needs of individuals/groups.

4.4 Enrolled nurse—pay point 4

- (a) Pay point 4 refers to the pay point to which an EN has been appointed.
- (b) An employee will be appointed to this pay point based on training and experience including:
 - (i) not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for pay point 3; and
 - (ii) the undertaking of in-service training, subject to its provision by the employing agency, from time to time.
- (c) Skill indicators

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

- (i) speed and flexibility in accurate decision making;
- (ii) organisation of own workload and ability to set own priorities with minimal direct supervision;
- (iii) observation and assessment skills to recognise and report deviations from stable conditions across a broad range of patient and/or service needs; and/or
- (iv) communication and interpersonal skills to meet psychosocial needs of individual/groups.

4.5 Enrolled nurse—pay point 5

- (a) Pay point 5 refers to the pay point to which an EN has been appointed.
- (b) An employee will be appointed to this pay point based on training and experience including:

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- (i) not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for pay point 4; and
 - (ii) the undertaking of relevant in-service training, subject to its provision by the employing agency, from time to time.
- (c) Skill indicators

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

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

5. ENROLLED NURSE - AUTHORISED

means a person enrolled by the Board as such who is "authorised to administer medications" by the Board. Upon being "authorised to administer medications" by the Board, an employee shall be classified as an EN – Authorised.

Enrolled Nurse – Authorised has the same skill indicators as Enrolled Nurse in clause 4.1 to 4.3

6. ENROLLED NURSE – DIPLOMA QUALIFIED

Means an Enrolled Nurse with a Diploma qualification.

7. REGISTERED NURSES

7.1 Registered nurse—level 1 (RN1)

- (a) An employee at this level performs their duties:
 - (i) according to their level of competence; and
 - (ii) under the general guidance of, or with general access to a more competent registered nurse (RN) who provides work related support and direction.
- (b) An employee at this level is required to perform general nursing duties which include substantially, but are not confined to:
 - (i) delivering direct and comprehensive nursing care and individual case management to patients or clients within the practice setting;

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- (ii) coordinating services, including those of other disciplines or agencies, to individual patients or clients within the practice setting;
 - (iii) providing education, counselling and group work services orientated towards the promotion of health status improvement of patients and clients within the practice setting;
 - (iv) providing support, direction and education to newer or less experienced staff, including EN's, and student EN's and student nurses;
 - (v) accepting accountability for the employee's own standards of nursing care and service delivery; and
 - (vi) participating in action research and policy development within the practice setting.

7.2 Registered nurse—level 2 (RN2)

- (a) An employee at this level may be an RN, CNS or CNE:
 - (i) holds any other qualification required for working in the employee's particular practice setting; and
 - (ii) is appointed as such by a selection process or by reclassification from a lower level when the employee is required to perform the duties detailed in this subclause on a continuing basis.
- (b) In addition to the duties of an RN1, an employee at this level is required, to perform duties delegated by a nurse in a higher classification.

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

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

7.3 Registered nurse—level 3 (RN3)

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- (a) An employee at this level:
- (i) holds any other qualification required for working in the employee's particular practice setting; and
 - (ii) is appointed as such by a selection process or by reclassification from a lower level when that the employee is required to perform the duties detailed in this subclause on a continuing basis.
 - (iii) An employee at this level may also be known as a Clinical nurse consultant, Nurse manager or Nurse educator.
- (b) In addition to the duties of an RN2, an employee at this level will perform the following duties in accordance with practice settings and patient or client groups:
- (i) Duties of a Clinical Nurse consultant will substantially include, but are not confined to:
 - (A) providing leadership and role modelling, in collaboration with others including the Nurse manager and the Nurse educator, particularly in the areas of action research and quality assurance programs;
 - (B) staff and patient/client education; staff selection, management, development and appraisal;
 - (C) participating in policy development and implementation;
 - (D) acting as a consultant on request in the employee's own area of proficiency; for the purpose of facilitating the provision of quality nursing care;
 - (E) delivering direct and comprehensive nursing care to a specific group of patients or clients with complex nursing care needs, in a particular area of nursing practice within a practice setting;
 - (F) coordinating, and ensuring the maintenance of standards of the nursing care of a specific group or population of patients or clients within a practice setting; and
 - (G) coordinating or managing nursing or multidisciplinary service teams providing acute nursing and community services.
 - (ii) Duties of a Nurse manager will substantially include, but are not confined to:
 - (A) providing leadership and role modelling, in collaboration with others including the Clinical nurse consultant and the Nurse educator, particularly in the areas of action research and quality assurance programs;

