



## DECISION

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

**Masonic Care Tasmania Incorporated**  
(AG2017/4908)

### **MASONIC CARE TASMANIA INCORPORATED (SOUTH) GENERAL STAFF AGREEMENT 2017**

Tasmania

COMMISSIONER LEE

HOBART, 25 JANUARY 2018

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

[1] An application has been made for approval of an enterprise agreement known as the *Masonic Care Tasmania Incorporated (South) 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

**AG2017/4908 - Masonic Care Tasmania (South) General Staff Agreement 2017**

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

Masonic Care Tasmania provides the following revised undertakings:

1. *"For the purposes of clause 45(a)(i)(a) of the Agreement Masonic Care Tasmania undertakes that casual employees will be paid for a minimum of two hours per engagement."*
2. *"For the purposes of clause 31(b)(i) of the Agreement Masonic Care Tasmania undertakes that employees classified as:*
  - (a) *Aged Care Employee Level 1 to Level 7; and*
  - (b) *Community Service Level 1 to Level 3.2**will be entitled to 200% penalty for all overtime hours worked on a Saturday."*
3. *"Masonic Care Tasmania undertakes that employees classified between Aged Care Level 2 and Aged Care Level 7 who are employed as Cooks and Chefs will be entitled to payment of a tool allowance (if required to provide own tools), as provided by the Aged Care Award 2010."*



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or call 1300 654 654

**NSW Branch**  
Masonic Care Tasmania  
11 Exhibition Street  
Sydney NSW 2000  
Australia



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 "B. Beltz", is written over a faint, circular, light blue watermark or background mark.

**Belinda Beltz**

**Executive Director People & Culture**



# **MASONIC CARE TASMANIA (SOUTH)**

## **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.**

## 1. Title

This Agreement shall be referred to as the Masonic Care Tasmania Incorporated (South) General Staff Agreement 2017

## 2. Arrangement

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### 3. Scope of Agreement

This Agreement shall apply to employees of Masonic Care Tasmania Incorporated located in the South, engaged in roles other than Registered and Enrolled Nurses and management staff.

### 4. Parties to the Agreement

The parties to this agreement are as follows:

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

## 5. Date and Period of Operation

This Agreement will be operational from the date of approval by the Fair Work Commission, with a nominal expiry date of 31 January 2019.

## 6. Definitions

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

**"award"** means the Aged Care Award 2010

**"continuous Service"** means an employee is considered to have had continuous service with the employer unless they have a period where they are absent without authorisation. If an employee takes a period of authorised leave without pay this period shall not be counted as part of the employee's length of service or attract any accruals but service will be deemed to be continuous.

**"day worker"** means an employee whose ordinary hours of work are performed between the hours of 6.00am and 6.00pm Monday to Friday.

**"de facto partner" means:**

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

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

**"employer"** means Masonic Care Tasmania Incorporated.

**"Immediate family"** of an employee means: the spouse, partner, de facto partner, children including step children, parents, grandparents, grandchildren or siblings of the employee, or the children, parents, grandparents, grandchildren or siblings of the employee's spouse, partner or de facto partner.

**"NES"** means National Employment Standards.

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

**"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.

**"spouse"** includes a former spouse.

**"the Act"** means the *Fair Work Act 2009*.



## **7. 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.

## **8. Supersession and Severance Provisions**

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

## **9. 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
    - (II) 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.

## 10. Additional Available Hours

Masonic Care Tasmania Incorporated understand that part-time employees may want to work additional hours from time to time. Masonic Care Tasmania Incorporated, where safe, practicable and reasonable, will give priority to permanent part time staff to increase additional hours when other staff are on any form of leave, provided the employer does not compromise its obligations to provide the requisite number of hours to those students engaged under the traineeship program.

## 11. Annual Leave

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

11.2 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 11.2(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 11.2(a), a weekend means work in ordinary time on a Saturday and/or a Sunday in any one calendar week.

11.3 Annual Leave Loading

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

11.4 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 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 11.4 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 11.4, 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.

11.5 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.

11.6 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 11.2(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 11.7 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 11.8 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

11.7 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 11.6(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 11.6, 11.7 or 11.8 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.

11.8 Excessive leave accruals: request by employee for leave

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 11.6(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 11.7(a) that, when any other paid annual leave arrangements (whether made under clause 11.6, 11.7 or 11.8 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 11.6, 11.7 or 11.8 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 11.2(a)) in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under paragraph (a).

11.8 Employer Instigated Cancellation of Leave

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

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

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



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

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

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

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

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

#### 11.9 Public Holidays

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

However, this sub-clause will not apply if the holiday falls on a Saturday or Sunday or where by agreement between the employer and employee, an employee has been paid the appropriate rate of pay for a public holiday.

## 12. Buddy Shift / Orientation Allowance

Employees required to act in a preceptor or buddy role to assist in the orientation of new staff or students or trainees will be paid an allowance of \$1.36 per hour (2017), \$1.38 per hour (2018).

## 13. Call Back

- (a) Except where otherwise specifically provided an employee recalled to work after leaving their workplace (whether notified before or after leaving the workplace) will be paid at the appropriate overtime rate in accordance with the Overtime clause in this Agreement.

- (b) Where an employee is recalled to work and the payment at overtime rates described in subclause (a) does not equal or exceed four hours' pay, the employee will be paid four hours' pay at the appropriate overtime penalty rates.
- (c) Where an employee is recalled to work a second time, and the recall is within the hours for which payment is already due under subclause (a) above, the time worked in the first and second recall will be combined for the purposes of calculating the payment due and will be calculated in accordance with subclause (b) above.
- (d) Where an employee is recalled to work a second time, and the recall is outside the hours for which payment is already due under subclause (b), the employee will be paid at the appropriate overtime rate in accordance with the Overtime clause in this Agreement. However, where the payment does not equal or exceed three hours' pay, then the employee will be paid four hours' pay at the appropriate overtime penalty rates.
- (e) Where an employee is recalled to work a third and subsequent time, payment will be paid at the appropriate overtime rate in accordance with the Overtime clause in this Agreement. However, where the payment does not equal or exceed three hours' pay, then the employee will be paid three hours' pay at the appropriate overtime penalty rates.
- (f) Time reasonably spent in getting to and from work will be regarded as time worked.

#### **14. Ceremonial / Cultural Leave**

An employee who is required by cultural tradition to be absent from work for legitimate and recognised ceremonial purposes will be entitled to up to 10 working days unpaid leave in any year, with the approval of the employer.

#### **15. Community Service Leave**

- (a) An employee who is a registered volunteer and has notified the employer of this involvement in a specified emergency service organisation and attends an emergency response situation, or is involved in a voluntary emergency management activity during normal working hours may be entitled to paid leave on application.
- (b) Community service leave arrangements apply in respect to employees who are registered volunteers with the following emergency service organisations:
  - (i) Tasmania Fire Service;
  - (ii) Tasmanian Ambulance Service;
  - (iii) State Emergency Service; or
  - (iv) Other emergency service consistent with the NES definition.
- (c) The leave applies where a registered volunteer is requested to respond to an emergency situation involving volunteer assistance during normal working hours. Regular rostered activities/events or training are not included.
- (d) The employer will grant approval for an employee to be absent from duty so the employee can assist with an emergency situation, providing the following conditions are met:

- (i) the employee has informed the management and their direct supervisor as soon as practicable regarding the requirement for the absence and its likely length;
- (ii) the employee is able without undue disruption to the operational requirements of the organisation to be released to assist in responding to the emergency; and
- (iii) if required by the employer, the employee can obtain from the relevant emergency organisation proof of the request for and duration of the attendance in response to the emergency situation.

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

- (e) When an employee has attended and rendered assistance as a volunteer in response to an emergency situation, the following leave and related arrangements will apply:
  - (i) the attendance will not affect entitlements for leave accruals and related benefits;
  - (ii) an injury sustained by the employee whilst attending a emergency situation will not form the basis of a claim against the employer; and
  - (iii) the return to normal work duties by the employee should be as soon as practicable following the completion of functions associated with the emergency situation including, where relevant, debriefing or counselling. Furthermore, the timing of the return to work should be managed consistent with appropriate health and safety considerations such as the fatigue status of the employee.

## 16. Compassionate Leave

- (a) Subject to subclause (d), a full-time and part-time employee is entitled to three days of paid compassionate leave for each occasion (a permissible occasion) when a member of the employee's immediate family (including "significant relationship") or a member of the employee's household:
  - (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.

PROVIDED that casual employees are entitled to three days' unpaid compassionate leave.
- (b) An employee may take compassionate leave for a particular permissible occasion if the leave is taken:
  - (i) to spend time with the member of the employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in subclause (a); or
  - (ii) after the death of the member of the employee's immediate family or household referred to in subclause (a).
- (c) If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the employee may take the compassionate leave for that occasion at any time while the illness or injury persists.



- (d) The employee may be asked by the employer to provide an appropriate form of evidence to support an application for compassionate leave.
- (e) Notice and evidence requirements for compassionate leave shall be the same as is required for personal / carer's leave.

