

[2015] FWCA 4677

The attached document replaces the document previously issued with the above code on 10 July 2015.

The Agreement published on 10 July 2015 was not in correct order. A corrected version is now attached.

Bree Coram
On behalf of Commissioner Roe

Dated 12 August 2015



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

AJ & BJ Smith Pty Ltd T/A The Gardens
(AG2015/3240)

THE GARDENS NURSING ENTERPRISE AGREEMENT 2015

Tasmania

COMMISSIONER ROE

MELBOURNE, 10 JULY 2015

Application for approval of The Gardens Nursing Enterprise Agreement 2015.

[1] An application has been made for approval of an enterprise agreement known as *The Gardens Nursing Enterprise Agreement 2015* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by AJ & BJ Smith Pty Ltd T/A The Gardens. The Agreement is a single enterprise agreement.

[2] I am satisfied that each of the requirements of ss.186, 187 and 188 as are relevant to this application for approval have been met. The Agreement does not cover all of the employees of the employer, however, taking into account the factors in Section 186(3) and (3A) I am satisfied that the group of employees was fairly chosen.

[3] The Australian Nursing and Midwifery Federation and the Health Services Union of Australia, being bargaining representatives for the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers the organisations.

[4] The Agreement was approved on 10 July 2015 and, in accordance with s.54, will operate from 17 July 2015. The nominal expiry date of the Agreement is 30 June 2017.



COMMISSIONER

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**THE GARDENS
NURSING
ENTERPRISE AGREEMENT
2015**

1. TITLE

This Agreement shall be referred to as, The Gardens Nursing Enterprise Agreement 2015.

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3. SCOPE OF AGREEMENT

This Agreement shall apply to AJ & BJ Smith trading as The Gardens, in respect of the employment by the employer of employees contained within this Agreement.

4. AGREEMENT PARTIES

The parties to this agreement are as follows:

- (a) AJ & BJ Smith Pty Ltd trading as The Gardens ('the Employer'),

- (b) The Health and Community Services Union, Tasmania Branch ('the Union');
- (c) The Australian Nursing and Midwifery Federation, Tasmanian Branch ('the Union');
- (d) Employees who are employed by the employer and are engaged in work in classifications contained within this Agreement.

5. DATE AND PERIOD OF OPERATION

This Agreement will be operational on the seventh (7th) day after the date specified on the notice from the Fair Work Commission.

The Agreement shall remain in force until 30 June 2017, unless terminated or varied by the mutual agreement of the parties or operation of law. The Agreement will continue beyond the nominal expiry date, until replaced, or terminated in accordance with the *Fair Work Act 2009*.

Notwithstanding the above, the Employer undertakes to commence payment of the first wage increase due under this Agreement from the first full pay period on or after 1 January 2015 and any accruing penalty rates, allowances and entitlements from first full pay period commencing on or after 1 January 2015.

The parties agree to commence negotiation on a new agreement three (3) months prior to the expiration of this Agreement.

6. DEFINITIONS

Unless otherwise indicated, the following words and terms used in this Agreement have the meaning indicated:

"AHPRA" means the Australian Health Practitioners Regulation Agency.

"Afternoon shift" means a shift that concludes between 7.00pm and midnight.

"Award" means the *Nurses Award 2010*.

"Casual employee" means an employee engaged on an irregular, variable or unpredictable basis or on an as and when required basis.

"Day shift" means a shift worked between 6.00am and 7.00pm.

"Day worker" means an employee whose ordinary hours are worked between 7.00am and 7.00pm Monday to Friday inclusive

"De facto partner" means:

- (a) A person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine basis (whether the employee and the person are of the same sex or different sexes);
- (b) Includes a former de facto partner of the employee.

"Employee" means an employee employed by the employer and covered by the scope of this Agreement.

"Employer" means AJ & BJ Smith Pty Ltd trading as The Gardens (A.B.N - 59 009 566 125).

"Full-time employee" means a person engaged to work for the full ordinary hours prescribed in the Hours of Work clause in this Agreement.

"Public Holiday" means Christmas Day, Boxing Day, New Year's Day, Australia Day, Hobart Regatta Day (South of Oatlands), Eight Hours Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day in the relevant locality, the first Monday in November in those districts where Hobart Regatta Day is not observed, and any other Tasmanian gazetted public holiday.

"Immediate family" of an employee means:

- (a) A spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- (b) A child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

"Member of employees household" in respect of an employee means any person or persons who usually reside with the employee.

"NES" means National Employment Standards found in the *Fair Work Act 2009*.

"Night shift" means a shift finishing after midnight and before 7.00am.

"Ordinary rate of pay" means rate prescribed in Schedule B of this Agreement divided by thirty eight (38).

"Part-time employee" means a person, other than a full-time employee or casual employee engaged to work regularly in each pay period for less hours than an equivalently classified full-time employee.

"Projected roster" means an employee's normal roster for the period of leave.

"Roster" means a work pattern designed for a specific work area setting out the names of employees required to work in accordance with the roster, and the days, dates, times and hours when each rostered employee is required to work.

"Rostered employee" means an employee required to work in accordance with a roster.

"Shift worker" means an employee other than a day worker who is required to work shifts in accordance with a roster.

"Show Day" means not more than one local show day observed on an employee's ordinary working day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or such other day which, in the absence of such a local show day, is agreed on by the employee and the Employer.

"Spouse" includes a former spouse.

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

Year of service shall mean 1976 hours of actual service for a full time employee in an approved establishment, including public holidays, paid annual leave, and paid personal leave.

7. ADDITIONAL AVAILABLE HOURS

The Gardens understands that Part Time employees may want to work additional hours from time to time. The Gardens, where safe, practicable and reasonable, will give priority to permanent part time staff to increase additional hours when other staff are on any form of leave. These hours will be worked by the employee at the ordinary rate of pay up to a maximum of seventy six (76) hours per fortnight. Any additional time worked over seventy six (76) hours will be paid at the appropriate overtime rate as contained in the Overtime clause of this Agreement.

8. ANNUAL LEAVE

Annual Leave is a matter provided for in the NES (Division 6 – Annual Leave). Where there is an inconsistency between this Clause and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

(a) Period of Leave

(i) Full-Time Employees

A full-time employee will accrue one hundred and fifty two (152) hours per twelve (12) months continuous service to generally be taken in one consecutive period. Leave accrues as it is worked.

(ii) Part-Time Employees

Part-time employees (excluding employees who attract a part-time loading) will be entitled to annual leave based on the number of ordinary hours worked in the leave year.

The leave entitlement will be calculated on a pro-rata basis as follows:

Part-time hours worked p.a.
(including any period of annual leave) x Full-time leave entitlement
Full-time hours p.a. 1

(b) Additional Leave

(i) Employees on Roster

An employee required to work in accordance with a roster will, in addition to the annual leave in subclause (a) above, be allowed thirty eight (38) hours leave, to be taken in a period of seven (7) consecutive days including non-working days.

Provided that to receive such additional leave the employee must be rostered to work on not less than ten (10) Saturdays and ten (10) Sundays during any one leave year.

Where an employee with twelve (12) months continuous service works for part of the twelve (12) month period on a roster, they will be entitled to have the period of annual leave in subclause (a) above increased by 7.6 hours for each two (2) months they continuously work on a roster.

(c) Holidays with Pay

(i) For employees who do not work on a roster, the period of annual leave excludes any holidays with pay to which the employee is entitled. If a holiday with pay falls within an employee's period of annual leave and is on a day that the employee would have been at work, added to the period of annual leave will be holiday leave equivalent to the ordinary time which the employee would have worked if the day had not been a holiday.

(ii) For full-time employees required to work in accordance with a roster, that employee will receive in addition to their period of annual leave, holiday leave equivalent to one day for each holiday with pay to which they are entitled, whether or not the holiday is observed on a day which, for that employee would have been a rostered day off.

(d) Broken Leave

Unless otherwise agreed, the entitlement to Annual Leave will be taken in not more than two separate periods.

(e) Time of Taking Leave:

(i) Paid annual leave may be taken for a period agreed between an employee and his or her Employer.

(ii) The Employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave

(f) Payment in Lieu Annual Leave

- (i) Payment in lieu of Annual Leave may be requested by an employee, but subject to approval by the Employer. An employee must have at least four (4) weeks of accrued leave after the cash-in.
- (ii) Each agreement to cash out a particular amount of paid annual leave must be a separate agreement in writing.
- (iii) The Employer must pay the employee at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone.

(g) Employee required to take periods of annual leave

The Employer reserves the right to require an employee to take periods of annual leave. This may be in cases where the employee has an excessive accrual of annual leave or where part or a whole of a section shuts down.

(h) Payment for Period of Leave

An employee shall continue to be paid on the designated pay day, the amount which they would have received had they not been on leave. An Employee may request to be paid the amount before going on leave.

(i) Proportionate Leave on Ending Service

Employees will be paid, on cessation of employment, all accrued annual leave entitlements.

(j) Annual Leave Allowance

During a period of annual leave (excluding leave provided for in Subclause (c)) an employee will be paid an allowance, additional to their wages, calculated on the relevant wages for their classification as follows:

- (i) For an employee not working on a roster, seventeen and a half (17.5) per cent of their classification rate immediately prior to going on annual leave plus, where applicable, any all purpose payment payable to the employee concerned; or
- (ii) For an employee working on a roster, the wages equivalent to that which they would have received in accordance with their projected roster.
- (iii) However, if an allowance of seventeen and a half (17.5) per cent in addition to the ordinary time rate of pay is greater than the projected roster, then the employee will be entitled to the provisions of paragraph (i) above and not the projected roster.

(k) Calculation of Continuous Service

For the purpose of this Clause, service is continuous even where an employee is absent from work as a result of personal sickness or accident up to and including ninety one (91) days.

Any absence on account of personal sickness or accident in excess of ninety one (91) days in any twelve (12) monthly period does not count towards calculation of continuous service.

(l) Employer Instigated Cancellation of Leave

- (i) If, as a consequence of an Employer instigated cancellation of approved annual leave (whether agreed or otherwise by the employee, and irrespective of when the cancellation notification is given) an employee incurs a monetary loss directly associated with pre-established annual leave holiday arrangements, and the loss is deemed to be unrecoverable, that employee is entitled to recover the costs from the Employer.

