



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Masonic Care Tasmania Incorporated
(AG2017/4910)

MASONIC CARE TASMANIA INCORPORATED (NORTH) GENERAL STAFF AGREEMENT 2017

Tasmania

COMMISSIONER LEE

HOBART, 25 JANUARY 2018

Application for approval of the Masonic Care Tasmania Incorporated (North) General Staff Agreement 2017.

[1] An application has been made for approval of an enterprise agreement known as the *Masonic Care Tasmania Incorporated (North) General Staff Agreement 2017* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Masonic Care Tasmania Incorporated. The Agreement is a single enterprise agreement.

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

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

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 1 February 2018. The nominal expiry date of the Agreement is 31 January 2019.



COMMISSIONER

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Annexure A



23 January 2018

Commissioner Lee
 Fair Work Commission
 11 Exhibition Street
 MELBOURNE VIC 3000

Dear Commissioner Lee

AG2017/4910 - Masonic Care Tasmania (North) General Staff Agreement 2017

We refer to the above application by Masonic Care Tasmania regarding the Masonic Care Tasmania (North) General Staff Agreement 2017 (**Agreement**) and to your emails dated 10 January 2018 and 19 January 2018.

Masonic Care Tasmania provides the following undertakings:

1. *For the purposes of clause 19.2 of the Agreement, Masonic Care Tasmania undertakes that*

(a) *Employees that are defined as shift workers are entitled to an additional week of annual leave.*

For the purposes of the NES, a shift worker is defined as:


(i) *for employees classified as ACE Level 1 to ACE Level 7 and Admin Level 1A&1B to Admin Level 7:*

(A) *an employee who is regularly rostered to work their ordinary hours outside the ordinary hours of work as a day worker as defined in clause 11(a)(i) and/or*

(B) *an employee who works for more than four ordinary hours on 10 or more weekends.*

NOTE: *for the purposes of clause 19.2(a)(i)(B), a weekend means work in ordinary time on a Saturday and/or a Sunday in any one calendar week.*




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- (ii) for employees classified as Home Care Level 1 to Level 3.2:
 - (A) an employee who works for more than four ordinary hours on 10 or more weekends during the yearly period in respect of which their annual leave accrues and is entitled to an additional week's annual leave on the same terms and conditions.
 - (iii) for employees classified as Hair dressers Level 3 and Level 5:
 - (A) an employee who is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day, seven days a week.
- (b) Notwithstanding the NES definitions prescribed at clause 19.2(ii) and (iii) employees classified as Home Care Level 1 to Level 3.2 and Hair dressers Level 3 and Level 5 are entitled to an additional week of annual leave as follows:
- (i) an employee who is regularly rostered to work their ordinary hours outside the ordinary hours of work as a day worker as defined in clause 11(a)(i) and/or
 - (ii) an employee who works for more than four ordinary hours on 10 or more weekends.

NOTE: for the purposes of clause 19.2(b)(ii), a weekend means work in ordinary time on a Saturday and/or a Sunday in any one calendar week."

2. "For the purposes of clause 16(a)(i)(A) of the Agreement Masonic Care Tasmania undertakes to pay casual Community Care Workers classified as:
 - (a) ACE Level 1 and Admin Level 1A&1B to ACE Level 7 and Admin Level 7, a minimum of 2 hours per engagement;
 - (b) Home Care Level 1 to Level 3.2, a minimum of 1 hour per engagement; and
 - (c) Hair dressers Level 3 and Level 5, a minimum of 3 hours per engagement."
3. "Masonic Care Tasmania provides an undertaking that, for the purposes of clause C.4.2 of Schedule C to the Agreement relating to a Supported Wage System, the minimum amount per week for supported wage employees will be \$84.00 per week."
4. "For the purposes of clause 15(b)(i) of the Agreement Masonic Care Tasmania provides an undertaking that employees classified as ACE Level 1 to ACE Level 7 and Admin Level 1A&1B to Admin Level 7 will be entitled to 200% penalty for all overtime hours worked on a Saturday."
5. "Masonic Care Tasmania provides an undertaking that employees classified as Hair Dressers Level 3 and Level 5 will be paid a rate of \$0.10c per week above the minimum weekly wage provided under the Hair and Beauty Industry Award 2010."



6. *"Masonic Care Tasmania undertakes that employees classified as Hair Dressers Level 3 and Level 5 will be entitled to payment of the following allowances as provided by the Hair and Beauty Industry Award 2010:*
- (a) Tool Allowance (where electrical equipment is not provided by the employer and/or where an employee is required to use their own tools); and*
 - (b) Meal Allowance (unless an employee could reasonably return home for a meal within the period allowed)."*

Please let me know if we can assist further.

Yours faithfully
For and on behalf of Masonic Care Tasmania

A handwritten signature in blue ink, appearing to read "Belinda Beltz".

Belinda Beltz
Executive Director People & Culture



masonic care
tasmania

**MASONIC CARE TASMANIA
(NORTH)**

**GENERAL STAFF AGREEMENT
2017**

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.

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1. Introduction

This Agreement is made under section 172 of the *Fair Work Act 2009*.

2. Title

This Agreement shall be known as the Masonic Care Tasmania Incorporated (North) General Staff Agreement 2017.

3. Parties to the Agreement

The parties to this agreement are as follows:

- (a) Masonic Care Tasmania Incorporated located in the North (the employer),
- (b) The Health Services Union, Tasmania Branch,
- (c) The Australian Nursing and Midwifery Federation, Tasmanian Branch,
- (d) Employees who are employed by the employer and are engaged in work in classifications contained within this Agreement.

This agreement intentionally excludes Registered and Enrolled Nurses; and management staff that would not normally be covered by or have application to, either the Aged Care Award 2010 or the Social, Community, Home Care and Disability Services Industry Award 2010, or any other modern award.

4. Commencement

The Agreement will commence seven days after the date of approval by the Fair Work Commission.

5. Nominal Expiry

The Agreement has a nominal expiry of 31 January 2019 and shall remain in operation until at least that date, unless otherwise terminated or varied beforehand 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*.

6. Agreement - Complete Conditions of Employment

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

7. Flexibility

- (a) An employer and employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
 - (i) the Agreement deals with 1 or more of the following matters:

- arrangements about when work is performed;
 - overtime rates;
 - penalty rates;
 - allowances; and
 - leave loading.
 - (ii) the arrangement meets the genuine needs of the employer and employee in relation to one or more of the matters mentioned in subclause (i); and
 - (iii) the arrangement is genuinely agreed to by the employer and employee.
- (b) The employer must ensure that the terms of the individual flexibility arrangement:
- (i) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
 - (ii) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
 - (iii) result in the employee being better off overall than the employee would be if no arrangement was made.
- (c) The employer must ensure that the individual flexibility arrangement:
- (i) is in writing; and
 - (ii) includes the name of the employer and employee; and
 - (iii) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - (iv) includes details of:
 - the terms of the enterprise Agreement that will be varied by the arrangement; and
 - how the arrangement will vary the effect of the terms; and
 - 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
 - (vi) states the day on which the arrangement commences.
- (d) The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (e) 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.

8. Relationship to the NES

Entitlements in accordance with the NES are provided for under the Act. The NES provides a set of minimum standards which cannot be displaced. Where this Agreement also has provisions regarding matters dealt with under the NES and the provisions in the NES set out in the Act are more favourable to an employee in a particular respect than those provisions, then the NES will prevail in that respect and the provisions dealing with that matter in this Agreement will have no effect in respect of that employee. The provisions in this Agreement otherwise apply.

9. Employee Engagement - Classifications, Wages

(a) Employee Categories:

- (i) Employees under this Agreement will be employed in one of the following categories:
 - (A) full-time;
 - (B) part-time; or
 - (C) casual.

At the time of engagement the employer will inform each employee whether they are employed on a full-time, part-time or casual basis. An employer may direct an **employee to carry out such duties that are within the limits of the employee's skill, competence and training, consistent with the respective classification.**

(b) Minimum Employment Period:

- (i) Employees (other than casual employees) will be on a period of probation for the first six months of engagement for the purpose of determining the employee's suitability for ongoing employment.
- (ii) At any time during the probation period, the employer or the employee can terminate the employment by providing written notice in accordance with Termination of Employment clause of this agreement.

(c) Full-time Employees:

A full-time employee is one who is engaged to work an average of 38 hours per week over a 76 hour two week period.

(d) Part-time Employees:

- (i) A part-time employee is an employee who is engaged to work less than 38 hours per week and has predictable hours of work each week.
- (ii) The employer and employee will agree in writing on a regular pattern of work including the number of hours to be worked each week, the days of the week the employee will work and the starting and finishing times each day.
- (iii) The terms of the Agreement may be varied by genuine agreement between the employer and employee and the variation of the Agreement shall be recorded in writing.
- (iv) The terms of this Agreement will apply on a pro rata basis to part-time employees on the basis that the ordinary weekly hours for full-time employees are 38.
- (v) A part-time employee may work additional hours beyond those agreed in subclause (c)(ii) by temporary amending in writing the agreement described in subclause (c)(ii). These additional agreed hours will be paid on the following basis:
 - All additional hours worked within ordinary hours as defined by this Agreement shall be paid at the ordinary rate of pay.
 - All additional hours paid at the ordinary rate of pay shall be subject to both superannuation and leave accruals.
- (vi) Review of Part-time Hours: At the request of a part time employee, the hours worked by the employee will be reviewed annually. Where the employee is regularly working more than their agreed hours to be worked then such hours shall be adjusted by the employer, and recorded in writing to reflect the hours regularly worked. The hours

worked in the following circumstances will not be incorporated in the adjustment:

- (A) if the increase in hours is as a direct result of an employee being absent on leave, such as for example, annual leave, long service leave, maternity leave, workers compensation; and
 - (B) if the increase in hours is due to a temporary increase in hours only due, for example, to the specific needs of a resident or client.
- (vii) Any adjusted guaranteed agreed hours to be worked resulting from a review identified in sub-clause 9.4 (d) should, however, be such as to readily reflect roster cycles and shift configurations utilised at the workplace.
 - (viii) The terms of this agreement will apply on a pro rata basis to part-time employees on the basis that the ordinary weekly hours for full-time employees are an average of 38.
 - (ix) Payment in respect of personal/carer's leave (where an employee has accumulated an entitlement) for a part-time employee will be on a pro rata basis made according to the number of hours the employee would have worked on the day or days on which the leave was taken.
 - (x) Permanent part-time employees will receive a minimum payment of two hours for each engagement.
- (e) Casual Employees:
- (i) A casual employee is an employee engaged as such on an hourly basis, other than as a part-time, full-time or fixed term employee, to work up to and including an average of 38 ordinary hours per week. The work pattern will be irregular and unpredictable except in the case where the casual employee is replacing another employee on leave.
 - (ii) A casual employee will be paid per hour worked at the rate of 1/38th of the weekly rate appropriate to the employee's classification or 1/37.5 in the case of an administrative employee. In addition, a loading will be paid instead of the paid leave entitlements accrued by full-time and part-time employees.
 - (iii) Loading percentage will be 25%.
 - (iv) The loading is paid in lieu of the employee accruing paid annual leave, personal leave and holidays with pay.
 - (v) Casual employees must be paid the applicable penalty rates for working Saturday, Sunday and public holidays as full-time and part-time employees.
 - (vi) Casuals will receive the applicable penalties as applied to the casual loaded rate including overtime penalties. The calculation of casual loading and penalty/overtime will be added together and not compounded.
 - (vii) Penalty and shift rates application example:
EG: Hourly rate (\$20) multiplied by 225% (25% casual loading plus overtime penalty 200%).
 - (viii) The minimum engagement for a casual employee is two hours, except for a casual haldressing employee where the minimum engagement is three hours.

