



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Eskleigh Foundation Inc
(AG2020/3357)

ESKLEIGH FOUNDATION INC NURSING AGREEMENT 2019

Social, community, home care and disability services

DEPUTY PRESIDENT YOUNG

MELBOURNE, 22 DECEMBER 2020

Application for approval of the Eskleigh Foundation Inc Nursing Agreement 2019.

[1] Eskleigh Foundation Inc (the Employer) has made an application for approval of an enterprise agreement known as the *Eskleigh Foundation Inc Nursing Agreement 2019* (the Agreement) pursuant to s 185 of the *Fair Work Act 2009* (the Act). The Agreement is a single-enterprise agreement.

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

[3] Subject to the undertakings referred to above, and on the basis of the material contained in the application, and the accompanying statutory declaration, I am satisfied that each of the requirements of ss 186, 187, 188 and 190 as are relevant to this application for approval have been met.

[4] I observe that clause 30(10) of the Agreement is likely to be inconsistent with the National Employment Standards (NES). However, noting clause 32 of the Agreement, I am satisfied the more beneficial entitlements of the NES will prevail where there is an inconsistency between this clause and the NES.

[5] Australian Nursing and Midwifery Federation, being a bargaining representative for the Agreement, has given notice under s 183 of the Act that it seeks to be covered by the Agreement. In accordance with s 201(2) and based on the statutory declaration provided by the organisation, I note that the Agreement covers the organisation.

[6] The Agreement was approved on 22 December 2020 and, in accordance with s 54, will operate from 29 December 2020. The nominal expiry date of the Agreement is 31 December 2021.



DEPUTY PRESIDENT

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.: AG2020/3357

Applicant: Eskleigh Foundation Inc

Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, Daniel Lowe, Chief Executive Officer, have the authority given to me by Eskleigh Foundation Inc to give the following undertakings with respect to the Eskleigh Foundation Inc Nursing Agreement 2019 ("the Agreement"):

1. Cause 24(2) shall be amended to read as follows:

Shift Workers

- (2) Shift workers who are regularly rostered to work over seven days of the week and regularly work weekends shall be allowed, in addition to the 152 hours prescribed in sub clause (1) above, an extra thirty-eight hours annual leave, to be taken in a period of seven consecutive days including non-working days.

PROVIDED THAT if an employee with twelve months' continuous service is engaged for part of that period as a shift worker, the employee's entitlement to annual leave, in addition the 152 hours prescribed in subclause (1) above, is to be increased by 3.8 hours for each month the employee has been continuously engaged as a shift worker.

2. Clause 27(1) shall be amended to read as follows:

- (1) Subject to the provisions of this Agreement employees, other than casual employees, are entitled to paid public holidays for 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, and the first Monday in November where Hobart Regatta Day is not observed, and any other day or part-day declared or prescribed by or under a law of a State or Territory to be observed as a public holiday.

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.


Signature

18-12-20
Date

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



THE ESKLEIGH FOUNDATION INC.

NURSING AGREEMENT 2019

1. AGREEMENT TITLE

This is the Eskleigh Foundation Inc. Nursing Agreement 2019 ('the Agreement').

2. ARRANGEMENT

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3. COMMENCEMENT DATE AND PERIOD OF OPERATION

This Agreement will be operational on the seventh day after approval by the Fair Work Commission.

The Agreement shall remain in force until 31 December 2021, 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 July 2018.

4. SCOPE OF AGREEMENT

This Agreement shall apply to Eskleigh Foundation Inc., in respect of the employment by the employer of employees who are employed as Registered and Enrolled Nurses.

5. PARTIES BOUND BY THIS AGREEMENT

This Agreement is binding on -

- (a) the Australian Nursing and Midwifery Federation (Tasmanian Branch); and
- (b) the Health Services Union of Australia, Tasmania Branch; and
- (c) Eskleigh Foundation Inc.; and
- (d) all nursing staff employed by the employer in positions classified in this Agreement.

6. SUPERSESSION AND SEVERANCE PROVISIONS

- (1) All existing awards, federal award, transitional federal award, pre-reform federal award, pre-reform certified agreement, a modern award, a preserved state agreement and a notional agreement preserving a state award (NAPSA), which but for this Agreement coming into force would have applied to employees classified in accordance with this Agreement are replaced entirely by this Agreement.
- (2) It is the intention of those covered by the Agreement that the Agreement contains only permitted matters under the Fair Work Act 2009. It is also the intention of those covered by the Agreement that the Agreement contains no matters that are unlawful.
- (3) Any term of this Agreement that is, in whole, or in part, not a permitted matter is, to the extent it is not a permitted matter, severed from this agreement and of no legal effect.
- (4) Any term of this Agreement that is, in whole, or in part, an unlawful term is, to the extent it is an unlawful term, severed from this Agreement and of no legal effect.
- (5) To the extent it is possible, all terms in this Agreement should be interpreted in a manner that would make them permitted matters.

7. SAVINGS CLAUSE

Unless otherwise varied by this Agreement, any conditions of employment and entitlements which existed for employees covered by this Agreement as at 30 June 2009 will continue to apply provided that where the Modern Award, including any transitional provisions, provides a greater benefit, the greater benefit will apply.

8. PURPOSE OF THE AGREEMENT

The key purpose of the Agreement is to achieve a stable industrial relations framework at the enterprise level of Eskleigh Foundation Inc. in order to assist individuals to improve their efficiency, quality of services and business performance.

The Agreement seeks to create an environment where there can be further investment in the future growth and development of the Eskleigh Foundation.

The Agreement aims at continually improving communication and cooperation at the workplace level between management and staff. The Agreement recognises the important contribution of all aged care staff in ensuring the organisation's future.

9. GRIEVANCE AND DISPUTE RESOLUTION

- (1) If a dispute arises about this Agreement, the National Employment Standard (NES) (including subsections 65(5) or 76(4) of the Act), or any other work-related matter (including a dispute about whether workplace rights have been breached), the parties to the dispute will attempt to resolve the dispute at the workplace by discussions between the employee or employees concerned and the relevant supervisor and, if such discussions do not resolve the dispute, by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- (2) If the matter cannot be resolved, a party may refer the dispute to the Fair Work Commission for resolution using any of its powers (including powers under section 595(3) and 739(4) of the Act).
- (3) Union members are entitled to be represented by their union or by any other person they choose who is not directly involved in the dispute. Non-members are entitled to be represented by the Union (if it agrees) or by any other person they choose. The employer shall recognise the representative for all purposes involved with the resolution of the dispute.
- (4) The parties to the dispute and their representatives must act in good faith in relation to the dispute.
- (5) While the dispute is being resolved, the parties will respect the status quo. However, the employer may direct an employee to perform different work or work at a different location, on full pay, if it is reasonable to do so to protect the safety, health or welfare of employees.
- (6) The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.

10. DEFINITIONS

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

meaning indicated:

Afternoon shift means a shift finishing between 6.00pm and midnight.

Agreement means the Eskleigh Foundation Inc. Nursing Agreement 2019.

Award means the Nurses Award 2010.

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

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

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

De Facto 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 domestic basis (whether the employee and the person are of the same sex or different sexes); and
- (b) includes a former de facto partner of the employee.

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

Employer means Eskleigh Foundation Inc.

Full time employee means someone engaged to work for the full weekly ordinary hours as prescribed in this Agreement.

Immediate family of an employee means:

- (a) a spouse, de facto partner, child, step child, parent including parent in law and step parent, grandparent, grandchild or sibling of the employee; or
- (b) a child, step child, parent including parent in law and step parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

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

NES means National Employment Standards.

Night shift means a shift finishing after midnight and before 8.00am.

Part-time employee means someone, other than a casual employee, engaged to work for fewer hours than an equivalent full time employee.

Part-time shift worker means a part-time employee who holds a position on a roster as prescribed in clause 23.11 of this Agreement.

Preceptor means a Registered Nurse who has undertaken relevant studies and is approved as a preceptor and/or is a qualified trainer and assessor and who has agreed with the employer to undertake the role of supervision, clinical teaching, assessment and the provision of feedback to students.

Relevant rate means the salary for an employee's classification as specified in Schedule A of this Agreement.

Relevant hourly rate means the salary for an employee's classification as specified in Schedule A of this Agreement (the relevant rate) divided by 52 and then divided by 38.

Roster means a written roster 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.

Spouse includes a former spouse.

Shift worker means an employee who is required to work rotating shifts in accordance with a roster.

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

Trainee Enrolled Nurse means an employee undergoing an approved training course in enrolled nursing under the provisions of the *Nursing Act 1995*.

Year of service means 1976 ordinary hours worked, and includes all paid leave.

11. CONTRACT OF EMPLOYMENT

- (1) Employment of full time and part-time employees is to be by the fortnight.
- (2) Employees, other than casual employees, are entitled to be paid in respect of any week at their relevant rate as specified in this Agreement, including shift and weekend loadings where applicable, if-
 - (a) due to the act, default or order of their employer they do not work for their full number of ordinary hours; and
 - (b) they are ready, willing and available to work their full number of ordinary hours in that week.

12. CASUAL EMPLOYEES

- (1) For the purposes of this clause and this Agreement, **casual employee** means someone engaged on an irregular, variable or unpredictable basis or on an as and when needed basis.
- (2) A casual employee's engagement is by the hour.
- (3) Notwithstanding (2) above if required to attend for work a casual employee must be provided with a minimum of two hours work for each engagement or paid for a minimum of two hours for each engagement.

PROVIDED THAT these provisions may, be varied by agreement between the employer and

the employee.

- (4) 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 hours before the scheduled commencing time in the case of a day shift, and up to six hours before the scheduled commencing time of either an afternoon or night shift.

PROVIDED THAT if the minimum notice is not given, the employee is to be paid three hours pay.

- (5) A casual employee whose engagement is cancelled without the minimum notice specified in (4) 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.