## 17. 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) subclauses (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.

### Staff Consultative Committee

To improve consultation between the employer and employees the employer will establish a Work Site Consultative Committee. The Committee will be made up of one representative from Catering, Domestic, Care, Administration, Maintenance and will meet on bi-monthly. The purpose of the Committee will be to discuss major work site changes, if any, issues of concern or suggestions for improvement are identified they are raised by the Committee. The Committee is a consultative committee and the final decision on all matters raised shall be with the employer

## 18. Contract of Employment

- (a) All employees not employed as a casual employee will be employed by the fortnight.
- (b) An employee's position, at the time of appointment, will be classified according to the classification definitions in this Agreement.
- (c) The employer will not terminate an employee's employment unless the employer has given the employee written notice of the day of termination (which cannot be before the day the notice is given). This clause does not apply to the following employees:
  - (i) An employee employed for a specified period of time or for a specified task.
  - (ii) An employee whose employment is terminated because of serious misconduct.
  - (iii) A casual employee.
  - (iv) An employee to whom a training arrangement applies and whose employment is for a specified period of time or is, for any reason, limited to the duration of a training arrangement.
- (d) The employer must not terminate the employee's employment unless:
  - (i) The time between the notice and the day of termination is at least the period worked out at clause (c); or

- (ii) The employer has paid to the employee payment in lieu of notice of at least the amount the employer would have been liable to pay to the employee at the full rate of pay for the hours the employee would have worked had the employment continued until the end of the minimum notice period.

The minimum period of notice is as follows:

<b>Employee's period of continuous service with the employer at the end of the day the notice is given</b>	<b>Period of notice</b>
Less than 1 year but 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

- (e) The required period of notice is to be increased by one week if the employee:
  - (i) is over 45 years old; and
  - (ii) has completed at least two years of continuous service with the employer.

- (f) In accordance with subclause (a), the employer is not required to provide the relevant period of notice to an employee if the employee's employment is being terminated due to serious misconduct.

- (g) The notice of termination required to be given by an employee shall be the same as that required of an employer, except that there is no additional notice based on the age of the employee concerned.

- (h) Where the employer or employee gives notice of termination of employment, the parties may mutually agree to the employment ending before expiration of the period of notice, and in such cases wages shall be paid up to the time of the agreed termination.

Casual employment may be terminated by the employer or employee with the provision of one hour's notice.

- (i) Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

- (j) An employee (other than a casual employee), is entitled to be paid, including any overtime and other penalty rates, if:

- (i) as a result on an action by the employer, the employee does not work for the maximum number of ordinary working hours specified in this Agreement (in the case of a full-time employee) and the maximum number of ordinary working hours which the employee is contracted to work (in the case of part-time employee); and

- (ii) the employee is ready and willing to work during those ordinary working hours.

- (k) An employer may direct an employee to carry out such duties as are within the limits of an employee's skill, competence and training consistent with the classification structure in this Agreement.

This clause does not allow the employer to pay an employee at a rate lower than their classification for performing work of a lower classification nor does

it prevent the employee receiving any entitlement for performing work at a higher classification.

## 19. Employment Categories

- (a) Employees under this Agreement will be employed in one of the following categories:

- (i) full-time;
- (ii) part-time; or
- (iii) 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. The employer will provide the employee with a Position Description detailing the duties that are **within the limits of the employee's skill, competence and training, consistent with the respective classification.**

- (b) Full-time employees

- (i) A full-time employee is one who is engaged to work 38 hours per week.
- (ii) Full-time employees will receive a minimum payment of four hours for each engagement in respect of the ordinary hours of work.

- (c) 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) 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 and remunerated as per subclause 36 (g).



(vii) Where a part-time employee is regularly working more than their specified contracted hours as agreed upon the employee, by making a request in writing to the employer, will have their roster fixed and contract with agreed hours amended to reflect the increased hours. The employer will take into account that the hours worked in the following circumstances will not be incorporated into the adjustment made:

- if the increased hours are as a direct result of another employee being absent on leave, such as annual leave, long service leave, parental leave, workers compensation: or
- if the increased hours are due to a temporary increase in hours only due to the specific needs of a resident.

(viii) Part-time employees will receive a minimum payment of two hours for each engagement.

(d) Casual employees

(i) A casual employee is an employee engaged as such on an hourly basis, other than a part-time, full-time or fixed term employee, to work up to and including 38 ordinary hours per week. The work pattern will be irregular and unpredictable.

(ii) A casual employee for working ordinary time will be paid 1/38th of the relevant weekly wage rate for the work performed, plus an additional loading in accordance with the following formula in lieu of annual leave, personal leave and public holidays.

Casual loading currently applied is 25%.

(iii) The loadings prescribed in *clause 41 Public Holidays and clause 46 Saturday & Sunday Work* (of this Agreement) will be in substitution for and not cumulative upon the casual loading prescribed in subclause 19(d)(ii).

(iv) Casual employees will be employed by the hour with a minimum of two hours' work or, alternatively, paid for a minimum of two hours on each occasion they are required to work.

## 20. Excessive Workloads

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

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

(i) In the first instance, employees should discuss the issue with their immediate supervisor and, where appropriate, explore solutions.

(ii) If a solution cannot be identified and implemented, the matter should be referred to an appropriate senior manager for further discussion.

(iii) If a solution still cannot be identified and implemented, the matter should be referred to the Facility Manager for further discussion.

- (iv) The outcome of the discussions at each level and any proposed solutions should be recorded in writing and fed back to the effected employees.
- (b) Workload management must be an agenda item at staff meetings on at least a quarterly basis. Items in relation to workloads must be recorded in the minutes of the staff meeting, as well as actions to be taken to resolve the workloads issue/s. Resolution of workload issues should be based on the following criteria including but not limited to:
  - (i) clinical assessment of residents' needs;
  - (ii) the demand of the environment such as facility layout;
  - (iii) statutory obligations, (including, but not limited to, workplace health and safety legislation;
  - (iv) the requirements of nurse regulatory legislation;
  - (v) reasonable workloads;
  - (vi) accreditation standards;
  - (vii) replacement of employees on leave; and
  - (viii) budgetary considerations.

## 21. First Aid Allowance

- (a) First aid allowance - full-time employees
 

A weekly first aid allowance of \$14.81 per week (2017), \$15.11 per week (2018) will be paid to a full-time employee where:

  - (i) an employee is required by the employer to hold a current first aid certificate;
  - (ii) an employee is required by the employer to be, in a given week, responsible for the provision of first aid to employees employed by the employer.
- (b) First aid allowance - casual and part-time employees
 

The first aid allowance is payable at one 38th of the full-time allowance per hour for part-time and casual employees where:

  - (i) an employee is required by the employer to hold a current first aid certificate; and
  - (ii) an employee is required by the employer to be responsible for the provision of first aid to employees employed by the employer

## 22. 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:
    - (i) the terms of the enterprise Agreement that will be varied by the arrangement; and
    - (ii) how the arrangement will vary the effect of the terms; and
    - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
  - (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.

## 23. 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.

## 24. Higher Duties

- (a) An employee, other than an administrative employee, engaged continuously for two hours or more in duties carrying a higher rate than their ordinary classification will be paid the higher rate for the day. If the work is for less than two hours, they will be paid the higher rate for the time worked.

This will apply whether or not an employee works in accordance with a roster.

- (b) 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 will be paid the rate applicable to the higher paid classification.

## 25. Hours

- (a) Day workers

- (i) The ordinary hours of work for day workers are between the hours of 6.00am and 6.00pm, Monday to Friday.
- (ii) However, the spread of hours or daily hours may be altered for all or a section of employees by mutual agreement between the employer and the employees in the area concerned provided the spread of hours must not exceed 12 hours following any alteration.
- (iii) The ordinary hours for day workers are 38 hours per week to be worked in five days in continuous periods of eight hours each day, except for a meal break of not more than one hours duration.
- (iv) By agreement in writing between an employee and the employer, an employee's ordinary hours may be extended to a maximum of 10 ordinary hours per day. Where such an arrangement is made, it may be discontinued by the employee or the employer giving the other 14 days' written notice.

An arrangement in writing under this subclause must be signed by the employer and the employee with one copy provided to the employee and one copy kept on the employee's employment file.

The employer will not use this subclause to reduce the number of full-time equivalent (FTE) staff employed.

An employee who wishes to enter into an arrangement under this subclause must be provided with a copy of this subclause by the employer prior to the arrangement being effective.

In the event of the arrangements contemplated by this subclause being discontinued, the employee will be returned to pre-existing conditions and must not suffer any loss or prejudice in employment whatsoever.

No employee (or prospective employee) will be required by the employer to work under the terms of this subclause as a condition of employment or engagement unless by agreement.