Any claims must be verified by the production of receipts or other form of documentation indicating the prior expenditure incurred associated with pre-holiday arrangements. This information is to be accompanied by written notification, from the person or organisation to which the payment was made, stating the amount which is not recoverable.

The Employer will only be liable to pay that portion of the payment which is unrecoverable and which is not subject to an insurance claim or payment.

- (ii) An employee who, during a period of annual leave, responds to an Employer instigated request to return to work during a period of annual leave is entitled to redeem from the Employer any travel and other associated costs incurred in returning to work and the subsequent return to annual leave. The costs are those in excess of costs normally incurred by the employee in travelling daily to and from work.

The reimbursement of costs associated with the returning to annual leave would only apply when the period of leave was deemed to be continuous other than for the interruption to return to work.

Claims for reimbursement of travel and other associated costs must be accompanied by receipts and any other form of documentation which would be appropriate to support the claim.

- (iii) An employee, on returning to work in response to an employer instigated request, is to be re-credited with one day's annual leave for each day or part day the employee is at work. The employee will be entitled to use the additional re-credited day or days in addition to the unused portion of approved annual leave (which the employee would have taken except for the interruption by returning to work) immediately upon the finishing of the period for which the employee was recalled to work.

PROVIDED that an employee may elect to take the balance of unused leave and re-credited days at a later date.

(m) **Single Day Annual Leave**

The Employer will consider employee requests for single day use of accrued annual leave on a case-by-case basis.

9. CALL ARRANGEMENTS

(a) **On-Call**

An employee who is rostered to remain on call (this is on duty and allowed to leave the establishment's premises) shall be paid \$10.96 per day/shift for each day/shift that the employee is required to be so available.

Where a rostered employee is recalled to work he/she will be paid in accordance with 9(b) in addition to the allowance specified in 9(a).

(b) **Re-Call**

Where an employee who is On-call as defined in 9(a) above, and is required to attend the establishment's premises during their "on-call" period, the employee will be paid:

- (i) For the first re-call a minimum payment of four (4) hours' work at the appropriate overtime rate; and
- (ii) For each subsequent re-call a minimum payment of three (3) hours' work.
- (iii) Provided always that time reasonably spent in getting to and from work shall be regarded as time worked.
- (iv) Provided further that an employee who is recalled to work within two (2) hours of his or her normal starting time shall be paid at overtime rates with a minimum payment of two (2) hours at double time in place of the above requirement.

10. CASUAL EMPLOYEES

- (a) A casual employee for working ordinary time will be paid per hour 1/38th of the relevant weekly wage rate for the work performed, plus a loading in lieu of annual leave, personal leave and holidays with pay.
- (b) Casual employees' will be employed by the hour and with a minimum of two (2) hours' work or, alternatively, paid for a minimum of two (2) hours on each occasion they are required to work. However, where because of work practices it is inappropriate to apply these conditions, the conditions may be

varied by mutual agreement between the employee, the Union and the Employer.

- (c) Where an Employer has engaged a casual employee in accordance with this clause the Employer may give notice of cancellation of the engagement up to twelve (12) hours before the scheduled commencing time in the case of a day shift, and up to six (6) hours before the scheduled commencing time of either an afternoon or night shift.
 - (i) PROVIDED THAT if the minimum notice of cancellation of the engagement in (c) above is not given the employee is to be paid three (3) hours pay.
 - (ii) A casual employee whose engagement is cancelled without the minimum notice specified in (c) above and who has incurred child care fees shall, upon providing the employer with documentary proof of the expenditure so incurred, be reimbursed in full.
 - (iii) PROVIDED THAT a claim for reimbursement must be made to the Employer no later than four (4) weeks from the date the expenditure was incurred.
- (d) The casual loading is 25%.
- (e) A casual employee who has been rostered on a regular and systematic basis over a period of twenty six (26) weeks has the right to request conversion to permanent employment. An employee, who does not make a request within four weeks of the right to request falling due, is deemed not to have elected to convert.
- (f) The new contract would generally be on the basis of the same number of hours as previously worked: however, the hours must be capable of fitting within the existing shift and rostering arrangements. Other arrangement may be implemented by agreement between the employer and the employee.
- (g) The employer may consent to or refuse the request, but shall not unreasonably withhold agreement to such a request.

11. COMMUNITY SERVICE LEAVE

Community Service Leave is a matter provided for in the NES (Division 8 - Community Service Leave).

- (a) Employees are entitled to be absent from employment for taking part in eligible community service leave. This leave is unpaid. This leave will be taken in accordance with the following provisions:
 - (i) An employee who is a registered volunteer in a specified emergency service organisation and attends an emergency response situation, or is involved in a voluntary emergency management activity during normal working hours may be entitled to paid leave on application.

- (ii) Community Service Leave arrangements apply in respect to employees who are registered volunteers with the following emergency service organisations:
- Tasmania Fire Service;
 - Tasmanian Ambulance Service;
 - State Emergency Service; and
 - Other emergency service consistent with the NES definition.
- (iii) The leave applies where a registered volunteer is requested to respond to an emergency situation involving volunteer assistance during normal working hours. Regular rostered activities/events or training are not included.
- (iv) The Employer will grant approval for an Employee to be absent from duty so the Employee can assist with an emergency situation, providing the following conditions are met:
- the Employee has informed the management and their direct supervisor as soon as practicable regarding the requirement for the absence and its likely duration;
 - the Employee is able without undue disruption to the operational requirements of the organisation to be released to assist in responding to the emergency; and
 - if required by the Employer, the Employee can obtain from the relevant emergency organisation proof of the request for and duration of the attendance in response to the emergency situation.
- (v) The Employer will not unreasonably refuse a request of absence to attend an emergency situation.
- (vi) When an Employee has attended and rendered assistance as a volunteer in response to an emergency situation, the following leave and related arrangements will apply:
- the attendance will not affect entitlements for leave accruals and related benefits;
 - an injury sustained by the Employee whilst attending a emergency situation will not form the basis of a claim against the Employer; and
 - the return to normal work duties by the Employee should be as soon as practicable following the completion of functions associated with the emergency situation including, where relevant, debriefing or counselling. Furthermore, the timing of the return to work should be managed consistent with appropriate health and safety considerations such as the fatigue status of the Employee.
- (vii) Community Service Leave also includes Jury Duty. An employee is entitled to a maximum of 10 days' paid Jury Duty leave.

12. COMPASSIONATE/BEREAVEMENT LEAVE

- (a) All eligible full-time and part-time employees are entitled to compassionate and bereavement leave.
- (b) "Compassionate leave" is provided to enable the employee to spend time with the member of the employee's immediate family or household who has contracted or developed a personal illness, or sustained a personal injury, which poses a serious threat to his or her life.
- (c) "Bereavement leave" is provided for the purpose of the employee attending the funeral of the member of the employee's immediate family or household and to deal with personal business associated with the death of a member of the employee's immediate family or household.
- (d) The entitlement to Compassionate and Bereavement leave is as follows:

Employees (other than casual employees) are entitled to three (3) days paid leave for Compassionate or Bereavement purposes.

The three (3) days of paid leave may be taken per occasion in the following manner:

- Three (3) days as compassionate leave is provided to enable the employee to spend time with the member of the employee's partner or child who has contracted or developed a personal illness, or sustained a personal injury, which poses a serious threat to his or her life prior to the death of the partner or child;
- Three (3) days as bereavement leave following the death of the partner or child; or
- A combination of compassionate and bereavement leave up to a total of three (3) days for all other relatives or household.

The Employer may approve paid compassionate and/or bereavement leave for other persons not mentioned above who have contracted or developed a personal illness, or sustained a personal injury, which poses a serious threat to his or her life, or dies, where it can be established that a significant relationship exists.

- (e) The Employer shall have the discretion to grant paid leave in addition to that described in sub-clause (d) above.
- (f) Casual employee will be entitled to take the same leave periods as detailed in sub-clause (d) above as unpaid leave.
- (g) This Sub-clause will not apply where the period of entitlement to leave coincides with any other period of entitlement to leave, including on a rostered day off.

- (h) An employee may take unpaid compassionate and/or bereavement leave by agreement with the employer. .
- (i) Proof of the death or serious illness, in the form of a medical certificate, death notice or other written evidence, must be provided by the employee to the employer if requested to do so.
- (j) Where additional time off is required the Employer may agree for the Employee to access their personal/carer's leave.

13. CONSULTATION CLAUSE

- (a) This term applies if:
 - (i) The Employer is seriously considering introducing major change to production, program, organisation, structure, or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
 - (ii) Proposes to introduce a change to the regular roster or ordinary hours of work of employees.

The Employer must notify the relevant employees of the decision to introduce the major change.
- (b) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (c) If
 - (i) A relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (ii) The employee or employees advise the employer of the identity of the representative;

the Employer must recognise the representative.
- (d) As soon as practicable after making its decision, the Employer must:
 - (i) Discuss with the relevant employees:
 1. the introduction of the change; and
 2. the effect the change is likely to have on the employees; and
 - (ii) Measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and for the purposes of the discussion – provide, in writing, to the relevant employees:
 1. all relevant information about the change including the nature of the change proposed; and

2. information about the expected effects of the change on the employees; and
 3. any other matters likely to affect the employees.
- (e) However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant employees. The Employer must:
- (i) Invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities in the case of change to the regular roster or ordinary hours of work of employees); and
 - (ii) Give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- (f) If a term in the Enterprise Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in subclauses (b), (c) and (e) are taken not to apply.
- (g) In this term, a major change is *likely to have a significant effect on employees* if it results in:
- (i) The termination of the employment of employees; or
 - (ii) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
 - (iii) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (iv) the alteration of hours of work; or
 - (v) the need to retrain employees; or
 - (vi) the need to relocate employees to another workplace; or
 - (vii) the restructuring of jobs.
- (h) In this term, *relevant employees* means the employees who may be affected by the major change.
- (i) Consultation about changes to rosters or hours of work:
- (i) Where an Employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.
 - (ii) The Employer must:

1. Provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee's regular roster or ordinary hours of work and when that change is proposed to commence);
 2. Invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
 3. Give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.
- (iii) The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.
- (iv) These provisions are to be read in conjunction with other agreement provisions concerning the scheduling of work and notice requirements.