- (ix) Casual Conversion
- (A) A casual employee who has been rostered on a regular and systematic basis over a period of 26 weeks has the right to request conversion to permanent employment:
- on a full-time contract where the employee has worked on a full-time basis throughout the period of casual employment; or
 - on a part-time contract where the employee has worked on a part-time basis throughout the period of casual employment. Such contract would generally be on the basis of the same number of hours as previously worked, however the hours must be capable of fitting within the existing shift and rostering arrangements. Other arrangements may be implemented by agreement between the employer and the employee.
- (B) The employer may consent to or refuse the request, but shall not unreasonably withhold agreement to such a request.
- (C) Casual conversion will not apply where a casual has covered absences of permanent staff that are expected to return to work.
- (f) National Criminal History Record Check
- (i) Operators of aged care services are required to ensure staff, contractors and volunteers, who have, or are reasonably likely to have access to care recipients undergo a National Criminal History Record Check, commonly known as a Police Check.
- (ii) All costs associated with providing such evidence (Police Checks) are the responsibility of the individual employees and prospective employees.
- (g) Classifications
Schedule A - Attached to this Agreement
- (h) Wage Rates
Schedule B – Attached to this Agreement
- (i) Annual Wage Increases
- (a) All employees covered by this Agreement will receive the wage increase set out below or the minimum wage increase awarded by the Fair Work Commission Minimum Wage Panel per annum, whichever is the greater for the life of the Agreement as follows:
- In the first full pay period on or after 1 July 2017 – salary parity (north/south) + 2.0%
 - in the first full pay period on or after 1 July 2018 – 2.0%
- The employer commits that during the term of this Agreement to pay no less than the National Minimum Wage. Wage rates as at the commencement of this Agreement are set out in Schedule B.
- (b) In the event that, during the life of this Agreement, additional funding is provided through the Commonwealth Government to increase wages in the aged care industry, and those increases result in wage rates in excess of those contained in this Agreement, the employer agrees to apply the higher rate of pay.
- (c) In the event of sub clause (b) the employer will meet with unions to discuss the implementation of the wage increases.
- (j) Supported Wage
Schedule C - Attached to this Agreement

10. Payment of Wages

- (a) Wages are to be paid fortnightly and not later than COB Thursday of the week of payment.
- (b) Method of payment
Wages must be paid by electronic funds transfer or some other method agreed by the employer into the bank or financial institution account nominated by the employee.
- (c) Termination
When notice of termination of employment has been given by an employee or an **employee's services have been terminated by an employer, payment of all wages and other moneys owing to an employee will be made to the employee by no later than the next immediate pay day following the last day of work.**
- (d) Overpayments
Where the employer has overpaid an employee, the amount of over payment will be treated in the same way as an advance payment and the employer shall notify the employee in writing of such overpayment and how such overpayment is made up. The employer will recover such amounts as soon as is reasonable, dependant on the size of the overpayment and the circumstances of the employee after consultation with the employee. Any deduction from the **employee's pay shall be authorised by the employee.** In the event of a dispute, the employer or the employee may activate the dispute resolution clause of this agreement to resolve the matter

11. Hours

- (a) Hours of Work
 - (i) The ordinary hours of work for employees (other than shiftworkers) are between the hours of 6.00am and 6.00pm, Monday to Friday. Work performed outside of the ordinary hours is paid as overtime (other than for shiftworkers).
 - (ii) Shiftworkers are employees required to work on a roster outside the spread of hours as described in subclause (i) above, however excludes work performed outside of hours that is paid as overtime.
 - (iii) The ordinary hours of work for employees (other than shiftworkers) will be an average of 38 hours per week, worked over 76 hours per two week pay period, and will be worked up to eight hours on any day.
- (b) Arrangement of Hours
 - (i) Each employee shall be entitled to not less than four full days in each fortnight free from duty, or by agreement, two full days in each week free from duty (rostered days off), and every effort shall be made for such rostered days off to be consecutive, unless otherwise agreed.
 - (ii) Except for unpaid meal breaks and the periods not worked in broken shifts, all time from the commencement to the cessation of duty each shift shall count as working time.

12. Shift Work - Saturdays and Sundays

- (a) The ordinary hours of work for employees (other than shiftworkers) are between the hours of 6.00am and 6.00pm, Monday to Friday. Work performed outside of the ordinary hours is paid as overtime (other than for shiftworkers).
- (b) Shiftworkers are employees required to work on a roster outside the spread of hours as described in subclause (a) above, however excludes work performed outside of hours that is paid as overtime.
- (c) The ordinary hours of work for shiftwork employees will be an average of 38 hours per week, the ordinary hours for any shiftworker will not exceed:
 - (i) eight in any one day or 10 by mutual agreement; nor
 - (ii) 76 hours in each 14 day rostered pay period
- (d) Employees (other than a shift worker) employed to work outside the spread of hours will be paid at the applicable over time rates.

Employees working afternoon or night shift will be paid the following percentages in addition to the applicable base rate for such shift in lieu of overtime payments.

- (i) Afternoon shift – those employees rostered to work outside of the ordinary hours of a day worker, not fitting the definition of night shift, specifically any shift that ends after 7pm and at or before 11pm. 15% shift loading.
 - (ii) Night shift - rostered to work some or all hours between 11pm and 6am. 17.5% shift loading
- (e) An employee entitled to a shift allowance under this clause will be paid the shift allowance for the entire shift.
 - (f) A casual employee will be paid the shift allowance calculated on the applicable casual loaded rate ie: base plus casual loading multiplied by shift penalty.

Saturday work-150%

Employees, for working ordinary hours on a Saturday, will be paid at the rate of time and one half of the employees' base rate for all hours worked on that day, however, the rates are in substitution for and not cumulative upon any other shift penalty.

Sunday work-200%

Employees, for working ordinary hours on a Sunday, will be paid at the rate of double time of the employees' base rate for all hours worked on that day, however, the rates are in substitution for and not cumulative upon any other shift penalty.

A casual shiftworker is paid the weekend penalty plus the casual loading, noting the penalty rate does not compound on the casual loaded rate. e.g. casual loading 25% plus weekend penalty loading 150% equals a total casual shiftworker weekend penalty of 175% of the applicable classification for the equivalent full time employee base rate of pay. The weekend casual shiftworker rates are in substitution of other shift penalties not cumulative.

13. Rosters

- (a) The roster will be documented setting out clearly the names of the employees required to work on that roster, the days, dates and hours during which each employee is required to work.
 - (i) The roster will be based on a 2 x 14 day cycle and will be displayed at least two weeks prior to the commencing date of the first working period in any roster, provided it is not obligatory for the employer to display any roster of the ordinary hours of work of casual or relieving staff.

- (ii) Rostered employees, other than a casual employee, will be entitled to four full days free from work in each 14 day cycle. Where practical, two days off in each seven day cycle, and unless agreed the days off will be consecutive.
 - (iii) There will be at least nine hours between the completion of a shift and the commencement of another shift for any employee, except a casual, unless by mutual agreement between the employer and employee this time is agreed to be eight hours on any individual occasion.
 - (iv) Paid 30 minute meal break for any rostered shift with a duration of five hours or greater for those employees on a roster. Employees not on a roster are entitled to an unpaid meal break after five hours of work.
 - (v) Broken shifts are by mutual agreement between the employer and the employee only; payment is for the time worked only, as if the shift were not broken. Where the spread of hours for a broken shift exceeds 12 hours, those hours above 12 will attract overtime.
- (b) Changes to Rosters
- (i) Unless mutually agreed, 28 days' notice will be given by the employer of a change in a roster. Mutually agreed includes where a part time employee accepts more hours to cover shift requirements.
 - (ii) Where occasion arises that due to illness or in an emergency or for any other reason beyond the employer's control an employee is absent and no replacement employee has volunteered to accept additional hours or change roster times, then the roster may be altered at any time to enable the service of the organisation to be carried out.
 - (iii) Part-time staff have priority over casuals for temporary additional hours that become available as a result of other staff taking leave. Part-time staff must indicate in writing to payroll availability for such additional hours.
- (c) Daylight Savings
- Upon the changeover of time as a result of daylight saving in October and March each year the following shall apply:
- (i) Employees shall be paid for actual time worked irrespective of the length of the shift.
 - (ii) Employees paid in accordance with sub-clause (c)(i) are not entitled to claim for the one hour lost, and those working the additional hour will be paid at the appropriate rate, including one hour overtime where applicable.
- (d) Part time Community Service Workers acknowledge that due to the nature of Community Services work, it is likely that the employer will regularly seek the agreement of part time Community Services work employees to temporarily vary their agreed hours and pattern of work in order to cater for the care of clients. Such agreement will not be unreasonably withheld.
- (i) Where a client cancels or changes the rostered home care service, an employee will be provided with notice of a change in roster by 5:00pm the day prior and in such circumstances no payment will be made to the employee. If a full-time or part-time employee does not receive such notice, the employee will be entitled to receive payment for their minimum specified hours on that day; and
 - (ii) The employer may direct the employee to make-up time equivalent to the cancelled time, in that or the subsequent fortnightly period. This time may be made up working with other clients or in other areas of the employer's business providing the employee has the skill and competence to perform the work.