- (v) An employee will have a minimum eight hour break at the conclusion of a shift (that has a minimum shift length of four hours) prior to the commencement of their next shift.
- (vi) Employees may be required to work to a roster, subject to the Roster clause in this Agreement. Where an employee is required to work ordinary hours outside the span of hours of 6.00am to 6.00pm Monday to Friday, that work must be in accordance with a roster

(b) Rostered employees

(i) Ordinary Hours – Rostered Employees

- Where an employee is required to work in accordance with a roster, the ordinary hours of work for that employee must not exceed;
  - 8 hours in any one day; and
  - 80 hours in any 14 day accounting period.
- By agreement in writing between an employee and the employer, an employee's ordinary hours may be extended to a maximum of 10 ordinary hours per day. Where such an arrangement is made, it may be discontinued by either the employee or the employer by giving the other 14 days (one fortnight) written notice.
- If an employee exceeds hours in a two week period as a result of working additional hours through swapping shifts these hours shall be considered ordinary hours. Swapping shifts is defined as where two employees enter into a mutual agreement to swap shifts after the roster has been set by the employer.
- An arrangement in writing under this subclause must be signed by the employer and the employee with one copy provided to the employee and one copy kept on the employees employment file.
- The employer will not use this subclause to reduce the number of full-time equivalent (FTE) staff employed.
- An employee who proposes to agree to enter into an arrangement under this subclause must be provided with a copy of this subclause by the employer prior to such arrangement being effective.
- In the event of the arrangements contemplated by this subclause being discontinued, the employee/s will be returned to pre-existing conditions and must not suffer any loss or prejudice in employment whatsoever.
- No employee (or prospective employee) will be required by the employer to work under the terms of this subclause as a condition of employment or engagement unless by agreement.

(c) Accrued Days Off

- (i) The employer will where possible structure the 38 hour week in the form of one paid day off in every two consecutive fortnightly pay periods (i.e. the 19 day month).

However, where the employer encounters operational difficulties in structuring a 19 day month, discussion may take place with the union on an alternative method of introduction. In the event of disagreement, the matter will be referred to the Fair Work Commission whose decision will be final and binding. The onus in those proceedings is on the employer to prove the 19 day month creates operational difficulties.

- (ii) Accrued days off will be rostered to fall on a day of the week other than a Saturday or Sunday. The employer will endeavour to ensure that the accrued day off is rostered to fall either the day immediately before or immediately after a rostered day off.
- (iii) Where an employee is absent on leave without pay 24 minutes for each day of absence should be deducted from the accrued day off.
- (iv) Days of paid absence on public holidays and other paid leave will count toward the accrued day off on full pay.
- (v) Where an accrued day off falls on a Public Holiday as listed in the Public Holidays clause in this Agreement, a substituted accrued day off should be taken as soon as possible.
- (vi) Public holidays with pay as provided for in the Public Holiday clause in this Agreement which are taken, accrue towards an accrued day off.
- (vii) An employee may elect, with the consent of the employer, to take accrued days off in part day amounts.
- (viii) An employee may elect, with the consent of the employer, to accrue some or all accrued days off for the purpose of creating a bank to be drawn upon by the employee at times mutually agreed by the employer, or subject to the reasonable notice by the employee or the employer.
- (ix) The employer must keep accurate records of accrued days off arrangements in the wages records.

(d) Time Off in Lieu of Payment

The employer and the majority of employees may agree to establish a system of time off in lieu of overtime provided that:

- (i) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer. For the avoidance of doubt, regardless of the system of time off in lieu of overtime established with the majority, each individual employee is to be paid overtime unless they elect to take time off in lieu.
- (ii) Where there is agreement between the employer and the employee, time off in lieu of overtime may be taken at the penalty rate equivalent. Where an agreement is made to take time off in lieu of overtime, the agreement may be concluded by agreement or at the request of either the employer or the employee.

Before entering into an Agreement under this subclause, employees have the right to consult their union.

- (iii) An employer will, if requested by an employee, provide payment at the relevant overtime rate in the Overtime clause in this Agreement, for any overtime worked under this subclause where the time in lieu is not taken within 12 weeks of the accrual.

- (iv) An employee or the employees may choose to request their union to represent their interests in negotiations referred to in paragraph subclause (d)(i).
- (v) The employer must keep accurate records of time off in lieu arrangements in the wages records.

## 26. Increases to Allowances

All allowances in this Agreement will be increased in line with the wage increases contained in this Agreement. For the avoidance of doubt, shift penalties are not allowances and will not be increased in line with this clause.

## 27. Licence Allowance

An employee directed by the employer to drive vehicles requiring a licence other than a standard drivers license issued by the Department of Roads and Transport, Motor Registry, Licence Section, shall, upon presentation of his/her current licence to the employer, be reimbursed the cost of the driver's licence fee.

## 28. Long Service Leave

Unless otherwise provided for in this clause, long service leave entitlements shall be in accordance with the *Long Service Leave Act 1976 (TAS)*.

Employees employed under the terms of this Agreement shall be entitled to eight and two thirds weeks paid leave after completing ten years of continuous employment.

Pro-rata long service leave may be taken after the completion of seven years' service and prior to the completion of 10 years' service in accordance with the requirements of the *Long Service Leave Act 1976*. If an employee resigns after the completion of 10 years' service they are entitled to a payment of any outstanding long service leave.

After the completion of 10 years' service, leave will continue to accrue at the rate of 4.33 weeks' long service leave in respect of each additional five years of continuous employment.

## 29. Meal Allowance / Meal Charges

### (a) Meal Allowance

Where an employee is required to travel away from their usual place of employment, and is away during meal times and purchase a meal at any commercial outlet, then they will be paid a meal allowance as follows:

▪ Breakfast	\$26.34
▪ Lunch (or midday meal)	\$29.58
▪ Dinner (or evening meal)	\$53.69

### (b) Meal Charges

Charges for meal provided by employer

The maximum amount that shall be charged or deducted where an employee receives a meal from their employer shall be:

- (i) lunch or evening meal –
  - \* two course \$4.50
  - \* other course (i.e. soup, sweet) \$3.00
  - \* plate of sandwiches \$3.00

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

PROVIDED FURTHER THAT the charges specified in sub clause (b) will increase by the same percentage and at the same time as the percentage that will apply to increases to salary rates in accordance with this Agreement.

### 30. Meal Breaks

- (a) Employees not required to work on a roster, who work in excess of four hours on any day will, subject to subclause (b) below, receive an unpaid meal break of not more than one hour and not less than 30 minutes. The duration of the meal break may be altered by agreement between the employer and the employee.
- (b) Where an employee is required to remain available to attend to duty or is on duty during their meal break, the employee will be paid at overtime rates for all time worked from the commencement of that meal break until such time that a meal break free from duty is taken by the employee or the employee's shift ends (whichever occurs first). Whilst payment will be calculated at overtime rates, the time worked until the meal break is taken will be regarded and count as an employee's ordinary time.
- (c) Employees required to work on a roster will receive a paid meal break of 30 minutes after the completion of five hours worked. However, by mutual agreement between the employer and the majority of the employees within a particular work area and with the approval of the union, those employees will be allowed to extend their paid 30 minute meal break by up to a further unpaid 30 minutes each day.
- (d) An employee receiving an unpaid meal break and who is directed to work during their meal break will be paid at the rate of double time of the relevant wage rate for all work performed during the meal break and after until such time as a meal break is allowed.
- (e) Tea Breaks

Two separate 10 minute intervals (in addition to meal breaks) will be allowed to each employee on duty during each ordinary shift of 7.6 hours or more,

Where less than 7.6 ordinary hours are worked, employees will be allowed one 10 minute interval in each four hour period.

### 31. Overtime

- (a) The employer may require any employee to work reasonable overtime. An employee may refuse to work additional hours if they are unreasonable including, but not limited to, having regard to employee health and safety and



the employee's personal circumstances, including family responsibilities. No overtime may be worked without prior approval of the employer.

For the purposes of this clause overtime means:

- (i) Work in excess of eight hours per day except where ordinary hours are extended in accordance with the Hours clause in this Agreement, in which case it is hours in excess of 10 hours per day.
  - (ii) For day workers - work in excess of 38 hours per week.
  - (iii) For rostered employees - work in excess of 80 hours in any 14 day accounting period. Unless excess hours are as a result of the swapping of shifts as per clause 25(b) of this Agreement.
  - (iv) For day workers who work outside the span of ordinary hours 6.00am to 6.00pm Monday to Friday except where agreement is reached in accordance with the Hours clause in this Agreement.
  - (v) For a part-time employee, all time worked in excess of their rostered hours on any one day, unless agreement has been entered into as described at subclause 19(c)(v). Such an agreement will not affect payment of overtime as described at subclauses (a)(i)-(iv).
- (b) For all time worked in accordance with subclause (a) above the following overtime rates will be paid:
- (i) Monday to Saturday inclusive - time and one half for the first two hours and double time after that;
  - (ii) Sunday - double time;
  - (iii) Public Holidays - In accordance with Clause 41 (Public Holidays) of this Agreement.
- (c) Unless the period of overtime is one and a half hours or less, an employee before starting overtime will be allowed a paid meal break of 20 minutes paid at ordinary rates. An employer and an employee may agree to any variation of this provision to meet the circumstances of the work. No employee will be required to work more than five hours without a meal break.
- (d) 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.
- (e) The allowances provided for in this Agreement must not be taken into consideration in the calculation of overtime payments.
- (f) The calculation of the overtime payments provided for in this clause for a casual employee will be based upon the relevant wage rate contained in this Agreement.