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- (I) staff selection and education;
 - (II) allocation and rostering of staff;
 - (III) occupational health;
 - (IV) initiation and evaluation of research related to staff and resource management;
 - (V) participating in policy development and implementation;
 - (VI) acting as a consultant on request in the employee's own area of proficiency (for the purpose of facilitating the provision of quality nursing care);
 - (VII) being accountable for the management of human and material resources within a specified span of control, including the development and evaluation of staffing methodologies; and
 - (VIII) managing financial matters, budget preparation and cost control in respect of nursing within that span of control.
- (iii) Duties of a Nurse educator will substantially include, but are not confined to:
- (A) providing leadership and role modelling, in collaboration with others including the Clinical nurse consultant and the Nurse manager, particularly in the areas of action research;
 - (B) implementation and evaluation of staff education and development programs;
 - (C) staff selection;
 - (D) implementation and evaluation of patient or client education programs;
 - (E) participating in policy development and implementation;
 - (F) acting as a consultant on request in the employee's own area of proficiency (for the purpose of facilitating the provision of quality nursing care); and
 - (G) being accountable for the assessment, planning, implementation and evaluation of nursing education and staff development programs for a specified population.

7.4 Registered nurse—level 4 (RN4)

- (a) An employee at this level:

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

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

- (b) Appointment at a particular grade at this level will depend upon the level of complexity associated with the duties described in this clause. In this connection the number of beds in a facility will be a relevant consideration.
- (c) In addition to the duties of an RN3, an employee at this level will perform the following duties:
 - (i) Duties of an Assistant director of nursing (clinical) will substantially include, but are not confined to:
 - (A) providing leadership and role modelling, in collaboration with others including the Assistant director of nursing (management) and Assistant director of nursing (education), particularly in the areas of selection of staff within the employee's area of responsibility;
 - (B) provision of appropriate education programs, coordination and promotion of clinical research projects;
 - (C) participating as a member of the nursing executive team;
 - (D) contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
 - (E) managing the activities of, and providing leadership, coordination and support to, a specified group of Clinical nurse consultants;
 - (F) being accountable for the establishment, implementation and evaluation of systems to ensure the standard of nursing care for a specified span of control;
 - (G) being accountable for the development, implementation and evaluation of patterns of patient care for a specified span of control;
 - (H) being accountable for clinical operational planning and decision making for a specified span of control; and
 - (I) being accountable for appropriate clinical standards, through quality assurance programs, for a specified span of control.

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- (ii) Duties of an Assistant director of nursing (management) will substantially include, but are not confined to:
- (A) providing leadership and role modelling, in collaboration with others including the Assistant director of nursing (clinical) and Assistant director of nursing (education), particularly in the areas of selection of staff within the employee's area of responsibility;
 - (B) coordination and promotion of nursing management research projects;
 - (C) participating as a member of the nursing executive team;
 - (D) contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
 - (E) managing the activities of, and providing leadership, coordination and support to, a specified group of Nurse managers;
 - (F) being accountable for the effective and efficient management of human and material resources within a specified span of control;
 - (G) being accountable for the development and coordination of nursing management systems within a specified span of control; and
 - (H) being accountable for the structural elements of quality assurance for a specified span of control.
- (iii) Duties of an Assistant director of nursing (education) will substantially include, but are not confined to:
- (A) providing leadership and role modelling, in conjunction with others including the Assistant director of nursing (clinical) and the Assistant director of nursing (management), particularly in the areas of selection of staff within the employee's area of responsibility;
 - (B) coordination and promotion of nurse education research projects;
 - (C) participating as a member of the nursing executive team, and contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;

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- (D) managing the activities of, and providing leadership, coordination and support to a specific group of Nurse educators;
 - (E) being accountable for the standards and effective coordination of education programs for a specified population;
 - (F) being accountable for the development, implementation and evaluation of education and staff development programs for a specified population;
 - (G) being accountable for the management of educational resources including their financial management and budgeting control; and
 - (H) undertaking career counselling for nursing staff.

7.5 Registered nurse level 5—(RN5)

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

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

- (b) Appointment at a particular grade at this level will depend upon the level of complexity associated with the duties described in this clause. In this connection the number of beds in a facility will be a relevant consideration.
- (c) In addition to the duties of an RN4, an employee at this level will perform the following duties:
 - (i) being accountable for the standards of nursing care for the health unit and for coordination of the nursing service of the health unit;
 - (ii) participating as a member of the executive of the health unit, being accountable to the executive for the development and evaluation of nursing policy, and generally contributing to the development of health unit policy;
 - (iii) providing leadership, direction and management of the nursing division of the health unit in accordance with policies, philosophies, objectives and goals established through consultation with staff and in accordance with the directions of the Board of Directors of the health unit;

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- (iv) providing leadership and role modelling, in collaboration with others, particularly in the areas of staff selection, promotion of participative decision making and decentralisation of nursing management and generally advocating for the interests of nursing to the executive team of the health unit;
 - (v) managing the budget of the nursing division of the health unit;
 - (vi) ensuring that nursing services meeting changing needs of clients or patients through proper strategic planning; and
 - (vii) complying, and ensuring the compliance of others, with the code of ethics and legal requirements of the nursing profession.