14. Breaks

(a) Meal breaks

Each shiftworker who works in excess of five hours will be entitled to a paid meal break of 30 minutes, to be taken at a mutually agreed time after commencing work. By mutual agreement between the employer and the employee, an employee will be allowed to extend their paid 30 minute meal break by up to a further unpaid 30 minutes each day. Day worker employees are entitled to an unpaid meal break after five hours of work, between 30 minutes and one hour duration, as agreed between the employee and employer.

(b) Tea breaks

- (i) Two separate 10 minute intervals (in addition to meal breaks) will be allowed to each employee on duty during each ordinary shift of 7.5 hours or more.
- (ii) Where less than 7.5 ordinary hours are worked, employees will be allowed one 10 minute interval in each complete four hour period.
- (iii) Tea breaks will count as time worked.

15. Overtime

(a) Overtime is paid where an employee (full-time, part-time, casual other than a shiftworker):

- (i) works in excess of eight hours per shift; and/or
- (ii) works in excess of 76 hours per fortnight;
- (iii) or in the case of a shift worker works hours in excess of:
 - (A) eight in any one day or 10 by mutual agreement; or
 - (B) 76 in each 14 day rostered pay period

Additional Overtime payments for Part Time Employees

In addition to the overtime definitions applying to full-time employees, part-time employees will receive overtime payments for all hours in excess of each part-time worker's usual rostered hours, where such hours are not agreed to be worked and are then directed to be worked by the employer. In the case of hairdressing employees, all hours worked in any week, over the contracted agreed number of hours will be paid as overtime.

All time worked by a part-time or casual employee in excess of 38 hours per week or 76 per fortnight will be considered as overtime.

(b) Overtime shall be paid at the base rate of pay in accordance with the following:

- (i) Monday to Saturday - overtime shall be paid time and one half up to two hours each day and thereafter double time.
- (ii) Sunday - overtime shall be paid at double time.
- (iii) Public Holidays - Overtime shall be paid double time and one-half (2 ½) for day worker and a shift worker for all hours performed on night shift; and double time (2) for shiftworkers on all other shifts, for both working rostered days on public holidays and overtime (non-rostered).
- (iv) Overtime rates under this clause will be in substitution for and not cumulative upon shift, weekend penalties prescribed in this Agreement.
- (v) Overtime does not apply where arrangements for a swap of hours have been made between two or more employees at their own instigation.

(c) Casual employees

All overtime worked by a casual employee as defined in the overtime clause of this agreement is paid on the base rate of pay applicable to the classification of the casual at the same penalty rates as for part-time and full-time employees. The overtime penalty rate is in substitution for, and not in addition to, the shift penalties prescribed in this Agreement.

The employer may require any employee to work reasonable overtime. No overtime may be worked without prior approval of the employer.

(i) Time off instead of payment for overtime

By mutual agreement, a full-time or a part-time employee may be compensated by way of time off instead of payment of overtime (time for time) on the following basis:

- (A) Time off instead of payment for overtime must be taken at ordinary rates within three months of it being accrued.
- (B) Where it is not possible for an employee to take the time off, instead of payment for overtime, within the three month period, it is to be paid out at the appropriate overtime rate based on the rates of pay applying at the time payment is made.
- (C) Employees cannot be compelled to take time off in lieu of overtime and an employer cannot be compelled to agree to provide the employee with time off in lieu of overtime.
- (D) The employer must maintain records of all time in lieu of overtime owing and taken by employees.
- (E) Where no election is made the employee shall be paid overtime rates in accordance with this Agreement.

(ii) Eight Hour Break-Overtime

- (A) When overtime work is necessary it will, wherever reasonably practicable, be arranged so that employees have at least eight consecutive hours off duty between the work of successive days.
- (B) Where directed by the employer the employee resumes or continues work without having had eight consecutive hours off duty the shift will be paid at overtime time rates until released from duty for such period, and will then be entitled to be absent until they have eight consecutive hours off duty, without loss of pay for ordinary working time occurring during such absence.
- (C) Where the employee is not directed by the employer, but elects to work a shift with less than eight consecutive hours off duty between the previous shift, the time will be paid as ordinary time and will also be counted as ordinary hours for the purpose of contracted hours.

(d) Call Out

An employee recalled to work, after finishing the normal day's work or when called from "on call" is to be paid overtime for the hours actually worked. Time reasonably spent travelling to and from work is to be considered as time worked, in call out situations only. Although the employee will be paid for all hours worked at applicable overtime rates, a minimum payment of 4 hours overtime will be paid in each 24 hour call out period (each day) regardless of the time spent working as a result of call out.

16. Community Service Workers

In addition to the other provisions of this Agreement the provisions of this clause shall apply to employees engaged in Community Care. For the purposes of this Agreement 'Community Care Workers' means employees engaged to deliver the provision of personal care, domestic assistance or home maintenance to an aged person and related activities in client homes and community settings.

(a) Client Cancellation

(i) CASUAL

(A) Single Client Engagement

Where an employee arrives to deliver services to a single client (only one client scheduled for that day) and an unscheduled cancellation occurs, the employee will be paid for a minimum of one hour, inclusive of travel time.

(B) Multiple Client Engagement

Where the employee has more than one client scheduled for the same day, any unscheduled cancellations will result in payment for the time scheduled to deliver the services plus travel time (excluding travel time for the first and last appointments), provided that a maximum payment of one hour per unscheduled cancellation is paid.

Unscheduled cancellation is one without notice prior to arrival of the employee, or notice given of less than 24 hours.

(ii) PERMANENT (full time and part time)

(i) Where a client cancels or changes the rostered home care service, an employee will be provided with notice of a change in roster by 5:00pm the day prior and in such circumstances no payment will be made to the employee. If a full-time or part-time employee does not receive such notice, the employee will be entitled to receive payment for their minimum specified hours on that day; and

(ii) The employer may direct the employee to make-up time equivalent to the cancelled time, in that or the subsequent fortnightly period. This time may be made up working with other clients or in other areas of the employer's business providing the employee has the skill and competence to perform the work.

(b) Travel Allowance

(i) Travel between clients, and travel associated with the servicing of a client, shall be deemed to be travel in the course of the employee's work and will be considered as time worked and will also attract the travelling allowance prescribed in Clause 18(b).

(ii) However travel to the first client of the day and from the last client of the day, are not considered travel associated with servicing clients, and therefore not considered time worked and they do not attract travel allowance. This is to be consistent with all other employees of the employer that are expected to travel to and from work in their own time.

(iii) PROVIDED that where the distance from the employee's home base and the first client or the distance between the last client and the employee's home base is greater than 30 kilometres from the home base, then the kilometres will be considered as travel time and the travel allowance is payable in such cases.

For the purpose of this sub clause the Home Base shall be:
Fred French and/or Peace Haven (respectively)

(c) Vehicle Interior Cleaning

The employer recognises that Community Service Workers should not be disadvantaged by having their personal vehicle soiled or made foul as the result of involuntary actions of a client of the employer, whilst transporting that client as part of a care plan activity.

Where as a result of a client's involuntary actions, primarily unintentional bodily functions, an employee's vehicle is soiled or made foul the employee:

- (i) Is to notify the Community Co-ordinator immediately by phone and an incident report outlining the details completed.
- (ii) The Community Co-ordinator will direct the employee to the preferred provider for car cleaning.
- (iii) The employee will provide to the employer all receipts showing the associated costs of cleaning the soiling incident.
- (iv) The employer will then reimburse to the employee the receipted costs of cleaning the vehicle to a maximum value of \$200.
- (v) The reimbursement is to occur in the pay period immediately following provision of receipt(s).
- (vi) To avoid any doubt this clause is not intended to cover panel damages, windscreen chips/cracks or any other damage beyond interior vehicle cleaning.

17. Public Holidays

(a) Employees are entitled to leave on public holidays in accordance with the provisions of the NES (refer to Chapter 2, Part 2-2, Division 10 of the Act).

(i) All employees (other than casuals) are entitled to the following holidays with pay:

Christmas Day, Boxing Day, New Year's Day, Australia Day, Eight Hours' Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day, Recreation Day; and shall be applied as prescribed by the *Tasmanian Statutory Holidays Act 2000* as amended. Any additional or substitute days that are recognised under the Statutory Holidays Act 2000 shall apply, except those that are identified as government holidays or applying only to certain persons.

To avoid any doubt, the Launceston Cup and Easter Tuesday do not apply to the employees covered by this Agreement.

(ii) Payment for the holidays with pay mentioned in subclause (a)(i) above which are taken and not worked, will be at the normal rate of pay which would have applied to the employees concerned, had they been at work.

(iii) Where an employee who is entitled to a holiday with pay and is required to work on any of the holidays, either for part or the whole of the day, they will be paid as follows:

(A) Non shift worker

In the case of a non shift worker who works their ordinary hours Monday to Friday between the hours of 6.00am and 7.00pm – double time and a half.

(B) Shift worker

In the case of a shift worker who regularly works outside the span of ordinary hours – double time and one half for all hours on night shift and double time for all other shift hours.

(C) Casual

A casual employee will be paid only for those public holidays they work at the rate of double time for hours worked replacing a shift worker, or double time and one half in all other cases including replacing a shiftworker on night shift

- (iv) Payments under this clause are instead of any additional rate for shift or weekend work which would otherwise be payable had the shift not been a public holiday. To avoid doubt, an employee who is required to and does work on any public holiday prescribed in this clause shall be paid in lieu of all other shift penalties, weekend penalties, and/or casual loading.
 - (v) The employer and individual employees may agree to substitute another day for a public holiday observed.
- (b) Due to the nature of the industry and services provided, it is an explicit expectation of this Agreement that employees will be required to work on public holidays. An employee is entitled to be absent from his or her employment on a day or part day that is a public holiday; however, the employer will request employees to work on particular public holidays, particularly implied for shift work. Where the request is reasonable an employee who, without the consent of the employer or without reasonable cause (ie personal/carers leave), is absent from work on a public holiday after agreeing to work on a public holiday, is not entitled to any payment for such public holiday.
- (c) The employee may refuse the request (and take the day off) if the employer's request is not reasonable or the employee's refusal to work on the public holiday is reasonable. In determining whether the employer's request, or an employee's refusal of a request, is reasonable, regard must be had to the matters set out in section 114 of the Act.

18. Allowances

(a) On call – Allowance for Maintenance Personnel

A maintenance employee who is required to remain "on call" (that is on call for duty and allowed to leave the workplace) will be paid \$16.48 (2017) and \$16.81 (2018) per week day (Monday-Friday) or \$21.97 (2017), \$22.41 (2018) per weekend day (Sat, Sun) and public holidays and pro-rata thereof for each part day they are required to be on call.