## 32. Parental Leave and Related Entitlements

The following provisions are to be read in conjunction with Schedule C – Parental Leave. An employee who is the primary carer of the child is entitled to paid parental leave in accordance with the Federal Government's *Paid Parental Leave Act 2010* and a non primary carer is entitled to the Federal Government's *Dad and Partner Payment (DaPP) Scheme*. Except for the Federal Government's *Paid Parental Leave Scheme* and *DaPP scheme* no additional payment for parental leave will be made by the employer during the life of this Agreement.

### 33. Payment of Annual Influenza Vaccination

The Employer will pay the costs of annual influenza vaccinations for all employees covered by this Agreement. This clause applies to vaccination provided by the employer on its premises and does not extend to vaccinations obtained via external medical practitioners.

### 34. Payment of Wages

- (a) Wages will be paid fortnightly. Once a pay day is established, that pay day shall not be changed without consultation with employees and the giving of at least one month's notice.
- (b) Wages will be paid by electronic funds transfer into the bank or financial institution account nominated by the employee.
- (c) Where there is a delay in the payment of wages beyond close of business on pay day and that delay results in an employee being charged fees or penalties by his or her nominated bank or financial institution, the employer will reimburse the employee for any such fees or penalties so charged. The onus will be on the employee to provide evidence of such charges or fees having been incurred as a result of the delay.
- (d) When notice of termination of employment has been given by an employee or an employee's services have been terminated by the employer, payment of all wages owing to an employee will be made to the employee by no later than the close of business on the next working day following the last day of the formal notice period.
- (e) The employer will not be held liable for anything outside the employer's control which results in a delay to the payment of wages.

### 35. Pay Slips

In addition to the requirements under the Act, the employer will include the amount of annual and personal leave accrued on employees' payslips.

### 36. Personal / Carer's Leave

- (a) The provisions of this clause do not apply to casual employees.
- (b) For the purpose of personal/carer's leave, where the employer requires an employee to confirm the reason for the absence, the employee may provide a doctor's certificate, a certificate from a registered Medicare provider, or a statutory declaration.

Purpose of personal/ carer's leave

- (c) Employees (other than casual employees) are entitled to paid personal/ carer's leave for absences from work due to –
  - (i) personal illness or injury (personal leave); or
  - (ii) to provide care or support (carers' leave) 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 personal illness, or personal injury, affecting the member; or

- an unexpected emergency affecting the member.

Amount of personal/ carer's leave - full time and part-time employees

- (d) A full time employee is entitled to 13 days (98.8 hours referenced to a 38 hour week) of personal/carer's leave. 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.

PROVIDED THAT an employee (including a casual employee) is entitled to up to two days unpaid carer's leave for each occasion specified in subclause (c)(ii).

- (e) Untaken personal leave accumulates from year to year without limitation.
- (f) If the period during which an employee takes paid personal/ carer's leave includes a day or part-day that is a public holiday in the place where the employee is based for work purposes, the employee is taken not to be on paid personal/carer's leave on that public holiday.
- (g) An employee is entitled to paid personal leave at the employee's relevant base rate of pay exclusive of shift or weekend loadings or overtime subject to the following:
  - (i) employees are not entitled to paid personal leave for any period of absence in respect of which they are entitled to workers' compensation;
  - (ii) employees must as soon as possible prior to going on personal leave inform the employer of their inability to attend for duty, and as far as is reasonable advise the nature of the injury or illness and the estimated duration of the absence;
  - (iii) the onus is on employees to demonstrate to the satisfaction of a reasonable person that they were unable due to reasons described in clause 36(c) to attend for duty on the day or days for which personal leave is claimed. Provided that an employee may take two single days or two consecutive days of personal leave in any one calendar year without the provision of medical certificate or statutory declaration.
- (h) If an employee is absent on personal leave on the day immediately before or immediately after an accrued day off, Public Holiday or weekend the employee must provide a doctor's certificate, a certificate from a registered Medicare provider, or a statutory declaration in respect of the absence.
- (i) **Personal Leave During Annual Leave**  
An employee, who is certified as unfit for duty because of personal illness by a medical practitioner or a registered Medicare provider during a period of annual leave, will be given credit for the time so certified and the paid annual leave will be extended by the number of days that the employee has been so certified as unfit for duty.
- (j) **Personal Leave and Workers Compensation**
  - (i) An employee who falls sick by reason of his/her work will, subject to the recommendation of a medical practitioner, be paid wages not less than that prescribed by the *Workers Rehabilitation and Compensation Act 1988*.



- (ii) An employee will not be entitled to paid leave of absence for any period that the employee is entitled to workers compensation.

- (k) Personal Leave Year

A year for the purposes of this clause means 365 days' employment including rostered days off, public holidays, paid annual leave and paid personal leave.

- (l) Part-Time Employees

Part-time employees who are accruing a personal leave entitlement will have their personal leave entitlement calculated in the following manner:

$98.8 \text{ (full-time equivalent entitlement)} \div 365 \text{ (calendar days per year)} \times 7 \text{ (days per week)} \div 38 \text{ (full-time equivalent weekly working hours)} = 0.0498 \text{ hours personal leave entitlement for each hour worked.}$

In determining the amount of leave to which an employee is entitled at any time (other than leave which has been accumulated) the average hours worked per week in the preceding three months will be used, except that where an employee has less than three months' service, the period per week for which they were employed will be used.

- (m) Personal Leave for Personal Injury or Sickness

An employee is entitled to use the full amount of their personal leave entitlement including accrued leave for the purposes of personal illness or injury, subject to the conditions set out in this clause.

- (n) Personal Leave to Care for an Immediate Family or Household Member

- (i) An employee is entitled to use the full amount of their personal leave, including accrued leave, each year to provide care or support for members of their immediate family or household who have an illness or injury or who require care or support due to an unexpected emergency, subject to the conditions set out in this clause.

Leave may be taken for part of a single day.

- (o) Communicable Diseases

In the event of an outbreak of a communicable disease at one of the employer's facilities an employee who contracts a communicable disease and takes personal leave due to that illness is entitled to a maximum of three days' paid personal leave per outbreak, in accordance with this clause, with no reduction in their accrued personal leave under the following conditions:

- (i) the facility is in a declared "lock down" as per requirements of the relevant state body. A lock down is defined by the employer's communicable disease outbreak protocols which are determined by the Clinical Supervisor in conjunction with the Department of Health;
- (ii) the employee must have worked at the facility during the declared communicable disease outbreak;
- (iii) a declared outbreak is two or more cases of vomiting or diarrhoea in a 24 hour period.

### 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;
  - (iii) attending court hearings;
  - (iv) attending police appointments;
  - (v) accessing legal advice; and/or
  - (vi) 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.

### 38. Police Checks

- (a) It is a requirement for employment and continued employment at Masonic Care Tasmania Incorporated that employees provide to the employer a copy of the employee's current national police check.
- (b) The employer will pay the cost of obtaining police checks and for renewals.
- (c) The original national criminal history record check will be provided to the employer for the purpose of obtaining a copy and the original shall be returned to the employee within 3 working days.
- (d) Where the employer is in the possession of an employee police check, that police check will not be provided to any third party without the employee's express and written permission.

### **39. Professional Development**

- (a) The employer supports the professional development of employees and will provide training (both in-house and external) during ordinary hours where possible.
- (b) Where the employer directs an employee to attend training, or agrees that an Employee should attend training, the Employee will be paid for his or her time.
- (c) Employees shall be entitled to meal and travel allowances, as provided for under meal and travel allowance provisions of this Agreement, where a conference/seminar is held away from their usual place of employment or residence.

### **40. Protective Clothing and Safety Requirements**

- (a) The employer shall provide where necessary, suitable protective clothing for the employees. An employee who is pursuant to this subclause, supplied with protective clothing, shall wear such clothing in such a way as to achieve the purpose for which it is supplied.
- (b) The employer shall maintain at its own expense full and sufficient supplies of safety appliances, such as rubber gloves, disinfectants or other materials required to be used in the course of the employee's duties.
- (c) An employee who is required, in accordance with this subclause, to use the safety requirements provided by the employer shall use them for the purpose they were intended.
- (d) Compensation to the extent of the damage sustained shall be made where, in the course of the work, an employee's clothing is damaged.