8. NURSE PRACTITIONER

A Nurse practitioner:

- (a) is a registered nurse/midwife appointed to the role;
- (b) has obtained an additional qualification relevant to the state regulating authority to enable them to become licensed Nurse practitioners.

A Nurse practitioner is authorised to function autonomously and collaboratively in an advanced and extended clinical role.

8.1 Role of a licensed Nurse practitioner

- (a) The nurse practitioner is able to assess and manage the care of clients/residents using nursing knowledge and skills. It is dynamic practice that incorporates application of high level knowledge and skills, beyond that required of a registered nurse /midwife in extended practice across stable, unpredictable and complex situations.
- (b) The nurse practitioner role is grounded in the nursing profession's values, knowledge, theories and practice and provides innovative and flexible health care delivery that complements other health care providers.

8.2 Scope of practice

The scope of practice of the Nurse practitioner is determined by the context in which:

- (a) the nurse practitioner is authorised to practice. The nurse practitioner therefore remains accountable for the practice for which they directed; and
- (b) the professional efficacy whereby practice is structured in a nursing model and enhanced by autonomy and accountability.

The Nurse practitioner is authorised to directly refer clients/residents to other health professionals, prescribe medications and order diagnostic investigations including pathology and plain screen x-rays.

Nurse practitioners exhibit clinical leadership that influences and progresses clinical care, policy and collaboration through all levels of health service.

SCHEDULE B - PAY, OTHER RATES AND ALLOWANCES

Table 1 - Rates of Pay

Hawkesbury Living Award 2010 Classifications	Column 1 Current Rate	Column 2 1 st Year	Column 3 2 nd Year	Column 4 3 rd Year
ASSISTANT IN NURSING				
1 st Year	\$15.70	\$16.17	\$16.66	\$17.16
2 nd Year	\$16.21	\$16.70	\$17.20	\$17.71
3 rd Year	\$16.72	\$17.22	\$17.74	\$18.27
Thereafter	\$17.23	\$17.75	\$18.28	\$18.83
ENROLLED NURSES (With Restrictions)				
Pay point 1	\$19.28	\$19.86	\$20.45	\$21.07
Pay point 2	\$19.96	\$20.28	\$20.89	\$21.52
Pay point 3	\$20.12	\$20.72	\$21.35	\$21.99
Pay point 4	\$20.54	\$21.16	\$21.79	\$22.44
Thereafter	\$20.98	\$21.61	\$22.26	\$22.93
ENROLLED NURSE				
Authorised Level a	\$20.54	\$21.16	\$21.79	\$22.44
Level b	\$20.98	\$21.61	\$22.26	\$22.93
Pay point 1	\$21.53	\$22.18	\$22.84	\$23.53
Pay point 2	\$22.05	\$22.71	\$23.39	\$24.09
Thereafter	\$22.56	\$23.24	\$23.93	\$24.65
REGISTERED NURSE - Level 1				
Pay point 1	\$24.22	\$24.95	\$25.69	\$26.47
Pay point 2	\$25.70	\$26.47	\$27.27	\$28.08
Pay point 3	\$27.26	\$28.08	\$28.92	\$29.79
Pay point 4	\$28.93	\$29.80	\$30.69	\$31.61
Pay point 5 & Thereafter	\$30.69	\$31.61	\$32.56	\$33.54
REGISTERED NURSE - Level 2				
Pay point 1 (CNS)	\$31.94	\$32.90	\$33.89	\$34.90
Pay point 2 (CNE)	\$31.94	\$32.90	\$33.89	\$34.90
REGISTERED NURSE - Level 3				
Pay point 1 (CNC)	\$37.73	\$38.86	\$40.03	\$41.23
Pay point 2 (NUM)				
Level 1- a	\$34.03	\$35.05	\$36.10	\$37.19
b	\$34.99	\$36.04	\$37.12	\$38.23
Level 2	\$35.85	\$36.93	\$38.03	\$39.17
Level 3	\$36.80	\$37.90	\$39.04	\$40.21
Pay point 3 (Nurse Educator)				
1 st year	\$34.03	\$35.05	\$36.10	\$37.19
2 nd year	\$34.99	\$36.04	\$37.12	\$38.23
3 rd year	\$35.85	\$36.93	\$38.03	\$39.17

4 th year	\$37.73	\$38.86	\$40.03	\$41.23
REGISTERED NURSE - Level 4				
Assistant Director of Nursing				
Grade 1 - <100 beds	\$34.99	\$36.04	\$37.12	\$38.23
Grade 2 - 101 to 300	\$37.73	\$38.86	\$40.03	\$41.23
Grade 3 - >300	\$38.64	\$39.80	\$40.99	\$42.22
Assistant Residential Care Manager				
Deputy Director of Nursing				
Grade 1 - <100 beds	\$37.47	\$38.59	\$39.75	\$40.94
Grade 2 - 101 to 300	\$39.43	\$40.61	\$41.83	\$43.09
beds	\$43.78	\$45.09	\$46.45	\$47.84
Grade 3 - >300 beds				
NURSE PRACTITIONER				
1 st year	\$42.01	\$43.27	\$44.57	\$45.91
2 nd year	\$42.96	\$44.25	\$45.58	\$46.94
3 rd Year	\$44.20	\$45.53	\$46.89	\$48.30
Thereafter	\$45.41	\$46.77	\$48.18	\$49.62
REGISTERED NURSE -Level 5				
Residential Care Manager				
Director of Nursing				
Grade 1 - <100 beds	\$44.08	\$45.40	\$46.76	\$48.17
Grade 2 - 101 - 300	\$46.86	\$48.27	\$49.71	\$51.21
beds				
Grade 3 - >300 beds	\$53.23	\$54.83	\$56.47	\$58.17