(b) Travelling Allowance

Where an employee with approval from the employer uses their own motor vehicle in connection with the business of the employer, they are to be reimbursed on a per kilometre travelled basis by payment of an allowance of not less than \$0.78 per kilometre.

In addition to the per kilometre travel allowance, employees are to be reimbursed for all reasonable travel costs associated with work related travel authorised by the employer. All such costs must be approved by the employer prior to the expense being incurred.

(c) Uniforms, Protective Clothing, Equipment and Materials

Where the employer requires an employee to wear rubber gloves, special clothing or where safety equipment or materials are required for the work performed by an

employee, the employer will provide at no cost to the employee suitable clothing, equipment and materials. This includes wet weather clothing for Home Care Program workers and maintenance personnel where they are required as part of their role to work periodically outside in times of inclement weather.

Employees required by the employer to wear uniforms will be supplied with sufficient, suitable and serviceable uniforms appropriate to the occupation free of cost to employees. It is in the interest of both the employer and individual employees to replace worn or damaged uniform articles, and the employer will replace such items on an as needs basis free of charge unless it is deemed by the employer that the employee's replacement level is excessive in comparison to other employees doing similar work and similar hours.

An employee, on leaving the service of the employer, shall return any uniform or parts thereof provided, or be invoiced by the employer for the cost of unreturned items

(d) Sewerage Allowance

Employees required to perform work involving the sewer and sewer pump will be entitled to an allowance of \$16.48 (2017) and \$16.81 (2018) per occasion/occurrence, for work conducted during ordinary working hours, and \$32.95 (2017) and \$33.61 (2018) per occasion for each call out necessitating work on the sewerage system. This allowance is in recognition for the nature of the work.

(e) Training Orientation

Employees providing training on identified orientation shifts for new staff will be eligible for a payment of \$1.36 (2017) and \$1.38 (2018) per hour in addition to their base rate of pay for time spent training on such shifts.

To be eligible for the training orientation shift allowance, the mentoring employee must have completed a course of training applicable to training instruction (e.g. train the trainer) which may or may not have been sponsored by the employer, but is accepted as suitable by the employer.

(f) Higher Duties

(i) An employee, other than an administrative employee, engaged continuously for two hours or more on duties carrying a higher rate than his/her ordinary classification shall be paid the higher rate for such day. If an employee works for less than two hours he/she shall be paid the higher rate for the time so worked.

This provision shall apply irrespective of whether or not an employee works in accordance with a roster.

(ii) An employee engaged as an administrative employee who for a period of five consecutive working days or more, performs the duties of an employee with a higher classification, then that employee shall be paid the rate applicable to the higher paid classification.

(g) Supplied Meals

For all meal breaks paid and unpaid, the employer has provision for employees to purchase a meal. The cost of lunch or evening meals will be:

▪ two course	\$4.50
▪ other course (i.e. soup, sweet)	\$3.00
▪ plate of sandwiches	\$3.00

Meal Allowance for Overtime

An employee required to work for more than two hours without being notified on the previous day or earlier that they will be required to work overtime, will either be supplied with a meal by the employer or paid \$15.74.

(h) Licence Allowance

An employee directed by the employer to drive vehicles requiring a special licence in addition to a car licence (e.g. Heavy Rigid or Passenger Bus) issued by the Department of Roads and Transport, Motor Registry, shall, upon presentation of his/her current licence to the employer, be reimbursed the cost of the special/additional driver's annual licence fee.

To avoid doubt, the employer will not reimburse the annual licence fee for any car licence.

(i) Tool Allowance

Chefs and cooks, Level 3 and above, and service employees, Level 5 (qualified tradesperson) or above who are not provided with all the necessary tools by the employer, will be paid a tool allowance of \$8.79 (2017) \$8.96 (2018) per week.

(j) First Aid

Employees required as part of their employment to have a current First Aid Certificate will be provided with paid time to attend an appropriate training course. All other costs associated with attending a first aid course including periodic training to maintain the first aid certificate will be paid for by the employer.

Employees required by the employer to be, in a given week, responsible for the provision of first aid to employees employed by the employer, will receive a weekly allowance of \$14.81 (2017) and \$15.11 (2018).

(k) Part-time and Casuals

All weekly based allowance amounts will be paid pro-rata to part-time and casual employees for the number of ordinary hours worked in the week the allowance was applicable, on the basis that the ordinary weekly hours of work for full-time employees are 38.

(l) Allowance Increases

All allowances and figures in the allowance clause of this Agreement will increase at the same time and at the same percentage as agreed for wages increases.

(m) Team Leader Allowance

ECA Team Leaders will receive an allowance of \$2.50 per hour to acknowledge skill and competency to perform in a supervisory capacity

19. Annual Leave

19.1 Annual leave is provided for in the NES. This clause contains additional provisions.

19.2 Quantum of annual leave

(a) For the purposes of the NES a shiftworker is defined as:

- (i) an employee who is regularly rostered to work their ordinary hours outside the ordinary hours of work as a day worker as defined in clause 19.2(a); and/or
- (ii) an employee who works for more than four ordinary hours on 10 or more weekends.

(b) For the purpose of the clause 19.2(a), a weekend means work in ordinary time on a Saturday and/or a Sunday in any one calendar week.

19.3 Annual leave loading

(a) In addition to their ordinary pay, an employee, other than a shiftworker, will be paid an annual leave loading of 17.5 % of their ordinary rate of pay.

(b) Shiftworkers, in addition to their ordinary pay, will be paid the higher of:

- (i) annual leave loading of 17.5% of their ordinary rate of pay; or
- (ii) the weekend and shift penalties the employee would have received had they not been on leave during the relevant period.

19.4 Annual leave in advance

(a) An employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.

(b) An agreement must:

- (i) state the amount of leave to be taken in advance and the date on which the leave is to be commence; and
- (ii) be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

(c) The employer must keep a copy of any agreement under clause 19.4 as an employee record.

(d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 19.4, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

19.5 Payment in Lieu of Annual Leave

(a) An employee may request in writing a payment in lieu of annual leave provided that the employee's accrued leave following payment is at least four weeks.

(b) Any payment made in lieu of annual leave is to include payment for any applicable leave loading, or projected roster penalties that would have been payable if the leave was taken and not paid in lieu. The employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has foregone.

(c) Each agreement to cash out a particular amount of paid annual leave must be by agreement in writing between the parties.

19.6 Excessive leave accruals: general provision

- (a) An employee has an excessive leave accrual if the employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker, as defined by clause 19.2(a)).
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 19.7 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 19.8 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

19.7 Excessive leave accruals: direction by employer that leave be taken

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 19.6(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under paragraph (a):
 - (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 19.6, 19.7 or 19.8 or otherwise agreed by the employer and employee) are taken into account; and
 - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
 - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
 - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.
- (d) An employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given.

19.8 Excessive leave accruals: request by employee for leave

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 19.6(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (b) However, an employee may only give a notice to the employer under paragraph (a) if:
 - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
 - (ii) the employee has not been given a direction under clause 19.7(a) that, when any other paid annual leave arrangements (whether made under clause 19.6, 19.7 or 19.8 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under paragraph (a) must not:

- (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 19.6, 19.7 or 19.8 or otherwise agreed by the employer and employee) are taken into account; or
 - (ii) provide for the employee to take any period of paid annual leave of less than one week; or
 - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
 - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (d) An employee is not entitled to request by a notice under paragraph (a) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker, as defined by clause 19.2(a)) in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under paragraph (a).

20. Personal/Carer's Leave

- (a) For the purposes of this clause and clause 21 (Compassionate and Bereavement leave), the following definitions apply:
- (i) Immediate family:
 - (A) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee;
 - (B) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.
 - (ii) Spouse includes a former spouse.
 - (iii) De facto partner of a national system employee:
 - (A) means a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and
 - (B) includes a former de facto partner of the employee.
- (b) Entitlement to Paid Personal/Carer's Leave
- (i) For each year of service with the employer the employee is entitled to 20 days of paid personal/carer's leave.
 - (ii) An employee's entitlement to paid personal/carer's leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.
- (c) Taking of Personal/Carer's Leave
- An employee may take paid personal/carer's leave:
- (i) where the employee is not fit for work because of a personal illness, or personal injury affecting the employee; or
 - (ii) to provide care or support to a member of the employee's immediate family, or a member of the employee's household who requires care or support because of:
 - (A) a personal illness or personal injury affecting the member; or
 - (B) an unexpected emergency affecting the member.

(iii) The notice and evidence requirements of this clause below must be complied with.

(d) **Payment of Paid Personal/Carer's Leave**

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

Meaning of base rate of pay

The *base rate of pay* is the rate of pay payable to the employee for his or her ordinary hours of work, but not including any of the following:

- (i) loadings;
- (ii) monetary allowances;
- (iii) overtime or penalty rates;
- (iv) any other separately identifiable amounts.

(e) **Notice and Evidence Requirements**

(i) **Notice**

(A) An employee must give the employer notice of the taking of leave under this clause.

(B) The notice:

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

(ii) **Evidence**

Paid Personal Leave

An employee who has given the employer notice of the taking of leave must, if required by the employer, give the employer evidence that would satisfy a reasonable person that if it is paid personal leave, the leave is taken for reason of a personal illness, or personal injury, affecting the employee;

(A) Five days per year, in periods not including any consecutive days, nor days that follow or precede a public holiday, annual or other leave, shall be accessible without the onus of proof on the employee, except at the discretion of the employer where prior written notification was given to the employee requesting that proof of personal leave will be required on a case by case basis.

(B) Certification from a medical practitioner, statutory declaration or other such proof as accepted by the employer, will be acceptable as proof of illness or injury.

(iii) **Paid Carer's Leave**

To be entitled to carer's leave during the period, the employee may be required to give the employer as soon as reasonably practicable (which may be at a time before or after the carer's leave has started) either:

(A) a medical certificate from a medical practitioner stating that in their opinion the member requires or required care and support during the period due to personal illness or injury; or

(B) a statutory declaration made by the employee stating that the employee requires or required leave during the period to provide care or support to the member because the member requires or required care or

support during the period because of personal illness, or injury, of the member or an unexpected emergency affecting the member.

- (C) Compliance - An employee is not entitled to take leave under this clause unless the employee complies with the notice and evidence subclause.

(f) **Entitlement to Unpaid Carer's Leave**

- (i) An employee is entitled to two days' unpaid carer's leave for each occasion when a member of the employee's immediate family, or a member of the employee's household, requires care or support because of:

- (A) a personal illness, or personal injury, affecting the member; or
- (B) an unexpected emergency affecting the member.