14. CONTRACT OF EMPLOYMENT

- (a) All employees not employed as a casual employee will be employed by the fortnight.
- (b) An employee's position, at the time of appointment, will be classified according to the classification definitions in this Agreement.
- (c) An employee (other than a casual employee), is entitled to be paid, including any overtime and other penalty rates, if:
- (i) As a result on an action by the Employer, the employee does not work for the maximum number of ordinary working hours specified in this Agreement (in the case of a full-time employee) and the maximum number of ordinary working hours which the employee is contracted to work (in the case of part-time employee); and
 - (ii) The employee is ready and willing to work during those ordinary working hours.
- (d) An Employer may direct an employee to carry out such duties as are within the limits of an employee's skill, competence and training consistent with the classification structure in this Agreement.

This clause does not allow the Employer to pay an employee at a rate lower than their classification for performing work of a lower classification nor does it prevent the employee receiving any entitlement for performing work at a higher classification.

15. DAY LIGHT SAVING

Upon the changeover of time as a result of daylight saving in October and March each year the following shall apply:

- (a) Employees shall be paid for actual time worked irrespective of the length of the shift.
- (b) Employees paid in accordance with sub-clause (i) are not entitled to claim for the one (1) hour lost and all time worked shall be paid at applicable penalty rates.

16. DISPUTE RESOLUTION PROCEDURE

- (a) If a dispute relates to;
 - (i) a matter arising under the agreement; or
 - (ii) the National Employment Standards; or
 - (iii) any other matter.

this term sets out procedures to settle the dispute.

- (b) An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.
- (c) 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.

If discussions at the workplace level do not resolve the dispute, then the matter will be escalated in accordance with The Gardens grievance/dispute procedure.

- (d) Following this, if discussions do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.
- (e) The Fair Work Commission may deal with the dispute in two (2) stages:
 - (i) The Fair Work Commission 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 the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 1. Arbitrate the dispute: and
 2. Make a determination that is binding on the parties.

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

A decision that the Fair Work Commission 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.

- (f) While the parties are trying to resolve the dispute using these procedures:
 - (i) An employee must continue to perform his or her work as he or she would normally unless he or she has had a reasonable concern about an imminent risk to his or her health or safety; and
 - (ii) 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:
 1. The work is not safe; or
 2. Applicable occupational health and safety legislation would not permit the work to be performed; or
 3. The work is not appropriate for the employee to perform; or
 4. There are other reasonable grounds for the employee to refuse to comply with the direction.

17. FAMILY VIOLENCE CLAUSE

The Employer is committed to ensuring that an employee who is experiencing domestic violence is not treated adversely or unfairly in his/her employment and have access to timely and appropriate support that is responsive to his/her individual circumstances.

An employee experiencing domestic violence will have access to personal leave and other accrued leave entitlements for medical appointments, legal proceedings and other activities related to domestic violence.

The Employer will favourably consider requests for flexible working arrangements, subject to operational requirements, including changes to working times and leave without pay.

18. FLEXIBILITY CLAUSE

- (a) An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
 - (i) The agreement deals with one (1) or more of the following matters:
 1. arrangements about when work is performed;
 2. allowances;
 3. leave loading; and

- (ii) The arrangement meets the genuine needs of the employer and employee in relation to one (1) or more of the matters mentioned in paragraph (i); and
 - (iii) The arrangement is genuinely agreed to by the Employer and employee.
 - (iv) An individual flexibility arrangement must be initiated by the employee and will only be considered in exceptional circumstances to accommodate family and/or personal circumstances.
- (b) The Employer must ensure that the terms of the individual flexibility arrangement:
- (i) Are about permitted matters under section 172 of the *Fair Work Act 2009*; and
 - (ii) Are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
 - (iii) Result in the employee being better off overall than the employee would be if no arrangement was made.
- (c) The Employer must ensure that the individual flexibility arrangement:
- (i) Is in writing; and
 - (ii) Includes the name of the employer and employee; and
 - (iii) Is signed by the employer and employee and if the employee is under eighteen (18) years of age, signed by a parent or guardian of the employee; and
 - (iv) Includes details of:
 1. The terms of the enterprise agreement that will be varied by the arrangement; and
 2. How the arrangement will vary the effect of the terms; and
 3. How the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 4. States the day on which the arrangement commences.
- (d) The Employer must give the employee a copy of the individual flexibility arrangement within fourteen (14) days after it is agreed to.
- (e) The Employer or employee may terminate the individual flexibility arrangement:
- (i) By giving no more than twenty eight (28) days written notice to the other party to the arrangement; or
 - (ii) If the employer and employee agree in writing – at any time.

19. EIGHT HOUR BREAK

Where an employee resumes their normal rostered work without having at least eight (8) consecutive hours off duty, the employee shall be released from duty

without loss of pay for ordinary working time occurring during such absence and for such period until that employee has eight consecutive hours off duty.

PROVIDED THAT where, on the instruction of the Employer an employee resumes or continues work without having had eight (8) consecutive hours off duty they shall be paid at the appropriate overtime rate until they are released from duty for such rest period and they shall then be entitled to be absent until they have had eight (8) consecutive hours off duty without loss of pay for rostered ordinary hours during such absence.

PROVIDED FURTHER THAT if this occurs as a result of an employee initiated shift swap, the Employer will not incur the payment for overtime where it does not allow for an eight (8) hour break.

20. ENROLLED NURSE UPGRADE TO REGISTERED NURSE

In recognition of the need to retrain staff within the Aged Care sector an enrolled nurse who completes a period of study that entitles them to seek registration with the Australian Health Practitioner Regulation Agency shall, if they wish to continue with the Employer, be transferred to a position as a registered nurse within the facility, where such position is available.

Where such position is available with the equivalent hours to match the employee's hours prior to transfer the employee will transfer at their current hours of work.

An Enrolled Nurse commencing as a registered nurse shall be paid as a Level 1 year 3 Registered Nurse for their first year of service.

21. HANDOVER

In circumstances where the employer requires the employee to extend the normal span of their shift to allow for handover, a maximum of fifteen (15) minutes per shift will be paid for handover.

This handover time will be paid at the rate applying to the shift worked by the employee however no overtime rates apply.

In the event that handovers are completed in less than fifteen (15) minutes per shift only the time worked during handover will be paid.

Provided that where handover time is greater than fifteen (15) minutes per shift no extra payments will be made in excess of fifteen (15) minutes.

22. HOURS

(a) The ordinary hours of work for full-time day workers employees are between the hours of 7.00am and 7.00pm, Monday to Friday. Thirty eight (38) hours

per week will be worked in five (5) days in continuous periods with an unpaid meal break of not more than one (1) hour duration.

- (b) However, the permanent spread of hours or daily hours may be altered for all or a section of employees by mutual agreement between the Employer and the employee(s) in the area concerned and the relevant union. The Union's agreement will not be unreasonably withheld.
- (c) By agreement in writing between an employee and the Employer, an employee's ordinary hours may be extended to a maximum of ten (10) ordinary hours per day. Where such an arrangement is made, it may be discontinued by the employee or the employer giving the other fourteen (14) days written notice.
 - (i) An arrangement in writing under this Subclause must be signed by the Employer and the employee with one copy provided to the employee and one copy kept on the employee's employment file.
 - (ii) The Employer will not use this subclause to reduce the number of full-time equivalent (FTE) staff employed.
 - (iii) An employee who wishes to enter into an arrangement under this Subclause must be provided with a copy of this Subclause by the Employer prior to the arrangement being effective.
 - (iv) In the event of the arrangements contemplated by this Subclause being discontinued, the employee/s will be returned to pre-existing conditions and must not suffer any loss or prejudice in employment whatsoever.
 - (v) No employee (or prospective employee) will be required by the Employer to work under the terms of this subclause as a condition of employment or engagement unless by agreement.
- (d) Part-time employees (other than a rostered employee) employed to work outside the spread of hours specified in paragraph (a) above will receive penalty rates as follows:
 - Monday to Saturday - time and one half for the first two (2) hours and double time after that;
 - Sunday - double time;
 - Public Holidays - double time and one half.
- (e) Employees may be required to work to a roster, subject to the Roster Clause in this Agreement. Where an employee is required to work ordinary hours outside the span of hours of 7.00am to 7.00 pm, Monday to Friday that work must be in accordance with a roster.
- (f) Ordinary Hours – Rostered Employees

- (i) Where an employee is required to work in accordance with a roster, the ordinary hours of work are an average of thirty eight hours per week for that employee and must not exceed:
 - 8 hours in any one day; or
 - 48 hours in any one week; or
 - 88 hours in any 14 consecutive days; or
 - 152 hours in any 28 day accounting period.
 - (ii) By agreement in writing between an employee and the Employer, an employee's ordinary hours may be extended to a maximum of ten (10) ordinary hours per day. Where such an arrangement is made, it may be discontinued by either the employee or the employer by giving the other fourteen (14) days (one fortnight) written notice.
 - (iii) An arrangement in writing under this Subclause must be signed by the Employer and the employee with one copy provided to the employee and one copy kept on the employees employment file.
 - (iv) The Employer will not use this subclause to reduce the number of full-time equivalent (FTE) staff employed.
 - (v) An employee who proposes to agree to enter into an arrangement under this Subclause must be provided with a copy of this Subclause by the employer prior to such arrangement being effective.
 - (vi) In the event of the arrangements contemplated by this Subclause being discontinued, the employee/s will be returned to pre-existing conditions and must not suffer any loss or prejudice in employment whatsoever.
 - (vii) No employee (or prospective employee) will be required by the Employer to work under the terms of this subclause as a condition of employment or engagement unless by agreement.
- (g) Time Off In Lieu of Payment for Overtime
- (i) An employee may elect, with the consent of the Employer, to take time off in lieu of payment for overtime at a time or times agreed with the Employer.
 - (ii) Overtime taken as time off during ordinary time hours will be taken at the appropriate penalty rate equivalent.
 - (iii) An Employer will, if requested by an employee, provide payment at the relevant overtime rate in the Overtime Clause in this Agreement, for any overtime worked under this subclause where the time in lieu is not taken within four weeks of the accrual.

(iv) An employee or the employees may choose to request their Union or representative of their choice to represent their interests in negotiations referred to in paragraph (l) above.