Care Service Employees:					
New Entrant	Junior	13.81	14.22	14.65	15.09
New Entrant	Adult	13.81	14.22	14.65	15.09
Grade 1		16.19	16.68	17.18	17.69
Grade 2		17.23	17.75	18.28	18.83
Grade 3		18.30	18.85	19.41	20.00
Grade 4	Level 1	19.28	19.86	20.45	21.07
	Level 2				
	1st year	21.53	22.18	22.84	23.53
	2nd year	22.05	22.71	23.39	24.09
	3rd year	22.56	23.24	23.93	24.65
Grade 5*	From	22.41	23.08	23.77	24.49
	To	33.38	34.38	35.41	36.48
Maintenance Supervisors:					
Maintenance (Otherwise)	Supervisor	19.15	19.72	20.32	20.93
Maintenance (Otherwise) - in charge of staff	Supervisor	19.57	20.16	20.76	21.38
Maintenance (Tradesperson)	Supervisor	20.80	21.42	22.07	22.73
Catering Officers:					
Trainee Catering Officer	1st year	16.87	17.38	17.90	18.43
	2nd year	17.18	17.70	18.23	18.77
	3rd year	17.54	18.07	18.61	19.17
Assistant Catering Officer	80-120 beds	17.72	18.25	18.80	19.36
	120-300 beds	18.92	19.49	20.07	20.67
	300-500 beds	20.33	20.94	21.57	22.22
	500-1000 beds	20.89	21.52	22.16	22.83
Catering Officer	80-120 beds	19.78	20.37	20.98	21.61
	120-200 beds	20.33	20.94	21.57	22.22
	200-300 beds	20.89	21.52	22.16	22.83
	300-500 beds	21.96	22.62	23.30	24.00
	500-1000 beds	23.75	24.46	25.20	25.95
Diversional Therapist					
	1st year	17.63	18.16	18.70	19.26
	2nd year	18.54	19.10	19.67	20.26
	3rd year	19.42	20.00	20.60	21.22
	4th year	20.32	20.93	21.56	22.20
	5th year	21.18	21.82	22.47	23.14

Classification		Column 1 Current Year	Column 2 1 st Year	Column 3 2 nd Year	Column 4 3 rd Year
Apprentices:					
Apprentice Cook	1st year	10.98	11.31	11.65	12.00
	2nd year	15.10	15.55	16.02	16.50
	3rd year	16.93	17.44	17.96	18.50
Apprentice Gardener	1st year	9.15	9.42	9.71	10.00
	2nd year	10.98	11.31	11.65	12.00
	3rd year	14.64	15.08	15.53	16.00
	4th year	16.47	16.96	17.47	18.00
Clerical & Administrative Employees:					
Juniors	16 years & under	8.81	9.07	9.35	9.63
	17 years	9.99	10.29	10.60	10.92
	18 years	11.45	11.79	12.15	12.51
	19 years	12.90	13.29	13.69	14.10
	20 years	14.22	14.65	15.09	15.54
Adults	Grade 1	17.51	18.04	18.58	19.13
	Grade 2	18.59	19.15	19.72	20.31
	Grade 3	19.71	20.30	20.91	21.54
	Grade 4	20.61	21.23	21.87	22.52
	Grade 5	21.56	22.21	22.87	23.56

* Salary Band-Grade 5 - Employers and employees may negotiate a rate within the salary band as shown. For the purposes of this Agreement, the rate so negotiated shall be deemed to be the employee's Agreement rate of pay. Salaries in excess of the salary band may also be negotiated between the parties.