- (ii) An employee may take unpaid carer's leave as:

- (A) a single continuous period of up to two days; or
- (B) any separate periods agreed with the employer.

- (iii) An employee is entitled to unpaid carer's leave for a particular occasion only if the employee cannot take an amount of paid personal/carer's leave.

(g) **Service**

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

21. **Compassionate and Bereavement Leave**

Compassionate leave is as provided for under NES.

(a) **Compassionate Leave**

Employees, other than a casual employee, will be entitled to three (3) days' paid compassionate leave when an immediate family (including **"Significant relationship"** means a relationship that exists outside of the immediate family or employee's household with whom the employee can demonstrate (to the satisfaction of a reasonable person) having a relationship of such importance that it would cause the employee to be placed in a similar situation to a family member on the occasion of their death or diagnosis with a serious illness or injury:

- (i) contracts or develops a personal illness that poses a serious threat to his or her life; or
- (ii) sustains a personal injury that poses a serious threat to his or her life; or
- (iii) dies - (in the case of death, there is an additional day of paid leave under the bereavement leave sub clause below)
 - (A) The leave can be taken in three consecutive days, three single days or any separate periods if the employer and employee agree.
 - (B) Proof of illness, injury or death, in the form of a medical certificate, death notice or other written evidence, shall be furnished by the employee to the satisfaction of the employer when requested.
 - (C) Additional unpaid leave may be granted at the discretion of the employer.

(b) Bereavement Leave

- (i) Employees, other than a casual employee, on the death of an immediate family member or member of the employee's household be entitled to leave without deduction of pay not exceeding the number of ordinary hours worked by the employee in three ordinary days, provided that no payment shall be made in respect to that employee's rostered days off. This leave is in lieu of compassionate leave and not additional to the three days of compassionate leave.
- (ii) Where the death of an immediate family member requires the employee to travel interstate or further, the employer will consider granting an additional two days' bereavement leave without loss of pay or personal leave entitlements to account for such necessary travel.
- (iii) Proof of such death, in the form of a death notice or other written evidence, shall be furnished by the employee to the satisfaction of the employer when requested, provided furthermore that this clause shall have no operation while the period of entitlement to leave under it coincides with any other period of leave.

(c) Payment for Compassionate/Bereavement Leave

If, in accordance with this clause, an employee, other than a casual employee takes a period of compassionate leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.

For casual employees, compassionate and bereavement leave is unpaid leave.

(d) Service

- (i) A period of paid compassionate/bereavement leave does not break an employee's continuity of service and counts as service for all purposes.
- (ii) A period of unpaid compassionate/bereavement leave does not break an employee's continuity of service, but does not count as service.

22. Community Service Leave

(a) General

Community Service Leave is as per the NES, summarised in this clause.

Each of the following is an **eligible community service activity**:

- (i) voluntary emergency management activity; or
- (ii) jury service (including attendance for jury selection).

(b) Voluntary Emergency Management Activity

A voluntary emergency management activity is one where the activity:

- (i) involves dealing with an emergency or natural disaster; and
- (ii) the employee is a member of, or has a member-like association with, a recognised emergency management body; and
- (iii) the employee engages in the activity on a voluntary basis; and
- (iv) the employee was requested by or on behalf of the body to engage in the activity.

An employee who wants an absence from his or her employment to be covered by this clause must give his or her employer notice of the absence.

- (v) The notice:
 - (A) must be given to the employer as soon as practicable (which may be a time after the absence has started); and
 - (B) must advise the employer of the period, or expected period, of the absence.

(vi) Evidence

An employee who has given his or her employer notice of an absence under subsection (b) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the absence is because the employee has been or will be engaging in an eligible community service activity.

Absence under the voluntary emergency management activity clause is treated as unpaid leave

(c) Jury Service

If an employee is absent from his or her employment for a period because of jury service, and the employee is not a casual employee, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.

(i) Evidence

The employer may require the employee to give the employer evidence that would satisfy a reasonable person:

- (A) that the employee has taken all necessary steps to obtain any amount of jury service pay to which the employee is entitled; and
- (B) of the total amount (even if it is a nil amount) of jury service pay that has been paid, or is payable, to the employee for the period.

The employee is not entitled to payment under this subsection unless the employee provides the evidence requested; and if the employee provides the evidence, the amount payable to the employee is reduced by the total amount of jury service pay that has been paid, or is payable, to the employee, as disclosed in the evidence.

If an employee is absent because of jury service in relation to a particular jury service summons for a period of more than 10 days in total, the employer is only required to pay the employee for the first 10 days of absence.

23. Parental Leave

- (a) Employees who have been employed for 12 months may be eligible for unpaid parental leave (birth related leave and adoption related leave) in accordance with the provisions contained in the National Employment Standards (NES) (Division 5 – Parental Leave and Related Entitlements of the *Fair Work Act 2009*).

A copy of the relevant section of the Act is available from the employer on request.

- (b) Paid parental leave

In addition to unpaid entitlements available under the NES, this agreement has provision for paid parental leave entitlements. An employee must be eligible under the *Fair Work Act 2009* for unpaid parental leave to be eligible for paid parental leave under this agreement. All other conditions and requirements are as per the relevant sections of the Act, and the NES that applies to parental leave.

Parental Leave payment

Eligible employees on the birth, or in the case of adoption the day of placement, will be entitled to the following:

- (i) An employee averaging between 30-38 ordinary hours per week over the previous 12 months, a one off payment of \$2500 gross wage payment; or
- (ii) An employee averaging between 20-29 ordinary hours per week over the previous 12 months, a one off payment of \$2000 gross wage payment; or
- (iii) An employee averaging between 10-19 hours per week over the previous 12 months, a one off payment of \$1,500 gross wage payment; or
- (iv) Less than 10 hours average per week, no paid parental leave payment entitlement under this agreement.

Where a parent couple both work for the employer, only one parent will be eligible for the paid parental leave payment under this clause.

In addition the parties recognise that the Australian Government's Paid Parental Scheme is in operation and an employee may be eligible for payment under the provisions of the *Paid Parental Leave Act 2010* in addition to payment described in this clause.

24. Long Service Leave

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

25. Termination of Employment

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

Period of Continuous Service	Period of Notice
Up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years of completed service	4 weeks

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

Notice of termination by the employee

- (g) An employee must give a minimum of **two weeks' notice of intention to terminate** his or her employment to the employer, unless some other arrangement is mutually agreed between the employee and the employer.
- (h) If an employee does not give at least **two weeks' notice of intention to terminate** his or her employment, or does not work out the period of notice, he or she will forfeit the wages earned during the pay period current at the time of the employee's resignation, provided that the employee shall not forfeit more than **two weeks' pay**, and further provided that in calculating any forfeited payment in lieu of the employee's period of notice being worked out, the wages the employee would have received in respect of the ordinary time that would have been worked during the period of notice will be used.

Provided that an employee may not forfeit any wages earned unless the employee has provided written authorisation to the employer to do so.

- (i) **Summary dismissal**

The employer may dismiss an employee without notice for serious misconduct as defined by the *Fair Work Act* and in such cases wages will be paid only up to the time of dismissal.

- (j) **Discussions prior to decision to terminate employment**

In circumstances where termination of employment at the initiative of the employer may result, the employer is to notify the employee concerned of the issues in writing and the employee will be given an opportunity to respond to these issues.

The employee has a right to be represented by a union official and/or any other person of the employee's choice.

26. Consultation

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

Major Change

- (b) For a major change referred to in subclause (a)(i):
 - (i) the employer must notify the relevant employees of the decision to introduce the major change; and
 - (ii) subclauses (c) to (i) apply.
- (c) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (d) If:
 - (i) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (ii) the employee or employees advise the employer of the identity of the representative;the employer must recognise the representative.
- (e) As soon as practicable after making its decision, the employer must:

- (i) discuss with the relevant employees:
 - the introduction of the change; and
 - the effect the change is likely to have on the employees; and
 - measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
- (ii) for the purposes of the discussion—provide, in writing, to the relevant employees:
 - all relevant information about the change including the nature of the change proposed; and
 - information about the expected effects of the change on the employees; and
 - any other matters likely to affect the employees.
- (f) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (g) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- (h) 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 (b)(i) and subclauses (c) and (e) are taken not to apply.
- (i) In this term, a major change is *likely to have a significant effect on employees* if it results in:
 - (i) the termination of the employment of employees; or
 - (ii) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
 - (iii) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (iv) the alteration of hours of work; or
 - (v) the need to retrain employees; or
 - (vi) the need to relocate employees to another workplace; or
 - (vii) the restructuring of jobs.

Change to regular roster or ordinary hours of work

- (j) For a change referred to in paragraph (a)(ii):
 - (i) the employer must notify the relevant employees of the proposed change; and
 - (ii) sub-clauses (k) to (o) apply.
- (k) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (l) If:
 - (i) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (ii) the employee or employees advise the employer of the identity of the representative;
 the employer must recognise the representative.

- (m) As soon as practicable after proposing to introduce the change, the employer must:
 - (i) discuss with the relevant employees the introduction of the change; and
 - (ii) for the purposes of the discussion—provide to the relevant employees:
 - all relevant information about the change, including the nature of the change; and
 - information about what the employer reasonably believes will be the effects of the change on the employees; and
 - information about any other matters that the employer reasonably believes are likely to affect the employees; and
 - (iii) 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).
- (n) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (o) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- (p) In this term:

relevant employees means the employees who may be affected by a change referred to in subclause (1).
- (q) While the process described in this clause is underway, the parties will respect the status quo.
- (r) The Employer, Union and employee representative must act in good faith in relation to the consultation process provided in this clause. "Good faith" includes obligations to meet, disclose relevant information, genuinely consider proposals and respond with reasons, and to refrain from capricious or unfair conduct that undermines consultation and applies to all parties.

27. Redundancy

Redundancy does not apply to any employee employed for a specified period of time or to a casual that is not employed as a regular and systematic casual.

(a) Requirement to Consult

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.

Where the employer believes that it may be necessary to implement a redundancy, the employer is to immediately notify the affected employee(s) and commence a process of consultation.

(b) Redeployment and Retraining

If a redundancy is likely to occur:

- (i) the employer will actively explore all internal redeployment opportunities for employees surplus to requirements;
- (ii) 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;

- (iii) 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;
- (iv) 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.

(c) **Notice of Redundancy**

The employer is to provide as much notice as is reasonably practicable of an intended redundancy.

The minimum period of notice to be given to an employee affected by a redundancy is:

Employee's period of continuous service	Period of Notice
Not more than 3 years	At least 2 weeks
More than 3 years but not more than 5 years	At least 3 weeks
More than 5 years	At least 4 weeks

The 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.