(v) The Employer must keep accurate records of time off in lieu arrangements in the wages records.

(h) **Make-up Time**

(i) An employee may elect, with the consent of the Employer, to work 'make-up time' under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours.

(ii) A rostered employee may elect, with the consent of their Employer, to work 'make up time' under which the employee takes time off during ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.

An employee or the employees may choose to request their Union to represent their interests in negotiations referred to in paragraph (i) above.

(iii) The Employer must keep a record of makeup time arrangements in the wages records.

23. IN CHARGE ALLOWANCE

A Registered Nurse Level 1 or Level 2 required to assume charge of a clinical or management unit for more than half a shift shall be paid \$25.00 for each shift worked.

24. INCREASES TO ALLOWANCES

Any increases to allowances shall be in accordance with Schedule C of this Agreement.

25. LICENCE ALLOWANCE

An employee who is required as part of their employment to hold a special/public vehicle licence will be reimbursed the cost of the driver's annual licence fee.

26. LONG SERVICE LEAVE

Long Service Leave is a matter provided for in the NES (Division 9 - Long Service Leave). Where there is an inconsistency between this Clause and the NES, and the

NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

Long Service Leave shall be in accordance with the Long Service Leave Act 1976.

The means an employee will be entitled to access 8.6666 weeks leave after ten (10) years' service.

Where an employee requests and the Employer approves an employee may cash-in accrued long service leave. The employee may request and subject to the Employer's approval, may take a combination of accrued leave and cash-in combinations.

The Employer reserves the right to request an employee take a period of long service leave within a defined period post entitlement.

27. MEALS

- (a) Residents must always be our first consideration, therefore the timing of taking meal breaks must be at a mutually convenient time. The Employer would also like to remind staff the breaks are essential in ensuring focus and maintaining safety in the workplace.
- (b) Employees not required to work on a roster, who work in excess of four (4) hours on any day will, subject to subclause (b) below, will receive an unpaid meal break of not more than one hour and not less than thirty (30) minutes. The duration of the meal break may be altered by agreement between the Employer and the employee.
- (c) Employees required to work on a roster will receive a paid meal break of thirty (30) minutes which is counted as time worked. However, by mutual agreement between the employer and the majority of the employees within a particular work area and with the approval of the Union, those employees will be allowed to extend their paid thirty (30) minute meal break by up to a further unpaid thirty (30) minutes each day.
- (d) An employee receiving an unpaid meal break and who is directed to work during their meal break will be paid at the rate of time and a half of the relevant wage rate for all work performed during the meal break and after until a meal break is allowed.
- (e) Meal Allowance

Where an employee is required to travel more than or sixteen (16) kilometres from their usual place of employment, and are away during meal times and purchase a meal at any commercial outlet, then they will be paid a meal allowance as follows:

Breakfast	\$9.94
Lunch (or midday meal)	\$10.96

Dinner (or evening meal) \$19.31

Where the employee provides their own meal, an allowance of \$3.25 for each meal is to be paid.

(f) Meal Charges

The maximum amount that an Employer can charge an employee who is provided with a meal by the Employer is:

Lunch or Evening Meal

Two or three courses	\$5.18
Single hot or cold main course	\$3.98
Single (other) course, i.e. soup or sweet	\$3.61

All breakfasts \$3.61

In each case where a one (1), two (2) or three (3) course meal is ordered and charged for as above, no extra charge is to be made for either beverages, toast, bread, butter or condiments.

28. MIXED FUNCTIONS

An employee, who, for a period of three (3) or more consecutive working days performs the duties of a position higher than that in which he/she is normally employed shall be paid, for the full period he/she is performing such duties, the minimum rates prescribed for such higher position.

29. NOTICEBOARD

The Employer will provide a suitably sized noticeboard for staff notices, including provision for Union notices/flyers.

30. NOTICE OF TERMINATION

(a) Except in circumstances of misconduct justifying summary dismissal an employee whose employment is terminated at the initiative of the Employer shall be given notice of termination of employment, or payment in lieu of notice, by the employer as follows:-

Period of Continuous Service	Period of Notice
Less than 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years of completed service	4 weeks

- (b) If the employee is aged over forty five (45) at the time of being given notice, and has been employed for not less than two (2) years with the Employer, the employee is entitled to a further week's notice in addition to the relevant notice prescribed in (a).
- (c) Payment in lieu of notice may be made if all or part of the appropriate period is not required to be worked.
- (d) In calculating any payment in lieu of notice, the wages the employee would have received in respect of the ordinary time that would have been worked during the period of notice will be used.
- (e) The period of notice in this Clause shall not apply in the case of dismissal for misconduct, or in the case of casual employees or employees engaged for a specific period of time or for a specific task or tasks.
- (f) Notwithstanding the foregoing provisions, where the employee has been engaged as a trainee and their employment is terminated at the completion of the traineeship, in the event that the trainee is re-engaged by the employer within six months of such termination the period of traineeship shall be counted as service in determining any future termination.

Notice of termination by the employee

- (g) An employee must give a minimum of two (2) weeks' notice of intention to terminate their employment to the employer, unless some other arrangement is mutually agreed between the employee and the Employer.

Summary dismissal

- (h) The Employer may dismiss an employee without notice for serious misconduct as defined in the relevant legislation, and in such cases wages will be paid only up to the time of dismissal.

Abandonment

- (i) An employee who fails to attend work for three (3) consecutive shifts without notification for the reason for such absence, will be considered to have abandoned their employment. Abandonment is considered resignation by the employee without notice.
- (j) Prior to termination under this Subclause, the Employer must demonstrate that they have taken all reasonable steps to contact the employee prior to the decision to terminate the employee's employment.

31. OVERTIME

- (a) The Employer may require any employee to work reasonable overtime. No overtime may be worked without prior approval of the Employer.

- (b) An employee may decline to work overtime if it would result in the employee working hours which are unreasonable having regard to:
- (i) Any risk to the employee's health and safety;
 - (ii) The employee's personal circumstances including family responsibilities;
 - (iii) The needs of the Employer;
 - (iv) The notice (if any) given by the Employer of the requirement to work overtime and by the employee of his or her intention to refuse it; and
 - (v) Any other relevant matter.
- (c) For the purposes of this clause overtime means:
- (i) Work in excess of eight (8) hours per day except where ordinary hours are extended in accordance with the Hours Clause in this Agreement, in which case it is hours in excess of ten (10) hours per day.
 - (ii) Work in excess of an average of thirty eight (38) hours per week over a four (4) week period, except where an employee receives an accrued day off in accordance with the Hours Clause in this Agreement, in which case it is hours in excess of forty (40) hours per week, averaged over a four (4) week period.
 - (iii) For day workers, work outside the span or ordinary hours 7.00am to 7.00pm Monday to Friday except where agreement is reached in accordance with the Hours Clause in this Agreement.
- (d) For all time worked in accordance with subclause (a) above the following overtime rates will be paid:
- (i) Monday to Saturday inclusive - time and one half (1.5) for the first two (2) hours and double time after that;
 - (ii) Sunday - double time;
 - (iii) Holidays with Pay - double time and one half (2.5).
 - (iv) An employee required to work in accordance with a roster will be paid double time for all overtime. However, overtime does not apply where arrangements for a swap of hours have been made between two (2) or more employees at their own instigation.
 - (v) Each day's overtime will stand alone.
- (e) Unless the period of overtime is one and a half hours (1.5) or less, an employee before starting overtime will be allowed a paid meal break of twenty

(20) minutes paid at ordinary rates. An employer and an employee may agree to any variation of this provision to meet the circumstances of the work. No employee will be required to work more than five hours without a meal break.

- (f) An employee required to work for more than two (2) hours without being notified on the previous day or earlier that they will be required to work overtime-will either be supplied with a meal by the employer or paid \$12.94.
- (g) The allowances provided for in this Agreement except for Post Graduate Allowance must not be taken into consideration in the calculation of overtime payments.
- (h) The calculation of the overtime payments provided for in this Clause for an employee in receipt of a loading will be based upon the ordinary wage rate contained in this Agreement.
- (i) Where there is agreement between the employer and the employee, time off in lieu of overtime may be taken at the penalty rate equivalent. Where an agreement is made to take time off in lieu of overtime, the agreement may be concluded by agreement or at the request of either the Employer or the employee.
- (j) Where an employee is without their own transport and works overtime which ends at a time so late as unable to use public transport, the employee will be provided with appropriate safe transport home.

32. PARENTAL LEAVE AND RELATED ENTITLEMENTS

Parental Leave (birth related leave and adoption related leave) will be in accordance with the provisions contained in the National Employment Standards (NES) (Division 5 – Parental Leave and Related Entitlements).

In addition to the Parental Leave provisions contained in the NES employees may also be eligible for the Paid Parental Leave paid by the Australian Government.

- (a) an eligible female employee is entitled to fourteen (14) weeks paid maternity leave at the ordinary rate.
- (b) an eligible male employee is entitled to one (1) weeks paid paternity leave at the ordinary rate. Provided that in the case of a male employee all accrued annual leave and long service leave shall not be unreasonably refused in conjunction with the one (1) week paid paternity leave.

33. PART TIME EMPLOYEES

- (a) Part-time employees will be entitled to all conditions prescribed by this Agreement subject to this Clause.

- (b) Before commencing part-time employment, the Employer and employee will agree in writing the guaranteed minimum number of hours to be worked and the rostering arrangements which will apply to those hours. The terms of the agreement may be varied by agreement and recorded in writing.
- (c) Part-time employees will be entitled to annual leave, personal leave and the holidays with pay, with payment at the normal rate of pay. The wage payable per hour will be 1/38th of the relevant weekly wage rate.
- (d) Part-time employees will be provided with a minimum of two (2) hours' work or, alternatively, paid for a minimum of two (2) hours on each occasion they are required to work. However, where because of work practices it is inappropriate to apply the conditions of this subclause, such conditions may be varied by mutual agreement between the employees, the Union and the Employer.
- (e) Where an employee is regularly working more than their guaranteed contracted hours the employee may request to have their hours reviewed annually.
- (f) The hours worked in the following circumstances will not be incorporated in any adjustment:
 - (i) If the increase in hours is as a direct result of an employee being absent on leave, for example, annual leave, long service leave, parental leave, workers compensation; or
 - (ii) If the increase in hours is due to a temporary increase in hours only due, for example, to the specific needs of a client.
- (g) If a review establishes a consistent pattern of greater hours is being worked, the employer will offer the employee those additional hours as part of their guaranteed minimum number of hours.