PROVIDED THAT a claim for reimbursement must be made to the employer no later than four weeks from the date the expenditure was incurred.

- (6) The rate of pay for ordinary hours of work is the relevant hourly rate, plus a loading of 25% in lieu of annual leave, personal leave and public holidays.
- (7) Casual employees must not be placed on a roster for a period in excess of six weeks unless engaged to temporarily cover the absence of a full time or part-time employee.
- (8) Right to Request Casual Conversion

- (a) A person engaged by a particular employer as a regular casual employee may request that their employment be converted to full-time or part-time employment.
- (b) A **regular casual employee** is a casual employee who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this Agreement.
- (c) A regular casual employee who has worked equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to full-time employment.
- (d) A regular casual employee who has worked less than equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to part-time employment consistent with the pattern of hours previously worked.
- (e) Any request under this subclause must be in writing and provided to the employer.
- (f) Where a regular casual employee seeks to convert to full-time or part-time employment, the employer may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee.
- (g) Reasonable grounds for refusal include that:
- (i) it would require a significant adjustment to the casual employee's hours of work in order for the employee to be engaged as a full-time or part-time employee in

accordance with the provisions of this Agreement – that is, the casual employee is not truly a regular casual employee as defined in 12(8)(b);

- (ii) it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months;
 - (iii) it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or
 - (iv) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.
- (h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.
- (i) Where the employer refuses a regular casual employee's request to convert, the employer must provide the casual employee with the employer's reasons for refusal in writing within 21 days of the request being made. If the employee does not accept the employer's refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause 9. Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute cannot be resolved at the workplace level.
- (j) Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in this clause, the employer and employee must discuss and record in writing:
- (i) the form of employment to which the employee will convert – that is, full-time or part-time employment; and
 - (ii) if it is agreed that the employee will become a part-time employee, the matters referred to in clause 13(2).
- (k) The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.
- (l) Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.
- (m) A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.
- (n) Nothing in this clause obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.

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- (o) Nothing in this clause requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.
 - (p) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of this subclause within the first 12 months of the employee's first engagement to perform work. In respect of casual employees already employed as at the operative date of this agreement, an employer must provide such employees with a copy of the provisions of this subclause within three months after the operative date.
 - (q) A casual employee's right to request to convert is not affected if the employer fails to comply with the notice requirements in paragraph (p).
- (9) The 25% loading payable to casual employees is to be taken into account before calculating rates payable for weekend and public holiday shifts, but shall not be taken into account when calculating overtime payments.

13. PART-TIME EMPLOYEES

- (1) For the purposes of this Clause and this Agreement, **part-time employee** means someone, other than a casual employee, engaged to work for fewer hours than an equivalent full time employee.
- (2) 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.
- (3) Part-time employees are entitled to paid annual leave, personal leave and public holidays at the relevant rate.
- (4) The rate of pay for ordinary hours of work for part-time employees is the relevant hourly rate.
- (5) For work performed on Saturdays, Sundays and public holidays part-time employees are to be paid at the rates specified in Clause 23.

14. THIRTY- EIGHT HOUR WEEK/ NINETEEN DAY MONTH

- (1) The employer will endeavor to implement a thirty-eight hour week in the form of one paid day off in every consecutive period of four working weeks (the 'nineteen day month').
- (2) The paid day off accrued under the nineteen day month is to be rostered to fall on a weekday i.e. Monday to Friday, and the employer will endeavor to ensure that the accrued day off is rostered to fall either the day before or the day after rostered days off.
- (3) Overtime rates, afternoon and night shift allowances, and the additional rates for work performed on Saturdays, Sundays and public holidays shall be calculated at the relevant hourly rate.
- (4) Where on a working day an employee is absent without pay twenty-four minutes for each

such day of absence shall be deducted from payment of the employee's accrued day off.

- (5) Days of paid absence on public holidays count toward payment of the accrued day off.
- (6) Where an accrued day off falls on a public holiday a substituted accrued day off shall be granted and taken as soon as possible.

15. HOURS OF WORK - DAY WORKERS

- (1) The ordinary weekly hours of work for full time employees are thirty-eight.
- (2) The ordinary hours of work specified in (1) above are to be worked over five days, Monday to Friday in continuous periods of eight hours per day respectively except for a meal break of not more than one hour's duration, between 7.00am and 7.00pm.
- (3) The spread of hours specified in sub clause (2) above may by agreement between the employer and the majority of employees concerned be altered for all employees, or a section of employees.
- (4) Work performed before 7.00am and after 7.00pm, other than by agreement as provided for in (3) above, is to be paid at overtime rates.

Make Up Time

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

PROVIDED THAT for the purpose of this Clause, where an employee's ordinary hours of work within the spread of hours 7.00am to 7.00pm have been fewer than thirty-eight in any week, hours worked outside that spread shall be deemed to be part of the employee's ordinary hours of work.

16. HOURS OF WORK - SHIFT WORKERS

- (1) Other than as provided for in (2) and (3) below, the ordinary hours of shift workers, which are worked on the basis of an average of 38 hours per week, are not to exceed -
 - (a) 8 in any one day;
 - (b) 48 in any one week;
 - (c) 88 in 14 consecutive days (80 hours in the case of a part-time employee);
 - (d) 114 in 21 consecutive days; or
 - (e) 152 in 28 consecutive days.
- (2) Notwithstanding (1) above, by agreement between the employer and an employee, the ordinary hours of work for night shift employees may be extended to ten per day, to be paid at the appropriate shift rate.
- (3) Notwithstanding (1) above, by agreement in writing between an employer and an employee

the employee's ordinary hours of work may be extended to a maximum of twelve per day.

PROVIDED THAT such an agreement may be discontinued, by either the employer or the employee giving fourteen days written notice.

PROVIDED FURTHER THAT no employee or prospective employee, shall be required by the employer to work under the terms of this sub clause as a condition of employment except by agreement between the employer and employee.

- (4) Subject to this Clause shift workers shall by mutual agreement work at such times as required by the employer.
- (5) Unless agreed otherwise an employee shall not be required to start a shift unless there has been a break of at least nine hours since the employee's previous shift finished.

Daylight Saving

- (6) At the changeover of time consequent upon daylight saving in each year -
 - (a) employees shall be paid for actual time worked irrespective of the length of the shift; and
 - (b) employees paid in accordance with (a) are not entitled to payment for the one hour lost.

Make Up Time

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

17. NOTICE OF TERMINATION

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

The notice prescribed under the Act is as follows:

Notice of Termination by the Employer

- (a) In order to terminate the employment of the employee, where employed on a full-time or part-time basis, the employer shall give to the employee the period of notice specified in the table below:

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

- (b) In addition to this notice, where the employee is over 45 years of age at the time of the giving of the notice with not less than two years continuous service, they will be

entitled to an additional week's notice.

- (c) Payment in lieu of the notice will be made if the appropriate notice period is not required to be worked. Employment may be terminated by the employee working part of the required period of notice and by the employer making payment for the remainder of the period of notice.
- (d) In calculating any payment in lieu of notice, the wages the employee would have received in respect of the ordinary time they would have worked during the period of notice had their employment not been terminated will be used.
- (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) Notice of Termination by the Employee

No employee shall, without the consent of the employer, resign without having given fourteen days' notice of intention so to do or forfeiting salary earned during the pay period current at the time of resignation ; provided that in no circumstances shall the employee forfeit more than fourteen days' pay at the rates prescribed for his or her classification.

- (g) Upon the termination of the services of any employee, the employer shall furnish the employee with a written statement, duly signed by or on behalf of the employer, setting out the period of the employment and the capacity in which the employee was employed.
- (h) Instant dismissal

The employer shall have the right to dismiss the employee without notice for conduct that justifies instant dismissal including but not limited to neglect of duty or misconduct and in such cases the wages shall be paid up to the time of dismissal only.

(2) Discussions prior to decision to terminate employment

Where disciplinary action may be necessary due to an employee's alleged misconduct or poor performance, the management representative shall notify the employee of the issues in writing and the employee will be given an opportunity to respond to these issues. In the event that the employee's response is unsatisfactory, a first warning in writing may be issued. This warning will be recorded on the employee's personnel file. Depending on the seriousness of the misconduct or poor performance the employer may choose not to issue a first warning and to proceed directly to a final warning.

If the problem continues, or if there are other allegations of misconduct or poor performance, the employee will again be notified in writing of the matter and a response requested from the employee. If appropriate, a final warning in writing will be given to the employee and recorded on the employee's personnel file.

If the problem continues, or if there are other allegations of misconduct or poor performance, the employee may be terminated after the matters have been investigated and reasons sought from the employee.

Summary dismissal of an employee may still occur for acts of 'serious misconduct' (as defined in the Act).

During all steps in the Disciplinary Procedure, the employee has the right to representation of his or her choice.

(3) **Records**

Except in the case of serious or willful misconduct, an employee's personnel records relating to either disciplinary procedure, performance management or formal warning will be disregarded where the period of performance management/disciplinary procedure or warning has elapsed without further warning/s. If an employee has a performance management plan, disciplinary procedure or warning in place for a period greater than twelve months then that employee has the right to seek a review of the action in order to determine whether it should be withdrawn. During any such reviews the employee has the right to be represented by a person of the employee's choice.

18. ALLOWANCES

During the life of this agreement allowances in this clause expressed as a dollar amount will increase by the same percentage(s) and at the same time(s) as the percentage(s) that will apply to increases to salary rates as per clause 41. Allowances shown in this clause include the salary increase from 1 July 2018.

Higher Duties and In-charge Allowance

- (1) (a) An employee who, for a period of five or more consecutive working days, performs the duties of a position higher than those of the employee's normal position shall be paid the relevant rate prescribed for the higher position for all time so worked.
- (b) A Registered Nurse Level 1 or Level 2 who, for more than half a shift, is required to assume charge of a care unit shall be paid \$28.49 for each shift worked.