(d) **Voluntary Redundancy**

- (i) 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.

- (ii) In assessing expressions of interest for voluntary redundancy the employer will take into account the skill and operational requirements of the organisation.
- (iii) 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 (i) and (ii).
- (iv) The employer is to consult with the affected employee(s) if intending to proceed with an involuntary redundancy after declining an expression of interest for voluntary redundancy.

(e) **Redundancy Package**

Where retraining and redeployment opportunities are not available, the redundancy package to be paid to redundant employees is:

- (i) **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 provided however that where this results in less than that provided in s. 119 of the *Fair Work Act 2009*, s. 119 of *Fair Work Act 2009* will apply
 - (C) payment for all accrued annual leave including leave loading.
- (ii) **Involuntary 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 provided however that where this results in less than that provided in s. 119 of the *Fair Work Act 2009*, s. 119 of *Fair Work Act 2009* will apply
- (C) payment for all accrued annual leave including leave loading; and
- (D) 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.

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

(f) Partial Redundancy Package for Changed or Decreased Hours

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.

(g) Definition-week's wage (pay)

For the purposes of this clause a week's pay means the relevant rate, and any loadings and all-purpose on going allowances to which the employee is normally entitled.

(h) Paid Time off to Seek Alternative Employment

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.

(i) Financial Counseling

The employer will pay for up to two sessions of financial counseling 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.

(j) Details of Redundancy Package to be provided

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

(k) Notifying Redundant Employees of New Vacancies

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.

28. Salary Packaging and Sacrifice

- (a) The rate of pay applicable to each classification specified in the wage rates of this Agreement may be packaged in accordance with the employer's salary packaging program.
- (b) By agreement with the employer, employees who elect in writing to do so may convert a component of their weekly ordinary time wage to packaged benefits.
The terms and conditions of such a package are subject to the following provisions.
- (c) Overtime and shift penalties must be calculated on the wage level which would have applied to the employee in the absence of the employee being able to participate in salary packaging under the terms of this clause.
- (d) Non salary packaged benefits must be paid for any period in respect of which the employee is paid wages or the equivalent, including but not limited to worker's annual or other leave with pay; including long service leave.
- (e) If during the life of a salary packaging agreement between the employer and the employee, the employee becomes entitled to workers compensation payments, the employee will not receive less than the entitlements due if no salary packaging arrangements had been entered into with the employer.
- (f) In the event that the employee ceases to be employed by the employer (including through redundancy) this Agreement will cease to apply as at the date of termination and all entitlements due on termination will be paid at the rate provided for in the Agreement. Any outstanding benefit still due under this Agreement upon termination will be paid as cash wage benefit.
- (g) Superannuation payments required under the *Superannuation Guarantee (Administration) Act 1992* as amended from time to time must be calculated on the wage rates in this Agreement as if no salary packaging agreement was in place.
- (h) Annual leave loading entitlements must be calculated on the Agreement rate of pay as if no salary packaging agreement was in place.
- (i) Employees who have entered into a salary packaging agreement will be given the opportunity to review such agreements annually, and to amend or withdraw from such an agreement.
- (j) Any increases to wage rates contained in this Agreement shall be payable to employees covered by a salary packaging agreement; such increase to be applied to the base rate of pay before salary packaging.
- (k) No Employee, as a result of entering into a salary packaging agreement, shall receive less, in wage and benefit, than currently provided for in this Agreement.
- (l) In the promotion and implementation of salary packaging to employees the employer will advise each employee in writing:
 - (i) that there is no compulsion for any employee to participate in salary packaging;
 - (ii) that all Agreement conditions, other than salary packaging, will continue to apply;
 - (iii) of the classification level and the current base wage payable as applicable under this Agreement;
 - (iv) that the structure of any agreed package complies with taxation and other relevant laws;
 - (v) that they may consult with a financial adviser prior to signing any salary sacrifice agreement. To facilitate this, the employee must be provided with a copy of any proposed agreement prior to being required to sign such an agreement.

- (vi) of the right of the employee to inspect details of the payments and transactions made under the terms of any agreement and for this purpose, where such details are maintained electronically, the employee must be provided with a print-out of the relevant information;
- (vii) 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 be carried forward to the next period;
- (viii) that where changes are proposed to all salary packaging arrangements, or salary packaging arrangements are to be cancelled for reasons other than legislative requirements then both the employer and the employee must give **two months' notice, except** in circumstances in which an employee ceases to be employed by the employer.
- (m) That in the event that the Employer ceases to attract exemption from payment of Fringe Benefits Tax, all salary packaging arrangements will be terminated and the individual employee's wages will revert to those specified in this Agreement.
- (n) Salary packaging for all employees covered by this Agreement shall only be entered into as provided for by this clause.
- (o) By agreement with the employer an employee may also sacrifice an amount of wage, which would otherwise be payable in accordance with Wage Rates of this Agreement, and have that sacrificed amount contributed to a superannuation fund. Where applicable the provisions of this clause shall apply to salary sacrifice arrangements.

29 Superannuation

(a) General

The employer will make superannuation contributions into an approved superannuation fund nominated by the employee in accordance with the *Superannuation Guarantee (Administration) Act 1992* (SG) legislation as varied from time to time. Superannuation contributions shall be made as a minimum, on a monthly basis.

In circumstances where eligible employees do not inform the employer of their choice of superannuation fund, the employer will remit the appropriate contributions for such employees to the nominated fund.

For the purpose of this clause and this Agreement the nominated fund means the Health Employees Superannuation Trust Australia (HESTA) or any successor.

(b) Salary Sacrifice to Superannuation

- (i) An employee can elect to sacrifice a portion of salary to superannuation. Such election must be made prior to the commencement of the period of service to which the earnings relate and be in accordance with relevant legislation.
- (ii) Salary sacrifice to superannuation means the option of making additional superannuation contributions by electing to sacrifice a portion of the gross earnings (pre-tax dollars). This will give the effect of reducing the taxable income by the amount for salary sacrifice.
- (iii) Employers will not use any amount that is salary sacrificed by an employee to count towards the employer's obligation to pay contributions under the SG legislation.
- (iv) Contributions payable by the employer in relation to the SG legislation shall be calculated by reference to the salary which would have applied to the employee under this Agreement in the absence of any salary sacrifice.

- (v) Any additional superannuation contributions made in accordance with this clause shall be paid into the same superannuation fund that receives the employer's SG contributions.
- (vi) Any allowance, penalty rate, overtime payment for unused leave entitlements, other than any payments for leave taken whilst employed, shall be calculated by reference to the salary which would have applied to the employee in the absence of any salary sacrifice to superannuation. Payment for leave taken whilst employed will be at the post-salary sacrificed amount.

30. Training

The parties to this Agreement recognise the benefits that flow to employees and to the employer from appropriate training and personal development. Employees therefore commit to make themselves available up to 20 hours per annum, where reasonably practical, for training outside their rostered shifts.

Where practical the employer will schedule training during an employee's rostered shift, whereby employees will be paid as if the shift was worked and not spent in training. Where it is not practical to schedule training during rostered shifts the employer may require an employee to attend training during reasonable additional hours to their rostered shift. Additional hours will be paid at base rates of pay.

(a) Compulsory Training

Compulsory training is exclusive of professional development hours.

- (i) Employees must attend compulsory training including fire and emergency training, OHS training and manual handling training or any other training as may be required by regulatory bodies.
- (ii) Employees required to attend compulsory training shall be paid at the base rate of pay for the period of training. Paid compulsory training shall not be counted as time worked for the purposes of calculating overtime or shift penalties in the agreement.

31. Dispute Resolution

(a) If a dispute relates to:

- (i) a matter arising under the Agreement; or
- (ii) the National Employment Standards; or
- (iii) workplace right as defined in the Fair Work Act 2009 subsection 341(1).

this term sets out procedures to settle the dispute.

- (b) An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.
- (c) In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and, if such discussions do not resolve the dispute, by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- (d) If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Commission.
- (e) The Fair Work Commission may deal with the dispute in 2 stages:

- (i) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
- (ii) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - arbitrate the dispute; and
 - make a determination that is binding on the parties.

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

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

- (f) While the parties are trying to resolve the dispute using the procedures in this term:
 - (i) an employee must continue to perform his or her work (status quo) as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety;
 - (ii) an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
 - the work is not safe; or
 - applicable occupational health and safety legislation would not permit the work to be performed; or
 - the work is not appropriate for the employee to perform; or
 - there are other reasonable grounds for the employee to refuse to comply with the direction.
 - (iii) The parties to the dispute and their representatives must act in good faith in relation to the dispute.
- (g) The parties to the dispute agree to be bound by a decision made by Fair Work Commission in accordance with this term.

32. Notice Board

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

The employer must ensure that copies of this Agreement and the NES are available to all employees to whom they apply either on a noticeboard located at each of the employer's workplaces and/or through electronic means, whichever makes them more accessible.

33. Representational Rights

- (a) Subject to subclauses (b) and (c) below, union delegates or elected workplace representatives, with approval of the union and upon application in writing to the employer, may be granted up to five days' leave with pay each calendar year to undertake activities (at the employee's expense) such as:
 - (i) represent members in bargaining;
 - (ii) represent the interests of members to the employer and industrial tribunals;

- (iii) consult with union members and other employees for whom the delegate is a bargaining representative; and
 - (iv) attend union education, conference etc.
- (b) The total amount of paid leave taken by ANMF delegates must not exceed 10 days in any calendar year.
 - (c) The total amount of paid leave taken by HACSU delegates must not exceed 10 days in any calendar year.

34. Future Negotiations

It is the intent of the parties to enter into negotiations three months prior to the nominal expiration of this agreement.

35. Flexibility

- (a) An employer and employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
 - (i) the Agreement deals with 1 or more of the following matters:
 - arrangements about when work is performed;
 - overtime rates;
 - penalty rates;
 - allowances; and
 - leave loading.
 - (ii) the arrangement meets the genuine needs of the employer and employee in relation to one or more of the matters mentioned in subclause (i); and
 - (iii) the arrangement is genuinely agreed to by the employer and employee.
- (b) The employer must ensure that the terms of the individual flexibility arrangement:
 - (i) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
 - (ii) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
 - (iii) result in the employee being better off overall than the employee would be if no arrangement was made.
- (c) The employer must ensure that the individual flexibility arrangement:
 - (i) is in writing; and
 - (ii) includes the name of the employer and employee; and
 - (iii) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - (iv) includes details of:
 - the terms of the enterprise Agreement that will be varied by the arrangement; and
 - how the arrangement will vary the effect of the terms; and
 - 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
 - (vi) states the day on which the arrangement commences.