34. PAYMENT OF ANNUAL INFLUENZA VACCINATION

The Employer will provide the employee with the opportunity to have the cost cover for the administration of the influenza vaccination.

The Employer will not cover the cost of the actual vaccination.

35. PAYMENT OF WAGES

For the purpose of this Clause wages means the relevant rate for ordinary working hours worked to which an employee is entitled and includes any other payment to which an employee is entitled under the provisions of this Agreement including allowances, loadings and overtime.

(a) Time and interval of payment

Wages are to be paid fortnightly during working hours and not later than Thursday.

When a pay day falls on a public holiday wages shall be paid on the last working day before the public holiday.

The pay day shall not be varied, except after consultation with employees and an agreed phasing-in period.

(b) Method of payment of wages

Payment of wages shall be by direct bank deposit or some other method determined by the Employer, provided that employees shall nominate into which bank or financial institution their wages are to be paid.

The method of payment shall not be varied, except after consultation with employees and an agreed phasing-in period.

(c) Statement of wages

On or after pay day the employer is to provide to employees full written details of the wages being paid in that pay period.

(d) Deduction of moneys

Where authorised by an employee in writing, the Employer is to make deductions from the employee's in respect of superannuation and other applicable deductions.

Where on termination of employment an employee owes money to the Employer, including the cost of unreturned uniforms and other property of the Employer, the Employer is entitled to deduct such owed money from the employee's final pay provided the employee has given the Employer written authorisation to do so.

For the purpose of clarity owed money is taken to include unrecovered overpaid wages.

(e) Late payment of wages

Except in circumstances beyond the control of the Employer, and subject to (f) below, an employee kept waiting for more than a quarter of an hour for wages, on the normal pay day after the usual time for ceasing work, is to be paid the appropriate overtime rate after that quarter of an hour, with a minimum payment for a quarter of an hour, and payment shall continue on that day until the employee is advised that payment will not be forthcoming on that day.

Payment at the appropriate overtime rate shall continue during all ordinary hours of work on each succeeding day or days, including rostered days off, up to a maximum of 7.6 hours per day, until such time as payment is made.

(f) Agreed alternative arrangements - no waiting time payment to apply

The provisions for payment of waiting time of (e) above shall have no effect in circumstances whereby payment cannot be effected on pay day but the employer and employee agree to an alternative arrangement for payment to be made.

PROVIDED THAT if the Employer fails to make payment of the employee's wages in accordance with an alternative arrangement provided for under this Subclause, the employee shall be deemed to have been kept waiting for payment since the usual pay day and shall be entitled to payment of waiting time in accordance with the provisions of (e) above until such time as the employee's wages are paid.

(g) Payment of wages on termination

Where employment is terminated summarily or on giving the prescribed notice all wages owing, will be paid on the following regular pay day.

Except in circumstances beyond the Employer's control, if an employee's outstanding pay and entitlements upon termination are not paid within the time specified in (g) above, any time spent waiting to be paid after the date of termination shall be paid for at the relevant hourly rate up to a maximum of 7.6 hours a day for each day that the employee is kept waiting for payment and shall continue until the time that payment is made.

36. PERSONAL LEAVE

Personal leave is a matter provided for in the NES (Division 7 – Personal/Carer's Leave and Compassionate Leave). Where there is an inconsistency between this Clause and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

(a) Paid Personal Leave

Paid personal leave is available to an employee, when they are absent:

- (i)** Because the employee is not fit for work because of a personal illness, or personal injury, affecting the employee; or
- (ii)** To provide care or support to a member of the employee's immediate family or a member of the employee's household, who required care or support because of:
 - 1. A personal illness, or personal injury, affecting the member;
 - 2. An unexpected emergency affecting the member

For the purpose of personal leave and carers' leave, where the Employer requires an employee to confirm the reason for the absence, the employee may provide a doctor's certificate, a certificate from a registered Medicare provider, or a statutory declaration.

An Employee shall prove to the satisfaction of the Employer that he/she was unable, on account of such illness or injury, to attend for duty on that day or days on which is claimed.

(b) Amount of personal leave – full time employees

A full time employee is entitled to 152 hours personal leave.

(c) Personal leave

An employee who is absent from work because of personal illness, or an injury, is entitled to paid personal leave at the employee's ordinary time rate exclusive of shift or weekend loadings or overtime subject to the following –

- (i) Employees are not entitled to paid personal leave for any period of absence in respect of which they are entitled to workers' compensation;
- (ii) Employees must as soon as possible prior to going on personal leave inform the Employer of their inability to attend for duty, and as far as is reasonable advise the nature of the injury or illness and the estimated duration of the absence;
- (iii) The onus is on employee to demonstrate to the satisfaction of reasonable person that they were unable because of illness or injury to attend for duty on the day or days for which personal leave is claimed;
- (iv) Untaken personal leave accumulates from year to year without limitation;
- (v) Subject to (iv) above, employees are not entitled to accrue more than one hundred and fifty two (152) hours paid personal leave in any one year.

However, in the first year of service employees are entitled only to twelve (12) hours forty (40) minutes personal leave for each completed month of service (pro-rata for an incomplete month).

If an employee is absent on personal leave on the day immediately before or after an accrued day off the employee must provide a medical certificate in support in respect of the absence.

Employees shall be allowed three (3) single days of personal leave per fiscal year without certification or statutory declaration and those days may be taken at any time including either side of days off or ADOs.

Statutory Declarations signed by a Justice of the Peace may be used in lieu of medical certificates for access to certified personal leave.

(d) Part-time employees

Part-time employees are entitled to personal leave on the same basis as full-time employees except that they are not entitled, other than as provided for above, to paid personal leave in any one year in excess of –

152 (full-time equivalent entitlement) divided by 365 (calendar days per year) multiplied by 7 (days per week) divided by 38 (full-time equivalent weekly working hours) = 0.0767 hours personal leave entitlement for each hour worked. However in determining the amount of leave to which employees are entitled at any time, other than leave which has been accumulated, the average hours worked per week in the preceding three months shall be used, except that where employees have less than three months' service, the ordinary hours per week for which they were engaged shall be used.

(e) Carer's leave

An employee is entitled to take paid carer's leave in respect of a member of the employee's immediate family or household member.

Employees are entitled to use any of their accrued personal leave as carer's leave to cover absences in circumstances where they need to provide care or support to an immediate family member or member of the employee's household.

(f) Notifying the employer of absence of Sick or Carers leave and proof of absence

Certification from medical practitioners, registered health professionals or statutory declarations will be acceptable as proof of illness or injury.

Where an employee is on annual leave and is sick, upon receipt of a medical certificate the annual leave will be re-credited provided that sufficient Personal/Carers leave entitlements exist.

(g) Unpaid Personal leave

Where an employee has exhausted all paid personal leave entitlements, or they are a casual employee, they are entitled to take unpaid personal leave to care for members of their immediate family or household who have an illness or injury and require care or support or who require care due to an unexpected emergency.

If the leave is in excess of two (2) days, the Employer and the employee will agree on the period.

37. POLICE CHECKS

The Employer will cover the cost of the renewals of Police Checks PROVIDED that if the employee leaves their employment within twelve (12) months of the

renewal, the employee shall repay the Employer for the cost of the renewal on a pro rata basis. The employee will then be provided with a copy of the Police Check for their records once any cost owing as per this Clause has been repaid.

38. POST GRADUATE QUALIFICATION ALLOWANCE

- (a) A nurse who holds post graduate qualifications shall be paid an allowance, in addition to salary, as follows -
 - (i) For a post graduate hospital or post graduate certificate - 4.0% of the relevant hourly rate of pay;
 - (ii) For a post graduate diploma or a degree other than a nursing under graduate degree - 6.5% of the relevant hourly rate of pay;
 - (iii) A masters or a doctorate - 7.5% of the relevant hourly rate of pay;

PROVIDED THAT an employee is entitled to payment of only one (1) qualification allowance.

PROVIDED FURTHER THAT payment of an allowance under this Subclause is dependent upon the qualification being relevant to the employee's current area of practice, that the qualification is required by the Employer and that the qualification is used in the performance of the employee's work.

- (b) A post graduate qualification allowance paid in accordance with this Subclause shall be taken into account in calculating overtime and annual leave payments.
- (c) A post graduate qualification allowance paid in accordance with this sub clause is only applicable where the eligibility has been assessed and approved by the employer.

39. PRECEPTOR ALLOWANCE

- (a) An Enrolled Nurse, a Registered Nurse Level 1 or a Registered Nurse Level 2 who acts as a preceptor shall be paid an allowance of \$2.20 per hour for all time spent so acting, subject to the following -
 - (i) The preceptor program must be approved by the Employer; and
 - (ii) The employee must be a qualified preceptor; and
 - (iii) Where an Employer requires an employee to act as a preceptor the Employer will pay all course fees and provide time off on full pay for the employee to attend the preceptor course.

- (b) The definition of preceptor is a nurse who is required to assess and sign off a student nurse.

40. PROFESSIONAL DEVELOPMENT

- (a) The Employer will provide mandatory training in work time.
- (b) The Employer recognises the essential need for employees to continually develop their skills and knowledge. For this reason professional development opportunities will be provided to employees on a case-by-case basis to a maximum of ten (10) days per annum.
- (c) In considering the application by the employee for company provided professional development the parties may agree on a combination of work time paid, the cost of the training and travel and accommodation costs.

41. PROTECTIVE CLOTHING

- (a) The Employer will provide where necessary, suitable protective clothing for the employees. An employee, who is supplied with protective clothing, will wear the clothing for the purpose for which it is supplied.
- (b) The Employer will maintain full and sufficient supplies of safety appliances, such as rubber gloves, disinfectants or other materials required to be used in the course of the employee's duties.
- (c) The Employer will compensate an employee where, in the course of the work, an employee's clothing is damaged, destroyed by fire or by the use of corrosive substances.