PROVIDED THAT the in charge responsibility includes all areas of the facility including catering, domestic and care staff.

Post Graduate Qualification Allowance

- (2) (a) A registered 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 undergraduate 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 qualification allowance.

PROVIDED FURTHER THAT payment of an allowance under this sub clause 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 sub clause shall be taken into account in calculating overtime and annual leave payments.

Preceptor Allowance

- (3) 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 \$2.85 per hour for all time spent so acting, subject to the following -
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.

Meal Allowance When Required To Work Away From Usual Workplace

- (4) Where employees are required to travel away from their usual worksite and are more than sixteen kilometres away from that worksite at their usual meal time they are to be paid a meal allowance for any meal purchased as follows -
- (a) breakfast - \$10.39;
 - (b) lunch or midday meal - \$12.12;
 - (c) dinner or evening meal - \$21.34

Allowances Not To Be Taken Into Account

- (5) (a) Allowances specified in this Agreement, other than higher duties allowance and certificate and/ or diploma allowance, shall not be taken into account in calculating overtime and shift loadings specified in this Agreement.

19. PAYMENT OF WAGES

- (1) 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.

Time And Interval Of Payment

- (2) Wages are to be paid fortnightly during working hours and not later than Thursday.
- (3) When a pay day falls on a public holiday wages shall be paid on the last working day before the public holiday.
- (4) The pay day shall not be varied, except after consultation with employees and an agreed phasing-in period.

Method Of Payment Of Wages

- (5) 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.
- (6) The method of payment shall not be varied, except after consultation with employees and an agreed phasing-in period.

Statement Of Wages

- (7) On or before pay day the employer is to provide to employees full written details of the wages being paid in that pay period.

Deduction Of Moneys

- (8) Where authorised by an employee in writing, the employer is to make deductions from the employee's wages in respect of medical benefits and deductions in respect of superannuation and salary packaging.
- (9) 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 if the deduction is authorised by the employee.

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

Late Payment Of Wages

- (10) Except in circumstances beyond the control of the employer, and subject to (12) 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.
- (11) 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.

Agreed Alternative Arrangements - No Waiting Time Payment To Apply

- (12) The provisions for payment of waiting time of (10) and (11) 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 sub clause, 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 (10) and (11) above until such time as the employee's wages are paid.

Payment Of Wages On Termination

- (13) Where employment is terminated summarily or on giving the prescribed notice all wages owing shall, where practicable, be paid on the day of termination.
- (14) If payment at the time of termination is not practicable the employer shall, on the next working day of the pay office arrange for all of the employee's outstanding pay and entitlements to be paid into the employee's nominated bank or other financial institution account.
- (15) 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 (14) 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.

20. MEAL BREAKS

Meal Times - Day Workers

- (1) The minimum time allowed for meals shall be half an hour.

Work During Meal Break

- (2) Subject to existing custom and practice day workers who are directed to work during their usual meal break shall, for all work performed during such period and until a meal break is allowed, be paid at the rate of time and one half of their relevant rate.
- (3) By arrangement with the relevant employees an unpaid meal break of not less than half an hour and not more than one hour shall be allowed on each day for employees who have worked in excess of four hours.
- (4) Where employees are interrupted during their meal break by a call to duty, such meal break shall be counted as time worked and the employees shall be allowed a meal break as soon as practicable during the remainder of their ordinary working hours.
- (5) Unless agreed otherwise between the employer and employee(s), employees who are not relieved shall be paid at the rate of time and a half of the relevant hourly rate for the period of the meal break and until relieved.

Meal Break When Required To Work Overtime

- (6) Unless the period of overtime is one and a half hours or less, an employee before starting overtime shall be allowed a meal break of 20 minutes which shall be paid for at the relevant rate.

PROVIDED THAT an employer and an employee may agree to any variation of this provision to meet the circumstances of the work in hand provided that no employee shall be required to work more than five hours without a break for a meal.

An employee required to work for more than two hours without being notified the previous day or earlier of the requirement to work overtime shall be paid a meal allowance of \$67.09 or supplied with a meal by the employer. This allowance will increase by the same percentage(s) and at the same time(s) as the percentage(s) that will apply to increases to salary rates during the life of this Agreement. The allowance shown in this clause includes the salary increase from 1 July 2019.

Charges For Meal Provided By Employer

- (7) The maximum amount that shall be charged or deducted where employees receive a meal from their employer shall be:

- | | |
|----------------------------|--------|
| (a) lunch or evening meal- | \$9.80 |
| (b) sandwiches | \$5.62 |

PROVIDED THAT where a meal is provided as above, no extra charge applies for beverages (i.e. tea or coffee), toast, bread, butter or condiments.

The charges specified in sub clause (7) will increase by the same percentage(s) and at the same time(s) as the percentage(s) that will apply to increases to salary rates during the life of this Agreement. The charges shown in this clause include the salary increase from 1 July 2019.

21. OVERTIME

Requirement To Work Reasonable Overtime

- (1) Subject to (2) below an employer may require an employee to work reasonable overtime at the overtime rates specified in this Agreement.
- (2) An employee may decline to work overtime if it would result in the employee working hours which are unreasonable having regard to:
- (a) any risk to the employee's health and safety;
 - (b) the employee's personal circumstances including family responsibilities;
 - (c) the needs of the employer.
 - (d) 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
 - (e) any other relevant matter.
- (3) Overtime is not to be worked without the prior approval of the employer.

Payment For Working Overtime - Day Workers

- (4) For all time worked in excess of ordinary hours of work, payment, except for shift workers is to be made as follows: -
- (a) Monday to Saturday inclusive -time and a half for the first two hours and double time

thereafter;

- (b) Sunday -double time;
- (c) Public holidays -double time and one half.

PROVIDED THAT an employee who is regularly required to work on public holidays may by agreement with the employer, in addition to any paid time off in lieu granted by the employer, be paid at the rate of time and one half of the relevant rate for the first eight hours worked during the employee's spread of hours, and thereafter at the overtime rates specified above.

PROVIDED FURTHER that payment for overtime, must not in the aggregate exceed the equivalent of double time and a half of an employee's relevant rate.

Part-Time Employees - Work Performed Outside Spread Of Hours

- (5) Part-time day workers who work outside the specified spread of hours are to be paid as follows -
 - (a) Monday to Saturday inclusive - time and one half for the first two hours, double time thereafter;
 - (b) Sunday - double time;
 - (c) Public holidays - double time and a half.

Calculation Of Overtime To Be Based On Agreement Rates

- (6) For employees receiving a 25% loading in lieu of personal leave, annual leave and public holidays, payment for overtime is to be calculated by reference to the relevant hourly rate.

Time Off In Lieu Of Payment For Overtime

- (7) By agreement between the employer and an employee, time off in lieu of overtime may be taken at the equivalent overtime rate.

PROVIDED THAT that such an agreement may be discontinued at the request of either the employer or the employee.

- (8) Where time off in lieu of overtime has not been taken within four weeks of its accrual the employer shall, if so requested by an employee, pay the employee the overtime rates that would have applied if the employee had not elected to take time off in lieu of that overtime.

22. ON-CALL ARRANGEMENTS

Call Back

- (1) An employee recalled to work overtime after finishing the normal day's work, whether notified before or after leaving the workplace, is to be paid overtime, at the relevant rate, as follows:
 - (a) for the first recall a minimum payment of four hours; and

-
- (b) for any subsequent recall a minimum payment of three hours.
 - (2) Time reasonably spent in getting to and from work is to be regarded as time worked.
 - (3) Employees recalled to work within two hours of their normal starting time shall be paid at overtime rates with a minimum payment of two hours at double time.

Close Call

- (4) For the purposes of this Clause **close call** means an employee being required to be on call for duty and not allowed to leave the workplace.
- (5) An employee may be required by the employer to remain on close call.
- (6) An employee required to remain on close call shall -
 - (a) if not required to commence work be paid a minimum payment equivalent to six hours at the employee's relevant rate; or
 - (b) if required to commence work be paid at the relevant overtime rate, provided that such payment shall not be less than the minimum payment specified in (1) above.

Remote Call

- (7) For the purpose of this Clause **remote call** means an employee rostered to be available for call but allowed to leave the workplace.
- (8) An employee rostered to remain on remote call
 - (a) is to be paid \$1.39 for each hour that the employee is required to be so available, with a minimum payment of \$15.95 per day or shift when so rostered;
 - (b) the minimum payment per day or shift in (a) is to be adjusted by the same percentages and at the same times as the salary increases provided for during the life of this Agreement; and
 - (c) During the life of this agreement remote call allowances will increase by the same percentage(s) and at the same time(s) as the percentage(s) that will apply to increases to salary rates as per clause 41. Allowances shown in this clause include the salary increase from 1 July 2019.
- (9) If an employee rostered to be on remote call is recalled to work payment is to be as specified in (1) above, in addition to the allowance specified in (8) above.

23. SHIFT WORKERS

Afternoon And Night Shift Allowances

- (1) Shift workers are to be paid the following loading on their relevant hourly rate for working afternoon or night shifts -
 - (a) afternoon shift -12.5%;

-
- (b) night shift -15.0%.
- (2) A shift worker who -
- (a) during a period of engagement on shift, works night shift only; or
 - (b) works on night shift for a period in excess of four consecutive weeks; or
 - (c) works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of working time off night shift in each shift cycle;

shall for such engagement, period or cycle be paid 30% more than the employee's relevant rate for all time worked during ordinary working hours.

Saturday Shifts

- (3) A shift worker who works on a rostered shift, the major portion of which falls on a Saturday, shall be paid at the rate of time and one half of the employee's relevant hourly rate, which shall be in substitution for the shift allowance specified in (1) above.