- (d) The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (e) The employer or employee may terminate the individual flexibility arrangement:
 - (i) by giving no more than 28 days written notice to the other party to the arrangement; or
 - (ii) if the employer and employee agree in writing — at any time.

36. Foul and Nauseous Linen Allowance

- (a) An allowance of \$0.45 per hour (2017) and \$0.46 per hour (2018) will be paid to an employee in any classification if they are engaged in handling linen of a nauseous nature other than linen sealed in airtight containers and/or for work which is of an unusually dirty or offensive nature having regard to the duty normally performed by such employee in such classification. It is noted that the allowance would be paid if there is an infectious disease outbreak(s) at the facility as defined by the Department of Health and Ageing but payment of the allowance is not limited to this circumstance.
- (b) Any employee who is entitled to be paid an allowance will be paid a minimum sum of \$2.39 (2017) and \$2.45 (2018) for work performed in any week.

37. Domestic Violence Support

- (a) Where an employee is experiencing domestic violence the employee may access 5 day Domestic Violence leave per annum (non-accumulative) to assist with absences (such as):
 - (i) attending medical or counselling appointments (preferably made outside rostered working hours);
 - (ii) moving into emergency accommodation and seeking more permanent safe housing;
 - (i) attending court hearings;
 - (ii) attending police appointments;
 - (iii) accessing legal advice; and/or
 - (iv) organising alternative care and educational arrangements for their children.

Where necessary the employer may allow the employee to access other accrued paid leave and/or personal leave without pay.
- (b) Employees experiencing domestic violence may request temporary flexible working arrangements, including changes to when the hours are to be worked and the total hours worked each week. Such requests will not be unreasonably refused by the employer.
- (c) Employees accessing Domestic Violence Leave are required to provide proof of their need to be absent from work. Such proof can be in the form of a document issued by the Police Service, a Court, a medical practitioner, a family Violence Support Service, or lawyer.
- (d) Employee Assistance Program


Masonic Care Tasmania provides employees (and their immediate family) with access to 24 hour confidential counselling. Details of the program are clearly communicated to all employees and additional information and support is available from the People & Culture Team.

(e) Record Keeping

Confidential information relating to domestic violence issues will be retained in a secure area that has limited access to the People & Culture Team and the Chief Executive Officer.

Signatories

FOR THE EMPLOYER

Signature: 

(for and on behalf of Masonic Care Tasmania Inc. by its authorised representative)

Date:

12-1-2018

Name in full (printed)

Belinda Louise Beltz

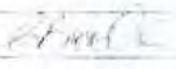
Position:

Executive Director People + Culture

Employer's Address:

7 Ballawinne Road, Lindisfarne, TAS, 7015

Witnessed By:

Signature: 

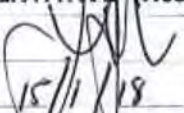
Name in full (printed)

Charlette Maree Bradburn

Witness Address:

176 Axiom Way, Acton Park 7170

EMPLOYEE REPRESENTATIVE (Health Services Union, Tasmania Branch)

Signature: 

Date:

15/1/18

Name in full (printed)

TIM JACOBSON


Position:

STATE SECRETARY

Employee's Address:

11 CLARE ST. NEW TOWN TAS 7011

Witnessed By:

Signature: 

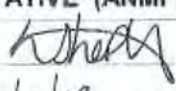
Name in full (printed)

JAMES EDDINGTON

Witness Address:

11 CLARE ST. NEW TOWN TAS 7011

EMPLOYEE REPRESENTATIVE (ANMF, Tasmanian Branch)

Signature: 

Date:

12/1/18

Name in full (printed)

Emily Shepherd

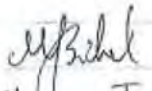
Position:

Branch Secretary

Employer's Address:

182 Macquarie St, Hobart 7000

Witnessed By:

Signature: 

Name in full (printed)

Mary Jane Bickel

Witness Address:

182 Macquarie St, Hobart 7000

Schedule A - Employment Classifications

Aged Care Employee—Level 1

Entry level:

An employee who has less than three months' work experience in the industry and performs basic duties.

An employee at this level:

- works within established routines, methods and procedures;
- has minimal responsibility, accountability or discretion;
- works under direct or routine supervision, either individually or in a team; and
- requires no previous experience or training.

Indicative tasks performed at this level are:

Administration	General and Food services
General clerk	Food services assistant
	Laundry hand
	Cleaner
	Assistant gardener

Aged Care Employee—Level 2

An employee at this level:

- is capable of prioritising work within established routines, methods and procedures;
- is responsible for work performed with a limited level of accountability or discretion;
- works under limited supervision, either individually or in a team;
- possesses sound communication skills; and
- requires specific on-the-job training and/or relevant skills training or experience.

Indicative tasks performed at this level are:

Administration	General and Food services	Personal care
General clerk/Typist (between 3 months' and less than 1 years' service)	Food services assistant	Personal care worker grade 1
	Laundry hand	
	Cleaner	
	Gardener (non-trade)	
	Maintenance/Handyperson (unqualified)	
	Driver (less than 3 ton)	

Aged Care Employee—Level 3

An employee at this level:

- is capable of prioritising work within established routines, methods and procedures (non admin/clerical);
- is responsible for work performed with a medium level of accountability or discretion (non admin/clerical);
- works under limited supervision, either individually or in a team (non admin/clerical);
- possesses sound communication and/or arithmetic skills (non admin/clerical);
- requires specific on-the-job training and/or relevant skills training or experience (non admin/clerical); and
- In the case of an admin/clerical employee, undertakes a range of basic clerical functions within established routines, methods and procedures.

Indicative tasks performed at this level are:

Administration	General and Food services	Personal care
General clerk/Typist (second and subsequent years of service)	Cook	Personal care worker grade 2
Receptionist		Recreational/Lifestyle activities officer (unqualified)
Pay clerk		
	Driver (less than 3 ton) who is required to hold a S John Ambulance first aid certificate	

Aged Care Employee—Level 4

An employee at this level:

- is capable of prioritising work within established policies, guidelines and procedures;
- is responsible for work performed with a medium level of accountability or discretion;
- works under limited supervision, either individually or in a team;
- possesses good communication, interpersonal and/or arithmetic skills; and
- requires specific on-the-job training, may require formal qualifications and/or relevant skills training or experience.
- In the case of a Personal care worker, is required to hold a relevant Certificate III qualification.

Indicative tasks performed at this level are:

Administration	General and Food services	Personal care
Senior clerk	Senior cook (trade)	Personal care worker grade 3
Senior receptionist		
	Maintenance/Handyperson (qualified)	
	Driver (3 ton and over)	
	Gardener (trade or TAFE Certificate III or above)	

Aged Care Employee—Level 5

An employee at this level:

- is capable of functioning semi-autonomously, and prioritising their own work within established policies, guidelines and procedures;
- is responsible for work performed with a substantial level of accountability;
- works either individually or in a team;
- may assist with supervision of others;
- requires a comprehensive knowledge of medical terminology and/or a working knowledge of health insurance schemes (admin/clerical);
- may require basic computer knowledge or be required to use a computer on a regular basis;
- possesses administrative skills and problem solving abilities;
- possesses well developed communication, interpersonal and/or arithmetic skills; and
- requires substantial on-the-job training, may require formal qualifications at trade or certificate level and/or relevant skills training or experience.

Indicative tasks performed at this level are:

Administration	General and Food services	Personal care
Secretary interpreter (unqualified)	Chef	Personal care worker grade 4
		Personal Care worker with medication endorsement that is expected to use that qualification as part of their employment

Aged Care Employee—Level 6

An employee at this level:

- is capable of functioning with a high level of autonomy, and prioritising their work within established policies, guidelines and procedures;
- is responsible for work performed with a substantial level of accountability and responsibility;
- works either individually or in a team;
- may require comprehensive computer knowledge or be required to use a computer on a regular basis;
- possesses administrative skills and problem solving abilities;
- possesses well developed communication, interpersonal and/or arithmetic skills; and
- may require formal qualifications at post-trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Indicative tasks performed at this level are:

General and Food services
Maintenance tradesperson (advanced)
Gardener (advanced)
Senior chef

Aged Care Employee—Level 7

An employee at this level:

- is capable of functioning autonomously, and prioritising their work and the work of others within established policies, guidelines and procedures;
- is responsible for work performed with a substantial level of accountability and responsibility;
- may supervise the work of others, including work allocation, rostering and guidance;
- works either individually or in a team;
- may require comprehensive computer knowledge or be required to use a computer on a regular basis;
- possesses developed administrative skills and problem solving abilities;
- possesses well developed communication, interpersonal and/or arithmetic skills; and
- may require formal qualifications at trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Indicative tasks performed at this level are:

Administration	General and Food services	Personal care
Clerical supervisor	Chef /Food services supervisor	Personal care worker grade 5
Interpreter (qualified)	Gardener Superintendent	
	General services supervisor	

Home Care Program Employees

Home Care Program Employee Level 1

A person appointed to this position will have less than 12 months' experience in the industry. A position in this level has the following characteristics:

- **Accountability and extent of authority**
An employee in this level performs broad tasks involving the utilisation of a range of basic skills in the provision of domestic assistance and support and is responsible for the quality of their work.
- **Judgment and decision-making**
Work activities are routine and clearly defined. The tasks to be performed may involve the use of a limited range of techniques and methods within a specified range of work. An employee may resolve minor problems that relate to immediate work tasks.
- **Specialist knowledge and skills**
Indicative but not exclusive tasks include: the undertaking of semi-skilled work, including cleaning, vacuuming, dusting, washing and ironing, shopping, sweeping paths, minor maintenance jobs, preparation and cooking of meals, defrosting refrigerators, emptying and cleaning of commodes, banking and account payment, organising appointments, assistance with care of pets, and care of indoor and outdoor pot plants.
- **Interpersonal skills**
Positions in this level may require basic oral communication skills and where appropriate written skills, with clients, members of the public and other employees.

- **Qualifications and experience**

An employee in this level will have commenced on-the-job training which may include an induction course.

Home Care Program Employee Level 2

A position in this level has the following characteristics:

- **Accountability and extent of authority**

An employee in this level performs broad tasks involving the utilisation of a range of developed skills in the provision of domestic assistance and support. Work performed falls within general guidelines but with scope to exercise discretion in the application of established practices and procedures. May assist others in the supervision of work of the same or lower level and is responsible for assuring the quality of work performed.