### **41. Public Holidays with Pay**

- (a) All employees (other than employees receiving a loaded rate) are entitled to the following holidays with pay:  
Christmas Day, Boxing Day, New Year's Day, Australia Day, Hobart Regatta Day (south of Oatlands), Eight Hours' Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day, Recreation Day (in those areas where Hobart Regatta Day is not observed), or other days that are observed in the region in lieu of or made additional to any of the holidays mentioned above.
- (b) Payment for the public holidays with pay mentioned in subclause (a) 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.
- (c) An employee who works on a public holiday will, in addition to their ordinary pay for work performed on a public holiday, elect to receive one of the following:
  - (i) payment of an additional sum of 150% for hours worked; or
  - (ii) have the same number of hours worked added to their annual leave

The election will be made on the commencement of employment and then on the anniversary date each year. The employee may not alter such election during the year except with the agreement of the employer.

- (d) An employee required to work on any of the holidays with pay listed in subclause (a) above, where the public holiday applies at their normal place of work, but because their duties require the employee to work at a place where the holiday does not apply, will have the time in lieu of the public holiday added to their annual leave entitlement.
- (e) Where work commences between 11.00pm and midnight on a public holiday with pay the time worked before midnight will not entitle the employee to the payment detailed in subclause (c) above.  
  
Time worked by an employee before midnight on a day preceding a public holiday with pay, and extending into the holiday with pay, the time worked before midnight will be regarded as time worked on a public holiday.
- (f) A part-time employee will only be entitled to payment for those public holidays that fall on days they are normally rostered to work.
- (g) A part-time employee who is rostered off on a public holiday they would ordinarily work will be paid their ordinary pay for that day.

## 42. Redundancy Provisions

- (a) The parties agree that it is not desirable to lose the services of staff members through redundancy. It is the parties' preferred option to seek redeployment and retraining opportunities within the organisation should the occasion arise.
- (b) Commitment to consult  
  
The parties to this Agreement recognise that redundancy, when it occurs, is both sensitive and traumatic and needs to be handled in a delicate manner.  
  
Where the employer believes that it may be necessary to make one or more positions within the enterprise redundant, or reduce or alter hours that causes a loss of an employee's income, the employer agrees to immediately notify the union and to commence a process of ongoing consultation in accordance with clause 17 of this Agreement.
- (c) Redeployment and Retraining  
  
In the event of a position being made redundant, or an employee's hours are reduced or altered which causes a loss of an employee's income, the following shall apply:
  - (i) the employer will actively explore all internal redeployment opportunities for staff surplus to requirements.
  - (ii) a staff member seeking redeployment may be retrained for an available position on condition that the staff member can demonstrate that he or she possesses the necessary capacity for that position.
  - (iii) where retraining is required, the employer will provide and pay for any training which the employer deems necessary for the staff member to perform the duties of the position to which the staff member is being redeployed. The employee will be entitled to undertake this training during work time.

- (iv) all reasonable attempts will be made to ensure that a staff member's area of choice, hours of work, previous employment classification and previous roster patterns are met.

(d) Notice of Redundancy

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

- (i) The required period of notice in the event that a position is made redundant or hours are reduced or altered to cause a loss of employee's income is four weeks.
- (ii) The required notice period will be increased by one week if the employee is over 45 years of age at the time of termination.

(e) Redundancy

- (i) In the event that it is necessary for the employer to make one or more positions redundant, or reduce or alter hours which causes a loss of employees' income, the employer will, in the first instance, seek expressions of interest from all staff, in volunteering for a redundancy package.
- (ii) In assessing applications for voluntary redundancy, the parties acknowledge that the employer will take into account the skill and operational requirements of the enterprise.
- (iii) In normal circumstances involuntary redundancies will only be considered where there are no, or insufficient volunteers from existing staff. However, the parties accept that in assessing applications for voluntary redundancy, either as a result of one or more positions being redundant or through the reduction or alteration of a position's hours which causes a loss of an employee's income, the employer will be entitled to take into account the operational requirements of the business. The employer shall consult with the union where the employer rejects an application for voluntary redundancy in favour of an involuntary redundancy

(f) Redundancy Package – Employees with Seven Years of Continuous Service

- (i) Where redeployment or retraining opportunities are not available, the following separation package will be paid to redundant employees who have completed seven years of continuous service on the date of approval of this Agreement is as follows:
- four weeks' pay in lieu of notice;
  - as per the following schedule:

Years of Continuous Service	Redundancy Pay
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	12 weeks
At least 7 years but less than 8 years	14 weeks



At least 8 years but less than 9 years	16 weeks
At least 9 years but less than 10 years	18 weeks
At least 10 years	20 weeks

- Full payment of all accrued annual leave entitlements including leave loading.
- Payment of pro-rata long service leave after seven years of continuous service.

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

Redundancy payment = existing weekly rate – new weekly rate x 2 x years of service and pro rata to 2.5 weeks for any uncompleted year of service.

- (iii) A week's pay shall mean:

- the hours worked per week as averaged over the previous three months, excluding any period of leave or other extraordinary absence such as leave without pay, paid at the ordinary rate for the classification; and
- any penalties as averaged over the previous three months, excluding any period of leave or other extraordinary absence; and
- any all purpose work related allowances.

- (g) Redundancy Package – Employees with less than Seven Years of Continuous Service

- (i) Where redeployment or retraining opportunities are not available, the following separation package will be paid to redundant employees who have not completed seven years of continuous service on the date of approval of this Agreement is as follows:

- payment of Notice in accordance with Clause 18(e);
- redundancy payment in accordance with the following table:

Years of Continuous Service	Redundancy Pay
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
At least 9 years but less than 10 years	16 weeks
At least 10 years	12 weeks

- full payment of all accrued annual leave entitlements including leave loading

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

Redundancy payment = existing weekly rate – new weekly rate x 2 x years of service and pro rata to 2.5 weeks for any uncompleted year of service.

- (iii) A week's pay shall mean:

- the hours worked per week as averaged over the previous three months, excluding any period of leave or other extraordinary absence such as leave without pay, paid at the ordinary rate for the classification; and
- any penalties as averaged over the previous three months, excluding any period of leave or other extraordinary absence; and
- any all purpose work related allowances

- (h) Time Off to Seek Other Employment

- (i) All employees who are made redundant shall be given assistance by the employer in seeking suitable alternative employment. Such employees will be granted a minimum of one day's time off without loss of pay during each week of notice for the purpose of seeking other employment or to make arrangements for training or re-training.

- (ii) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.

- (i) Financial Counselling

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

- (ii) The employer will provide to each employee a fully detailed pay statement at the time when the offer of redundancy is made.

#### 43. 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.

#### 44. Roster

- (a) Employees required to work ordinary hours outside the span of hours of 6.00am to 6.00pm, Monday to Friday will work in accordance with a roster established in accordance with this clause.
- (b) Where a roster is established, the roster will be documented setting out clearly the names of the employees required to work on that roster, the days, dates and hours during which each employee is required to work.
- (c) A roster established under this clause will be a rotating roster unless:
  - (i) the employer and all the employees to be affected agree to a non-rotating roster;
  - (ii) the employer directs an employee(s) to work in accordance with a non-rotating roster.
  - (iii) in circumstances where a non-rotating roster has been established in accordance with subparagraph (c)(i) above, the non-rotating roster will not be changed to a rotating roster unless the employer and the majority of employees affected agree.
- (d) A roster established in accordance with this clause, whether rotating or non-rotating, will:
  - (i) not require an employee to work more than eight hours each day subject to agreement being reached or in accordance with the Hours clause in this Agreement;
  - (ii) provide for not more than eight days to be worked in any nine consecutive days;
  - (iii) not be changed until after four weeks' notice or in the case of an individual employee will not be changed except on one week's notice of such change or the payment of two weeks' pay in lieu of notice in accordance with the employee's previous roster;
  - (iv) provide for a minimum of two consecutive days off each week except where, by mutual agreement between the employer, the employee(s) concerned and the employee's union, alternative arrangements are made;
  - (v) clearly stipulate a 28 day accounting period which will include an accrued day off in addition to eight rostered days off.

Employees engaged to provide relief on accrued days off will, when providing relief, be regarded as rostered employees for all purposes of this Agreement (except additional annual leave). Rosters covering relief employees will not be required to rotate.
- (e) A rostered employee will work their eight hour day continuously and the hours will not be broken.



However, in an emergency situation the continuous hours may be broken by agreement between the employer and the employee. All work performed in excess of a spread of nine hours on a broken shift will be paid at the rate of double time.

- (f) Part-time employees and casual employees engaged as a rostered employee, for work outside the roster, documented in accordance with subclause (b) above, will be entitled to the provisions of this clause with the following exceptions:
  - (i) Where an employee is instructed to work overtime, they are entitled to overtime payments in accordance with the Overtime clause of this Agreement.
- (g) 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.
- (h) Where an employee working on a rotating roster is directed to work on a non-rotating roster against their express wishes, the employee will be paid 30% more than their ordinary hourly rate for the whole period worked. The 30% is in substitution for and not cumulative upon the 15% roster loading.
- (i) Where an employee is directed to work a non-rotating roster, against their express wishes, on a work pattern where the work commences between the hours of 4.00pm and 6.00am the employee will be paid 30 per cent more than their ordinary hourly rate for the whole period so worked. The 30 percent is in substitution for and not cumulative upon the 15 per cent roster loading.