PROVIDED THAT this sub clause shall not prejudice any right of an employee to obtain a higher rate in respect of that work by virtue of any other provision contained in this Agreement.

Sunday And Holiday Shifts

- (4) Shift workers who work on a rostered shift, the major portion of which falls on a Sunday or a public holiday, shall be paid the following loadings -

- (a) Sundays - at the rate of time and three quarters of the relevant hourly rate;
- (b) public holidays - at the rate of time and three quarters of the relevant hourly rate.

PROVIDED THAT these loadings shall be in substitution for and not cumulative upon, the shift allowance set out in sub clause (1) above.

- (5) The time worked by an employee on a shift commencing before midnight on a day preceding a Sunday or holiday and extending into such Sunday or holiday the time worked before midnight shall be regarded as time worked on such Sunday or holiday.
- (6) Where a shift falls partly on a holiday, the shift the major portion of which falls on a holiday, shall be regarded as the holiday shift.
- (7) Where a shift worker is required to work on a public holiday and is granted a substitute day the loading specified in sub clause (4) above shall not apply.

Broken Or Split Shifts

- (8) Broken shifts may be worked by agreement between the employer and the employee(s) concerned.

PROVIDED THAT work performed outside the spread of ordinary working hours on a broken shift is to be paid at double time.

Part-Time Shift Workers - Work Outside Rostered Shifts

- (9) The provisions of this clause apply to part-time shift workers.

PROVIDED THAT if an employee by choice or agreement with the employer works outside rostered shifts such work shall not attract overtime rates.

PROVIDED FURTHER THAT, any time worked in excess of eight hours per day, shall be paid at double time.

- (10) Where an employee is directed to work shifts other than in accordance with this clause the employee shall be entitled to overtime payments as specified by this clause.

Rosters

- (11) There is to be a shift roster which must-

Rotation

- a. make provision for rotation unless all of the employees concerned desire otherwise; and

Number Of Shifts

- b. not roster any employee to work for more than eight shifts in any nine consecutive days; and

Roster Period

- c. stipulate a twenty-eight day roster period which is to include an accrued day off in addition to eight rostered days off; and

Minimum Number Of Days Off

- d. make provision for a minimum of two consecutive days off each week except where alternative arrangements are made by agreement between the employer and the employee(s) concerned; and

Change To Roster

- e. not be changed without a minimum of four weeks' notice.

PROVIDED THAT by agreement between the employer and the employee(s) concerned changes to rosters may occur without the four weeks' notice specified in (c) above.

PROVIDED FURTHER that an employee's place on a roster shall not be changed, except with a week's notice of such a change or payment of the relevant overtime rate.

Relief Staff

- (12) Staff required to provide relief on accrued days off are to be regarded as shift workers for all purposes of this Agreement except for an entitlement to additional annual leave.

Meal Break

- (13) A roster must show the time span of employees' unpaid meal breaks for employees who have worked for more than four hours.

The employer shall be required to nominate at the time a shift roster is established which rosters or shifts will be eligible for a paid meal break after a shift roster has been established, including an unpaid meal break, paid meal breaks may also apply by mutual agreement.

- (14) The unpaid meal break is to be taken between the beginning of the fourth hour and the end of the sixth hour of the shift.

PROVIDED THAT a day shift worker's meal break is to be taken between 12.00 midday to 2.00 p.m.

PROVIDED THAT notwithstanding this Clause, agreement may be reached between the employer and the employee(s) for different arrangements, to allow for special circumstances.

- (15) Meal breaks are unpaid except

if an employee is required to remain at the workplace and may be called upon to return to work during a meal break, in which circumstances the meal break is to be paid.

PROVIDED THAT where the meal break is paid the overtime provisions relating to work performed during meal breaks does not apply.

- (16) If an employee on a paid meal break is interrupted during the meal break by a call to duty, the employee shall be allowed a meal break as soon as practicable during the remainder of the ordinary working hours.

PROVIDED THAT the circumstances in which an employee is called to duty during a meal break shall be emergency situations or other circumstances where the work required cannot wait until after the meal break has been completed.

Handover

- (17) Where meal breaks are paid and there is therefore insufficient paid time each day to allow for a handover, a maximum of 45 minutes in any twenty-four hour period is to be paid for handover.

PROVIDED THAT if handovers are completed in less than forty-five minutes only the time actually worked shall be paid.

PROVIDED FURTHER that if handovers exceed forty-five minutes, no additional payment shall be made.

- (18) Handover time is to be paid at the rate applying to the shift worked by the employee except that overtime rates shall not apply.

Overtime

Payment For Overtime

- (19) For work performed by shift workers outside the ordinary hours of their shifts, double time is to be paid, provided a minimum of eight ordinary hours has been worked on that day.

PROVIDED THAT this payment shall not apply in circumstances where arrangements approved by the employer have been made between the employees themselves, or due to rotation of shifts.

- (20) In circumstances where the employer is given less than four hours' notice that an employee rostered to relieve an afternoon or night shift worker will not attend to do so at the designated time, the unrelieved worker is to be paid at the rate of time and one half for the additional time worked until four hours has elapsed from the time notice was given to the employer.

PROVIDED THAT for all time worked in excess of that four-hour period the unrelieved shift worker is to be paid at the rate of double time.

PROVIDED FURTHER that in all other circumstances an unrelieved shift worker is to be paid at the rate of double time until relieved.

Rest Period After Overtime

- (21) Where employees are required to work overtime it shall, wherever reasonably practicable, be so arranged that employees have at least eight consecutive hours off duty between the work of successive days.
- (22) Employees, other than casual employees, who work so much overtime between the termination of their ordinary hours on one day and the commencement of their ordinary hours on the next that they have not had at least eight consecutive hours off duty between those finishing and starting times, shall not be required after the completion of the overtime to resume the next day's ordinary hours until they have had eight consecutive hours off duty, without loss of pay for any ordinary hours working time occurring during such time off duty.
- (23) If at the direction of the employer an employee resumes or continues work without having had eight consecutive hours off duty as specified in (22) above, the employee shall be paid at double time until released from duty and shall then be entitled to eight consecutive hours off duty without loss of pay for any ordinary hours working time occurring during such time off duty.

Calculation Of Overtime

- (24) An employee paid a loading in lieu of personal leave, annual leave and public holidays who works overtime is to be paid at double the relevant hourly rate for any overtime so worked.

24. ANNUAL LEAVE

Period Of Leave Day Workers

-
- (1) Full time employees working a thirty-eight hour week are entitled to 152 hours annual leave per year, which shall accrue progressively, to be taken in a period of twenty-eight consecutive days, except where otherwise agreed.

Shift Workers

- (2) Shift workers who work at least twenty Saturdays or Sundays or any combination of Saturdays and Sundays totalling twenty in any one leave year shall be allowed, in addition to the 152 hours prescribed in sub clause (1) above, an extra thirty-eight hours annual leave, to be taken in a period of seven consecutive days including non-working days.

PROVIDED THAT if an employee with twelve months' continuous service is engaged for part of that period as a shift worker, the employee's entitlement to annual leave, in addition to the 152 hours prescribed in sub clause (1) above, is to be increased by 3.8 hours for each month the employee has been continuously engaged as a shift worker.

Annual Leave Exclusive Of Public Holidays

- (3) Annual leave taken shall be exclusive of public holidays.

PROVIDED THAT a shift worker, including a part-time shift worker, shall have added to the entitlement to annual leave one additional day for each public holiday, irrespective of whether or not the public holiday falls on a day which, for that employee, would have been a rostered day off.

- (4) Notwithstanding sub clause (3) above, a part-time shift worker whose place on a roster does not rotate shall have added to the entitlement to annual leave only an additional day for each public holiday that falls on a day the employee is rostered to work.

Annual Leave May Be Taken In More Than One Period

- (5) Annual leave is to be granted and taken in one consecutive period, or any combination of periods agreed between the employer and employee.

PROVIDED THAT annual leave taken as single days shall not exceed five in any calendar year

Employees shall not be required to take annual leave during any period of shutdown except by mutual consent.

Time Of Taking Leave

- (6) Paid annual leave may be taken for a period agreed between an employee and the employer. The employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.
- (7) Annual leave will be given and taken within six months of the employee becoming entitled to annual leave of more than five weeks, subject to alternative arrangements which may be agreed between the employer and employee.

Payment In Lieu Of Annual Leave Prohibited

- (8) Except for accrued and pro rata annual leave entitlements paid to an employee on

termination of employment, payment must not be made, or accepted, in lieu of annual leave.

PROVIDED FURTHER THAT any payment made in lieu of annual leave is to include payment for any applicable leave loading or allowance that would have been payable if the leave was taken and not paid in lieu.

Payment For Period Of Leave

- (9) Before going on annual leave employees are to be paid the amount of wages they would have received in respect of the ordinary hours of work which they would have worked if not for taking leave, unless otherwise specified by the employee.
- (10) Payment for annual leave is to be made not later than 12 noon on the last day of work prior to the employee going on leave.

Provided that despite anything else in this clause, an employee paid by electronic funds transfer (EFT) may be paid in accordance with their usual pay cycle while on paid annual leave.

Cashing Out of Annual Leave

- (11) Paid annual leave must not be cashed out except in accordance with this clause.
- (12) The employer and an employee may agree to the employee cashing out a particular amount of the employee's accrued paid annual leave provided that the following requirements are met:
 - (a) Each cashing out of a particular amount of accrued paid annual leave must be by a separate agreement between the employer and the employee which must:
 - be in writing and retained as an employee record;
 - state the amount of accrued leave to be cashed out and the payment to be made to the employee;
 - state the date on which the payment is to be made, and
 - be signed by the employer and employee and, if the employee is under 18 years of age, the employee's parent or guardian;
 - (b) The employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave at the time that it is cashed out;
 - (c) Paid annual leave must not be cashed out if the cashing out would result in the employee's remaining accrued entitlement to paid annual leave being less than four weeks and
 - (d) Employees may not cash out more than two weeks' accrued annual leave in any 12 month period.