- **Judgment and decision-making**

In these positions, the nature of the work is clearly defined with established procedures well understood or clearly documented. Employees in this level are called upon to use some originality in approach with solutions usually attributable to application of previously encountered procedures and practices.

- **Specialist knowledge and skills**

Indicative but not exclusive tasks include: the provision of personal care, supervising daily hygiene, laying out clothes and assisting in dressing, make beds, tidy rooms, preparation and cooking of meals and assistance with meals, dry cleaning, perform gardening duties, undertake basic repairs, clean, fitting and removal of aids and appliances, monitoring medications, fitting and changing of catheters, assistance with communication, accompanying clients on outings, domestic assistance and organising appointments.

- **Interpersonal skills**

Positions in this level require oral communication skills and where appropriate written skills, with clients, members of the public and other employees.

- **Qualifications and experience**

As a minimum an employee in this level will have satisfactorily completed the requirements of Level 1 or equivalent. Indicative but not exclusive of the qualifications required in this level include Home Care Certificate or equivalent; or relevant experience/on-the-job training commensurate with the requirements of work in this level.

Home Care Program Employee Level 3

A position in this level has the following characteristics:

- **Accountability and extent of authority**

Employees perform work under general supervision. Employees in this level have contact with the public or other employees which involves explanations of specific procedures and practices. Employees in this level are accountable for the quality, quantity and timeliness of their own work in so far as available resources permit, and for the care of assets entrusted to them.

- **Judgment and decision-making**

These positions require personal judgment. The nature of work is usually specialised with procedures well understood and clearly documented. The particular tasks to be performed will involve selection from a range of techniques, systems, equipment, methods or processes.

- **Specialist knowledge and skills**

Indicative but not exclusive tasks include: computer and other office skills; maintain mail register and records; sort, process and record invoices and correspondence; prepare meals and special functions; provide input into meal planning; order foodstuffs and commodities; liaise with dieticians on special needs; schedule work programs on a routine and regular basis; co-ordinate and direct the work of support staff including maintenance (no more than four); oversee the provision of domestic services; provide personal care to clients with particular emphasis on those requiring extra help due to specific physical problems or frailty; schedule maintenance work programs on a routine and regular basis; plan, develop, and co-ordinate diversional therapy programs and carry out general maintenance falling within the scope of trades skills.

- **Interpersonal skills**

Positions in this level require skills in oral and written communication with clients, other employees and members of the public.

- **Qualifications and experience**

Indicative but not exclusive of the qualifications required in this level is an accredited qualification to the position at the level of Certificate III and/or knowledge and skills gained through on-the-job training commensurate with the requirements of the work in this level.

Hairdressing Employee Level 3

A hairdresser who holds a Certificate III in Hairdressing (or equivalent)

Hairdressing Employee Level 5

A hairdresser who holds a Certificate IV (or equivalent); or a trichologist who is a hairdresser and holds a Certificate IV in Trichology (or equivalent)

Schedule B - Pay Rates

Classifications	HOURLY RATES	
	EFFECTIVE fpp 31 July 2017	EFFECTIVE fpp 31 July 2018
Aged Care		
ACE Level 1	19.6934	20.0873
Admin Level 1A&1B	19.9917	20.3915
ACE Level 2	20.5063	20.9164
ACE Level 3	21.3190	21.7454
ACE Level 4	21.5716	22.0030
Admin Level 4	22.2096	22.6538
ACE Level 5	22.2965	22.7424
Admin Level 5	22.8720	23.3294
ACE Level 6	23.4937	23.9635
ACE Level 7	23.9221	24.4005
Admin Level 7	24.8330	25.3297
Home Care		
Level 1	20.7829	21.1986
Level 2	21.4060	21.8431
Level 3.1	21.9827	22.4224
Level 3.2	22.0993	22.5413
Hairdressers		
Level 3	21.2528	21.6779
Level 5	22.2916	22.7374

Community Services Worker Employee Progression

- (a) At the end of each 12 months' continuous employment, an employee will be eligible for progression from one pay point to the next within a level if the employee has demonstrated competency and satisfactory performance over a minimum period of 12 months at each level within the level and:
 - (i) the employee has acquired and satisfactorily used new or enhanced skills within the ambit of the classification, if required by the employer; or
 - (ii) where an employer has adopted a staff development and performance appraisal scheme and has determined that the employee has demonstrated satisfactory performance for the prior 12 months' employment.
- (b) Movement to a higher classification will only occur by way of promotion or re-classification.

Schedule C - Supported Wage System

C.1 This schedule defines the conditions which will apply to employees who, because of the effects of a disability are eligible for a supported wage under the terms of this Agreement.

C.2 In this schedule:

approved assessor means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system

assessment instrument means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system

disability support pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme

relevant minimum wage means the minimum wage prescribed in this Agreement for the class of work for which an employee is engaged

supported wage system means the Commonwealth Government system to promote employment for people who cannot work at full Agreement wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: www.jobaccess.gov.au

SWS wage assessment agreement means the document in the form required by the Department of Education, Employment and Workplace Relations that records the employee's productive capacity and agreed wage rate

C.3 Eligibility criteria

C.3.1 Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this Agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

C.3.2 This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their employment.

C.4 Supported wage rates

C.4.1 Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

Assessed capacity (clause C5)	Relevant minimum wage
%	%
%	%
10	10
20	20
30	30

Assessed capacity (clause C5)	Relevant minimum wage
%	%
40	40
50	50
60	60
70	70
80	80
90	90

C.4.2 Provided that the minimum amount payable must be not less than \$75 per week.

C.4.3 Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

C.5 Assessment of capacity

C.5.1 For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

C.5.2 All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

C.6 Lodgement of SWS wage assessment agreement

C.6.1 All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with Fair Work Australia.

C.6.2 All SWS wage assessment agreements (SWSA) must be agreed and signed by the employee and employer parties to the assessment. Where a union, party to this agreement, is not a party to the SWSA, the assessment will be referred by Fair Work Australia to the union by certified mail and the SWSA will take effect unless an objection is notified to Fair Work Australia within 10 working days.

C.7 Review of assessment

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

C.8 Other terms and conditions of employment

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this schedule will be entitled to the same terms and conditions of employment as other workers covered by this Agreement on a pro rata basis.

C.9 Workplace adjustment

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

C.10 Trial period

C.10.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

C.10.2 During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

C.10.3 The minimum amount payable to the employee during the trial period must be no less than \$80 per week.

C.10.4 Work trials should include induction or training as appropriate to the job being trialled.

C.10.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause C.5.

23 January 2018

Commissioner Lee
Fair Work Commission
11 Exhibition Street
MELBOURNE VIC 3000

Dear Commissioner Lee

AG2017/4910 - Masonic Care Tasmania (North) General Staff Agreement 2017

We refer to the above application by Masonic Care Tasmania regarding the Masonic Care Tasmania (North) General Staff Agreement 2017 (**Agreement**) and to your emails dated 10 January 2018 and 19 January 2018.

Masonic Care Tasmania provides the following undertakings:

1. *"For the purposes of clause 19.2 of the Agreement, Masonic Care Tasmania undertakes that*

(a) *Employees that are defined as shift workers are entitled to an additional week of annual leave.*

For the purposes of the NES, a shift worker is defined as:

(i) *for employees classified as ACE Level 1 to ACE Level 7 and Admin Level 1A&1B to Admin Level 7:*

(A) *an employee who is regularly rostered to work their ordinary hours outside the ordinary hours of work as a day worker as defined in clause 11(a)(i) and/or*

(B) *an employee who works for more than four ordinary hours on 10 or more weekends.*

NOTE: *for the purposes of clause 19.2(a)(i)(B), a weekend means work in ordinary time on a Saturday and/or a Sunday in any one calendar week.*

- (ii) *for employees classified as Home Care Level 1 to Level 3.2:*
 - (A) *an employee who works for more than four ordinary hours on 10 or more weekends during the yearly period in respect of which their annual leave accrues and is entitled to an additional week's annual leave on the same terms and conditions.*
- (iii) *for employees classified as Hair dresses Level 3 and Level 5:*
 - (A) *an employee who is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day, seven days a week.*
- (b) *Notwithstanding the NES definitions prescribed at clause 19.2(ii) and (iii) employees classified as Home Care Level 1 to Level 3.2 and Hair dressers Level 3 and Level 5 are entitled to an additional week of annual leave as follows:*
 - (i) *an employee who is regularly rostered to work their ordinary hours outside the ordinary hours of work as a day worker as defined in clause 11(a)(i) and/or*
 - (ii) *an employee who works for more than four ordinary hours on 10 or more weekends.*

NOTE: for the purposes of clause 19.2(b)(ii), a weekend means work in ordinary time on a Saturday and/or a Sunday in any one calendar week."

2. *"For the purposes of clause 16(a)(i)(A) of the Agreement Masonic Care Tasmania undertakes to pay casual Community Care Workers classified as:*
 - (a) *ACE Level 1 and Admin Level 1A&1B to ACE Level 7 and Admin Level 7, a minimum of 2 hours per engagement;*
 - (b) *Home Care Level 1 to Level 3.2, a minimum of 1 hour per engagement; and*
 - (c) *Hair dressers Level 3 and Level 5, a minimum of 3 hours per engagement."*
3. *"Masonic Care Tasmania provides an undertaking that, for the purposes of clause C.4.2 of Schedule C to the Agreement relating to a Supported Wage System, the minimum amount per week for supported wage employees will be \$84.00 per week."*
4. *"For the purposes of clause 15(b)(i) of the Agreement Masonic Care Tasmania provides an undertaking that employees classified as ACE Level 1 to ACE Level 7 and Admin Level 1A&1B to Admin Level 7 will be entitled to 200% penalty for all overtime hours worked on a Saturday."*
5. *"Masonic Care Tasmania provides an undertaking that employees classified as Hair Dressers Level 3 and Level 5 will be paid a rate of \$0.10c per week above the minimum weekly wage provided under the Hair and Beauty Industry Award 2010."*

6. *"Masonic Care Tasmania undertakes that employees classified as Hair Dressers Level 3 and Level 5 will be entitled to payment of the following allowances as provided by the Hair and Beauty Industry Award 2010:*
- (a) Tool Allowance (where electrical equipment is not provided by the employer and/or where an employee is required to use their own tools); and*
 - (b) Meal Allowance (unless an employee could reasonably return home for a meal within the period allowed)."*

Please let me know if we can assist further.

Yours faithfully

For and on behalf of Masonic Care Tasmania



Belinda Beltz

Executive Director People & Culture