42. PUBLIC HOLIDAYS

- (a) Public holidays are provided for in the NES.
- (b) An employee will be paid double time for all work performed on a public holiday.
- (c) A full time employee who does not work on a public holiday will be paid their ordinary pay for that day.
- (d) A part time employee who is rostered off on a public holiday they would ordinarily work will be paid their ordinary pay for that day.
- (e) A casual employee will be paid double time for all hours worked on a Public Holiday.

- (f) Payments under this Clause are instead of any additional rate for shift or weekend work which would otherwise be payable had the work not been performed on a public holiday.

43. ROSTER

- (a) Employees required to work ordinary hours outside the span of hours of 7.00am to 7.00pm, Monday to Friday will work in accordance with a roster established in accordance with this clause.
- (b) Where a roster is established, the roster will be documented setting out clearly the names of the employees required to work on that roster, the days, dates and hours during which each employee is required to work.
- (c) Employees will receive at least seven (7) days' notice of a change to the roster and at least twenty eight days notice in the case of a significant change to the roster.
- (d) Shift workers are to be paid the following loading on their relevant hourly rate for working afternoon or night shifts:
 - (i) Afternoon shift - 12.5%
 - (ii) Night shift - 15%
- (e) A roster established in accordance with this Clause will:
 - (i) Not require an employee to work more than eight (8) hours each day subject to agreement being reached or in accordance with the Hours Clause in this Agreement;
 - (ii) Provide for not more than eight (8) days to be worked in any nine (9) consecutive days;
 - (iii) Not be changed until after four (4) weeks' notice or in the case of an individual employee will not be changed except on one (1) weeks' notice of such change or the payment of two (2) weeks' pay in lieu of notice in accordance with the employees previous roster;
 - (iv) Provide for a minimum of two (2) consecutive days off each week except where, by mutual agreement between the Employer, the employee(s) concerned and the employees union, alternative arrangements are made;
 - (v) Clearly stipulate a twenty eight (28) day accounting period which will include an accrued day off in addition to eight rostered days off.

Employees engaged to provide relief on accrued days off will, when providing relief, be regarded as rostered employees for all purposes of this Agreement (except additional annual leave). Rosters covering relief employees will not be required to rotate.

- (f) A rostered employee will work their eight (8) hour day continuously the hours will not be broken.

However, in an emergency situation the continuous hours may be broken by agreement between the Employer and the employee and with the approval of the Union. All work performed in excess of a spread of nine (9) hours will be paid at the rate of double time.

- (g) Part-time employees and casual employees engaged as rostered employees, for work outside the roster, documented in accordance with subclause (b) above, will be entitled to the provisions of this Clause with the following exceptions:

- (i) Where an employee works by agreement with the employer they will not attract a penalty (other than roster loading, Saturday, Sunday and Holiday with Pay penalty) except that any time worked in excess of eight (8) hours per day will be paid at double time except as provided in the Hours Clause in this Agreement,

OR

- (ii) Where an employee is instructed to work, they are entitled to overtime payments in accordance with the Overtime Clause of this Agreement.

44. REDUNDANCY PROVISIONS

Redundancy Entitlements is a matter provided for in the NES (Division 11 – Notice of Termination and Redundancy Pay). Where the NES redundancy provision set out in the Act is more favourable to an Employee then the NES will prevail in that respect and that any part of this provision that is less favourable will have no effect in respect of that Employee. The provisions in this Agreement otherwise apply.

- (a) The parties agree that it is not desirable to lose the services of staff members through redundancy. It is the parties preferred option to seek redeployment and retraining opportunities within the organisation should the occasion arise.

- (b) **Commitment to Consult.**

The parties to this Agreement recognise that redundancy, when it occurs, is both sensitive and traumatic and needs to be handled in a delicate manner.

Where the employer believes that it may be necessary to make one or more positions within the enterprise redundant, the employer agrees to immediately notify the union and to commence a process of ongoing consultation.

(c) Redeployment and Retraining

In the event of a position being made redundant, or an employee's hours are reduced or altered which causes a loss of an employee's income the following shall apply:

- (i) The Employer will actively explore all internal redeployment opportunities for staff surplus to requirements.
- (ii) A staff member seeking redeployment may be retrained for an available position on condition that the staff member can demonstrate that he or she possesses the necessary capacity for that position.
- (iii) Where retraining is required, the Employer will provide and pay for any training which the Employer deems necessary for the staff member to perform the duties of the position to which the staff member is being redeployed. The employee will be entitled to undertake this training during work time.
- (iv) All reasonable attempts will be made to ensure that a staff member's area of choice, hours of work, previous employment classification and previous roster patterns are met.

(d) Notice of Redundancy

The Employer undertakes to provide the maximum possible notice of the need to make a position(s) redundant or reduce or alter hours which causes a loss of employee's income. In all cases however, the minimum period of notice for employees subject to termination or reduction or alteration of hours which causes a loss of employee's income, will be two (2) weeks.

The required period of notice in the event that a position is made redundant or hours are reduced or altered to cause a loss of employee's income is as follows:

Employee's Period of Continuous Service with the Employer	Period of Notice
Not more than 3 years	At least 2 weeks
More than 3 years but not more than 5 years	At least 3 weeks
More than 5 years	At least 4 weeks

The required notice period will be increased by one (1) week if the employee is over 45 years of age at the time of termination and has completed two (2) years continuous service with the employer.

(e) Voluntary Redundancy

In the event that it is necessary for the Employer to make a position(s) redundant, or reduce or alter hours which causes a loss of employees income, the Employer will, in the first instance, seek expressions of interest from all staff, in volunteering for a redundancy package.

PROVIDED that, the Employer will only be required to seek such expressions of interest from staff employed at the same worksite and in the same classification as the position being made redundant.

In assessing applications for voluntary redundancy, the parties acknowledge that the Employer will take into account the skill and operational requirements of the enterprise.

In normal circumstances involuntary redundancies will only be considered where there are no, or insufficient volunteers from existing staff. However, the parties accept that in assessing applications for voluntary redundancy, either as a result of a position(s) being redundant or through the reduction or alteration of a position(s) hours which causes a loss of an employees income, the employer will be entitled to take into account the operational requirements of the business. The employer shall consult with the union where the employer rejects an application for voluntary redundancy in favour of an involuntary redundancy.

(f) **Redundancy Package**

Where redeployment or retraining opportunities are not available, the separation package to be paid to redundant staff is as follows:

(i) **Voluntary Redundancies**

Notice as per Sub-clause (c) of this Clause, or payment in lieu thereof.

Two (2) weeks' pay for each completed year of service and pro rata to two weeks for the final uncompleted year of service.

Full payment of all accrued annual leave entitlement including leave loading

(ii) **Involuntary Redundancies**

Notice as per sub-clause (c) of this clause, or payment in lieu thereof

2 weeks pay for each year of service and pro rata to two weeks for the final uncompleted year of service.

Full payment of all accrued pro rata long service leave entitlements after five years of service.

Full leave payment of all accrued annual leave entitlements including leave loading.

- (iii) Where an employee is not offered similar hours or hours are altered (other than by a normal change of roster in accordance with the Award) which causes a loss of income the employer will pay a partial redundancy to such employees as are adversely affected as follows:

Redundancy payment = existing weekly rate - new weekly rate x 2 x years of service and pro rata to two weeks for any uncompleted year of service.

- (iv) A week's full pay shall mean
 - i. The weekly base rate for the classification; and
 - ii. Any penalties; and
 - iii. Any all purpose work related allowances
- (v) All staff who are made redundant, shall be given assistance by the employer in seeking suitable alternative employment. Such staff will be granted time off with pay to seek alternative employment or to make arrangements for training or re-training.

(g) Financial Counseling

The Employer undertakes to provide access in paid time for each employee who is offered a redundancy, or who expresses an interest in a redundancy, to consult a financial adviser. The Employer will pay for the initial cost associated with the financial counseling (up to two (2) sessions) from a financial counselor agreed to by the Employer and the employee.

The Employer will provide to each employee a fully detailed pay statement at the time when the offer of redundancy is made.

- (h) In the event of a permanent position becoming available, the employer shall take reasonable steps to notify redundant employees (within twelve (12) months of being made redundant) of such vacancy and the employee shall be invited to apply.

Provided that in the case where the Employer facilitates acceptable alternative employment for an employee, including the transfer of all entitlements, the provisions of this redundancy clause shall not apply.

Acceptable alternative employment will have been provided where the employee is transferred to:

- (i) A position which reflects the individual skills of that employee; and
- (ii) A position which, as a minimum, provides the same financial and employment benefits (including security of employment) as the position which no longer exists.

45. SALARY RE ENTRY REGISTERED NURSES

Registered Nurses undertaking the re-entry to practice course shall be paid at level 1 Year 1 during their course clinical time. The nurse shall be paid as a level 1 RN year 2 for the first twelve (12) months. Following successful completion of the re-entry program all previous nursing experience shall be recognised upon proof of past experience - statement of service/group certificates etc.

46. SALARY RE ENTRY ENROLLED NURSES

Enrolled Nurses undertaking the re-entry to practice course shall be paid at the first increment of the EN pay scale during their course clinical time. The nurse shall be paid as a level 2 EN for the first twelve (12) months. Following successful completion of the re-entry program all previous nursing experience shall be recognised upon proof of past experience – statement of service/group certificates etc.

47. SALARY SACRIFICE

By agreement with the Employer an employee may sacrifice an amount of salary, which would otherwise be payable in accordance with this agreement, and have that sacrificed amount contributed to a superannuation fund.

48. SATURDAY AND SUNDAY WORK - ROSTERED EMPLOYEES

(a) Saturday Work

Rostered employees for working ordinary hours, the major portion of which falls on a Saturday, shall be paid at the rate of time and one half (1.5) of the employee's ordinary hourly rate for all hours worked on such day, but such rates shall be in substitution for and not cumulative upon roster loading described in the Roster clause of this Agreement. The provisions of this Subclause shall not prejudice any right of an employee to obtain alternatively any higher rate in respect of that work by virtue of any provision of this Agreement.

(b) Sunday Work

Rostered employees for working ordinary hours, the major portion of which falls on a Sunday, shall be paid at the rate of time and three quarters of the employee's ordinary hourly rate for all hours worked on such day, but such rates shall be in substitution for and not cumulative upon the roster loading described in the Roster clause of this Agreement.