Table 2 - Other Rates and Allowances

Item No.	Brief Description	Clause No.	COLUMN 1 Current Year \$	COLUMN 2 1st Year \$	COLUMN 3 2ND Year \$
1	Broken Shift	15.4(d)	7.82 per shift	8.05 per shift	8.29 per shift
2	Overtime - Breakfast	17.4(a)	11.81 per meal	12.16 per meal	12.52 per meal
3	Overtime – Luncheon	17.4(b)	15.27 per meal	15.73 per meal	16.20 per meal
4	Overtime - Evening Meal	17.4(c)	22.28 per meal	22.95 per meal	23.64 per meal
5	Vehicle Allowance	18.3(b) 21.5(c) 37.4(e)	0.32 per km	0.33 per km	0.34 per km
6	Vehicle Allowance official business	21.2(b)	0.62 per km	0.64 per km	0.66 per km
7	Apprentice - TAFE Examination Allowance	14.6(d)(ii)	1.80 per week	1.85 per week	1.91 per week
8	In charge of residential aged care facility less than 100 beds	21.1(a)	20.29 per shift	20.90 per shift	21.53 per shift
9	In charge of residential aged care facility, 100 beds or more	21.1(a)	32.70 per shift	33.68 per shift	34.69 per shift
10	In charge of section	21.1(b)	20.29 per shift	20.90 per shift	21.53 per shift
11	Uniform	21.3(c)	6.04 per week	6.22 per week	6.41 per week
12	Shoes	21.3(d)	1.87 per week	1.93 per week	1.99 per week

13	Cardigan or Jacket	21.3(e)	1.80 per week	1.85 per week	1.91 per week
14	Stockings	21.3(f)	3.00 per week	3.09 per week	3.18 per week
15	Socks	21.3(g)	0.59 per week	0.61 per week	0.63 per week
16	Laundry	21.3(h)	5.02 per week	5.17 per week	5.33 per week
17	On call	21.5(a)	18.09 per day	18.63 per day	19.19 per day
18	On call during meal break	21.5(b)	9.79 per period	10.08 per period	10.38 per period
19	Continuing education allowance: RN	21.7(g)	17.04 per week	17.55 per week	18.08 per week
20	Continuing education allowance: RN	21.7(h)	28.39 per week	29.24 per week	30.12 per week
21	Continuing education allowance: RN	21.7(i)	34.06 per week	35.08 per week	36.13 per week
22	Continuing education allowance: EN	21.7(j)	11.35 per week	11.69 per week	12.04 per week

SCHEDULE C - NATIONAL TRAINING WAGE

1. Title

This is the *National Training Wage Schedule*.

2. Definitions

In this schedule:

Adult trainee is a trainee who would qualify for the highest minimum wage in Wage Level A, B or C if covered by that wage level

Approved training means the training specified in the training contract

Australian Qualifications Framework (AQF) is a national framework for qualifications in post-compulsory education and training

Out of school refers only to periods out of school beyond Year 10 as at the first of January in each year and is deemed to:

- (a) include any period of schooling beyond Year 10 which was not part of or did not contribute to a completed year of schooling;
- (b) include any period during which a trainee repeats in whole or part a year of schooling beyond Year 10; and
- (c) not include any period during a calendar year in which a year of schooling is completed

Relevant State or Territory training authority means the bodies in the relevant State or Territory which exercise approval powers in relation to traineeships and register training contracts under the relevant State or Territory vocational education and training legislation

Relevant State or Territory vocational education and training legislation means the following or any successor legislation:

Australian Capital Territory: *Training and Tertiary Education Act 2003*;

New South Wales: *Apprenticeship and Traineeship Act 2001*;

Northern Territory: *Northern Territory Employment and Training Act 1991*;

Queensland: *Vocational Education, Training and Employment Act 2000*;

South Australia: *Training and Skills Development Act 2008*;

Tasmania: *Vocational Education and Training Act 1994*;

Victoria: *Education and Training Reform Act 2006*; or

Western Australia: *Vocational Education and Training Act 1996*

Trainee is an employee undertaking a traineeship under a training contract

Traineeship means a system of training which has been approved by the relevant State or Territory training authority, which meets the requirements of a training package developed by the relevant Industry Skills Council and endorsed by the National Quality Council, and which leads to an AQF certificate level qualification

Training contract means an agreement for a traineeship made between an employer and an employee which is registered with the relevant State or Territory training authority

Training package means the competency standards and associated assessment guidelines for an AQF certificate level qualification which have been endorsed for an industry or enterprise by the National Quality Council and placed on the National Training Information Service with the approval of the Commonwealth, State and Territory Ministers responsible for vocational education and training, and includes any relevant replacement training package

Year 10 includes any year before Year 10

3. Coverage

- 3.1 Subject to clauses 0 to 0 of this schedule, this schedule applies in respect of an employee covered by this Agreement who is undertaking a traineeship whose training package and AQF certificate level is allocated to a wage level by Appendix D1 to this schedule or by clause D.5.4 of this schedule.
- 3.2 This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in Appendix D1 to this schedule.
- 3.3 This schedule does not apply to the apprenticeship system or to any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997.
- 3.4 This schedule does not apply to qualifications not identified in training packages or to qualifications in training packages which are not identified as appropriate for a traineeship.
- 3.5 Where the terms and conditions of this schedule conflict with other terms and conditions of this Agreement dealing with traineeships, the other terms and conditions of this Agreement prevail.
- 3.6 At the conclusion of the traineeship, this schedule ceases to apply to the employee.