## 45. 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 Service 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.

(i) **PERMANENT (full time and part time)**

- (i) Where a client cancels or changes the rostered Community 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.

#### **46. Saturday and Sunday Work – Rostered Employees**

(a) Saturday Work

A rostered employee who works ordinary hours, the major portion of which falls on a Saturday, will be paid at the rate of time and one half of the employee's ordinary hourly rate for all hours worked on that day.

(b) Sunday Work

A rostered employee who works ordinary hours, the major portion of which falls on a Sunday, will be paid at the rate of double time of the employee's ordinary hourly rate for all hours worked on that day.

- (c) Where work commences between 11.00pm and midnight on a Sunday, the time worked before midnight will not entitle the employee to the Sunday shift penalty. However, where the employee works time before midnight on a Saturday and the time worked extends into Sunday, the time worked before midnight will be regarded as time worked on Sunday.

(d) Daylight Savings

At the changeover of time consequent upon daylight saving in each year:

- (i) Employees shall be paid for actual time worked irrespective of the length of the shift; and
- (ii) Employees paid in accordance with d)(i) above are not entitled to payment for the one hour lost.

#### **47. Shift Penalties – Rostered Employee**

- (a) A rostered employee who works part or all of their shift between 3.00pm and 11.00pm shall be paid a loading of 15% for all hours worked prior to 11.00pm.
- (b) A rostered employee who works part or all of their shift between 11.00pm and 7.00 am shall be paid a loading of 17.5% for those hours.

#### **48. Sleep Over Provision**

The employer will not introduce sleepovers during the life of this Agreement.

#### **49. Superannuation**

(a) Superannuation legislation

- (i) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their

own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in this Agreement covering the employee applies.

- (ii) The rights and obligations in this clause supplement those in superannuation legislation.

(b) **Employer Contributions**

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

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

(d) **Voluntary Employee Contributions**

- (i) subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in subclause (b).

- (ii) an employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of one month's written notice to their employer.

- (iii) the employer must pay to the relevant superannuation fund the amount authorised under subclause (i) or (ii) above no later than 28 days after the end of the month in which the authorised deduction was made.

(e) **Superannuation Fund**

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in subclause (b) above, the employer must make the superannuation contributions provided for in subclause (b) above and pay the amount authorised under subclauses (d)(i) or (d)(ii) to Hesta Super Fund (Health Employees Superannuation Trust Australia).

## **50. 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.

## **51. Travel and Excess Fares**

(a) **Travel**

- (i) Where the employer has approved intrastate or interstate overnight travel by the employee, the employee will be reimbursed all reasonable costs associated with such travel. Where practicable, the employee is to provide travel arrangements, including mode of transport and accommodation bookings, prior to the actual travel.

- (ii) 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.

(b) Excess Fares

- (i) An employee required to work overtime at a time when public transport is not available is to be reimbursed reasonable costs of travel from work to home.
- (ii) PROVIDED THAT (i) does not apply to employees who drive their own vehicles to and from work.

## 52. Uniforms

- (a) Employees shall be provided, free of cost by the employer, sufficient, suitable and serviceable uniforms or by mutual agreement be paid an allowance of \$9.48 per week (2017) and \$9.67 per week (2018) as an allowance not subject to loading or penalty addition, for each week or part thereof on paid employment including periods of approved annual leave.
- (b) An employee, on leaving the service of an employer, shall return any uniform or part thereof provided by that employer which is still in use by him/her immediately prior to leaving.
- (c) Where such employee's uniforms are not laundered by or at the expense of the employer, the employee will be paid a laundry allowance of \$0.58 per shift (2017) and \$0.59 per shift (2018) or part thereof on duty or \$3.44 per week (2017) and \$3.51 per week (2018), whichever is the lesser amount.

## 53. 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.



## **54. Bullying and Harassment**

- (a) The employer wishes to ensure that employees understand that bullying and harassment are not acceptable in their workplaces. This clause sets out some of the measures to affect this.
- (b) Within six months of the commencement of this Agreement the employer will review any existing bullying and harassment training provided during the induction of new employees, and where they deem it necessary will ensure appropriate changes are introduced. It is their intention that all new employees receive bullying and harassment training during the induction process.
- (c) Within six months of the commencement of this Agreement the employer will review any other existing bullying and harassment training provided to existing employees, and where they deem it necessary will ensure appropriate changes are introduced. It is their intention that all employees receive bullying and harassment training on at least an annual basis. Matters for consideration by the employer in reviewing existing training will be core training for all employees, and specialised training for all supervisors and managers.
- (d) Once the review of existing training is completed bullying and harassment training will be included by the employer on their annual training calendar.
- (e) Organisers from either of the unions which are parties to this Agreement shall be welcome to attend training sessions, provided appropriate notice is provided to the employer.

## **55. Future Negotiations**

- (a) The employer agrees to commence negotiations with the unions for a new collective agreement to succeed this Agreement at least three months before the nominal expiry date of this Agreement with the intention of concluding these negotiations prior to the nominal expiry date.
- (b) Before submitting a variation, termination or replacement agreement for the approval of the employees covered by the Agreement, the employer will negotiate in good faith with the unions.
- (c) Should negotiations for a new collective Agreement not be finalised prior to the nominal expiry date of this Agreement, existing rates of pay and conditions will continue to be observed for all employees.

## DECLARATION AND SIGNATORIES

This Agreement has been negotiated in good faith and through extensive consultation between the employer and the employees to be covered by the Agreement. The parties are entering into this Agreement with full knowledge as to the content and effect of the document

Signed for on behalf of the parties:

**Masonic Care Tasmania Incorporated**

Date

(Belinda Belz, Executive  
Director p/c  
7 Ballawinnie Road,  
Lindisfarne, TAS. 7615)

Witnessed by (Signature)

Witness Name in full (printed)

Date

**(Health Services Union,  
Tasmania Branch)**

Date

Tim Jacobson (2008  
Secretary)  
11 Camo St. New Town  
TAS 7008

Witnessed by (Signature)

Witness Name in full (printed)

Date

James Connors  
11 Camo St. New Town TAS 7008

**Australian Nursing and  
Midwifery Federation**

Date

(Emily Shepherd, Branch Secretary)  
185 Macquarie Street, Hobart, Tas,  
7000

Witnessed by (Signature)

Witness Name in full (printed)

Date

Mary Jane Bickel  
11/10/2017

## Schedule A – 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:

General and administrative services	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:

General and administrative services	Food services	Personal care
General clerk/Typist (between 3 months' and less than 1 year's 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:

General and administrative services	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 St 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:

General and administrative services	Food services	Personal care
Senior clerk	Senior cook (trade)	Personal care worker grade 3
Senior receptionist		Community and Home Based Care Employees.
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:

General and administrative services	Food services	Personal care
Secretary interpreter (unqualified)	Chef	Personal care worker grade 4 Medication Administration

#### **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 administrative services	Food services
Maintenance tradesperson (advanced)	Senior chef
Gardener (advanced)	



### 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:

General and administrative Services	Food services	Personal care
Clerical supervisor	Chef /Food services supervisor	Personal care worker grade 5
Interpreter (qualified )		
Gardener superintendent		
General services supervisor		

## Schedule B - Wage Rates

Classifications	HOURLY RATES	
	EFFECTIVE ffpp 31 July 2017	EFFECTIVE ffpp 31 July 2018
<b>Aged Care Employee</b>		
Level 1	19.6934	20.0873
Level 2	20.5063	20.9164
Level 3	21.3190	21.7454
Level 4	21.5716	22.0030
Level 5	22.2965	22.7424
Level 6	23.4937	23.9635
Level 7	23.9221	24.4005

<b>Community Service</b>		
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

## Schedule C - Parental Leave

Subject to the terms of this clause employees are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child and any paid entitlements specified herein shall be in addition to that which would be otherwise available under a national parental leave scheme.

### (a) Definitions

For the purposes of this clause:

**A Child** of a person is:

- (i) a biological child of the person; or
- (ii) an adopted child or step-child of the person; or
- (iii) if, at any time, the person was in a relationship as a couple with another person (whether the persons are the same sex or different sexes)—a child who is a product of the person's relationship with that other person.

For the purpose of paragraph (iii), a child cannot be the product of a relationship between two persons (whether the persons are the same sex or different sexes) for the purposes of this clause unless the child is the biological child of at least one of the persons or is born to a woman in the relationship.

**day of placement**, in relation to the adoption of a child by an employee, means the earlier of the following days:

- (i) the day on which the employee first takes custody of the child for the adoption;
- (ii) the day on which the employee starts any travel that is reasonably necessary to take custody of the child for the adoption.

**de facto partner**, in relation to an employee:

- (i) 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
- (ii) includes a former de facto partner of the employee.