Annual Leave in Advance

- (13) The employer and employee may agree to the employee taking a period of paid annual leave in advance of the employee accruing an entitlement to such leave provided that the agreement meets the following requirements:

-
- (a) It is in writing and signed by the employee and employer;
 - (b) It states the amount of leave to be taken in advance and the date on which the leave is to commence; and
 - (c) It is retained as an employee record.
- (14) This clause applies if an employee takes a period of paid annual leave in advance pursuant to an employee made in accordance with subclause (13). If the employee's employment is terminated before they have accrued all of the entitlement to paid leave which they have taken then the employer may deduct an amount equal to the difference between the employee's accrued annual leave entitlement and the leave taken in advance, from any monies due to the employee on termination and as authorized by the employee.

Proportionate Leave On Termination Of Employment

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

Annual Leave Loading

- (16) For any period of annual leave an employee is to be paid a loading, calculated as follows -

Day Worker

- (a) an employee who, if not taking annual leave would otherwise have worked on day work only, a loading of 17.5% of the employee's relevant rate, that rate to include any higher duty allowance or other all-purpose payment to which the employee is entitled;

Shift Worker

- (b) an employee who, if not taking annual leave would otherwise have worked on shift work only, a loading of 17.5% of the employee's relevant rate, that rate to include any higher duty allowance or other all purpose payment to which the employee is entitled.

PROVIDED THAT an employee who would have received shift payments as specified in Clause 23 had the employee not been on annual leave during the relevant period, and such payments would have been greater than a loading of 17.5% of the relevant rate, then the employee's annual leave loading is to be calculated as an amount equivalent to the shift payments the employee would have received in accordance with the employee's projected shift roster.

Maximum Period For Which Loading Is Payable

- (c) The annual leave loading is payable -
- (i) for day workers - on a maximum period in any one leave year of four weeks annual leave;
 - (ii) for shift workers - on a maximum period in any one leave year of five weeks annual leave.

Calculation Of Continuous Service

- (17) Continuous service is defined in s.22 of the Act.

Annual Leave Exclusive Of Other Forms of Paid Leave

- (18) If the period of annual leave includes a day or part-day that includes a period of any other leave (other than unpaid parental leave or community service leave) the employee is taken not to be on paid annual leave for the period of that other leave or absence.

Excessive Annual Leave Accruals

- (19) (a) An employee has an excessive leave accrual if:
- (i) the employee is a shift worker and has accrued more than 10 weeks' paid annual leave
 - (ii) is a day worker and has accrued more than eight week's paid annual leave.
- (b) The employer may direct an employee with an excess leave accrual to take paid annual leave provided that such a direction is reasonable and consistent with any provisions in the Award which may deal with the same subject matter.
- (c) An employee may require that leave be granted if the employee has had an excessive leave accrual for more than six months and the employer has not given a direction to take leave in accordance with subclause (b). Such a request must be provided in writing and consistent with any provisions in the Award which may deal with the same subject matter.

25. PERSONAL LEAVE

Purpose Of Personal Leave

- (1) Employees other than casual employees are entitled to paid personal leave for absences from work due to -
- (a) personal illness or injury (sick leave); or
 - (b) to provide care or support to a member of the employee's immediately family, or a member of the employee's household, who requires care or support because of:
 - (i) a personal illness, or personal injury, affecting the member; or
 - (ii) an unexpected emergency affecting the member (carer's leave); or
 - (c) compassionate leave.

Amount Of Personal Leave-Full Time Employees

- (2) A full time employee is entitled to twenty-three days (174.8 hours referenced to a thirty-eight hour week) of personal leave, except that in the first year of employment the entitlement to personal leave is -

-
- (a) 22 hours and 48 minutes, plus 12 hours and 40 minutes for each completed month of employment.
 - (3) Untaken personal leave accumulates from year to year without limitation.

Personal/Carer's Leave

- (4) An employee who is absent from work because of personal/carer's leave is entitled to paid leave at the employee's relevant rate exclusive of shift or weekend loadings or overtime subject to the following -
 - (a) employees are not entitled to paid personal leave for any period of absence in respect of which they are entitled to workers' compensation;
 - (b) employees must as soon as practicable (which may be a time after the leave has started) advise the employer of the period, or expected period, of the leave;
 - (c) an employee who has given the employer notice of the taking of leave under this clause must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave has been taken for the reason claimed.
 - (d) employee may have five (5) occasions of single day absences without certification. There will no limit to number of statutory declarations provided by the employee.
 - (e) If an employee is absent on personal leave on the day immediately before or after an accrued day off the employee must provide a doctor's certificate, a certificate from a registered medicare provider, or a statutory declaration in respect of the absence.

Part-Time Employees

- (5) 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 under sub clause (4) above, to paid personal leave in any one year in excess of -
 - (a) for employees whose ordinary hours of work are twenty or more but fewer than thirty per week -114 hours per year;
 - (b) for employees whose ordinary hours of work are thirty or more - 152 hours per year.

Compassionate leave

- (6) An employee is entitled to three days of compassionate leave for each occasion (a permissible occasion) when a member of the employee's family, or a member of the employee's household:
 - (a) contracts or develops a personal illness that poses a serious threat to his or her life; or
 - (b) sustains a personal injury that poses a serious threat to his or her life; or
 - (c) dies.
- (7) An employee may take compassionate leave for a particular permissible occasion if the leave is taken:

-
- (a) to spend time with the member of the employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in (6) above; or
 - (b) after the death of the member of the employee's family or household.
 - (c) a period of compassionate leave may be taken in continuous or separate periods.
- (8) An employee may be asked by the employer to provide some form of evidence of the death or serious or life threatening personal injury or illness of the immediate family or household member.

Unpaid Carer's Leave

- (9) An employee, including a casual employee, is entitled to 2 days of unpaid carer's leave for each permissible occasion when a member of the employee's immediate family or household requires care or support because of:
- (a) a personal illness, or personal injury, affecting the member; or
 - (b) an unexpected emergency affecting the member.
 - (c) The notice and evidence requires of this clause apply to the taking of unpaid carer's leave.
 - (d) Unpaid carer's leave cannot be taken when the employee could instead take paid personal/carer's leave.

26. PARENTAL LEAVE

- (1) An employee is entitled to unpaid parental leave subject to the provisions of the *Fair Work Act 2009*.
- (2) The following provisions will also apply to employees who qualify for unpaid leave in accordance with subclause (1):
- (a) Fourteen (14) weeks maternity leave at the relevant rate; or
 - (b) twenty-eight (28) weeks at half pay
- and further -

an eligible non birth partner is entitled to one week's paid parental leave at the relevant rate.

27. PUBLIC HOLIDAYS

Entitlement To Paid Public Holidays

- (1) Subject to the provisions of this Agreement employees, other than casual employees, are entitled to paid public holidays for 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, and the first Monday in November where Hobart Regatta Day is not observed, or such other day(s) which may be observed in the locality in lieu of any of these public holidays.

-
- (2) Payment for public holidays taken and not worked is to be at the rate of pay to which the employee would have been entitled if at normal work on that day.
 - (3) In circumstances where an employee is required to work on a public holiday which applies at the employee's usual workplace, but the employee is working away from the usual workplace and at a location where that public holiday does not apply, an additional day is to be added to the employee's annual leave entitlement, or the employee may elect to take another working day in lieu of that public holiday.
 - (4) Subject to the provisions of this clause and clause 24, where an employee is entitled to payment for public holidays this may occur, by agreement between the employer and employee, in the following manner -
 - (a) if a public holiday is worked the employee can be paid at the rate of double time, in which case no extra day will be added to the employee's annual leave entitlement; or
 - (b) if an entitlement to payment for public holidays not worked exists the employee can be paid at the rate of single time, in which case no extra day will be added to the employee's annual leave entitlement.

28. TRAVELLING AND EXCESS FARES

Travel

- (1) Employees required to travel in the course of their duties are to be reimbursed for all valid travelling expenses incurred and all reasonable out-of-pocket expenses.
- (2) Employees required to use their own motor vehicles in connection with the business of the employer are to be reimbursed on a per kilometre travelled basis in accordance with the Australian Taxation Office rates prevailing at the time.

Excess Fares

- (3) Employees required to attend for work at a location other than their usual workplace are to be reimbursed any additional fares they may incur.
- (4) An employee required to work overtime at a time when public transport is not available is to be reimbursed reasonable costs of travel from work to home.

PROVIDED THAT this subclause does not apply to employees who drive their own vehicles to and from work.

29. UNIFORMS

- (1) Sufficient, suitable and serviceable uniforms are to be provided, free of cost, to all employees who are required by the employer to wear uniforms. The value of the uniform provided shall be \$350 per year for full time employees and \$200 per year for casual and part time employees.
- (2) The value of the uniforms provided shall be increased in the same manner as allowances in this Agreement are increased.

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- (3) Employees who are provided with a uniform by the employer must wear a clean and tidy uniform at all times whilst performing their duties, unless prior agreement to do otherwise has been reached with their immediate manager.

30. NOTICE BOARD

The employer is to permit a notice board to be erected in the workplace(s) for the use of employees and their workplace representatives.

31. CONSULTATION REGARDING CHANGE

- (1) If the employer is seriously considering a major workplace change that is likely to have a significant effect on the employees covered by this Agreement or proposes to introduce a change to the regular roster or ordinary hours of work of employees, the Employer must consult with the Union and any employees who will be affected proposed change in accordance with this clause.