4 Types of Traineeship

The following types of traineeship are available under this schedule:

- 4.1 a full-time traineeship based on 38 ordinary hours per week, with 20% of ordinary hours being approved training; and
- 4.2 a part-time traineeship based on less than 38 ordinary hours per week, with 20% of ordinary hours being approved training solely on-the-job or partly on-the-job and partly off-the-job, or where training is fully off-the-job.

5. Minimum Wages

5.1 Minimum wages for full-time traineeships

(a) Wage Level A

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	256.00	282.00	336.00
Plus 1 year out of school	282.00	336.00	391.00
Plus 2 years out of school	336.00	391.00	455.00
Plus 3 years out of school	391.00	455.00	521.00
Plus 4 years out of school	455.00	521.00	
Plus 5 or more years out of school	521.00		

(b) Wage Level B

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	256.00	282.00	327.00
Plus 1 year out of school	282.00	327.00	376.00
Plus 2 years out of school	327.00	376.00	441.00
Plus 3 years out of school	376.00	441.00	503.00
Plus 4 years out of school	441.00	503.00	
Plus 5 or more years out of school	503.00		

(c) Wage Level C

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose

training package and AQF certificate levels are allocated to Wage Level C by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week \$	per week \$	per week \$
School leaver	256.00	282.00	327.00
Plus 1 year out of school	282.00	327.00	368.00
Plus 2 years out of school	327.00	368.00	411.00
Plus 3 years out of school	368.00	411.00	458.00
Plus 4 years out of school	411.00	458.00	
Plus 5 or more years out of school	458.00		

(d) AQF Certificate Level IV traineeships

- (i) (Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level IV traineeship are the minimum wages for the relevant full-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.
- (ii) Subject to clause D.5.3 of this schedule, the minimum wages for an adult trainee undertaking a full-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

Wage level	First year of traineeship	Second and subsequent years of traineeship
	per week	per week
	\$	\$
Wage Level A	541.00	562.00
Wage Level B	522.00	542.00
Wage Level C	475.00	493.00

5.2 Minimum wages for part-time traineeships

(a) Wage Level A

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour \$	per hour \$	per hour \$
School leaver	8.42	9.28	11.05
Plus 1 year out of school	9.28	11.05	12.86
Plus 2 years out of school	11.05	12.86	14.97
Plus 3 years out of school	12.86	14.97	17.14
Plus 4 years out of school	14.97	17.14	
Plus 5 or more years out of school	17.14		

(b) Wage Level B

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour \$	per hour \$	per hour \$
School leaver	8.42	9.28	10.76
Plus 1 year out of school	9.28	10.76	12.37
Plus 2 years out of school	10.76	12.37	14.51
Plus 3 years out of school	12.37	14.51	16.55
Plus 4 years out of school	14.51	16.55	
Plus 5 or more years out of school	16.55		

(c) Wage Level C

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour \$	per hour \$	per hour \$
School leaver	8.42	9.28	10.76

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour \$	per hour \$	per hour \$
Plus 1 year out of school	9.28	10.76	12.11
Plus 2 years out of school	10.76	12.11	13.52
Plus 3 years out of school	12.11	13.52	15.07
Plus 4 years out of school	13.52	15.07	
Plus 5 or more years out of school	15.07		

(d) School-based traineeships

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a school-based AQF Certificate Level I-III traineeship whose training package and AQF certificate levels are allocated to Wage Levels A, B or C by Appendix D1 are as follows when the trainee works ordinary hours:

Year of schooling	
Year 11 or lower	Year 12
per hour \$	per hour \$
8.42	9.28

(e) AQF Certificate Level IV traineeships

- (i) Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level IV traineeship are the minimum wages for the relevant part-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.
- (ii) Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for an adult trainee undertaking a part-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

Wage level	First year of traineeship	Second and subsequent years of traineeship
	per hour \$	per hour \$
Wage Level A	17.80	18.49
Wage Level B	17.17	17.83

(f) Calculating the actual minimum wage

- (i) Where the full-time ordinary hours of work are not 38 or an average of 38 per week, the appropriate hourly minimum wage is obtained by multiplying the relevant minimum wage in clauses D.5.2(a)-(e) of this schedule by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.
- (ii) Where the approved training for a part-time traineeship is provided fully off-the-job by a registered training organisation, for example at school or at TAFE, the relevant minimum wage in clauses D.5.2(a)-(e) of this schedule applies to each ordinary hour worked by the trainee.
- (iv) Where the approved training for a part-time traineeship is undertaken solely on-the-job or partly on-the-job and partly off-the-job, the relevant minimum wage in clauses D.5.2(a)-(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

5.3 Other minimum wage provisions

- (a) An employee who was employed by an employer immediately prior to becoming a trainee with that employer must not suffer a reduction in their minimum wage per week or per hour by virtue of becoming a trainee. Casual loadings will be disregarded when determining whether the employee has suffered a reduction in their minimum wage.
- (b) If a qualification is converted from an AQF Certificate Level II to an AQF Certificate Level III traineeship, or from an AQF Certificate Level III to an AQF Certificate Level IV traineeship, then the trainee must be paid the next highest minimum wage provided in this schedule, where a higher minimum wage is provided for the new AQF certificate level.