- (c) Where work commences between 11.00pm and midnight on a Sunday the time so worked before midnight shall not entitle the employee to the Sunday rate provided that the time worked by an employee before midnight on a Saturday and extending into Sunday the time worked before midnight shall be regarded as time worked on Sunday.

49. SUPERANNUATION

(a) Superannuation legislation

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

(b) An Employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

(c) The Employer must pay to the relevant superannuation fund the amount specified in subclause (b) no later than twenty eight (28) days after the end of each month.

(d) Voluntary employee contributions

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

(e) Unless, to comply with superannuation legislation, the Employer is required to make the superannuation contributions provided for in subclause (b) to another superannuation fund that is chosen by the employee, the Employer must make the superannuation contributions provided for in subclause (b) and pay the amount authorised under subclauses (d)(i) or (d)(ii) to Hesta Super Fund (Health Employees Superannuation Trust Australia).

50. UNIFORMS

- (a) Employees will be provided, free of cost by the employer, sufficient, suitable and serviceable uniforms or by mutual agreement be paid an allowance of \$4.81 per week including periods of approved paid leave.
- (b) An employee, on leaving employment, will return any uniform provided by the Employer which is still in use by the employee immediately prior to leaving employment.

51. UNION DELEGATES RIGHTS

- (a) Union delegates or elected workplace representatives upon application in writing and approval by the Employer shall be granted up to five (5) days leave each calendar year. The five (5) days granted will be unpaid.

Provided that the Employer will offer approved Union delegates additional shifts to 'backfill' to prevent loss of wages. For example, if a Union delegate is away from the workplace for one shift, the Employer will offer one additional shift to the Union delegate. The additional shifts will be offered in the same four (4) week period the leave is taken.

- (b) This leave is non cumulative and is applicable for the purpose of attending courses conducted by an approved training provider that are designed to provide skills and competencies that will assist the delegate contribute to the prompt resolution of disputes and grievances in the workplace, Union Annual Delegates Conference, participate in the operation of the Union and attend union education and address new employees about the benefits of Union membership at the time that they enter employment.

Provided that other delegate or workplace representative rights such as representing members in bargaining, representing the interests of members to the Employer and industrial tribunals and consulting with Union members and other employees for whom the delegate is a bargaining representative shall be paid time if rostered to work.

- (c) The application to the Employer must be in writing, including the nature, content and duration of the course to be attended, and normally be provided with fourteen (14) days' notice of the proposed training.
- (d) The granting of leave pursuant to this clause shall be subject to the Employer being able to make adequate staffing arrangements amongst current employees during the period of such leave.
- (e) Leave of absences under the clause shall count as service for all purposes of this Agreement.
- (f) All expenses (such as travel, accommodation and meals) associated with or incurred by the employee attending a training course as provided in this clause shall be the responsibility of the employee or the Union.

- (g) An employee may be required to satisfy the Employer of attendance at the course to qualify for being offered additional shifts.
- (h) An employee granted leave pursuant to this clause shall, upon request, inform the Employer of the nature of the course attended and their observations on it.
- (l) In the event of a disagreement arising from the outcome of this Clause, the matter may be settled using the dispute settlement procedures of this Agreement.

52. WAGE INCREASES

Wage rates set out in this Agreement shall be increased by the following values each year:

- 2% from the first full pay period on or after 1 January 2015.
- 2% from first full pay period on or after anniversary of 1st year increase.
- 2% from first full pay period on or after 2nd anniversary of 1st year increase.

Provided that the employee will not receive any less than the provisions in the Modern Award.

In the event of an increase in Federal Government funding associated with the outcome of the Productivity Commission or in relation to a decision handed down from the Low Paid determination case during the life of the Agreement the parties agree to meet to discuss how this funding increase will be passed on to deliver wage increases to staff.

53. WORKLOAD MANAGEMENT

The Employer will ensure that supervisors and managers are aware that the tasks allocated to employees must not exceed what can reasonably be performed in the hours of which they are employed.

The Employer will ensure that supervisors and managers implement procedures to monitor the hours worked of the employees they supervise and where employees regularly work hours in excess of the hours for which they are employed to perform their jobs, changes (such as technology, responsibility and extra resources) will be implemented.

Should any employee feel the workloads are unreasonably heavy on a regular basis, then they have the responsibility to discuss their concerns with their manager and document such concerns on the appropriate form. If appropriate action is not taken to address the workload issues, the employee may utilise the dispute settlement procedure of this Agreement.

54. DECLARATION AND SIGNATURES

The undersigned parties accept that this Agreement has been negotiated in good faith and agree to be bound by its terms and conditions for its duration.

This agreement is signed for and on behalf of the parties:

FOR THE EMPLOYER

This Agreement is signed by Anthony Smith in his capacity as General Manager of The Gardens.

Mr Smith's work address is:
2-4 Mitcham Road
Claremont TAS 7011

As the General Manager of The Gardens, Mr Smith has the authority to sign the Agreement on behalf of the employer.

Mr Anthony Smith
General Manager
The Gardens

.....

Date

.....

Witnessed by (signature)

.....

Witness name in full

.....

Witness address

.....

.....

FOR THE UNIONS

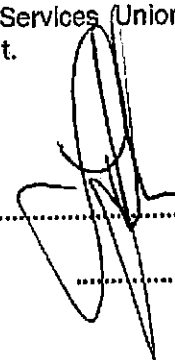
This agreement is signed by Mr Tim Jacobson in his capacity as the Secretary of the Health Services Union Tasmania No. 1 Branch.

Mr Jacobson's work address is:

11 Clare Street
NEW TOWN TAS 7008

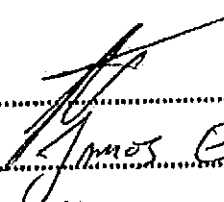
As the Secretary of the Health Services Union Tasmania No. 1 Branch, Mr Jacobson has the authority to sign the Agreement on behalf of employees who are members of the Health Services Union Tasmania No. 1 Branch and are employed pursuant to this Agreement.

Mr Tim Jacobson Secretary
Health Services Union
Tasmania Branch


.....
6/7/15
.....

Date

Witnessed by (signature)


.....
James Edmondson

Witness name in full

Witness address


.....
11 Clare St
.....
New Town Tas 7008
.....

This Agreement is signed by Anthony Smith in his capacity as General Manager of The Gardens.

Mr Smith's work address is:
2-4 Mitcham Road
Claremont TAS 7011


As the General Manager of The Gardens, Mr Smith has the authority to sign the Agreement on behalf of the employer.

Mr Anthony Smith
General Manager
The Gardens


.....
1 June 2015
.....

Date

Witnessed by (signature)


.....

Witness name in full

DAWN ALLISON.....

Witness address

2-4 MITCHAM ROAD.....
CLAREMONT TAS 7011

FOR THE UNIONS

This agreement is signed by Mr Tim Jacobson in his capacity as the Secretary of the Health Services Union Tasmania No. 1 Branch.

Mr Jacobson's work address is:

11 Clare Street
NEW TOWN TAS 7008

FOR THE UNIONS

This agreement is signed by Ms Neroli Ellis in her capacity as the Branch Secretary of the Australian Nursing and Midwifery Federation, Tasmanian Branch.

Ms Ellis's work address is:

182 Macquarie Street
HOBART TAS 7000

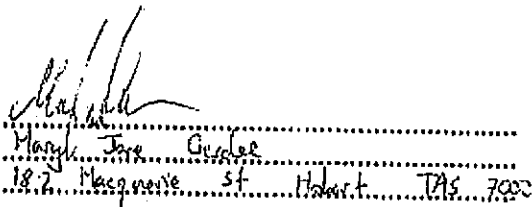
As the Branch Secretary of the Australian Nursing and Midwifery Federation, Tasmanian Branch, Ms Ellis has the authority to sign the Agreement on behalf of employees who are members of the Australian Nursing and Midwifery Federation, Tasmanian Branch, and are employed pursuant to this Agreement

Ms Neroli Ellis
Branch Secretary
Australian Nursing and Midwifery Federation
Tasmanian Branch



Date

Witnessed by (signature)
Witness name in full (printed)
Witness address



Mary Jane Greale
182 Macquarie St Hobart TAS 7000

Schedule A – Classifications

(a) Salary Entry Registered Nurses

A registered Nurse who holds a University qualification which results in their initial registration with the Australia Health Practitioners Regulation Agency shall commence as a registered Nurse Level 1 Year 2.

(b) Salary Re-entry Registered Nurses

Registered Nurses undertaking the re-entry to practice course shall be paid at Level 1 Year 1 during their course clinical time. The nurse shall be paid as a Level 1 Year 2 Registered Nurse for the first 1976 hours. Following successful completion of the re-entry program, all previous nursing experience shall be recognised upon proof of past experience – statement of service/group certificates, etc.

(c) Salary Re-entry Enrolled Nurses

Enrolled Nurses undertaking the re-entry to practice course shall be paid at the first increment of the Enrolled Nurse pay scale during their course clinical time. The nurse shall be paid as a Level 1 Enrolled Nurse for the first 12 months. Following successful completion of the re-entry program, all previous nursing experience shall be recognised upon proof of past experience – statement of service/group certificates, etc.

(d) Enrolled Nurse Upgrade to Registered Nurse

An Enrolled Nurse who completes a period of study that entitles them to seek registration with the Australia Health Practitioners Regulation Agency shall, if they wish to continue with the employer, be transferred to a position as Registered Nurse within the facility, where such position is available.

An Enrolled Nurse commencing as a Registered Nurse shall be paid as a Level 1 Year 3 Registered Nurse for their first year of service.

(e) Pay Point Advancement

Employees will advance through pay points within a classification or level at the completion of 1786 ordinary hours "year".

Advancement into a new level of classification can only occur with advancement as per the requirements of this agreement.

Enrolled nurses

Enrolled Nurse – Pay point 1

Re-entry/return to practice enrolled nurse only.

Enrolled Nurse – Pay point 2

(a) An employee will be appointed to this pay point based on training and experience to an EN/DIV2 qualification as recognised by APRHA.

(b) Skill Indicators

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

Enrolled Nurse – Pay point 3

(a) An employee will be appointed to this pay point based on training and experience to an EN/DIV2 qualification as recognised by APRHA.