**employee couple**: two employees are an employee couple if each of the employees is the spouse or de facto partner of the other.

**medical certificate** means a certificate signed by a medical practitioner.

**medical practitioner** means a person registered, or licensed, as a medical practitioner under a law of a State or Territory that provides for the registration or licensing of medical practitioners.

**paid no safe job leave** means paid no safe job leave to which an employee is entitled under subparagraph (o)(vi).

**school age**, in relation to a child, means the age at which the child is required by a law of the State or Territory in which the child lives to start attending school.

**(b) Qualifying Service**

- (i) An employee (other than a casual employee) shall be entitled to leave under this clause if the employee has completed at least 12 months' continuous service with the employer immediately before:

- the day of birth or the expected day of birth of the child; or
- the day of placement or the expected day of placement of the child – if the leave is adoption related parental leave

- (ii) A casual employee is not entitled to leave (other than unpaid pre-adoption leave) under this clause unless the employee has been employed on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months immediately before:

- the day of birth or the expected day of birth of the child; or
- the day of placement or the expected day of placement of the child – if the leave is adoption leave

and would have had, but for the birth or adoption of the child, a reasonable expectation of continuing employment by the employer on a regular and systematic basis.

**(c) General Rule – Adoption Related Parental Leave**

An employee is not entitled to adoption-related parental leave under this clause unless the child that is, or is to be, placed with the employee for adoption:

- (i) is, or will be, under school age as at the day of placement, or the expected day of placement, of the child; and
- (ii) has not, or will not have, lived continuously with the employee for a period of six months or more as at the day of placement, or the expected day of placement, of the child; and
- (iii) is not a child of the employee or the employee's spouse or de facto partner.

**(d) Entitlement to Unpaid Leave**

- (i) An employee is entitled to 12 months of unpaid parental leave if the leave is associated with:

- the birth of a child, being a child who is born to the employee or the employee's spouse or de facto partner; or
- the placement of a child with the employee for adoption; and
- the employee has or will have a responsibility for the care of the child.

- (ii) A child is born to a person if (and only if):

- the person gives birth to the child; or
- the child is born, and the person is the biological mother or biological father of the child.

- (iii) Despite the definition of child in subclause (a) – Definitions an employee is not entitled to unpaid parental leave in relation to a child if the child is not:

- born to the employee or the employee's spouse or de facto partner (within the meaning of paragraph (ii) of this subclause); or

- placed with the employee for adoption.

**(e) The Period of Leave, other than for members of an employee couple who each intend to take leave:**

- (i) This subclause applies to an employee who intends to take unpaid parental leave if:
  - the employee is not a member of an employee couple; or
  - the employee is a member of an employee couple, but the other member of the couple does not intend to take unpaid parental leave
- (ii) The employee must take the leave in a single continuous period.
- (iii) If the leave is birth-related leave for a female employee who is pregnant with, or gives birth to, the child, the period of leave may start up to six weeks before the expected date of birth of the child but must not start later than the date of birth of the child.
- (iv) If paragraph (iii) does not apply, the period of leave must start on the date of birth of the child.
- (v) If the leave is adoption-related leave, the period of leave must start on the day of placement of the child.

**(f) The period of leave: members of an employee couple who each intend to take leave**

- (i) This subclause applies to an employee couple if each of the employees intends to take unpaid parental leave.
- (ii) Each employee must take the leave in a single continuous period.
- (iii) When birth-related leave must be taken
  - (A) one employee's period of leave must start first, in accordance with the following rules:
    - (1) if the member of the employee couple whose period of leave starts first is a female employee who is pregnant with, or gives birth to, the child – the period of leave may start up to six weeks before the expected date of birth of the child, but must not start later than the date of birth of the child.
    - (2) If paragraph (1) herein does not apply – the period of leave must start on the date of birth of the child; and the other employee's period of leave must start immediately after the end of the first employee's period of leave (or that period as extended under subclauses (i) or (j)).
- (iv) When adoption-related parental leave must be taken.
  - (B) one employee's period of leave must start on the day of placement of the child; and
  - (C) the other employee's period of leave must start immediately after the end of the first employee's period of leave (or that period as may be extended elsewhere under the clause).



(v) Limited right to take concurrent leave

If one of the employees takes a period (the first employee's period of leave, of unpaid parental leave in accordance with paragraph (iii)(A) or (iv)(A), the other employee may take a period of unpaid parental leave (the concurrent leave) during the first employee's period of leave, if the concurrent leave complies with the following requirements.

- (A) the concurrent leave must be for a period of three weeks or less;
- (B) subject to subparagraph (C) herein the concurrent leave must not start before, and must not end more than three weeks after:
  - (1) If the leave is birth-related leave – the date of birth of the child; or
  - (2) If the leave is adoption-related leave – the day of placement of the child;
- (C) If the employees agree, the concurrent leave may (subject to paragraph (A)):
  - (1) start earlier than is permitted by paragraph (B); or
  - (2) end up to 3 weeks later than is permitted by paragraph (B).

(vi) Concurrent leave taken by an employee:

- (A) is an exception to the rule that the employee must take his or her leave in a single continuous period (see subsection (e)(ii); and
- (B) is an exception to the rules about when the employee's period of unpaid parental leave must start (see paragraphs (iii) and (iv) herein.

**(g) Pregnant employee may be required to take unpaid parental leave within six weeks before the birth**

- (i) If a pregnant employee who is entitled to parent leave (whether or not she has complied with subclause (h) continues to work during the period of six weeks before the expected date of birth of the child, the employer may ask the employee to give the employer a medical certificate containing the following statements (as applicable):

- (A) a statement whether the employee is fit to work;
- (B) if the employee is fit to work – a statement of whether it is inadvisable for the employee to continue in her present position during a stated period because of:
  - (1) illness, or risks arising out of the employee's pregnancy; or
  - (2) hazards connected with the position

- (ii) Subject to paragraph (iii) herein, the employer may require the employee to take a period of unpaid parental leave (the *period of leave*) as soon as reasonably practicable if:

- (A) the employee does not give the employer the requested certificate within seven days after the request; or
- (B) within seven days after the request, the employee gives the employer a medical certificate stating that the employee is not fit for work; or
- (C) the following subparagraphs are satisfied:

- (1) within seven days after the request, the employee gives the employer a medical certificate stating that the employee is fit for work, but that it is in advisable for the employee to continue in her present position for stated period for a reason mentioned in subparagraph (1)(b)(1) or (2);
- (2) subclause (c) does not apply to the employee;
- (iii) The period of leave must no end later that the earlier of the following:
  - (A) the end of the pregnancy;
  - (B) if the employee has given the employer notice of the taking of a period of leave connected with the birth of the child (whether it is unpaid parental leave or some other kind of leave) – the start date of that leave.
- (iv) The period of leave:
  - (A) is an exception to the rule that the employee must take her unpaid parental leave in a single continuous period; and
  - (B) is an exception to the rules about when the employee's period of unpaid parental leave must start.
- (v) The employee is not required to comply with subclause (h) in relation to the period of leave.

**(h) Notice and Evidence Requirements**

- (i) An employee must give his or her employer written notice of the taking of unpaid parental leave under subclauses (e) and (f) by the employee.
- (ii) The notice must be given to the employer:
  - (A) At least 10 weeks before starting the leave; or
  - (B) If that is not reasonably practicable – as soon as is reasonably practicable (which may be a time after the leave has started).
- (iii) The notice must specify the intended start and end dates of the leave.

**Evidence**

- (iv) An employee who has given his or her employer notice of the taking of unpaid parental leave must, if required by the employer, give the employer evidence that would satisfy a reasonable person:
  - (A) if the leave is birth related leave – of the date of birth, or the expected date of birth, of the child; or
  - (B) if the leave is adoption-related leave - of the day of placement or the expected day of placement of the child.

**(i) Extending period of unpaid parental leave: extending to use more of available parental leave period.**

- (i) This subclause applies if:
  - (A) an employee has, in accordance with subclause (h) given notice of the taking of unpaid parental leave; and
  - (B) the period specified in the notice (the *original leave period*) is less than the employee's available parental leave period.

- (ii) The employee's available parental leave period is 12 months, less any period of the following kinds:
  - (A) a period of concurrent leave that the employee has taken in accordance with paragraph (f)(v);
  - (B) a period of unpaid parental leave that the employee has been required to take under paragraph (g)(ii);
  - (C) a period by which the employee's entitlement to unpaid parental leave is reduced under subparagraph (j)(iv)(C);
  - (D) a period of special maternity leave that the employee has taken.
- (iii) The employee may extend the period of unpaid parental leave by giving his or her employer written notice of the extension not later than 4 weeks before the end date of the original leave period. The notice must specify the new end date for the leave.
- (iv) Only one extension is permitted under paragraph (iii).
- (v) If the employer agrees, the employee may further extend the period of unpaid parental leave one or more times.
- (vi) Nothing in this section entitles the employee to extend the period of unpaid parental leave beyond the employee's available parental leave period.