5.4 Default wage rate

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by Appendix D1 is the relevant minimum wage under this schedule for a trainee undertaking an AQF Certificate to Level I–III traineeship whose training package and AQF certificate level are allocated to Wage Level B.

6. Employment conditions

- 6.1 A trainee undertaking a school-based traineeship may, with the agreement of the trainee, be paid an additional loading of 25% on all ordinary hours worked instead of paid annual leave, paid personal/carer's leave and paid absence on public holidays, provided that where the trainee works on a public holiday then the public holiday provisions of this Agreement apply.

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- 6.2 A trainee is entitled to be released from work without loss of continuity of employment and to payment of the appropriate wages to attend any training and assessment specified in, or associated with, the training contract.
- 6.3 Time spent by a trainee, other than a trainee undertaking a school-based traineeship, in attending any training and assessment specified in, or associated with, the training contract is to be regarded as time worked for the employer for the purposes of calculating the trainee's wages and determining the trainee's employment conditions.
- 6.4 Subject to clause 0 of this schedule, all other terms and conditions of this Agreement apply to a trainee unless specifically varied by this schedule.

APPENDIX C1 - ALLOCATION OF TRAINEESHIPS TO WAGE LEVELS

The wage levels applying to training packages and their AQF certificate levels are:

1.1 Wage Level A

Training package	AQF certificate level
Aeroskills	II
Aviation	I
	II
	III
Beauty	III
Business Services	I
	II
	III
Chemical, Hydrocarbons and Refining	I
	II
	III
Civil Construction	III
Coal Training Package	II
	III
Community Services	II
	III
Construction, Plumbing and Services	I
Integrated Framework	II
	III
Correctional Services	II
	III
Drilling	II
	III
Electricity Supply Industry—Generation	II
Sector	III (in Western Australia only)
Electricity Supply Industry—	
Transmission, Distribution and	
Rail Sector	II
Electrotechnology	I
	II
	III (in Western Australia only)
Financial Services	I
	II
	III
Floristry	III
Food Processing Industry	III
Gas Industry	III
Information and Communications	I
Technology	II
	III
Laboratory Operations	II
	III
Local Government (other than	I
Operational Works Cert I and II)	II
	III

Training package	AQF certificate level
Manufactured Mineral Products	III
Manufacturing	I
	II
	III
Maritime	I
	II
	III
Metal and Engineering (Technical)	II
	III
Metalliferous Mining	II
	III
Museum, Library and Library/Information Services	II
	III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II
	III
Pulp and Paper Manufacturing Industries	III
Retail Services (including wholesale and Community pharmacy)	III
Telecommunications	II
	III
Textiles, Clothing and Footwear	III
Tourism, Hospitality and Events	I
	II
	III
Training and Assessment	III
Transport and Distribution	III
Water Industry (Utilities)	III

1.2 Wage Level B

Training package	AQF certificate level
Animal Care and Management	I
	II
	III
Asset Maintenance	I
	II
	III
Australian Meat Industry	I
	II
	III
Automotive Industry Manufacturing	II
	III
Automotive Industry Retail, Service and Repair	I
	II
	III
Beauty	II
Caravan Industry	II

Training package	AQF certificate level
	III
Civil Construction	I
Community Recreation Industry	III
Entertainment	I
	II
	III
Extractive Industries	II
	III
Fitness Industry	III
Floristry	II
Food Processing Industry	I
	II
Forest and Forest Products Industry	I
	II
	III
Furnishing	I
	II
	III
Gas Industry	I
	II
Health	II
	III
Local Government (Operational Works)	I
	II
Manufactured Mineral Products	I
	II
Metal and Engineering (Production)	II
	III
Outdoor Recreation Industry	I
	II
	III
Plastics, Rubber and Cablemaking	II
Printing and Graphic Arts	II
	III
Property Services	I
	II
	III
Public Safety	I
	II
Pulp and Paper Manufacturing Industries	I
	II
Retail Services	I
	II
Screen and Media	I
	II
	III
Sport Industry	II
	III
Sugar Milling	I
	II

Training package	AQF certificate level
	III
Textiles, Clothing and Footwear	I
	II
Transport and Logistics	I
	II
Visual Arts, Craft and Design	I
	II
	III
Water Industry	I
	II

1.3 Wage Level C

Training package	AQF certificate level
Agri-Food	I
Amenity Horticulture	I
	II
	III
Conservation and Land Management	I
	II
	III
Funeral Services	I
	II
	III
Music	I
	II
	III
Racing Industry	I
	II
	III
Rural Production	I
	II
	III
Seafood Industry	I
	II
	III