(b) Is in the second year of practice.

(c) New employees who can provide an evidence of practice of one year or more would be employed at this rate.

(d) Skill Indicators

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

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

Registered nurses

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:

- delivering direct and comprehensive nursing care and individual case management to residents or clients within the practice setting;
- coordinating services, including those of other disciplines or agencies, to individual residents or clients within the practice setting;

- providing education, counselling and group work services orientated towards the promotion of health status improvement of residents and clients within the practice setting;
- providing support, direction and education to newer or less experienced staff, including EN's, and student EN's and student nurses;
- accepting accountability for the employee's own standards of nursing care and service delivery; and
- participating in action research and policy development within the practice setting.

Registered nurse—level 2 (RN2)

(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 Clinical nurse.

(b) In addition to the duties of an RN1, an employee at this level is required, to perform duties delegated by a Clinical nurse coordinator or any higher level classification. Duties of a **Clinical nurse** will substantially include, but are not confined to:

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

Registered nurse—level 3 (RN3)

(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.

An employee at this level may also be known as a Clinical nurse coordinator, 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 resident or client groups:
- (i) Duties of a **Clinical nurse coordinator** will substantially include, but are not confined to:
- providing leadership and role modelling, in collaboration with others including the Nurse manager and the Nurse educator, particularly in the areas of action research and quality assurance programs;
 - staff and resident/client education;
 - staff selection, management, development and appraisal;
 - participating in policy development and implementation;
 - acting as a coordinator on request in the employee's own area of proficiency; for the purpose of facilitating the provision of quality nursing care;
 - delivering direct and comprehensive nursing care to a specific group of residents or clients with complex nursing care needs, in a particular area of nursing practice within a practice setting;
 - coordinating, and ensuring the maintenance of standards of the nursing care of a specific group or population of residents or clients within a practice setting; and
 - 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:
- providing leadership and role modelling, in collaboration with others including the Clinical nurse coordinator and the Nurse educator, particularly in the areas of action research and quality assurance programs;
 - staff selection and education;
 - allocation and rostering of staff;
 - occupational health;
 - initiation and evaluation of research related to staff and resource management;
 - participating in policy development and implementation;
 - acting as a coordinator on request in the employee's own area of proficiency (for the purpose of facilitating the provision of quality nursing care);
 - being accountable for the management of human and material resources within a specified span of control, including the development and evaluation of staffing methodologies; and
 - managing financial matters, budget preparation and cost control in respect of nursing within that span of control.
- (iii) Duties of a **Nurse educator** will substantially include, but are not confined to:

- providing leadership and role modelling, in collaboration with others including the Clinical nurse coordinator and the Nurse manager, particularly in the areas of action research;
- implementation and evaluation of staff education and development programs;
- staff selection;
- implementation and evaluation of resident or client education programs;
- participating in policy development and implementation;
- acting as a coordinator on request in the employee's own area of proficiency (for the purpose of facilitating the provision of quality nursing care); and
- being accountable for the assessment, planning, implementation and evaluation of nursing education and staff development programs for a specified population.

Registered nurse—level 4 (RN4)

- (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 an RN L4 (clinical), RN L4 (management), or RN L4 (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 **RN L4(clinical)** will substantially include, but are not confined to:
 - providing leadership and role modelling, in collaboration with others including the RN L4(management) and RN L4(education), particularly in the areas of selection of staff within the employee's area of responsibility;
 - provision of appropriate education programs, coordination and promotion of clinical research projects;
 - participating as a member of the nursing executive team;
 - contributing to the development of nursing and organisation policy for the purpose of facilitating the provision of quality nursing care;
 - managing the activities of, and providing leadership, coordination and support to, a specified group of Clinical nurse coordinators;
 - being accountable for the establishment, implementation and evaluation of systems to ensure the standard of nursing care for a specified span of control;

- being accountable for the development, implementation and evaluation of patterns of resident care for a specified span of control;
- being accountable for clinical operational planning and decision making for a specified span of control; and
- being accountable for appropriate clinical standards, through quality assurance programs, for a specified span of control.

(ii) Duties of an **RN L4(management)** will substantially include, but are not confined to:

- providing leadership and role modelling, in collaboration with others including the RN L4(clinical) and RN L4(education), particularly in the areas of selection of staff within the employee's area of responsibility;
- coordination and promotion of nursing management research projects;
- participating as a member of the nursing executive team;
- contributing to the development of nursing and organisation policy for the purpose of facilitating the provision of quality nursing care;
- managing the activities of, and providing leadership, coordination and support to, a specified group of Nurse managers;
- being accountable for the effective and efficient management of human and material resources within a specified span of control;
- being accountable for the development and coordination of nursing management systems within a specified span of control; and
- being accountable for the structural elements of quality assurance for a specified span of control.

(iii) Duties of an **RN L4(education)** will substantially include, but are not confined to:

- providing leadership and role modelling, in conjunction with others including the RN L4(clinical) and the RN L4(management), particularly in the areas of selection of staff within the employee's area of responsibility;
- coordination and promotion of nurse education research projects;
- participating as a member of the nursing executive team, and contributing to the development of nursing and organisation policy for the purpose of facilitating the provision of quality nursing care;
- managing the activities of, and providing leadership, coordination and support to a specific group of Nurse educators;
- being accountable for the standards and effective coordination of education programs for a specified population;
- being accountable for the development, implementation and evaluation of education and staff development programs for a specified population;
- being accountable for the management of educational resources including their financial management and budgeting control; and
- undertaking career counselling for nursing staff.

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.
- (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:
- being accountable for the standards of nursing care for the organisation and for coordination of the nursing service of the organisation;
 - participating as a member of the executive of the organisation, being accountable to the executive for the development and evaluation of nursing policy, and generally contributing to the development of organisation policy;
 - providing leadership, direction and management of the nursing division of the organisation 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 organisation;
 - 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 organisation;
 - managing the budget of the nursing division of the organisation;
 - ensuring that nursing services meeting changing needs of clients or residents through proper strategic planning; and
 - complying, and ensuring the compliance of others, with the code of ethics and legal requirements of the nursing profession.

Schedule B - Wage Rates

	Current Rate	FFPP on or after 1 January 2015 2.00%	FFPP on or after 1 January 2016 2.00%	FFPP on or after 1 January 2017 2.00%
ENROLLED NURSES				
Pay point 1	\$896.47	\$914.40	\$932.69	\$951.54
Pay point 2	\$909.79	\$927.99	\$946.55	\$965.48
Pay point 3	\$927.55	\$946.10	\$965.02	\$984.32
REGISTERED NURSES				
RN Level 1				
1 st year of service	\$905.35	\$923.46	\$941.93	\$960.76
2 nd year of service	\$949.31	\$968.30	\$987.66	\$1,007.42
3 rd year of service	\$992.82	\$1,012.88	\$1,032.93	\$1,053.59
4 th year of service	\$1,036.78	\$1,067.52	\$1,078.87	\$1,100.24
5 th year of service	\$1,080.29	\$1,101.90	\$1,123.83	\$1,146.41
6 th year of service	\$1,145.12	\$1,168.02	\$1,191.38	\$1,215.21
7 th year of service	\$1,168.21	\$1,191.97	\$1,215.41	\$1,239.71
8 th year of service & thereafter	\$1,211.72	\$1,235.95	\$1,260.67	\$1,285.89
RN Level 2				
1 st year of service	\$1,255.68	\$1,280.79	\$1,306.41	\$1,332.54
2 nd year of service	\$1,284.99	\$1,310.59	\$1,336.90	\$1,363.64
3 rd year of service	\$1,313.85	\$1,340.13	\$1,366.93	\$1,394.27
4 th year of service & thereafter	\$1,343.15	\$1,370.01	\$1,397.41	\$1,425.36
RN Level 3				
1 st year of service	\$1,398.21	\$1,426.17	\$1,454.70	\$1,483.79
2 nd year of service	\$1,430.62	\$1,459.23	\$1,488.42	\$1,518.19
3 rd year of service	\$1,463.48	\$1,492.75	\$1,522.60	\$1,553.06
4 th year of service & thereafter	\$1,496.34	\$1,526.27	\$1,556.79	\$1,587.93
RN Level 4 (or beds)				
Pay point 1 (or 0-50 beds)	\$1,671.73	\$1,705.16	\$1,739.27	\$1,774.06
Pay point 2 (or 61-90 beds)	\$1,671.73	\$1,705.16	\$1,739.27	\$1,774.05
Pay point 3 (or 91 beds and above)	\$1,671.73	\$1,705.16	\$1,739.27	\$1,774.05
RN Level 5 (or beds)				
Pay point 1 (or 1 -30 beds)	\$1,671.73	\$1,705.16	\$1,739.27	\$1,774.05
Pay point 2 (or 31-60 beds)	\$1,799.16	\$1,835.14	\$1,871.85	\$1,909.28
Pay point 3 (or 61-90 beds)	\$1,827.04	\$1,865.68	\$2,004.89	\$2,044.99
Pay point 4 (or 91 beds and above)	\$2,073.12	\$2,114.58	\$2,156.87	\$2,200.01

Note - any current employee being paid above the rates prescribed herein will be maintained until such a time the rates in the Agreement are greater than the current rates.

Schedule C - Allowances

	Current Rate	FFPP on or after 1 January 2015 3.00%	FFPP on or after 1 January 2016 3.00%	FFPP on or after 1 January 2017 3.00%
Overtime meal allowance	\$12.56	\$12.94	\$13.32	\$13.72
Away from home allowances				
Breakfast	\$9.65	\$9.94	\$10.24	\$10.54
Lunch (or midday meal)	\$10.64	\$10.96	\$11.29	\$11.63
Dinner (or evening meal)	\$18.75	\$19.31	\$19.89	\$20.48
Employer provided meal allowance	\$3.16	\$3.25	\$3.35	\$3.45
Meal Charges				
Two or three courses	\$5.03	\$5.18	\$5.34	\$5.50
Single hot or cold main course	\$3.85	\$3.98	\$4.10	\$4.22
Single (other) course, i.e. soup or sweet	\$3.50	\$3.61	\$3.71	\$3.82
All breakfasts	\$3.50	\$3.61	\$3.71	\$3.82
Uniform	\$4.67	\$4.81	\$4.95	\$5.10