Major change

- (2) For a major change referred to in paragraph (1):
- (a) the employer must notify the relevant employees of the decision to introduce the major change; and
 - (b) subclauses (3) to (9) apply.
- (3) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (4) If:
- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the employer of the identity of the representative;
- the employer must recognise the representative.
- (5) As soon as practicable after making its decision, the employer must:
- (a) discuss with the relevant employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the employees; and
 - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
 - (b) for the purposes of the discussion—provide, in writing, to the relevant employees:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the employees; and
 - (iii) any other matters likely to affect the employees.
- (6) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

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- (7) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
 - (8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.
 - (9) In this term, a major change is likely to have a significant effect on employees if it results in:
 - (a) the termination of the employment of employees; or
 - (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (d) the alteration of hours of work; or
 - (e) the need to retrain employees; or
 - (f) the need to relocate employees to another workplace; or
 - (g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

- (10) For a change involving the regular roster or ordinary hours of work of employees referred to in paragraph (1):
 - (a) the employer must notify the relevant employees of the proposed change; and
 - (b) subclauses (11) to (15) apply.
- (11) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (12) If:
 - (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the employer of the identity of the representative;the employer must recognise the representative.
- (13) As soon as practicable after proposing to introduce the change, the employer must:
 - (a) discuss with the relevant employees the introduction of the change; and
 - (b) for the purposes of the discussion—provide to the relevant employees:
 - (i) all relevant information about the change, including the nature of the change; and
 - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
 - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
 - (c) 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).

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- (14) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
 - (15) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.
 - (16) In this term:
relevant employees means the employees who may be affected by a change referred to in subclause (1).
 - (17) While the process described in this clause is underway, the parties will respect the status quo.

32. REDUNDANCY

Redundancy Entitlements is a matter provided for in the NES (Division 11 - Notice of Termination and Redundancy Pay). 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

Requirement To Consult.

- (1) For the purpose of this clause **redundancy** includes a situation where the employer believes for operational reasons that it is necessary to make one or more positions redundant, or to reduce the number of employees, or to decrease an employee's ordinary hours of work thus causing a reduction to the employee's income.
- (2) Where the employer believes that it may be necessary to implement a redundancy, the employer is to immediately notify the employee(s) and commence a process of consultation.

Redeployment And Retraining

- (3) If a redundancy is likely to occur -
 - (a) the employer will actively explore all internal redeployment opportunities for employees surplus to requirements;
 - (b) employees seeking redeployment may be retrained for other, available positions on condition that the employees concerned can demonstrate that they possess the necessary capacity for those positions;
 - (c) if the employer deems it necessary for an employee to undergo re- training in order for the employee to perform the duties of the position to which the employee is being redeployed, the employer is to provide such training, at no cost to the employee who is entitled to undertake the training during working hours;
 - (d) all reasonable attempts will be made to ensure that an employee's area of choice, hours of work, previous employment classification and roster patterns are met in any redeployment exercise.

Notice Of Redundancy

- (4) The employer is to provide as much notice as is reasonably practicable of an intended redundancy.

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- (5) The minimum period of notice to be given to an employee affected by a redundancy is -

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

The minimum period of notice is to be increased by one week if an employee is over forty-five years of age at the time of termination of employment and has completed two or more years of continuous service with the employer.

Voluntary Redundancy

- (6) Before a redundancy is effected, the employer is in the first instance to seek expressions of interest in a voluntary redundancy package from all employees.

PROVIDED THAT the employer is only required to seek such expressions of interest from employees employed at the same classification level and at the same worksite in which the redundancy is being effected.

- (7) In assessing expressions of interest for voluntary redundancy the employer will take into account the skill and operational requirements of the facility.
- (8) Wherever reasonably practicable involuntary redundancies will only be effected if there are no, or insufficient, volunteers for a voluntary redundancy package after expressions of interest have been sought and assessed from existing employees in accordance with sub clauses (6) and (7).
- (9) The employer is to consult with the employee(s) and their representative(s) if intending to proceed with an involuntary redundancy after declining an expression of interest for voluntary redundancy.

Redundancy Package

- (10) Where retraining and redeployment opportunities are not available, the redundancy package to be paid to redundant employees is -

Voluntary Redundancies

- (a) notice as specified in this clause, or payment in lieu of that notice; and
- (b) two weeks pay for each completed year of service and pro rata for an uncompleted year; and
- (c) payment for all accrued annual leave including leave loading.

Involuntary Redundancies

- (d) notice as specified in this clause, or payment in lieu of that notice; and

-
- (e) two weeks pay for each completed year of service and pro rata for an uncompleted year; and
 - (f) payment for all accrued annual leave including leave loading; and
 - (g) payment of pro rata long service leave for employees with more than five years continuous service.

PROVIDED THAT where the employer facilitates acceptable alternative employment for a redundant employee, including the transfer of all entitlements, the provisions of this clause shall not apply.

- (h) Acceptable alternative employment will be deemed to be where the employee has gained employment in a position which reflects the skills of that employee and which provides the same financial and employment benefits, including security of employment, as the position from which the employee was made redundant

Partial Redundancy Package For Changed Or Decreased Hours

- (11) Where an employee is not offered similar hours or hours are altered, other than by a normal change of roster in accordance with this Agreement, and this causes a loss of income to the employee, the employer is to pay a partial redundancy package calculated as -
partial redundancy payment = existing weekly rate, minus new weekly rate, multiplied by 2, multiplied by years of service, plus pro rata for any uncompleted year of continuous service.

Definition

- (12) For the purposes of this clause a weeks pay means the relevant rate, and any loadings and all-purpose allowances to which the employee is normally entitled

Paid Time Off To Seek Alternative Employment

- (13) Employees who are made involuntarily redundant are to be given assistance by the employer in seeking suitable alternative employment, including being granted paid time off to look for work and to arrange training or re-training.

Financial Counselling

- (14) The employer will pay for up to two sessions of financial counselling, from a financial adviser agreed to by the employer and the employee, for employees who are offered a redundancy, or who express an interest in redundancy.

Details Of Redundancy Package To Be Provided

- (15) The employer will provide a fully detailed statement of the redundancy package at the time the offer of redundancy is made to an employee.

Notifying Redundant Employees Of New Vacancies

- (16) In the event that a position becomes available in the employer's establishment, the employer is to take reasonable steps to notify employees made redundant by the employer of the vacancy and to invite them to apply for it, within twelve months of the employees being made

redundant.

33. FLEXIBILITY PROVISIONS

- (1) An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
 - (a) the agreement deals with 1 or more of the following matters:
 - (i) annual leave flexibility
 - (b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
 - (c) the arrangement is genuinely agreed to by the employer and employee.
- (2) The employer must ensure that the terms of the individual flexibility arrangement:
 - (a) are about permitted matters under section 172 of the Fair Work Act 2009; and
 - (b) are not unlawful terms under section 194 of the Fair Work Act 2009; and
 - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- (3) The employer must ensure that the individual flexibility arrangement:
 - (a) is in writing; and
 - (b) includes the name of the employer and employee; and
 - (c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - (d) includes details of:
 - (i) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and
 - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - (e) states the day on which the arrangement commences.
- (4) The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (5) The employer or employee may terminate the individual flexibility arrangement:
 - (a) by giving no more than 28 days written notice to the other party to the arrangement; or
 - (b) if the employer and employee agree in writing — at any time.

34. PROFESSIONAL DEVELOPMENT

All parties to this Agreement will actively encourage and facilitate professional development, particularly in relation to supporting Registered Nurses & Enrolled Nurses maintaining registration with Australian Health Practitioner Regulation Agency.

35. FUTURE NEGOTIATIONS

- (1) The employer agrees to commence negotiations for a new collective agreement to succeed this Agreement at least 3 months before the nominal expiry date of this Agreement with the

intention of concluding these negotiations prior to the nominal expiry date.

- (2) Before submitting a variation, termination or replacement agreement for the approval of the employees covered by the Agreement, the employer will negotiate in good faith with the union parties to the Agreement.
- (3) Should negotiations for a new collective agreement not be finalised prior to the nominal expiry date of this Agreement, existing rates of pay and conditions will continue to be observed for all employees.

36. SUPERANNUATION

(1) 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 supplements those in superannuation legislation.

(2) Employer Contributions

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.

- (3) The employer must pay to the relevant superannuation fund the amount specified in sub-clause (2) no later than 28 days after the end of each month.

(4) 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 sub-clause (2).
- (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 month 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 sub-clause no later than 28 days after the end of the month in which the authorised deduction was made.

(5) Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in subclause (2) to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in subclause (2) and pay the amount authorised under subclauses (4)(i) or (4)(ii) to Hesta Super Fund (Health Employees Superannuation Trust Australia).