28/03/2011

Fair Work Australia
Level B,
Terrace Tower
80 William Street,
East Sydney, 2011

By e-mail: chambers.mckenna.c@fwa.gov.au

Dear Commissioner McKenna

RE: Matter number AG2011/13 Hawkesbury Living Enterprise Agreement 2010

Hawkesbury Living Pty Limited provides the following undertakings:

- 1 **Clause 5.1** is in reference with Division 206 of the Fair Work Act whereby *“the base rate of pay payable to the employee under the agreement must not be less than the base rate of pay that would be payable to the employee under the modern award”*.
- 2 **Clause 7**, last paragraph will be deleted;
- 3 **Clause 13.5 (b) Apprentices** will be deleted. A new 13.5 (b) will be inserted with the following words:

(b) “Apprentice means an apprentice within the meaning of the Apprenticeship and Traineeship Act 2001 NSW.
- 4 **Clause 16.3** will not operate;
- 5 **Clause 19.2 (b)** will not operate;
- 6 **Clause 20.5 (a)** after the words Easter Saturday, the following words will be added to include Easter Sunday as a public holiday:

“Easter Sunday;”
- 7 **Clause 20.7** paragraph 1 will be deleted and a new paragraph inserted that will read as follows:

“It is the intention of this agreement that an employee will ordinarily be entitled to 12 public holidays per annum, being 11 named public holidays under subclause 20.5(a)(i) and the extra public holiday under subclause 20.5(b).
- 8 **Clause 21.2 (a)** will delete the words *“other than a Community Care Employee,”*.

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- 9 **Clause 21.3 (f)** will be deleted and a new 21.3(f) will be inserted and read as follows::

(a) *In lieu of supplying stockings where required to an employee the employer shall pay the employee the weekly allowance set out in Item 14 of Table 2 Schedule B to this Agreement.*

- 10 **Clause 26.1** paragraph 2, after the words “Agreement these provisions shall prevail, the following words will be added:

“if they provide a more favourable outcome for the employee”.

- 11 **Clause 26.5 (b)** will be deleted. A new 26.5 (b) will be inserted to the following words

“(b) Where a worker dies and any long service leave:

(i) to which the worker was entitled has not been taken, or

(ii) accrued upon termination of the services of the worker by reason of the worker’s death and has not been taken, the employer shall upon request by the worker’s personal representative pay to the worker’s personal representative in full the ordinary pay that would have been payable to the worker in respect of long service leave less any amount already paid to the worker in respect of that leave.”

- 12 **Clause 29.4** we will delete the words “*sub-clause 13.1 and sub-clause 29.4 shall not apply to such employee*”, and replace with the following words:

“in accordance with the NES.”

- 13 **Clause 31.3** insert at the end of the paragraph after “*Employee either accepts or unreasonably rejects*” the following words:

“subject to an application made to the FWA.”

- 14 **Clause 39** will be deleted. A new Clause 39 will be inserted to state the following:

CLAUSE 39 DISPUTE RESOLUTION

39.1 If a dispute relates to a matter arising under this Agreement or the NES then this clause sets out procedures to settle the dispute.

(a) *An Employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this clause.*

- (b) *In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the Employee or Employees and relevant supervisors and/or management.*
- (c) *The Employer and the Employee may elect to be assisted and/or represented by a third party which can include a person, organisation or association (including a Union representative) during any meetings and discussions that may take place.*
- (d) *If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Australia.*
- (e) *Fair Work Australia may deal with the dispute in 2 stages:*
 - (i) *Fair Work Australia will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and*
 - (ii) *if Fair Work Australia is unable to resolve the dispute at the first stage, Fair Work Australia shall then:*
 - *arbitrate the dispute; and*
 - *make a determination that is binding on the parties.*

Note If Fair Work Australia arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision that Fair Work Australia makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

39.2 While the parties are trying to resolve the dispute:

- (f) *an Employee must continue to perform his or her work as he or she would normally, unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and*
- (g) *an Employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:*

- (i) *the work is not safe; or*
- (ii) *applicable Occupational Health and Safety legislation would not permit the work to be performed; or*
- (iii) *the work is not appropriate for the Employee to perform; or*
- (iv) *there are other reasonable grounds for the Employee to refuse to comply with the direction.*

39.3 The parties to the dispute agree to be bound by a decision made by Fair Work Australia in accordance with this term."

15 After Clause 27 Repatriation Leave, a new Clause 27A will be inserted as follows

"27A CEREMONIAL LEAVE

27A.1 An employee who is legitimately required by Aboriginal/Torres Strait Islander tradition to be absent from work for Aboriginal/Torres Strait Islander ceremonial purposes will be entitled to up to 10 working days unpaid leave in any one year, with the approval of the employer."

16 Increases to the rates of pay included in "Schedule C Trainee Wages" will reflect changes made in the National Training Wage Schedule of the Modern Award.

17 Clause 29.1 add at end of paragraph *"and this Agreement. Where terms of the Agreement are more favourable, the Agreement shall be binding."*

Yours Sincerely



Kristen Gower

Group Employee Relations, Compliance and Audit Manager