**(j) Extending period of unpaid parental leave: extending for up to 12 months beyond available parental leave period**

Employee may request further period of leave

- (i) An employee who takes unpaid parental leave for his or her available parental leave period may request his or her employer to agree to an extension of unpaid parental leave for the employee for a further of up to 12 months immediately following the end of the available parental leave period.

Making the request

- (ii) The request must be in writing and must be given to the employer at least 4 weeks before the end of the available parental leave period.

Agreeing to the requested extension

- (iii) The employer must agree to the requested extension, unless the employer has reasonable business grounds for refusing.
- (iv) The following subparagraphs apply in relation to a member of an employee couple extending a period of unpaid parental leave in respect of a child under this section:
  - (A) the request must specify the amount (if any) of unpaid parental leave and unpaid special maternity leave that the other member of the employee couple has taken, or will have taken, in relation to the child before the extension starts;
  - (B) the period of the extension cannot exceed 12 months, less any period of unpaid parental leave or unpaid special maternity leave that the other member of the employee couple has taken, or will have taken, in relation to the child before the extension starts;
  - (C) the amount of unpaid parental leave to which the other member of the employee couple is entitled under subclause (d) in respect of the child is reduced by the period of the extension.

**(k) Reducing period of unpaid parental leave**

If an employer agrees, an employee may reduce the period of unpaid parental leave he or she takes.

**(l) Employee who ceases to have responsibility for care of child**

- (i) This subclause applies to an employee who has taken unpaid parental leave in respect of a child if the employee ceases to have any responsibility for the care of the child.
- (ii) The employer may give the employee written notice requiring the employee to return to work on a specified day.
- (iii) The specified day:
  - (A) must be at least four weeks after the notice is given to the employee; and
  - (B) if the leave is birth-related leave taken by a female employee who has given birth – must not be earlier than 6 weeks after the date of birth of the child.
- (iv) The employee's entitlement to unpaid parental leave in respect of the child ends immediately before the specified day.

**(m) Interaction with paid leave**

- (i) Subject to paragraph (l) and (iii) nothing in this clause prevents an employee from taking any other kind of paid leave while he or she is taking unpaid parental leave. If the employee does so, the taking of that other paid leave does not break the continuity of the period of unpaid leave.
- (ii) An employee is not entitled to take paid personal/carer's leave or compassionate leave while he or she is taking unpaid parental leave.
- (iii) An employee is not entitled to any payment under Clause 15 – Community Service Leave of this Part in relation to activities the employee engages in while taking unpaid parental leave.

**(n) Unpaid special maternity leave**

- (i) A female employee is entitled to a period of unpaid special maternity leave if she is unfit for work during that period because:
  - (A) she has a pregnancy-related illness; or
  - (B) she has been pregnant, and the pregnancy ends within 28 weeks of the expected date of birth of the child otherwise than by the birth of a living child.
- (ii) An employee must give her employer notice of the taking of unpaid special maternity leave by the employee.

- (iii) The notice:
  - (A) must be given to the employer as soon as reasonably practicable (which may be a time after the leave has started); and
  - (B) must advise the employer of the period, or expected period, of the leave.
- (iv) An employee who has given her employer notice of the taking of unpaid special maternity leave must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason specified in paragraph (I).
- (v) Without limiting the generality of paragraph (iv) herein an employer may require the evidence referred to in that subsection to be a medical certificate.
- (vi) An employee is not entitled to take unpaid special maternity leave unless the employee complies with paragraphs (ii) and (iv).
- (vii) A female employee's entitlement to 12 months unpaid parental leave associated with the birth of a child is reduced by the amount of any unpaid special maternity leave taken by the employee while she was pregnant.

**(o) Transfer to a safe job**

- (i) This section applies to a female employee who is pregnant if:
  - (A) she is entitled to unpaid parental leave; and
  - (B) she has already complied with the notice and evidence requirements of subclause (h) taking unpaid parental leave; and
  - (C) she gives her employer evidence that would satisfy a reasonable person that she is fit to work, but that it is inadvisable for her to continue in her present position during a stated period (the risk period) because of:
    - (1) illness, or risks, arising out of her pregnancy; or
    - (2) hazards connected with that position.
- (ii) Without limiting the generality of paragraph (i)(C) of this subclause, an employer may require the evidence referred to in that paragraph to be a medical certificate.
- (iii) If this subclause applies to an employee:
  - (A) if there is an appropriate safe job available – the employer must transfer the employee to that job for the risk period with no other changes to the employee's terms and conditions of employment; or
  - (B) if there is no appropriate safe job available – the employee is entitled to take paid no safe job leave for the risk period.
- (iv) An appropriate safe job is a safe job that has:
  - (A) the same ordinary hours of work as the employee's present position; or
  - (B) a different number of ordinary hours agreed to by the employee.
- (v) Without limiting paragraph (iii)(A) of this subclause, if the employee is transferred to an appropriate safe job for the risk period, the employer must pay the employee for the safe job at the employee's full rate of pay (for the



position she was in before the transfer) for the hours that she works in the risk period.

- (vi) If the employee takes paid no safe job leave for the risk period, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the risk period.
- (vii) If the employee's pregnancy ends before the end of the risk period, the risk period ends when the pregnancy ends.

**(p) Consultation with employee on unpaid parental leave**

**(i) If:**

- (A) an employee is on unpaid parental leave; and
- (B) the employee's employer makes a decision that will have a significant effect on the status, pay or location of the employee's pre-parental leave position;

the employer must take all reasonable steps to give the employee information about, and an opportunity to discuss, the effect of the decision on that position.

**(ii) The employee's pre-parental leave position is:**

- (A) unless paragraph (B) applies, the position the employee held before starting the unpaid parental leave; or
- (B) If, before starting the unpaid parental leave, the employee:
  - (1) was transferred to a safe job because of her pregnancy; or
  - (2) reduced her working hours due to her pregnancy;the position the employee held immediately before that transfer or reduction.

**(q) Return to work guarantee**

On finishing unpaid parental leave, an employee is entitled to return to:

- (i) the employee's pre-parental leave position; or
- (ii) if that position no longer exists – an available position for which the employee is qualified and suited nearest in status the position the employee held immediately before that transfer or reduction.

**(r) Unpaid pre-adoption leave**

- (i) Subject to paragraph (ii) an employee is entitled to up to two days of unpaid pre-adoption leave to attend any interviews or examinations required in order to obtain approval for the employee's adoption of a child.
- (ii) An employee is not entitled to take a period of unpaid pre-adoption leave if:
  - (A) the employee could instead take some other form of leave; and
  - (B) the employer would prefer the employee to take that other form of leave.
- (iii) An employee who is entitled to a period of unpaid pre-adoption leave is entitled to take the leave as:

- (A) a single continuous period of up to two days; or
  - (B) any separate periods to which the employee and the employer agree.
- (iv) An employee must give his or her employer notice of the taking of unpaid pre-adoption leave by the employee.
- (v) The notice:
  - (A) must be given to the employer as soon as reasonably practicable (which may be a time after the leave has started); and
  - (B) must advise the employer of the period, or expected period of the leave;
- (vi) An employee who has given his or her employer notice of the taking of unpaid pre-adoption leave must if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken to attend an interview or examination as mentioned in paragraph (i).
- (vii) An employee is not entitled to take unpaid pre-adoption leave unless the employee complies with paragraphs (iv) to (vi).

23 January 2018

Commissioner Lee  
Fair Work Commission  
11 Exhibition Street  
MELBOURNE VIC 3000

Dear Commissioner Lee

**AG2017/4908 - Masonic Care Tasmania (South) General Staff Agreement 2017**

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

Masonic Care Tasmania provides the following revised undertakings:

1. *"For the purposes of clause 45(a)(i)(a) of the Agreement Masonic Care Tasmania undertakes that casual employees will be paid for a minimum of two hours per engagement."*
2. *"For the purposes of clause 31(b)(i) of the Agreement Masonic Care Tasmania undertakes that employees classified as:*
  - (a) *Aged Care Employee Level 1 to Level 7; and*
  - (b) *Community Service Level 1 to Level 3.2**will be entitled to 200% penalty for all overtime hours worked on a Saturday."*
3. *"Masonic Care Tasmania undertakes that employees classified between Aged Care Level 2 and Aged Care Level 7 who are employed as Cooks and Chefs will be entitled to payment of a tool allowance (if required to provide own tools), as provided by the Aged Care Award 2010."*

Fred Frensch  
Peace Haven  
Freemasons Home  
Community Services  
Retirement Living

7 Ballawinnje Road,  
Lindisfarne TAS 7015  
P (03) 6282 5200  
F (03) 6282 5266

185 Penquite Road, Norwood TAS 7250  
PO Box 108, Newstead TAS 7250  
P (03) 6345 7200  
F (03) 6345 7191

Email [enquiry@mctas.org.au](mailto:enquiry@mctas.org.au) Visit [masoniccaretas.com.au](http://masoniccaretas.com.au)  
ABN 21 590 239 241

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**