37. SALARY PACKAGING AND SALARY SACRIFICE

- (1) Employees' rates of pay specified in Schedule A of this Agreement may be packaged in accordance with the employer's salary packaging program and in accordance with the relevant legislation, and employees may elect, in writing, to convert a component of their annual ordinary time salary to packaged benefits.
- (2) In respect of employees who have elected to enter into a salary packaging arrangement, any overtime and shift loadings must be calculated on the salary level which would have applied if the employee was not in the salary packaging scheme.
- (3) Non salary-packaged benefits must be paid for any period in respect of which the employee is paid salary, including but not limited to absence on worker's compensation or paid leave.
- (4) If an employee on a salary packaging arrangement goes on workers compensation the employee will receive not less than the entitlements which would have applied if the employee was not in the salary packaging scheme.
- (5) If an employee who has entered into a salary packaging arrangement ceases employment with the employer the salary packaging arrangement will cease on the date the employment ceases and -
 - (a) all entitlements due to the employee on termination will be paid at the employee's relevant rate;
 - (b) any outstanding fringe benefits tax or salary packaging benefit held by the employer, or the employer's salary packaging agent, on behalf of the employee, due to the employee will be paid less any necessary taxation deduction.
- (6) If an employee has entered into a salary packaging arrangement superannuation payments required under the *Superannuation Guarantee (Administration) Act 1992* must be calculated at the employee's relevant rate.
- (7) If an employee has entered into a salary packaging arrangement annual leave loading entitlements must be calculated at the employee's relevant rate.
- (8) Employees who have entered into a salary packaging agreements will be given the opportunity to review such agreements annually, and to amend or withdraw from such agreements.
- (9) The employer will advise each employee in writing -
 - (a) that an employee's participation in salary packaging is optional and entirely voluntary;

- (b) of the employee's classification level and relevant rate;
 - (c) that the employee is encouraged to consult with a financial adviser before signing a salary packaging agreement;
 - (d) that the employee must be provided with a copy of any proposed salary packaging arrangement before deciding whether or not to elect to enter into it.
 - (e) of the right of the employee to inspect details of the payments and transactions made under the terms of any salary packaging arrangement and where such details are maintained electronically the employee must be provided with a print-out of the relevant information;
 - (f) that where at the end of the agreed period the full amount allocated to a specific benefit has not been expended the unused amount will not be carried forward to the next period;
 - (g) that where changes are proposed to all salary packaging arrangements, or salary packaging arrangements are to be cancelled by the employer for reasons other than legislative requirements then the employer must give two months' notice;
 - (h) that in the event the employer ceases to attract exemption from payment of Fringe Benefits Tax, all salary packaging arrangements will be terminated and employees' wages will revert to their respective relevant rates as specified in this Agreement;
 - (i) that all Agreement conditions other than salary packaging will continue to apply.
- (10) Salary packaging arrangements shall be entered into only in accordance with this Clause.
- (11) By agreement with the employer an employee may sacrifice an amount of salary, which would otherwise be payable in accordance with Schedule A of this agreement, and have that sacrificed amount contributed to a complying superannuation fund of the employee's choice.
- (12) Where applicable the provisions of this clause shall apply to salary sacrifice arrangements.
- (13) Salary increases under this Agreement shall be payable to employees covered by salary packaging arrangements and such increases are to be applied to employees' relevant rates.

38. COMMUNITY SERVICE LEAVE

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

- (1) 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 to the Employer.
- (2) Community Service Leave arrangements apply in respect to employees who are registered volunteers with the following emergency service organisations:

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- Tasmania Fire Service;
 - Tasmanian Ambulance Service; and
 - State Emergency Service.
 - Other emergency service consistent with the NES definition.
- (3) 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.
- (4) An employee shall be granted approval 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 Employer and their direct supervisor as soon as practicable regarding the requirement for the absence and its likely length;
 - the employee is able without undue disruption to the operational requirements of the Employer 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.

The Employer will not unreasonably refuse a request of absence to attend an emergency situation.

- (5) When 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 an 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.
- (6) Subject to the following, absence from normal duties as a result of approved Community Service Leave will not affect the fortnightly salary of the employee;
- (i) Any employee who receives payment in compensation for out of pocket expenses (including lost wages) as a result of providing volunteer assistance in an emergency situation whilst on paid Community Service Leave, must produce to the Employer documentation showing the amount the employee has received for compensation of loss of wages.
 - (ii) On production of the required documentation, the employee will receive their fortnightly gross wage minus the amount received in (i) above. All superannuation normally paid by the employer in a normal pay period, including salary sacrifice and the Superannuation Guarantee Contribution will remain the same as if the employee had been at work.

39. PAYMENT FOR POLICE CHECKS

As an employment requirement all employees are required to furnish a satisfactory National Police Check. Employees will meet the cost of providing a police check on the commencement of their employment. The employer will meet the ongoing costs for employees of all subsequent police checks.

40. CLASSIFICATIONS

Definitions

- (1) **Student/Trainee Enrolled Nurse** means an employee undergoing an approved training course in enrolled nursing under the provisions of the *Nursing Act 1995*.
- (2) **Enrolled Nurse** means a nurse registered as such with the enrolled as such with the Australian Health Practitioner Regulation Agency.
- (3) **Enrolled Nurse - medication-endorsed** means an Enrolled Nurse holding an endorsement to administer medications issued by the Australian Health Practitioner Regulation Agency and who is required by the employer to so administer medications.
- (4) **Registered Nurse** means a nurse registered as such with the Australian Health Practitioner Regulation Agency.
- (5) **Registered Nurse - Level 1** means a Registered Nurse who is not otherwise classified within a Level of registered nurse positions.
- (6) **Registered Nurse - Level 2** means a Registered Nurse who is engaged as such; and -
 - (a) has demonstrated competence in basic nursing practice and the ability to provide direct care in more complex nursing care situations; and
 - (b) has the ability and skills to provide guidance to Level 1 Registered Nurses; and
 - (c) is employed within a care unit.
- (7) **Registered Nurse - Community Health/Domiciliary** means a Registered Nurse employed in this setting and who is not otherwise classified.
- (8) **Registered Nurse - Level 3** means a Registered Nurse who is engaged as such, and may be referred to as Clinical Nurse Consultant, Nurse Manager, or Staff Development Nurse.
- (9) **Registered Nurse - Level 3A** means a Registered Nurse engaged as such who may be referred to as the after hours supervisor, and is accountable for the overall provision of resident care and the management of resources.
- (10) **Registered Nurse - Level 4** means a Registered Nurse who is engaged as such and may be referred to as Assistant Director of Nursing -Care, Assistant Director of Nursing-Management, or Assistant Director of Nursing-Staff Development.
 - (a) **An Assistant Director of Nursing - Clinical Care** is responsible for the formulation, co-ordination and direction of policies for nursing practice, and is accountable for the

standard of nursing care in an assigned number of clinical care units.

- (b) An Assistant Director of Nursing - Management is responsible and accountable for management resources in an assigned number of management.
 - (c) An Assistant Director of Nursing - Staff Development is responsible for the co-ordination, development and evaluation of post-basic education courses approved by the Nursing Board of Tasmania, or staff development programs.
- (11) **Registered Nurse - Level 5** means a Registered Nurse who is engaged as Director of Nursing/Esklegh Home Manager and as a member of the executive management team is responsible and accountable for the overall co-ordination of nursing.

Registered Nurse Ratio

- (12) The minimum number of full time equivalent Registered Nurses at Level 2 is to be 25% of the registered nurse full time equivalent positions.

PROVIDED THAT, positions at Level 4 and above shall not be taken into account for the purpose of calculating the ratio.

41. SALARIES

Salary increases during the life of this agreement

- (1) The salaries of employees covered by this Agreement will be increased as follows -
- (a) 3% from the first full pay period commencing on or after 1st July 2018;
 - (b) 3% from the first full pay period commencing on or after 1st July 2019;
 - (c) 3% from the first full pay period commencing on or after 1st July 2020.

The salary rates are set out in Schedule A of this Agreement.

PROVIDED THAT, during the life of this Agreement arbitrated safety net adjustments and increases to the rates of pay contained in the Nurses Award 2010 are not applicable to employees covered by this Agreement.

PROVIDED FURTHER THAT during the life of this Agreement, the salary rates specified in this Agreement will be maintained at a level not less than the salaries prescribed in that Award.

- (2) **Nurse Undertaking Post Graduate Training**

A Registered Nurse or an Enrolled Nurse, up to and including the classification of Registered Nurse Level 3, while undertaking post diploma or graduate training, shall be paid at the employee's existing salary rate and will be entitled to normal incremental progression.

- (3) **Enrolled Nurse Upgrading To Registered Nurse**

Enrolled nurses who complete a period of study which qualifies them to seek registration as a registered nurse with the Nursing Board of Tasmania shall, if they wish to continue in

employment with the employer, be transferred to a position as a registered nurse if the employer has such a position available and if the employee is suitable for the position.

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.

(4) Salary Re-Entry - Registered Nurses

- (a) A Registered Nurse undertaking the re-entry to practice course shall be paid at Registered Nurse Level 1, 1st year of service during course clinical time.
- (b) Subject to (a), such an employee shall be paid at Registered Nurse Level 1, 2nd year of service for the first year of service of 1976 hours, or two years, whichever comes first.
- (c) Following successful completion of the re-entry program all of the employee's previous nursing experience shall be recognised upon proof of that past experience.

(5) Salary Re-Entry - Enrolled Nurses

- (a) An Enrolled Nurse undertaking the re-entry to practice course shall be paid at Enrolled Nurse 1st year of service during course clinical time.
- (b) Subject to (a), such an employee shall be paid at Enrolled Nurse second year of service for the first year of service of 1976 hours, or two years, whichever comes first.
- (c) Following successful completion of the re-entry program all of the employee's previous nursing experience shall be recognised upon proof of that past experience.

(6) Accelerated Advancement

- (a) Subject to (b) a Registered Nurse Level 1 shall be entitled to progress one increment on that person's first appointment following registration with the Nursing Board of Tasmania, or at any time during the person's employment history as a Registered Nurse Level 1, on attaining -
 - (i) registration in another branch of nursing or on another nursing register maintained by the Nursing Board of Tasmania where the employee is working in a particular practice setting which requires the additional registration; or
 - (ii) successful completion of a post-registration course of at least twelve months duration if the employee is required to perform duties to which the course is directly relevant.
- (b) A Registered Nurse Level 1 who has been advanced once in accordance with (a) above shall not be entitled to further advancement under this sub clause.

PROVIDED THAT existing incremental dates shall not be affected by incremental progression in accordance with this sub clause.

42. FAMILY VIOLENCE LEAVE

(1) General Principles

The employer recognises that employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. The employer is committed to providing support to employees who experience family and domestic violence.

Understanding the traumatic nature of family and domestic violence, the employer will support their employees if they have difficulties performing tasks at work due to the effects of family and domestic violence. No detrimental action will be taken against an employee on the basis that they have accessed family and domestic violence leave.

(2) Definition of direct family member

For the purpose of this entitlement:

- (a) **direct family members** will include parents, children and the employee's spouse, and
- (b) **family violence** includes physical, sexual, financial, verbal or emotional abuse by an immediate family member. It is the patterned use or coercive and controlling behaviour to limit, direct and/or shape a person's thoughts, feelings and actions.

(3) Entitlement

- (a) A full time employee experiencing family and domestic violence will have access to 5 non-accruing days per year of paid family and domestic violence leave for the purpose of:
 - (i) attending legal proceedings, counselling, appointments with a medical or legal practitioner; or
 - (ii) relocation or making other safety arrangements; or
 - (iii) other activities associated with the experience of family and domestic violence.
- (b) The full time entitlement will be pro-rated for part time based on their regular and systematic hours of work.
- (c) Family and domestic violence leave will be in addition to existing leave entitlements, may be taken as consecutive or single days or as a fraction of a day, and can be taken without prior approval.
- (d) An employee who supports a person experiencing domestic or family violence may take carer's leave to provide support to attend appointments.

(4) Notice and Evidentiary Requirements

- (a) The employee shall give the employer notice as soon as reasonably practicable of their request to take leave under this Clause.
- (b) If required by the employer, the employee must provide evidence that would satisfy a reasonable person that the leave is for the purpose as set out in Clause 3(a). Such evidence may include a document issued by the police service, a court of law, a doctor, a family violence support service or a lawyer.
- (c) The employer will take all reasonable measures to ensure that any personal information provided by the employee concerning an employee's experience of family and domestic violence is kept confidential. Information will not be kept on an employee's personnel file without their express written permission.

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- (5) Individual Support
- (a) In order to provide support to an employee experiencing family and domestic violence and to provide a safe work environment to all employees, the employer will consider any reasonable request, from an employee experiencing family and domestic violence for:
 - (i) changes to their span of hours or pattern of hours and/or shift patterns for a reasonable period of time;
 - (ii) a change to their telephone number or email address to avoid harassing contact; or
 - (iii) any other appropriate reasonable measure including those available under existing provisions for family friendly and flexible work arrangements.
 - (b) The employer will not unreasonably refuse requests for individual support as listed in subclause 5(a); however approvals will be subject to the employer's capacity to make the requested changes and still meet their needs.
 - (c) Any change under subclause 5(a) will only apply for the period that the employee reasonably requires the change as a result of experiencing family or domestic violence.
- (6) An employee experiencing family and domestic violence will be offered a referral to the Employee Assistance Program (EAP) and/or other local resources. The EAP shall include professionals trained specifically in family and domestic violence.

43. UNION DELEGATES LEAVE

- (1) Subject to the provisions of this clause not more than one union delegate or elected workplace representative from each union party to this Agreement will be granted up to three days paid leave of absence each calendar year, non-cumulative, to:
- represent members in bargaining;
 - represent the interests of members to the employer and industrial tribunals;
 - consult with union members and other employees for whom the delegate is a bargaining representative;
 - participate in the operation of the union;
 - attend union education;
 - attend courses conducted by an approved training provider that are designed to provide skills and competencies that will assist the delegate or workplace representative contribute to the prompt resolution of disputes and/or grievances in the workplace;
 - attend union annual delegates conference.

Provided that an additional two days unpaid leave per delegate or workplace representative is also available under the same conditions, or each delegate or workplace representative may elect to take the additional 2 days as paid annual leave.

- (2) An application for leave under this clause must be made to the employer in writing, including the nature, content and duration of any course to be attended. The application should be provided with fourteen days' notice of the proposed training.
- (3) The granting of leave pursuant to this clause will be subject to the employer being able to


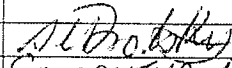
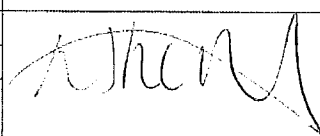
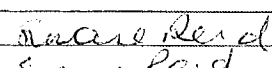
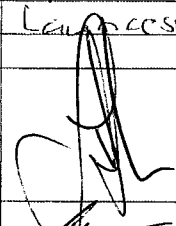
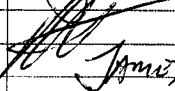
make adequate staffing arrangements amongst current employees during the period of such leave. The employer will not unreasonably use this sub-clause to avoid an obligation under this clause.

- (4) Leave of absence granted pursuant to this clause will count as service for all purposes of this Agreement.
- (5) Each employee on leave approved in accordance with this clause will be paid all ordinary time earnings. For the purposes of this sub-clause "ordinary time earnings" for an employee means the classification rate, over-award payment, superannuation and shift loading which otherwise would have been payable if the employee had been at work.

44. 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:

Mr Dan Lowe	
Chief Executive Officer	
Eskleigh Foundation Inc.	
Witnessed by (signature)	
Witness name in full (printed)	SAMANTHA LOUISE DIOTSKY
Witness address	2 lovely Banks Court Legana Tas, 7277.
Ms Emily Shepherd	
Branch Secretary	
Australian Nursing and Midwifery Federation (Tasmanian Branch)	
Witnessed by (signature)	
Witness name in full (printed)	Simone Reid
Witness address	19 Brisbane Street Launceston 7230
Mr Tim Jacobson	
Branch Secretary	
Health Services Union of Australia (Tasmania Branch)	
Witnessed by (signature)	
Witness name in full (printed)	James Edmondson
Witness address	11 Lorne St. New Town TAS 7008

FOR THE EMPLOYER

This Agreement is signed by Mr Dan Lowe in his capacity as Chief Executive Officer of Eskleigh Foundation Inc.

Mr Lowe's work address is:
16087 Midland Highway
PERTH TAS 7300

As the Chief Executive Officer of Eskleigh Foundation Inc., Mr Lowe has the authority to sign the Agreement on behalf of the employer.

FOR THE UNIONS

This agreement is signed by Ms Emily Shepherd in her capacity as the Branch Secretary of the Australian Nursing and Midwifery Federation (Tasmanian Branch).

Ms Shepherd's work address is:
182 Macquarie Street
HOBART TAS 7000

As the Branch Secretary of the Australian Nursing and Midwifery Federation (Tasmanian Branch), Ms Shepherd 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.

This agreement is signed by Mr Tim Jacobson in his capacity as the Branch Secretary of the Health Services Union of Australia -Tasmanian Branch.

Mr Jacobson's work address is:
PO Box 635
NORTH HOBART TAS 7002

As the Branch Secretary of the Health Services Union of Australia -Tasmanian Branch Mr Jacobson has the authority to sign the Agreement on behalf of employees who are members of the Health Services Union of Australia -Tasmanian Branch and are employed pursuant to this Agreement.

SCHEDULE A - SALARY RATES

An employee engaged or promoted to a position within a classification or level prescribed in this Agreement shall be paid the salary specified as follows (the relevant rate).

	Existing Rates at start of Agreement	3% FFPP 1 July 2020	3% FFPP 1 July 2021
ENROLLED NURSES			
1st Year of Service	27.110	27.923	28.761
2nd Year of Service	27.663	28.493	29.347
3rd Year of Service	28.215	29.062	29.933
4th Year of Service	28.768	29.631	30.520
5th Year of Service	29.322	30.201	31.107
EN Medication Endorsed			
1st Year of Service	29.742	30.634	31.553
2nd Year of Service	30.297	31.205	32.142
REGISTERED NURSES			
RN Level 1			
1st Year of Service	29.597	30.485	31.400
2nd Year of Service	30.981	31.910	32.867
3rd Year of Service	32.363	33.334	34.334
4th Year of Service	33.745	34.757	35.800
5th Year of Service	35.136	36.190	37.276
6th Year of Service	36.561	37.657	38.787
7th Year of Service	37.985	39.124	40.298
8th Year of Service	39.408	40.590	41.808
RN Level 2			
1st Year of Service	40.831	42.056	43.318
2nd Year of Service	41.781	43.034	44.325
3rd Year of Service	42.730	44.011	45.332
4th Year of Service	43.680	44.990	46.340
RN Level 3			
1st Year of Service	45.460	46.824	48.228
2nd Year of Service	46.527	47.923	49.361
3rd Year of Service	47.595	49.023	50.494
4th Year of Service	48.663	50.123	51.626
RN Level 4			
Grade 1 (0-60 Beds)	54.358	55.989	57.669
Grade 2 (61-90 Beds)	54.358	55.989	57.669
Grade 3 (91-120 Beds)	54.358	55.989	57.669
Grade 4 (121 Beds above)	58.512	60.268	62.076
RN Level 5			
Grade 1 (0-60 Beds)	54.358	55.989	57.669
Grade 2 (61-90 Beds)	58.512	60.268	62.076
Grade 3 (91-120 Beds)	62.665	64.545	66.481
Grade 4 (121 Beds & above)	67.411	69.433	71.516

Undertaking – Section 190

I, Daniel Lowe, Chief Executive Officer, have the authority given to me by Eskleigh Foundation Inc to give the following undertakings with respect to the Eskleigh Foundation Inc Nursing Agreement 2019 ("the Agreement"):

1. Cause 24(2) shall be amended to read as follows:

Shift Workers

- (2) Shift workers who are regularly rostered to work over seven days of the week and regularly work weekends shall be allowed, in addition to the 152 hours prescribed in sub clause (1) above, an extra thirty-eight hours annual leave, to be taken in a period of seven consecutive days including non-working days.

PROVIDED THAT if an employee with twelve months' continuous service is engaged for part of that period as a shift worker, the employee's entitlement to annual leave, in addition the 152 hours prescribed in subclause (1) above, is to be increased by 3.8 hours for each month the employee has been continuously engaged as a shift worker.

2. Clause 27(1) shall be amended to read as follows:

- (1) Subject to the provisions of this Agreement employees, other than casual employees, are entitled to paid public holidays for 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, and the first Monday in November where Hobart Regatta Day is not observed, and any other day or part-day declared or prescribed by or under a law of a State or Territory to be observed as a public holiday.

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.


Signature

18-12-20
Date